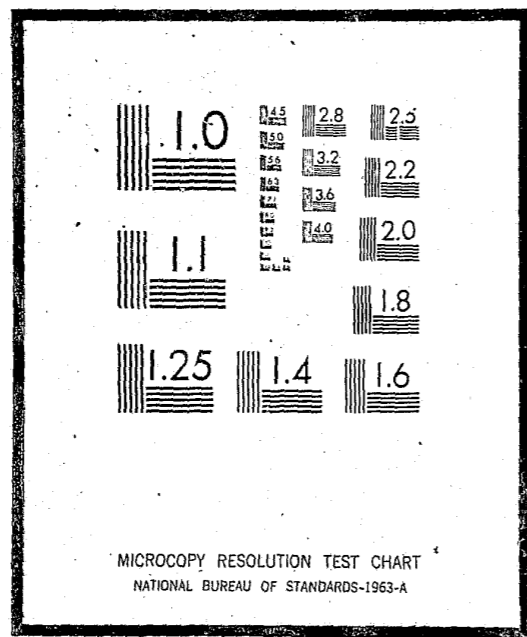


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TYPE OF TREATMENT IN RELATION
TO TYPE OF OFFENDER

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WASHINGTON, D.C. 20531

5/21/76

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TYPE OF TREATMENT IN RELATION TO TYPE OF OFFENDER

*Report presented by Dr. Bengt Börjeson,
University of Stockholm, Sweden*

It is well known that the history which describes the treatment by society of the offender, of the criminal individual, is a history of human suffering. During almost all times, the individual who has violated the laws of society has, in turn, been a defenceless victim of those laws. Seldom have the citizens of any society reflected about the contents of the written and unwritten laws that have decided the nature of the treatment of the offenders. Indescribable suffering, almost inconceivable to us, was given those who after standing trial sustained punishment for crimes committed. The offender, the thief, the adulterer and the atheist were outcasts who did not deserve any mercy.

Only slowly has the simple idea gained acceptance that this human being, the offender, deserved compassion and was entitled to a humane treatment.

The idea of the individually preventive treatment — i.e. that the composition of the treatment was partly to be dictated by consideration for the offender as a person — probably has, at least in our Western civilisation, a Christian origin. The analogy between the individual sinning against the will of God and the offender violating the laws of society was close at hand. The same recipe for the rehabilitation of the individual was practicable in both cases — by the individual confessing his wretchedness and demonstrating his repentance. Still in today's legislation, reflections of this moral attitude to the offender exists, — the hardened criminal we want to punish harder than the criminal who accepts society's condemning attitude to him as one of justified repudiation.

As recently as in the early 40s, there was to be found in Swedish prison cells, among the few pieces of literature permitted there, a little book entitled *In Lonely Moments*. Its first chapter was addressed to the newly arrived prisoner with the congenial headline "We bid you welcome". The text began:

"Dear Friend. Alas, it has come to the point when you had to be sent here. Maybe you have not, for some time, been entirely unprepared for it, since you have felt that you were on the downward course and have understood that the road you have chosen

would lead to misery and sorrow. Your apprehensions that it would come to an unhappy end have come true. The reasons for your present predicament you know best, and in your heart you no doubt admit, if you are honest to yourself, that what caused your plight was that you turned your back on God. More clearly than ever before you now realise that man can become the victim of the destructive influence of sin. Perhaps you have not previously wanted to listen in earnest to the talk about the terrible consequences of sinning for those who permit themselves to be guided by their own evil inclinations and the temptations put in their way by the vicious and the depraved: now, in your solitude you will have time to think this over."

I wish to underline some points of interest relating to this quotation. One of them is really most obvious in character. We experience a feeling of alienation when finding this moralistic view on man in an author. We are surprised at finding that such an attitude passed muster not very long ago, and we find a kind of comfort in this. We tell ourselves that this is clear proof of the fast progress within our correctional system. We do not any more moralise in this cruel and unreflecting manner. In our civilised community the correctional system is characterised by openness to society, we are free to criticise and question the forms of treatment of offenders that society applies, and it is considered an important social science objective to arrive by aid of research at methods that are from different viewpoints purposeful to the community and its citizens — including the law-breakers.

Of course we are right. The attitude to the individual who has committed a crime and the reaction of society to the crime have changed radically. Endeavours to establish rationally built up models of the causes of criminal behaviour and for the composition of the treatment have succeeded the moral repudiation of the criminal.

To assume a rationally evaluating attitude to the complex problem of criminality means in a certain sense to become seeing where one has previously been blind, although all the time we are impaired by our range of view still being restricted.

However, there is a risk in this rational orientation towards reality. A risk that, because of this very attitude, we may become blind to the system of values that constitutes the rational superstructure. This is a risk encountered in all social sciences today — common to them all is the accelerating technological and methodical pace that removes the researcher from the values constituting the premises for his activity.

Even if we apply an ingenious experimental design in the evaluation of the results of different forms of treatment of criminal individuals, the variables we are comparing are no rational structures. The penal institutions, the forms of extra-institutional treatment are all of them conventions that are only to a very small extent products of "scientific" deliberation.

I believe this to be an important point. The social scientists are gradually becoming skilled strategists and this applies also to the criminologists, even if the development is perhaps slightly slower in our discipline than in most of the related sciences.

The skilled strategists have developed a set of sophisticated methods for their choice between different alternatives of action — with what elegance can a null hypothesis be rejected.

However, there is a still more important part of our rational way of living where we have not advanced very far in any of the disciplines of social science: we have not learnt how to exploit our methodological skills and our theories for the constructing of useful alternatives of choice.

Within every given problem area we are able to distribute our resources in either of the following two ways: we can adjust with minute care our strategy for the choice between alternatives of action determined in advance, or we can seek a constructive basis of innovation in our mode of acting. I shall try to demonstrate that the heading of my address, "Type of treatment in relation to type of offender", may be interpreted in either of these two ways, and I intend to show, to the best of my ability, that the strategic outlook is leaving seriously weak spots in our approach to the problem area concerned.

In my exposition I intend to pursue three main lines of reasoning. First, I intend to describe the principles according to which in our country — Sweden — we have designed in practice the legal decision strategy, i.e. how to differentiate in the choice between different methods of treatment of offenders on the basis of conceptions of their personal situation.

Secondly, I intend to provide a frame of reference for the given set of problems, to outline the theoretical structure of the question of "type of treatment in relation to type of offender". And, thirdly, I intend to point to new possibilities of formulating the basic problem in order to open up new roads to analysis and research effort.

Let me, by way of introduction, comment on these three ambitions of mine.

1. When choosing to give a summary review of the application of considerations to the personality of the criminal individual in elaborating the treatment procedure — below I shall refer to this consideration norm as the principle of the differential treatment — I have set out from the accepted application of the laws of our country.

