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Research in Brief

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Predictions of Dangerousness in the Criminal Law

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ACQUISITIONS

Predictions about the future behavior of individuals are made and used throughout the criminal justice system. Many of these are predictions of dangerousness.

Police officers make predictions in deciding whom to arrest or detain. Prosecutors make predictions when deciding whom to prosecute and for what. Judges, prison administrators, and parole boards consider future

dangerousness in determining questions of confinement.

Most such predictions are implicit. The decisionmaker relies on his or her experience, knowledge, assumptions,

From the Director

Each day, criminal justice professionals make decisions that affect thousands of people—who should be arrested, who should be released pending trial, what sentences should be imposed, who is a suitable candidate for probation or parole. Different objectives influence decisionmakers at different points, but all share a key objective: Crime control.

To help avoid future crimes against innocent people, a judge or a parole board necessarily assesses the likelihood of future dangerous behavior by an offender. Indeed, laws in many jurisdictions require consideration of future danger to the community as one factor in release decisions.

How ought decisions be made? What standards ought to be employed for these judgments? In what situations should predictions be applied? Many times, assessments of future behavior by criminal justice officials are simply an educated guess, reflecting the decisionmaker's knowledge, experience, and intuitive judgment. In other cases, officials will rely on more formal clinical assessments.

The results of this system have disappointed and frustrated criminal justice

officials and the public. We know that 65 to 80 percent of convicted offenders are rearrested for crimes they commit in the community. How can we improve on the judgments made within the discretionary range of sentences set by State legislatures? How can we find alternatives for the 20 to 35 percent of offenders who are better risks?

Recent research has advocated the use of rigorous actuarial methods—long used to calculate risks in medical science and in the insurance industry—to devise guidelines and model prediction scales.

Our decisions have consequences. Offenders vary greatly in the rate at which they commit crimes. If we could identify high-rate, persistent criminals early enough in their most active years, we could use our resources more efficiently for crime control.

Predicting which offenders will be high-rate offenders remains as yet an inexact science. But continuing research is honing the accuracy and usefulness of prediction methods.

While research proceeds, however, how can we use our present capabilities to create policies that are fair to individuals, protect the community, and are based on jurisprudential ethics?

This *Research in Brief* presents the views of two thoughtful scholars, Norval Morris and Marc Miller, on the central issues in the debate about predictions. Their cogent analysis and recommended principles for the use of predictions can help guide policy choices in this complex area. This *Brief* is based on an article published in *Crime and Justice: An Annual Review of Research*, a book series supported by the National Institute of Justice.

By delineating issues to consider in the appropriate use of current prediction capabilities, this *Brief* helps those charged with making decisions today. For the future, the knowledge that we have gained through research and scholarship will continue to accumulate, advancing our efforts to create more accurate and fair policies.

Given the complexities of human behavior, we will never reach certainty in predictions. Ours is not a certain world. Prudent use of tools now available can help criminal justice officials discharge their chief responsibility, protecting the public under law.

James K. Stewart
Director
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and prejudices. Because, as a practical matter, conscientious decisionmakers worry about public safety, intuitive assessments of present and future dangerousness lie at the heart of these predictions.

These intuitive predictions have recently come under closer scrutiny, largely because of programs, such as preventive detention, that rely on greater *explicit* use of predictions of dangerousness.

The increase in the explicit use of predictions of dangerousness reflects in part their claim to a scientific foundation.¹ Recent Supreme Court decisions have considered the use of such predictions in mental health law (*Addington v. Texas*, 441 U.S. 418 [1979]) and in criminal justice (*Barefoot v. Estelle*, 463 U.S. 880 [1983]). The Federal Comprehensive Crime Control Act of 1984 authorizes the use of explicit predictions of dangerousness in Federal pretrial detention and sentencing decisions.

This *Brief* outlines a jurisprudence of predictions. We try to identify the key issues concerning the use of predictions and to explain when, in our view, the explicit use of predictions of dangerousness will be ethically justifiable.

First we describe elements of different uses of predictions. We then address the two fundamental concerns raised about the use of explicit predictions: That predictions are not accurate enough to rely upon and that it is unfair to use them. We emphasize the necessity of considering the use of predictions in specific contexts and explain the use of relative predictions of dangerousness.

Finally we offer three principles that limit the use of predictions and explain the theoretical basis for our model.