In so doing I may not have selected a representative judicial system — no doubt it differs in many instances from the legal systems of other countries. I hasten to say, though, that my review is not based on the opinion that the judicial decision strategy in Sweden is particularly interesting or typical. My exemplification instead aims at building up the formulation of certain statements of principle about the possibility of building in functions in the judicial systems that ensure the realisation of differential treatment — all the way from legislation to court procedure and to the face-to-face treatment of the individual.

2. In pursuing my second objective, which aims at the theoretical structuring of the set of problems concerned, I outline the prerequisites of what I have called "the strategic aspect" present at the choice between given alternatives of action. My thesis is that the problem in this conventional form offers a theoretical complex which is extremely difficult to master, and I expect on a priori grounds a very limited profit from the research effort that we have launched in this field.

3. In the final part of my address I try to present the guiding lines for a constructive research effort: in what way could the scientist contribute to the formulating of new alternatives of choice in the treatment of law-breakers?

My contribution will on this point constitute an effort towards a model of how such a research activity should be planned — as a matter of fact I believe that such an ambition will imply deep incisions also into research tradition.

This incision is, on the one hand, one concerning methods; the same techniques cannot be employed in constructive research as when formulating strategies. On the other hand, it is one concerning personal attitudes; the customary role of the researcher working at a "distance" to the problems investigated will no longer be adequate. Distance is excellent when the scientist is a strategist but has a hampering effect when the scientist is a designer. Now I have spoken at length of what I am going to say. It is about time I went on to say it. But first another reservation.

When trying to penetrate these sets of problems that have been put before me I have found them truly difficult. Certain aspects on the issue at hand have a high technical level of complexity, but

still more important is that many sub-issues of the matters I am bringing up are deceptive in that they seemingly simple and clear.

My exposition will be characterised by this dilemma. You will find me oscillating between the trivial and the complicated. In some cases I base my reasoning on research data, but only in a restricted sense has it been possible to hang my main thread on indisputable facts. However, I wish in this connection to refer to the discussion carried on between the conference management and the referees at a preparatory meeting this year. We were agreed that the choice of the theme "Type of treatment in relation to type of offender" ought to imply not only the reporting on relevant research efforts but also the presentation of a search procedure aiming at finding new angles of approach to the problem.

On the occasion, somebody ventured a warning — we must avoid "sawing off the branch we are sitting on". But one of the others commented to this: "Only then we shall know if we can fly as free birds".

To translate this into more traditional language: it is important that in the field of criminology we direct a bigger share of our resources towards creating innovations in the form of models and theories and that, relatively speaking, we concern ourselves less with the exploiting of our resources in order to stimulate the technical refinement of the related social sciences.

Without an unconditioned and penetrating theoretical innovation the advanced methodology will never become anything but a technical delusion.

I. Judicial application — A complicated decision strategy

In 1965 a new criminal law — the Penal Code — gained force in Sweden, succeeding a law basically 100 years old.

The Penal Code was preceded — and followed — by an intense debate. Aready during the very lengthy preparation and investigation period the legislation in being was controversial on a number of important issues. The most burning questions concerned the balancing of the weight to be given to the individual and general preventive considerations respectively, the formulation of the Penal Code in respect of the treatment of the individual criminal and the extent to which it should pay attention to public safety.

However, the discussion suffered badly from lack of facts. The Penal Code in Sweden is, just as the criminal laws of other countries, a consequence of numerous "practical" experiences and many learned deliberations, but as to formulation and contents it has not been subject to influence by empirical research. In this connection we are most interested in the individually preventive effect of the criminal legislation but we must keep in mind that the other objectives of the Penal Code constitute obvious limitations of the possibilities to make the Code an instrument for the readjustment of the criminal to society.

The individually preventive effect, however, had a high priority in the elaborating of the Penal Code: clearly expressed the objective was that "every offender shall be afforded the treatment required". Let us see how this ambitious goal has been lived up to in practical application.

The different penalties contained in the Swedish Penal Code for crimes committed by individuals who have just reached the age of 15 are the following:

First: fines, conditional sentence, and protective supervision, i.e. three penalty alternatives of so-called extra-institutional correctional treatment.

Secondly: There are likewise three penalty alternatives under the institutional treatment, viz. imprisonment, remand home, and internment.

Supplementing these main groups are special sanction alternatives that are applied in particular cases under the heading "commitment to special treatment". This includes treatment under the Child Welfare Law, treatment under the Temperance Act, and extra-institutional respectively institutional psychiatric treatment.

Finally, there is a group of enactments on exemption from penalty under the Penal Code. They apply to individuals under 15 years of age on the occasion of the criminal offence — the reaction of society in these cases is dictated by the provisions of the Child Welfare Law. The same principle — exemption from penalty — applies when the crime has been committed under the influence of mental abnormality and when it is obvious that punishment is unnecessary from the viewpoint of individual as well as general crime prevention.

This simple description by itself is sufficient to show that the Penal Code — and this naturally applies to every modern criminal law — is a differentiated instrument. However, my description is at the same time a rough simplification: a prison sentence can vary

from one month to ten years of institutional treatment; fines are of varying size, from a purely symbolic sum to a very heavy financial drain.

Which, then, are the control rules that the legislator has laid down for the implementation of the Penal Code? I have chosen to call the first control rule "The principle of the relative freedom from control". It is a pervading characteristic in the whole structure of the Penal Code that the legislators have consciously afforded a wide limit for the court's weighing of the composition of the punishment — the individual court has got considerable liberty for one thing in choosing between different penalties, and, for the other, at the dispensing of punishment under the particular sanction applied. If the court chooses to decide on imprisonment for a crime committed the permissible variation range, the penalty latitude, within which the punishment must be determined is very wide.

The principally most important choice that the court has to make is between non-imprisonment or imprisonment: solely in respect of the criminal offences at the end points of the gravity scale — the slight and the serious crimes — this choice is determined by the law, extra-institutional respectively institutional treatment being unconditionally adjudicated in these cases.

In respect of the predominant number of crimes subject to punishment under the Penal Code, the individual court thus is required to choose according to its own valuation between extra-institutional treatment or deprivation of liberty.

Again: a fundamental control mechanism built into the Penal Code is the balance between the court's liberty and its dependence on the model rulings of the law. In this respect our new criminal legislation has occasioned a shift towards a wider latitude for the court's own decision-forming, and this liberty has been justified by reference to the necessity of paying consideration to the crime-preventing purpose of the individual treatment.

Another control function being part of the structure of the penalty system is the convention of relating the "severity" of the penalty to the gravity of the crime. We no longer apply the rule of "an eye for an eye and a tooth for a tooth", i.e. the principle of identity, to crime and punishment. However, the public conception of justice demands — at least in the opinion of the legislators — that the contents of the punishment be a function of the character and gravity of the crime committed.