Uses of predictions: Some definitions

It is hard to imagine life without assessment of the likely behavior of others and reliance on those judgments. It would be difficult to cross a

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city street; driving a car would be unthinkable. In the criminal justice system many such predictions concern the likelihood of violent, assaultive criminality.

Customary and exceptional uses of predictions

When a judge sentences a criminal, or a police officer decides to place an angry husband or boyfriend in lockup for the night, or a prosecutor decides to prosecute, they are making judgments about future behavior. These decisions we refer to as *customary* uses of predictions because they are widespread and well accepted.

A police officer would be remiss for failing to make a determination about the danger posed by an angry husband in a domestic dispute. The officer may or may not be correct that the husband poses an immediate threat to his wife, but the officer must make the prediction.

Similarly, a decision not to lock up the husband based on an expectation of *nonviolence* may be right or wrong.

In the language of prediction, the police officer's decision to detain will generate either a true positive (an affirmative prediction that proves accurate) or a false positive (an affirmative prediction that proves inaccurate). Similarly, a decision not to detain where no violent act subsequently occurred would be a true negative, and a negative prediction that proves wrong would be a false negative.

The sentencing of convicted criminals offers the most dramatic and conse-

1. Lawyers have long shied from considering the application of predictions of dangerousness in criminal law due, at least in part, to the mistaken assumption that predictions of future behavior were the province of the psychiatric professions and that, in any case, current predictions of future behavior were not accurate enough to satisfy legal standards of proof. The psychiatric professions have explored violent behavior and its prediction. The first widespread explicit use of predictions was, not surprisingly, at the confluence of law and psychiatry—in the area of civil commitment. Now, in a striking paradox, while courts increasingly rely on predictions of dangerousness by psychiatrists and psychologists, the American Psychiatric Association has recently stressed the *unreliability* of such predictions. See the American Psychiatric Association *Statement on the Insanity Defense* (1982).

quential customary use of predictions of future dangerousness. All current members of the United States Supreme Court have agreed with Justice Stevens' observation that "[a]ny sentencing authority must predict a convicted person's probable future conduct when it engages in the process of determining what punishment to impose" (*Jurek v. Texas*, 428 U.S. 262 [1976]).

The central feature of these customary uses is that predictions of dangerousness are used to choose between alternative outcomes already available to the decisionmaker.

Exceptional uses of predictions are those which seek to justify state action when that action could not be supported absent the prediction. Recent examples include special "career criminal" investigation and prosecution programs, pretrial preventive detention, calls for "selective incapacitation" sentencing strategies, and reliance on predictions of dangerousness in capital punishment decisions.²

Short- and long-term predictions

Short-term predictions often arise in crisis situations and usually involve less lasting deprivations of liberty.

An example is the emergency response to individuals in a psychological crisis posing a high suicide risk. The needs of the moment may lead to reliance on predictions that would be insufficient or too inaccurate to use for other than short-term protective compulsory care.

For example, short-term reliance on clinical predictions, where the testability of the prediction is less important, raises fewer ethical and practical concerns than do long-term decisions based on clinical evaluations. We are mainly concerned here with long-term predictions.

2. Customary and exceptional uses are arrayed on a spectrum: The line between them is not always clear although the concepts are distinct. Civil commitment proceedings often involve exceptional uses of prediction. Mental health issues involve different ethical and practical concerns and are not considered in this *Brief*. See *Addington v. Texas*, 441 U.S. 418 (1979). Of course, mental health law and criminal law often overlap. See, e.g., *Jones v. United States*, 465 U.S. 354 (1983).

Prediction issues: The nature of predictions

How well can we predict?

Our current ability to predict long-term violent behavior is no better than one accurate prediction of violence out of every three. Furthermore, few prospective studies of future violence have been completed (Monahan 1981). Prospective studies have a much higher validity than retrospective studies because they can help determine causal relationships rather than just identifying correlations of specific factors and violent behavior.

These limits on the current ability to predict are widely recognized in the legal and psychiatric professions and in the courts. All members of the Supreme Court have recognized the current limits on our capacity to predict violent behavior (*Barefoot v. Estelle*, 463 U.S. 880 [1983]).

We assume that this one-in-three accuracy rate is the best social scientists will be able to achieve for several decades. New and alternative approaches to prediction have been suggested. In particular, predictions may be improved by focusing on situational and environmental factors, random elements in behavior, and other factors which look to the places and people with whom the targeted individuals interact. The absolute limit on the ability to predict dangerousness may well have been approached given the exceptional nature of the behavior being predicted and the role of chance and circumstance in generating specific instances of violent conduct.