Here is one example among many of how this principle has been formulated in the Penal Code. In respect of the penalty alternative of conditional sentence the law says i.a.: "Conditional sentence

shall not be pronounced if, in view of the gravity of the crime, considerations to general obedience to the law make such a sentence inappropriate..."

A third obligation to pay consideration is imposed on the court in regard to the offender's age. The penalty alternative of youth prison has been introduced primarily in consideration of offenders between 18 and 21. Young offenders, between 15 and 18, are very often handed over to the Child Welfare authorities, and a prison sentence may be pronounced on a person under 18 only if there are very weighty reasons for it, and on persons between 18 and 21 only when the penalty in question is important in regard to general crime prevention, or when, on other grounds, imprisonment is found to be more appropriate than other penalties etc.

The fourth control function established by the legislator to govern the court's actions is the principle of intensification of punishment, should an offender relapse into criminal behaviour. Example: If an individual has committed a crime for which there is stipulated imprisonment for maximum 6 months under the Penal Code, the court may — if the crime committed is a relapse — sentence to imprisonment for maximum two years.

The thinking we can trace behind stipulations of this type is not too sophisticated — the new law is in this case varying the patterns followed by the older laws which established penalties for "first time of theft", "second time of theft" etc.

Let us review the four control rules that I have presented up to now. None of them is related to the offender's personality; in no case we can say that the principles express intentions on the part of the legislator to make the courts pay consideration to the type of offender.

It is true that we often speak of "youth delinquents", "recidivists" and "offenders against property" — i.e. three "types" of offenders that have direct relation to three of the four above presented control rules laid down by the legislator.

We must keep in mind, however, that this description of the offender is exceedingly unsatisfactory from the viewpoint of behaviour research. It is more of a criminal law cliché than a useful scientific conception: every effort to build up theories on this basis will necessarily become subject to much doubt.

I am strongly emphasising this point although the essence of it is maybe not of central importance in my reasoning. The fact is, however, that even if criminology in respect of its contents is limited to the study of a specific sector of human behaviour, we must as

scientists be exceedingly careful in order to avoid introducing into our theoretical structure building stones and conceptions that belong to the penal system and not to the behaviour research equipment.

I thus wish to characterise the control rules described as not type-of-offender-oriented.

There are, however, recommendations in the Penal Code that definitely have an implication different from the one that we have become acquainted with up to this point.

In order to pronounce a conditional sentence the court must have ascertained that "in consideration of ... character and other personal circumstances", one is justified in assuming that a more deep-acting penalty is not required.

As prerequisite for the application of a conditional sentence the court should, in other words, be agreed that the offender has a good or very good forecast and that, in fact, it is not probable that he will relapse into crime after the penalty has been imposed on him.

As prerequisite for the sentencing to protective supervision — also, as you no doubt recall, one of the penalty alternatives of extra-institutional treatment — is required i.a. that the court find it appropriate that the indicted person have a probation officer from the viewpoint of general crime prevention. In a note to the law-text the prerequisite condition for protective supervision is further explained as follows:

"What is important is that, if an overall review of the offender's personal situation indicates that he may be allowed to go at large without undue risk of a relapse into crime ... the presence of a favourable forecast is, however, not regarded as conditional in contrast to what is the rule in the case of conditional sentence ... The fact that the forecast is unfavourable consequently does not exclude protective supervision if the latter penalty ... should be preferred before other alternative penalties that do not either inspire any concrete expectations of a favourable result."

What we find here, clearly expressed in the text of the law and the notes to the law is the paying of attention to one dimension of merit in behaviour research, viz. "ability of readjustment". This conception has a mixed origin, several reference systems can contribute to the defining and measuring of the dimension in question. "Sociological" data like residential areas, social status etc. have relevance. Information of "social psychology" character about the individual's relations to different primary groups is of obvious interest, "psychological" observations of the individual's intellectual

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and emotional resources are important, and so are also psychiatric observations of mental irregularities in the individual.

The conception is by no means a "pure" one and is difficult to delimit. No doubt, it is of scientific interest though. The law prescribes that considerable importance should be attached to the dimension of "ability of readjustment" when selecting the proper penalty alternative. However, little is said on the subject of what constitutes this ability or lack of ability, and no guidance is offered as to what are the differences between the "good forecast" and the "bad forecast" types of offender.

I want you to note that in this connection I am prepared to accept the fact that the contents of the law is relevant to our model conception type of offender. In this case I regard the different types referred to as rough categories on the underlying dimension of "Ability of Readjustment" (see Fig. 1).

There are more complicated implications of the model conception from the viewpoint of measuring technics which I am not yet bringing up, however.

<i>Type 1:</i>	<i>Type 2:</i>	<i>Type 3:</i>
Good forecast	Average forecast	Bad forecast

Fig. 1: The type-of-offender conception defined as an underlying dimension "Ability of Readjustment".

The formulations of the Penal Code touching upon the dimension of "the individual's ability of readjustment" are rather vague as to contents and significance. From the examples chosen it is evident that "conditional sentence" is reserved for individuals belonging to the "Type 1" group in Fig. 1. The penalty of "protective supervision" has a wider application — this choice of penalty may be considered in respect of individuals of all the categories, although in the case of "Type 1" and "Type 3" the court should sentence to "protective supervision" only with certain hesitation.

A way of reasoning mainly similar to the one exemplified above with the conditional sentence and the protective supervision recurs in the Penal Code also in respect of the other penalties. The exposition of reasons is just as vague and unspecific as before, but at the same time it is obvious that the legislator is trying by his argumentation to give the courts guidance in the forming of decisions on the basis of the difficult-to-define dimension of "the individual forecast".

I shall go on to describe additionally one control function contained in the legislator's recommendations to the court for the choice of penalty and which is directly connected with the type-of-offender conception.

If a crime has been committed under the influence of mental illness, grave mental retardment, or other profound mental abnormality, the perpetrator shall, as a general rule, be exempt from a conventional penalty.

The determination of the possible fact that the offender suffers from "grave mental abnormality" means that one has come on to a road paved with methodological and practical difficulties — problems that I shall not enter upon in this connection. I just want to indicate that the theoretical scientific foundation for the tasks of forensic psychiatry is far from satisfactory. One requests normative evidence as a result of the empirical psychiatric examination and this leads to an incongruous theoretical reference system on the part of forensic psychiatry which is inhibitory to the development of this discipline.

If the crime in question has been committed under the influence of grave mental abnormality the main rule thus is that the ordinary penalty set-up is set aside. Should it be a serious crime — and a great number of serious crimes are committed by mentally abnormal persons — society's reaction will anyway be of profound effect since the alternative chosen will be "institutional psychiatric treatment".