Given the paucity of adequate data, the judge, police officer, prosecutor, or prison administrator must determine the point at which data become adequate to use as a guide to decisionmaking.

often relied upon to justify intrusions on individual liberty. One example is the use of metal detectors at airports or, at a higher level of intrusion, the questioning of those who fit drug courier profiles.

Similarly, the exclusion of individuals from a speech by the President or the observation of the public activities of a violent group are modest intrusions on liberty, based on low levels of prediction.

Many uses of prediction involve far greater control over the individual, but the crucial point is that the legitimacy of such uses depends on the context, not on the number of false positives or false negatives.

The policy decision about the appropriateness of using predictions depends at least in part on a balancing of the level of risk and harm expected against the intrusions on individual liberty. Lesser intrusion on liberty may be justified where the expected harm is great even if the level of risk is low.

Also, the concerns with the accuracy of explicit statistical predictions must be judged against a backdrop of the real world of reliance on inaccurate intuitive predictions. It is a mistake to evaluate the accuracy of statistical predictions only in comparison to a nonexistent ideal world of perfect knowledge and exact predictions.

Predictions of nondangerousness

In a legal system founded on notions of justice and mercy, and faced with limited resources, predictions of "nondangerousness" may justify exceptional uses of predictions to *lessen* sentences. This one-sided bias would lean in the direction of individual liberty.

Also, it may be *easier*, as a technical and statistical matter, to identify the essentially nondangerous individuals in a relevant group than to identify the exceptionally dangerous individuals. The "nondangerous" are not those excluded from the "dangerous" classification. They are another group at the opposite end of the risk spectrum and should be separately considered.

Fundamental concerns: Accuracy and fairness

Scholars and practitioners have challenged the use of predictions of dangerousness on two general grounds. First, critics claim that predictions are too *inaccurate* to serve as the basis for limiting the liberty of any individual, and second, that it is

unfair to make decisions about individuals based on predictions derived from the behavior of others.

Accuracy concerns

Some argue that basing decisions on predictions of dangerousness is always inappropriate because such predictions are generally not very reliable. Yet very low levels of expected risk are

Types of predictions

There are three basic types of predictions:

- *Statistical predictions* are based on patterns of individual behavior when compared with the behavior of others with similar patterns.
- *Anamnestic predictions* are based on a person's repetitive behavior.
- *Clinical predictions* are based on expert evaluation of individual behavior.

Clinical predictions are difficult to test and challenge. Furthermore, psychiatrists and psychologists suffer from pressures to overpredict individual dangerousness. These pressures arise from the treatment orientation of the

psychological professions and from concerns about liability from incorrect diagnosis. If an individual is detained in prison under a prediction of "dangerous if released," that particular decision can never be proved "wrong."

Statistical predictions are the preferred method of prediction because they can be tested and are open to scientific challenge. They are easier to understand and to use. Indeed, psychological theory has not been found as effective as statistical theory in selecting what is relevant to and important in predicting behavior. There have been no demonstrations that the addition of an individualized clinical element in predictions can improve upon actuarial predictions of group behavior (Farrington and Tarling 1983).

The evidence indicates that nonstatistical predictions on bail and sentencing decisions repeatedly produce errors—incorrect predictions—at *higher* rates than do more scientific predictions.

Brian Forst (1984, p. 157), after reviewing numerous studies, concluded that “Nonstatistical prediction in bail and sentencing decisions has in fact been found repeatedly to produce errors at a *higher* rate than the more scientific approach.” John Monahan (1981) has observed that implicit and untrained judgments show larger rates of error than statistical predictions, and concluded that statistical devices outperform intuition (see also Gottfredson 1986).

This evidence suggests that the use of statistical predictions of dangerousness in certain areas would *reduce* the level of incorrect predictions. What is true of bail and sentencing may be true of a broad range of criminal justice decisions that now turn on implicit predictions of dangerousness.

If the use of explicit predictions in sentencing and bail based on statistical evidence reduces the level of error, then it would be unethical to continue the present reliance on unguided intuitive predictions.

This evidence supports an argument—based on greater individual justice rather than any notion of efficiency—for the cautious and careful use of explicit predictions to guide certain discretionary decisions.

Group prediction and individual behavior

There is much confusion about the meaning of statistical predictions. Part of this confusion arises from wrongly attaching the labels “guilty” and “innocent” to the true positives and false positives.

A statistical prediction of dangerousness, based on membership in a group for which a consistent and tested pattern of conduct has been shown, is the statement of a *condition* (membership in a defined group characterized by certain attributes) and not the prediction of a *result* (of future violent acts in each individual case). The nature of the probabilistic statement about future behavior is that it applies to *each* member of the group.

Policy decisions about the use of predictions for members of the group must be made based on their membership in the group.

Individual justice and fairness concerns

Critics raise two types of fairness concerns: first, that predictions based on group behavior undermine the presumption of innocence which lies at the heart of our system of criminal justice and, second, that use of such predictions disproportionately and adversely affects blacks and members of other racial and ethnic minorities.

1. *The presumption of innocence.*

The use of explicit statistical predictions results in the imposition of sanctions based on an individual’s membership in an identified group.

If an individual is a member of a group having a one-in-three probability of violent behavior, two out of three members *will not* behave violently in the period considered. Yet all three must be treated in the same way if the undesired behavior is to be prevented.

The attribution of group characteristics to all members of an identified group is said to violate the presumption of innocence in each individual case because all members of a high-risk group, for example, are presumed dangerous. An analogy is made to the fundamental criminal law maxim that it is better that nine guilty people go free than that one innocent person be convicted.

This argument is often wrongly characterized as a fairness concern only with respect to the two in three who will not commit a violent act in the relevant period. But the ethical problems are the same for the one who will commit a violent act—our system of justice generally responds to individual acts, and not merely to an individual’s propensities or state of mind.

Moreover, we must decide whether to act without knowing which of the three will commit an assaultive criminal act.

The *meaning* of a prediction is that the individual has a *condition*—membership in a group with certain behavioral

probabilities—and not that the *individual* has that likelihood of the predicted behavior.

If a statistical prediction of one-in-three meant that one person was “bad” or “guilty” and the other two were “innocent” or “harmless,” statistical predictions of dangerousness would never be an acceptable grounds on which to restrict any person’s liberty. The analogy to the criminal trial would hold true, and even if we could predict nine-in-ten cases of violence over a relevant period, we would not be justified in detaining the tenth “innocent” member of the group.

Furthermore, we could *never* civilly commit anyone, except for very short periods, as there would be no justification for detention under present theory given our present predictive capacity.

Neither the analogy to the criminal trial nor the presumption of innocence applies to sentencing and other post-conviction decisions. Once a person is found guilty, a sentencer must make a discretionary sentencing decision.

The individual is properly subject to the state’s power to punish, and a range of punishment has been prescribed by a legislature or sentencing commission. The use of predictions to find the most just and efficient allocation of punishments within that range by comparing the *relative* future dangerousness of the members of the group does not violate the presumption of innocence.

There are corresponding limits on the exercise of powers by various criminal justice actors during preconviction stages (e.g., the police officer’s power to investigate or arrest, or the prosecutor’s power to prosecute). The application of the prediction would act as a guide within previously accepted ranges of discretion.

By contrast, predictions may not be used in the determination of guilt or innocence. The question then is not whether the defendant is a member of a group of which 7 or 8 out of 10 will have committed a criminal act, but whether, at the required level of certainty, *this* individual committed the particular act with the requisite mental state.

2. Individual fairness and "exceptional" uses. Concern about violating the presumption of innocence does arise with *exceptional* uses of predictions as we have defined them.

Criminal justice officials do not have the power to make exceptional use of predictions. The legislature, however, can consider predictions of dangerousness in setting the sentencing ranges within which discretionary powers will then be exercised.

For example, the legislature may choose to set sentencing standards or ranges which accommodate the "dangerous" cases. This may well expand the range beyond what might otherwise be justified.

Legislatures do not have unlimited freedom in making policy choices. They are constrained by fundamental principles of individual autonomy and personal responsibility. Yet legislatures do have the power and the need to consider a wide range of factors in setting criminal justice policy.

We do not endorse legislative reliance on predictions to extend sentencing ranges—an exceptional use—because of the dangers of overintrusiveness based on inappropriate conclusions from prediction studies. In principle such use is distinct from using predictions to distribute punishments within previously accepted ranges.