Coming back to the model conception of type of offender we find here a second example of the legislator's ambition to differentiate the treatment on the basis of a psychological dimension, "the degree of mental normality". Like the foregoing variation — the individual's disposition to relapses — also the new psychological valuation norm may be considered an underlying continuous variable (see Fig. 2).

<i>Type 1:</i>	<i>Type 2:</i>	<i>Type 3:</i>
Mentally normal	Mentally abnormal — not to regard as equivalent to mental illness	Gravely mentally abnormal

Fig. 2: The type-of-offender conception defined as categories on an underlying dimension, viz. "Degree of mental normality".

Commitment to "institutional psychiatric treatment" is possible in principle only in the case of individuals belonging to Type 3 — the gravely mentally abnormal offenders.

When giving the reasons for a differentiated decision strategy based on the dimension of mental normality, one employs today a pragmatic language — individuals in this category are seriously mentally ill and need expert care in addition to what the correctional system can offer in general.

It is obvious, however, that an earlier argument for this policy was embodied in the opinion that the individuals in this group are not responsible for their actions in the same sense as other law-breakers. As I have already indicated this responsibility conception is irrelevant in one sense and consequently very dubious — one can never determine by means of empirical investigation if an individual is responsible for his acts. None the less, however, this conception is of central importance in the normative system of criminal law. By distinguishing a small group of offenders as not responsible for their crimes we choose to regard the majority of criminals as responsible, thereby legitimating our intention to punish them for the crimes they have committed.

What I want to point out is this fundamental difficulty: the basic view behind our system of reactions against the law-breaker is difficult to reconcile with an empirical and behaviouristic conception of the human motives.

Let us establish how far this reasoning has brought us. When an offender is committed for trial we are placed in a characteristic decision situation. This situation is characterised by the instance of decision, i.e. the court, having at its command two different decision premises, i.e. information and control rules for making the decision.

The information at the disposal of the court emanates from the investigation that has enabled the prosecutor to indict the individual, i.e. facts about the individual and the crime which he has committed. The control rules for the court's decision-making have been described earlier: the (relative) liberty of the court in forming the decisions; the consideration to be paid to the severity of the crime, to the age of the individual, and to the circumstance of the crime being a relapse or not. To this should be added that the court's decision is dependent on the conclusion at which one can arrive in regard to the individual's forecast and as to whether he or she is mentally abnormal or not.

At this stage, it is an obvious next step to demonstrate by means of schematic description that together the information and control rules used by the court result in a decision, i.e. a decision on the penalty to be dispensed for the crime committed by the indicted individual. However, such a claim would imply the neglecting of an important piece of our overall picture of the judicial decision

process. The fact is that the court has got at its disposal one more control rule of the following unconditional formulation: collect additional information.

Actually, a system of acquiring information unique to the judicial decision process has been built up around this rule: the prosecutor presents information which speaks against the indicted individual whereas the defence counsel presents information speaking in favour of his client. (I am not in this context going to discuss the important restrictions that apply in Sweden above all to the role of the prosecutor as being biased.)

Both the prosecutor and the defence counsel supply information which is environmental in relation to the individual: they argue about the severity of the crime and circumstances surrounding the perpetration of it, the need of protection of society and how this should be estimated etc.

But they also give their opinion of the individual's personality and his ability of readjustment. In respect of this information about the individual — the type-of-offender information — the details supplied by the parties (the prosecutor and the counsel) are, however, considered insufficient. Consequently, it is incumbent on courts in Sweden, whenever applicable, to employ two more information suppliers, the expert of forensic psychiatry and the case investigator.

The psychiatric examination is compulsory as a foundation for the court's decision on commitment to institutional psychiatric care instead of any other sanctions. The court may, however, employ such an examination also for other purposes; it may decide to acquire this information in order just to obtain indications towards an appropriate type of treatment, primarily internment, but also youth prison, protective supervision etc.

The case investigation is intended to furnish information on the personal situation of the offender and to provide views regarding the penalty alternatives that are likely to facilitate his future readjustment. A case investigation with these objectives is compulsory in case the individual is sentenced to not less than six months of imprisonment, to conditional sentence, protective supervision or internment. Only if the offender is sentenced to fines or a short term of imprisonment a case investigation is not required — actually this basic information often is employed also when these sanctions are decided on by the court.

The decision situation just described, viz. the court's choice of penalty to be imposed on an offender, may be described schematically as in Fig. 3:

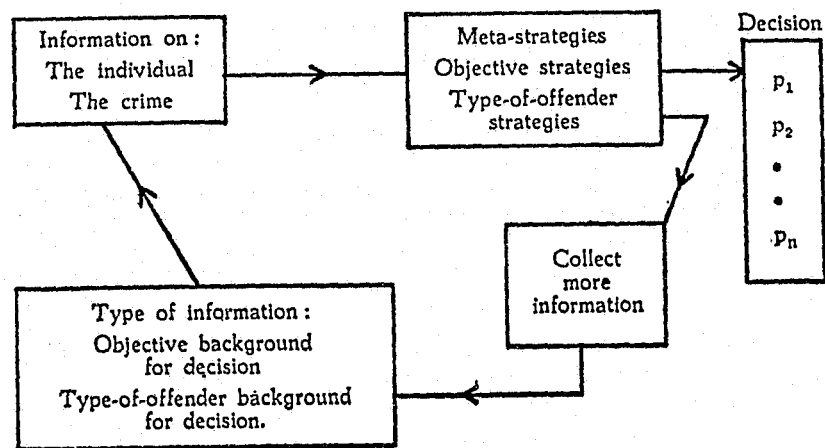


Fig. 3: Basic diagram illustrating the court's decision-making.

The above Figure summarises our discussion. The court's first decision is to collect more information regarding the circumstances surrounding the criminal act ("objective" background for decision) and regarding the individual's personality (type-of-offender information).

Together with already available information and control rules these data enable the court to arrive at a final decision on penalty. The control rules now are divided into three main groups:

- (i) Meta-strategies which are of general significance — to them belongs the rule of the relative liberty of the court in relation to the legislator's recommendations and the rule of collecting additional information;
- (ii) The objective strategies which provide the limits of the court's application of measures in view of the severity of the crime etc.
- (iii) The type-of-offender strategies which provide that the decision of the court be partly based on personal data about the individual, on his forecast and his mental state.

This is a fairly complicated picture of the judicial decision process — and still it is an extraordinary simplification. Individual control rules which we have formulated in one single sentence have in reality their correspondence in complicated rule systems, sometimes in specific laws. Thus, there is the Act on Case Investigation in Criminal Trials, the Act on Juvenile Offenders etc.