We recognize the breadth of legislative powers and urge sensitivity whenever predictions are used to create new powers and controls over the individual. Any exceptional use of predictions, such as pretrial detention, which survives basic constitutional challenge, should require the highest levels of proof and restrict individual liberty to the minimum extent possible.

3. Racial bias in predictions. Because minorities, especially blacks, constitute a disproportionate percentage of defendants and prisoners, *any* prediction program in criminal justice will affect proportionately larger numbers of minority individuals than majority individuals.

Further, many systems of prediction rely on information—like poor employment records, educational deficiencies, and residential instability—that more commonly charac-

terize minority communities. When such information is used systematically to distinguish high- or low-risk groups, it therefore tends to burden minorities.

We see predictions, used as a guide to discretionary decisionmaking, as a tool which could *reduce* the impact of racial bias.

As we have stressed, the use of implicit predictions is widespread in the criminal justice system, and such intuitive judgments about future behavior are most likely to discriminate against blacks. Thus, explicit use of predictions may, by setting general standards, ameliorate the current racial patterns in criminal justice outcomes.

Is the disproportionate number of black offenders and prisoners the product of bias?

Research indicates that there is little or no difference in the likelihood that convicted criminals of different races will commit future crimes (see, e.g., Petersilia 1983). Other studies indicate that the disproportion between the races in the number of persons arrested is mainly a difference in their rates of involvement in crime and not any difference in their rates of persistence in crime (Blumstein and Graddy 1982).

Consequently, the use of predictions of dangerousness at sentencing, in prison administration, or for early release is not likely to generate significant additional racial disparity.

Argument over the use of predictions should not divert attention from the serious policy implications of the racial disparities that remain in the criminal justice system.

Providing context and the relative use of predictions

The use of predictions of dangerousness should be considered only in specific contexts. In many customary decisions, their use is widely if not automatically accepted. In some exceptional areas, such as pretrial detention and the selection of "dangerous" murderers for execution, the use of predictions is extremely controversial.

Whether a specific use of a prediction is appropriate is a policy question. Sensible debate over the proper use of predictions can only take place in specific contexts.

Among the questions that should be asked are: What precisely are the risks to society sought to be averted, based on what information; what deprivation of liberty of the individual is being considered; and what degree of procedural protection is provided?

The relative use of predictions

Base expectancy rates are the expected rates at which a given event occurs. For predictions of dangerousness, base expectancy rates show the current level of violent behavior for a given group.

Base expectancy rates for appropriately targeted groups provide the analytical key to policy decisions about the use of predictions in various contexts. Only by comparing the base expectancy rate of violence for individuals within relevant groups can the decision be made about the use of explicit predictions.

Predictions of relative dangerousness can be used to identify individuals who are members of particularly dangerous or nondangerous groups, that is, members of groups that have especially high or especially low base expectancy rates of violence.

The relative prediction may be at a low absolute level of accuracy, but it might nonetheless validly distinguish between the overall threat posed by individuals in the two groups.

Choosing the appropriate target group

The groups for which predictions of dangerousness should be used must be carefully chosen. Groups which are too large or small would make the effort to distinguish among their members meaningless.

Selecting appropriate groups requires a decision about which factors should define the base—the characteristics shared by the members—and which factors should then be used to distinguish among the members of the chosen group.

In sentencing we believe the first variable necessary to define target groups is *the crime for which the defendant has been convicted*.

No increase in justice can be gained from comparing a man who has committed murder with another who has committed petty larceny. No legislature would prescribe the same range of punishments for these two men, and no judge would place them side by side in making a sentencing determination.

These men might be identical in every other respect, but it would violate notions of retributive justice to treat them similarly.

The second variable that we believe defines the target groups for applying predictions to sentencing is *prior record*. The judge often looks to prior record, after the current offense, in making the sentencing determination. Legislatures appear to set sentencing ranges by imagining best and worst cases.

Retributive concern may respond differently to individuals with different records.

Thus, current charge and prior record are the essential elements in the initial retributive determination and set the limits on possible sentencing decisions. Within the resulting range of possible punishments, predictions of dangerousness could be used to distinguish among offenders.

There is no way to prove that crime and prior record are the appropriate variables for choosing the target groups; they are a reflection of practice and common sense. They are what judges consider and what legislatures and members of sentencing commissions seem most to care about.