This is one of two aspects on our simplified picture — the second one indicates that our rough drawing shows only the first stage of the judicial decision process. However, by the court's choice of penalty it is by no means determined what treatment the individual will receive in the future. When the court has made its decision the decision initiative is transferred to other decision instances that employ just as complicated — or still more complicated — decision routines than those we have demonstrated, this in order to determine the appropriate treatment of the criminal.

In the following we shall indicate how the continued decision process can be described as a formal procedure employing previously acquired information, earlier decisions, current control rules, and new information as building stones in the decision process of the court. However, it is essential first to introduce some empirical data in our reasoning.

A characteristic circumstance in the decision process which we have referred to up to now is that we know very little of how it functions. Our supply of rationally structured background material necessary for keeping the machinery in operation is actually very thin. We are able to formulate statements of this type: "public safety demands that a law-breaker be punished for his crime"; "we cannot put through radical changes in the judicial system as long as we do not know the possible consequences of such changes"; "the figures on recidivism after institutional treatment are definitely unsatisfactory"; "the crime rate development in this country after world war II is alarming"; "the costs of the legal decision process and the treatment resources must not exert a too heavy pressure on the nation's economy" etc.

Statements so obviously lacking in theoretical merit have been allowed to constitute the basis of our criminal policy. As regards the primary functions of the judicial system — the individual and the general preventive activity — we are almost completely lacking in knowledge.

Still, on a number of points we can supply some — even if rather scanty — information. The court shall pay consideration to the probability of the individual relapsing/not relapsing, to his having a "good" or "bad" forecast. Criminological research has paid special consideration to this pre-decision rule and a whole research sector has been allotted to "criminological forecast research". Has this research been fruitful? Is it possible to predict — e.g., on the occasion of the court's decision-making — whether the individual is going to relapse or not?

There is much to indicate that these possibilities are fairly good. Gluecks, Burgess, Ohlin, and Wilkins (among others) have made

important and early contributions to the methodology in this field: today the determination of so-called Base Expectancy Scores are more or less a routine task from the scientific viewpoint.

In an investigation on juvenile delinquents I found for example (1966) that information constituting part of the court's background material for decision could be systematised, the result being a considerable predictive capacity. If, on the basis of this information, the individuals were divided into nine risk categories the following results were attained (Fig. 4):

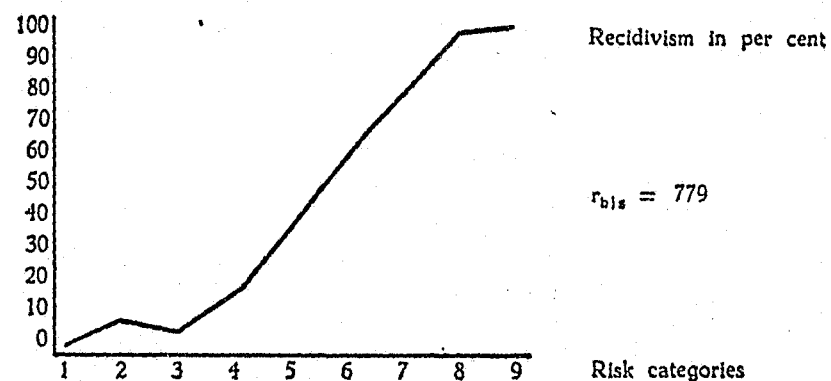


Fig. 4.

Is the information offered in Fig. 4 of interest? I am not fully convinced that it is, but permit me to postpone trying to comment on this question. For the present, we say that the information points to the possibility of denoting or measuring at least a sensible connotation of the type-of-offender conception. The precision of the measuring instrument permits us to systematise the information in such a way that we acquire the capability to divide in a fairly varied manner the individuals into forecast categories, and the information is valid in the sense that the forecasting capability is fairly good. In regard to individuals in the extreme categories the reliability of the forecasts is in fact very good.

A question of more interest is, however, if courts are using information of this type in their forming of decisions. As we have seen, a control rule governing the court's manner of acting states that so it shall be: generally speaking, the legislator says that if an individual's forecast is "good" a penalty of less profound consequences is required than in the case of a "bad forecast".

There are certain data in my investigation report on youth delinquents which illustrate the strategy of the courts in such a case. When studying the decision of a court I found, for instance, that individuals who have been sentenced to institutional treatment respectively extra-institutional treatment differ in attachment to risk categories in the following manner (Fig. 5):

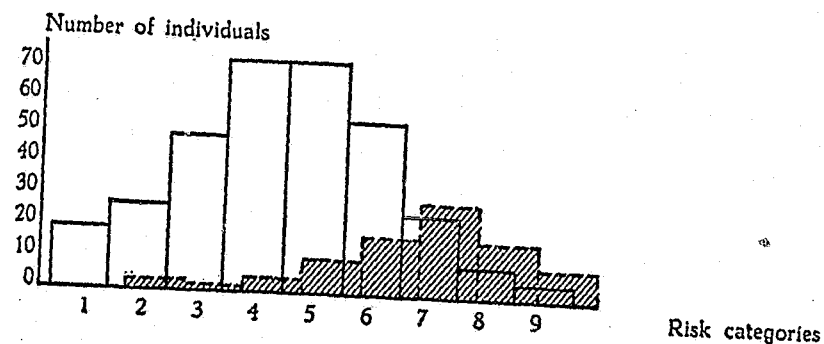


Fig. 5. Attachment to risk categories of individuals sentenced to institutional treatment (filled-in bars) respectively extra-institutional treatment.

The connection between the court's choice of penalty (institutional treatment/extra-institutional treatment) and the category attachment of the individuals is considerable, as shown in Fig. 5 ($r_{b1s} = .62$).

This proves, first, that the court is able to evaluate the individual's forecast and, secondly, that the court actually makes full use of this evaluation in its decision-making.

However, we must reserve ourselves on this point: the results shown are of limited validity. The forecasting instrument in Fig. 5 (indicating the category attachment of the individuals) is actually not a valid criterion against which the court's "forecasting ability" could be tested. In itself, the instrument is a "guess", composed of outside information, indicating the future recidivism/non-recidivism of the individuals.

We also must keep in mind that the court's decision is only partly prompted by the opinion arrived at in respect of the individual's forecast — the court may for instance be "compelled" to sentence an individual having a good forecast to deprivation of liberty if the crime is a serious one.

Against this background the conformity between the court's decision and the forecasting instrument is surprisingly good. The explanation of the high degree of conformity is, however, partly found in the fact that many of the other control rules that influence the court's decision-making were kept constant in this analysis: the clientele was a number of young offenders who were all brought to court for the first time since they reached the age of 18.

However, granted that the court is capable of predicting the individual's recidivism/non-recidivism with reasonable precision and that the court also includes the prediction in the control system governing the decision-forming — does this mean that better decisions are arrived at?

This is the critical question — and, as we shall see, our answer is even now very hesitant. And an answer must be dependent on the determination of the adequacy of the basic control rule for the court's decision-making when sentencing individuals with a "good" forecast to a less severe punishment than individuals with a "bad" forecast.

This strategy is probably based partly on more or less clearly expressed normative grounds — the individual having a "bad" forecast deserves a severe punishment — the principle of an eye for an eye and a tooth for a tooth in sophisticated scientific application.

The rational explanation of the reasons behind the strategy is contained in legislative material and notes to the law-text where you encounter the opinion that a more drastic penalty is needed for readjustment of the criminally severely afflicted individual. In other words: we find a camouflaged claim as to a positive effect of the treatment.

Now, this is a very weakly founded hypothesis — or should we perhaps call it a pious hope or a conjuration rather than a hypothesis on the part of the legislators?

I take the liberty again to put forth some of my own research results, still related to the clientele of young offenders examined by me. I arrived at the following recidivism figures for the imprisonment cases (here representing the heavier punishments) as compared with the non-imprisonment cases, *consideration at the same time being paid to the individual's attachment to risk categories*, Fig. 6:

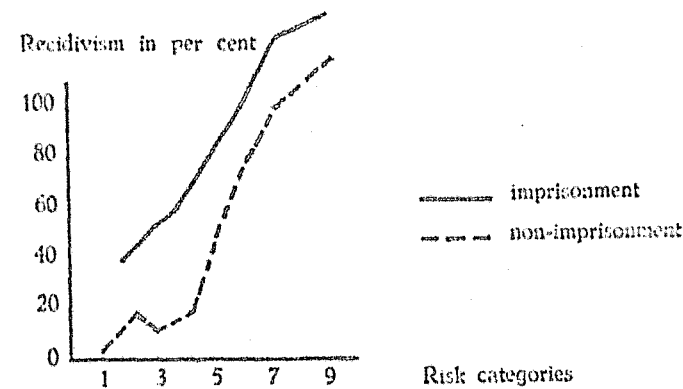


Fig. 6

The results in Fig. 6 give slight support to a differential treatment strategy which pays consideration to the different forecasts of the individuals. Actually, the results in this connection lead to a recommendation that all individuals should be granted non-imprisonment penalties if you look to their own best only: such a treatment results in fewer relapses among individuals of all risk categories.

Our basic problem, viz type of treatment in relation to type of offender may thus be formulated with reference to Fig. 6 into the following decision rule: "Give the same type of treatment (non-imprisonment) to all types of offenders".

Permit me to make a reservation. The above recommendation — "give all offenders extra-institutional treatment" — is not emanating from me. I am well aware of the fact that the court's decision is directed by a complex of control rules, something which has, I hope, been evident from what I have said above. The recommendation is just a logical consequence if the regard to the readjustment of the individual were the single and primary objective of the court in its decision-making.

The use of the information according to the procedure outlined in Fig. 6 has certain advantages. The results of the treatment alternatives are represented by regression lines, the internal distance between which will be tested with conventional statistical significance methods.

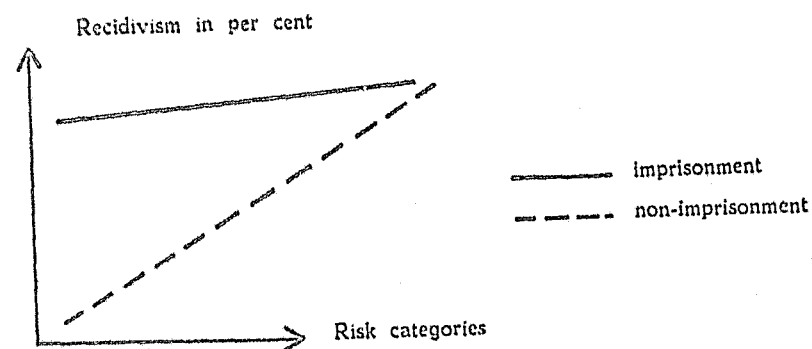
The testing procedure also includes an investigation as to whether there is any significant difference of inclination between the

regression lines. As we shall see in the following, this is a technically accessible and methodologically adequate meaning of the conception "relation" in the heading "Type of treatment in relation to type of offender".

Thus: the differential inclination of the regression lines implies evidence for the existence of such a relation or maybe, more correctly put, interaction between type of treatment and type of offender.

My investigation included some two hundred comparisons between different treatment alternatives, made with the methods I have described — the figure is, however, not so impressive since the majority of the comparisons were dependent and not independent of each other or were replications of earlier comparisons with different criteria of the conception of recidivism, respectively different follow-up intervals in respect of the clientele.

I found very weak indications of an interaction between type of treatment and type of offender — no conclusions so safe that they could be used as a basis of decision rules regarding individuals of the type that were subject to my investigation. There were, however, certain tendencies towards interaction effects of the following character (Fig. 7):



In the Figure, the outcome of extra-institutional treatment is compared with the corresponding effects of a deprivation-of-liberty alternative. The result may be described like this: there are forms of treatment in the institutional system that show very high recidivism figures also in respect of individuals with "average" forecasts.

For different reasons — i.e. because this observation is based on a relatively small number of individuals — I do not wish to "squeeze" the results. Considerably more final is the observation

that this data model hardly enables you conclusively to substantiate interaction effects: this empirical observation I shall subsequently use as a basis of some methodological viewpoints.

Our reasoning up to this point, however, has only touched upon one of the main components of the decision process: the court's determination of the penalty. Our empirical observations also belong within this frame. For presentation in principle of the information flow in this decision situation, see Fig. 3.

Let us follow this process a bit further — what happens after the penalty decision? In doing this we disregard the possible prolongation of the court procedure which ensues if any of the parties appeal against the court's decision. Such a manner of acting does not imply anything new in principle: the flow process is repeated in the higher court. In our model we however have a control facility included as one of the building stones of the total decision process.

Since now we are interested in the system of the information and decision flow from the viewpoint of basic procedure, we introduce two sequential simplifications in order to make the next following exposition more comprehensive.

We presume, first, that the sentence implies deprivation of liberty and that this punishment is constituted by the penalty of imprisonment. Consequence: the court has imposed a prison sentence on the offender. What will happen next?

Now, we can describe a new decision situation where the decision consists of the choice of type of institution and of individual institution, and in this connection also of block within a specific institution. In one sense the decision is a choice of "type of treatment".

Primarily, the choice is between an open and a closed institution. In the open institution the liberty of the inmate is considerable: as a rule, the leisure time may be spent together with other inmates, working outside the institution is commonly occurring, and security measures are less rigorous.