In setting sentencing ranges, and particular sentences, these are always the first two questions asked: What did he do and what has he done before?

Model principles for the use of predictions in sentencing

We offer three principles to define the appropriate use of predictions in sentencing and related areas. These principles reflect the concerns with context and selecting the appropriate target groups discussed above.

These principles suggest careful limits on the customary use of predictions of dangerousness in allocating punishments. They reflect three beliefs:

First, predictions of dangerousness are sometimes the appropriate tools to guide discretionary decisions by actors in the criminal justice system.

Second, predictions are, in at least some cases, sufficiently accurate to *distinguish* between individuals in appropriately selected groups.

Third, the proper target group should contain individuals having closely similar records and convicted of closely similar crimes.

The principles are these:

• **Punishment** should not be imposed, nor the term of punishment extended, by virtue of the use of predictions of dangerousness, beyond that which would be justified as a deserved punishment independent of that prediction.

• **Provided** that the previous limitation is respected, predictions of dangerousness may properly influence sentencing decisions and other decisions in the criminal law.

• **The base expectancy** rate for violence of the criminal predicted as dangerous must be shown by reliable evidence to be substantially higher than the base expectancy rate of another criminal *with a closely similar record and convicted of a closely similar crime*, but not predicted to be usually dangerous, before the greater dangerousness of the former may be relied on to intensify or extend his punishment.

These principles suggest a moderate role for the customary use of predictions of dangerousness. Because they support the use of predictions only as a guide to discretionary decisions within ranges and powers already recognized as appropriate, they do not raise many of the individual justice concerns discussed earlier.

In setting the limits on punishment, the legislature makes the decision that punishment within that range is appropriate and justified. These principles seek greater individual justice and optimal use of limited criminal justice resources in making punishment decisions.³

Goals of prediction

Crime control is neither the aim nor the result of the application of explicit predictions of dangerousness. The use of such predictions may have some crime control effects at the margins. But a theory of crime control is vastly broader than a theory of the use of predictions of individual dangerousness.

The purpose of using predictions lies in notions of individual justice and efficiency and in confining special punitive or incapacitative treatment to those people for whom it is most appropriate according to the best available evidence. Some principled explicit uses of predictions may minimize the discretion inherent in the current pervasive reliance on implicit assessments of dangerousness.

Theories of punishment

The theoretical foundation for our principles is *limited retributivism*.

We believe that retribution is the defining principle in punishment. But we also recognize that precise punishments for specific acts cannot be derived—we have never seen it done in a coherent, convincing fashion—and other factors must enter into actual punishment decisions.

While we cannot find in people, and especially in groups of people, the ability exactly to say which punishment is just in a given case, we do find a widespread and acknowledged capacity to identify punishments which are *unjust*.

Thus, retribution defines the limits of punishment—or in other words a range of punishments *not undeserved*—but it rarely if ever defines a single deserved punishment.

This theoretical base recognizes the difference between setting a range of punishments and distributing punishments within that range (see Hart 1968). Concerns of individual justice and the allocation of limited resources can and must control the distribution of punishment within the range of not unjust punishments.

3. Under our third principle there are at present few areas where use of predictions in any substantial way will be justified given the paucity of predictive studies.

In the end, the fact of limited resources and the extreme complexity of human behavior, more than any theory, require the development of principles to achieve the greatest level of justice and mercy.

The *fact* of criminal justice is that punishment, driven by the notion of retribution, operates within ranges and limits, and not at particular, precise levels. We believe this requires the development of some set of principles to guide the decisions which result from the assessment of individual dangerousness.

Conclusion

The debate over the use of predictions of dangerousness in the criminal justice system raises a number of difficult problems. This paper has addressed the central concerns with the accuracy of predictions and the fairness of using such predictions to determine an individual's liberty.

A few central themes have emerged: (1) the use of predictions does not turn on any single issue and is different in each context; (2) implicit predictions of dangerousness are currently made throughout the criminal justice system; and (3) in the end a *political* and *social* choice must be made about the appropriateness of using predictions in each context.

This *Brief* has suggested three principles that define the appropriate use of predictions as a tool to distribute punishment in sentencing and similar decisions.

Even if these principles are not correct—and they are surely only an initial effort—some principles are required to control the increasing number of decisions made based on explicit predictions as well as the vast array of discretionary decisions throughout the criminal justice system currently based on implicit assessments of future violence.

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