The character of the closed institution is entirely different: also there the work should be carried out together with other inmates, and part of the leisure time may also be spent in the company of fellow-inmates but:

"To the extent that otherwise is not the consequence of what is provided in paragraphs 45 and 46 (on work and leisure time) those detained in a closed institution should be kept separated from each other" (paragraph 47 of the Act on Correctional Treatment).

From viewpoints of principle we acknowledge a distinct correspondence between the decision situation now concerned and the earlier discussed one that concerned the penalty decision. Again, we find objective control rules forming the basis of our choice of treatment; thus, the age of the inmate is of importance to the choice of type of institution. If he is under 25 this is a circumstance that in itself justifies the choice of an open institution.

Another example: if the sentence is imprisonment for not more than three months, an open institution should be preferred.

Control rules for the decision that pay attention to knowledge about the individual — type-of-offender information — are weighty, however. As a general guiding principle it is provided that the decision on placement of offenders in different institutions is to be made with due regard to the individual's age, state of health mental condition, earlier mode of life, working capacity, knowledge and education.

It is evident that this very general recommendation also means that one should pay consideration to the individual's forecast in the same general sense as discussed above. However, by its wording the law also enables the new decision level to pay regard to the individual's forecast in a more specific sense: his readiness to adapt himself to and accept the institution routine. The individual's susceptibility to discipline, his propensity to attempt escape, and his possible "dangerousness" are important basic factors in forming a judgment.

The type-of-offender information also may be given preference before the objective control rules; as regards the desirability of placing individuals under 25 in open institutions, one has consequently not been inclined to establish this recommendation as a rule, since it has to be set aside so often due to the risk of escape.

I also wish to point to another type of control rule which I call "situational", i.e. the decision on choice of institution should be based on deliberations as to the population of different institutions, the current personnel situation (vacancies, holidays etc.). An intersection between rules of this kind and type-of-offender rules will ensue when the placement of the individual becomes contingent on the attempts to place him in a block where the personnel know him already (if the previous contact was positive) etc.

A basic diagram of the decision-making at this stage of the decision process will be very similar to our previous model. Again, it is important to note that the decision situation is characterised by a control rule with the import of "collect more information" — these data principally consist of type-of-offender information (apti-

tude test, examination of vocational knowledge, information on the individual's personal aims etc.) and additional data on the "situational" premises of the decision.

The two-stage procedure in this decision situation is distinctly formalised: first, the individual is given a preliminary institutional placement, and during this phase of the correctional treatment a supplementation of information takes place that will form the basis of the final choice of placement. Today, the aim is to devise a decision routine under which the individuals are moved, as a first stage of the institutional treatment, through a reception centre which provides possibilities of observation and collecting of data to form the basis of the final decision.

In important respects the new decision situation (the institutional placement) is similar to the one previously described. However, there is, in my opinion, an important difference which may be intuitively verified when you study the formulation of the objective control rules: there is an inherent and distinct nuance of constraint on the decision-maker which you do not find in the rules of decision-procedure laid down for the benefit of the courts.

However, this is a subjective impression. We may render this impression more objective, though, by reference to the control function governing the decision on institutional placement of the individual.

The decisions now are made at a decision level that has got the right of decision delegated from a superior level — which has not, however, waived its authority to appraise the adequacy of the decisions¹. The decision process on this point I wish to characterise as decision-making with a restricted degree of liberty.

The court's decision may be controlled by a superior court, that is true. This possible intervention is, however, not primarily a check-up on the decision-making of a lower court but a way of ensuring that the rights of the individual (the parties) have been protected. The control levels have not been instituted for the purpose of establishing if a court's decision was "right" or "wrong" but rather as a consequence of the difficult nature of the court

1. My formulation is intentionally general. It might be of interest to know that "the decision level" responsible for the individual's institutional placement is indeed a living human being — one of the eight section managers of the Swedish correctional system. The right of decision is delegated to these officers by the National Correctional Administration. Of the eight section managers, one is responsible for the women's section, one for the juvenile delinquents' section, and one for the internment section; five section managers are responsible for the institutional care belonging within the sanction of "imprisonment". Within each section and under the supervision of each section manager there are several institutions, each headed by its own director.

decision and the inherent lack of reliability in the decision-making. At the risk of repeating myself, I am going to present to you the principles of the decision procedure, up to the point that we have now reached, in respect of the determination of the treatment of the individual. The illustration (Fig. 8) has a twofold purpose: to illustrate the different parts of my exposition and to show the complexity of the decision-strategy structure.

Also, my earlier referred to reservations still apply. This picture is a simplification of reality — and still only a part of the story has been told.

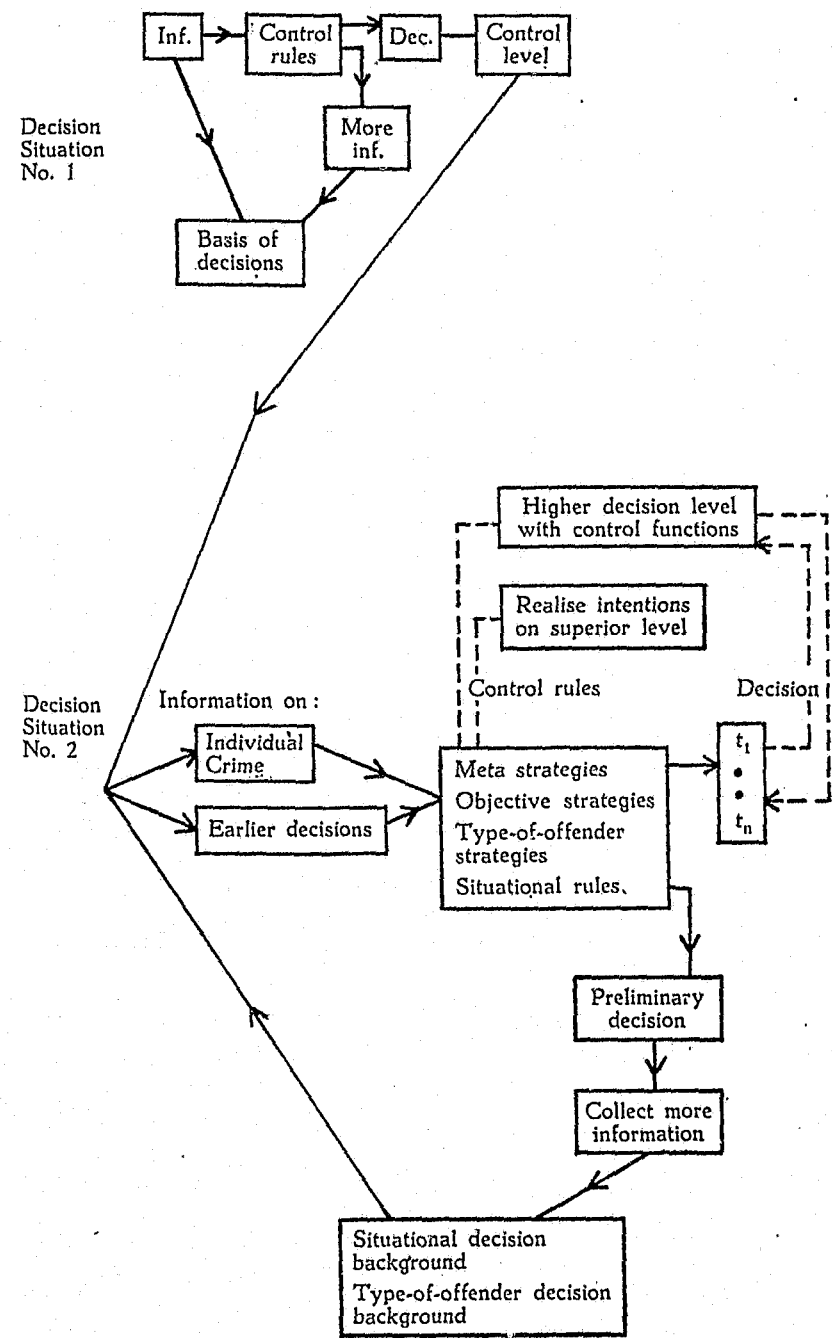


Fig. 8

A brief comment on Fig. 8 — the essential parts of my reasoning around this basic model have already been presented.

Under Decision Situation No. 1 a continuous line goes to the control level. By this I want to emphasise that there is always a check-up on the court's decision irrespective if any of the parties appeals against it or not.

A reaction that means "no objection" depends on the circumstance that the parties accept the court's choice of sanction — it "serves no sensible purpose" to go to the court of next higher instance. This is a kind of control, too. We note that there is no feed-back from control level to decision level: the decision is studied at a new court session, i.e. the former procedure is repeated. This possibility of control is often employed but its characteristic feature is, in fact, that it grants the former instance a wide latitude to decide on the basis of a free appraisal of all circumstances. Also, a changed decision on penalty in a court of higher instance does not imply any criticism of the decision of the lower court.

From Decision Situation No. 1 we go on to Decision Situation No. 2: the choice of treatment through placing the individual in a certain institution.

We first note that the decision made in Decision Situation No. 1 is included among the premises for the measures to be taken by the next decision level.

We provide two control rules that have the status of so-called meta strategies — "realise the intentions of the higher level" and "make a preliminary decision and go on to collect more information". The second one of these rules conforms very closely with the corresponding strategy for Decision Situation No. 1. The first rule, on the other hand, implies in principle a new kind of communication — we have denoted this fact with the dotted lines. The decision-maker now is directly subordinated to a superior authority which, in turn, carries the responsibility "outwards" for the adequacy of the decision. The decision level makes a decision in the place of the superior body and tries to realise the intentions of the latter.

These intentions are well known to the decision-maker — not by his finding out about them each time a decision is to be made but due to the fact that the individuals who have in their careers reached the "decision-making level" have acquired this outlook and by their becoming indoctrinated in the governing ideology as a result of communicating with the superior authority outside of the actual decision situations. The liberty afforded the decision-maker in Decision Situation No. 2 is — to use a slightly pointed formulation — a liberty to make a correct guess at the consequences of the

ideology of the controlling level when applied to the case concerned, and not a liberty to apply any own valuations to the case.

A decision-maker at this level probably recognises less well this description of his lack of liberty: I do not think, though, that this constitutes an objection to the description. The type of restricted freedom indicated by me may correspond well with a subjective experience of the absence of coercion, particularly if the controlling level chooses to present its intentions informally and not by formal control of the individual decisions.

The flow process otherwise is identical to both Decision Situations, Nos. 1 and 2: when the decision has been made there is a possibility of checking on it offered the superior level which is seldom utilised, however — this is an assumption of mine — if the decision-maker has already well fulfilled his unfree function.

There is an important stage of the total decision process still left: the actual treatment of the offender. In principle, I prefer to look upon the treatment also as being a stage of a decision process, but at the same time this view has its distinct limitations.

Thus, you do not benefit much from viewing the treatment as a sequence of an almost endless number of decision items. By this you do of course complete the picture of the total treatment procedure but you lose at the same time every possibility of a comprehensive overall view.

Earlier, we have been able to use the concept of "decision" in more or less evident correspondence with the "common sense" signification of the word.

When trying to introduce the concept in a process implying a continuous interaction between individuals, e.g. a treatment, we have to be more thorough. We have an evident need of technical definition. Let us try to satisfy this need by aid of the exclusion principle. These situations I do not want to call decision situations.

(i) An inmate criticises in a conversation with a staff-member one of the latter's colleagues. The staff-member now has to choose between defending his colleague against the attack, assuming a neutral attitude, or accepting the criticism; the taking of position in this situation is, in my opinion, not identical with a decision;

(ii) An inmate requests permission to interrupt his work in the shop in order to make a telephone call. The supervisor may refuse or grant this request — this is, in my opinion, not a decision either.

(iii) An inmate has reported sick. He is examined by the doctor who concludes if the man should be sicklisted or not. In accordance with my reasoning in the following I do not apply the concept of decision to this situation either.

The "decision" concept I reserve for the resolutions that concern the distribution of the different and prevailing treatment alternatives within the institution. When examining these alternatives we find that they may be roughly ranked according to a dimension that varies from numerous to very few restrictions of the freedom of the individual. This dimension I have called the reward system of the institution.

An explanation of the ingeniousness of this system is educating from many points of view. Generally, I conceive the treatment, i.e. the institutional care, as a sequence of routines that gives the inmate an increasing number of advantages — if he can live up to the expectations made on him.

If he should violate the official rules of the game, by escaping, by absconding while on leave, by refusing to keep prescribed times, or by committing acts of insubordination, he will fall back in this gradual reward system or have his "promotion" delayed. Should his negative behaviour be "obtrusive" in the opinion of the institution, the consequence may be that he will have to resume the treatment on harsher conditions than the first time — an inmate who was originally placed in an open institution may, as a result of his "resistance to treatment", be transferred to a closed institution.

The span of this reward system is enormous in the Swedish correctional system. On the one hand, internment is imposed on inmates acutely maladjusted to treatment; on the other hand, an inmate may spend parts of the institution term under conditions that only remotely resemble a conventional institution treatment. A couple of examples: individuals with theoretical aptitude may be allowed to carry on studies at so-called study centres under a very unrestricted system; those who are serving fairly long sentences may in certain cases be granted permission to spend holidays in some beautiful region together with their families; the most radical experiment at present carried on by the Correctional Administration is to rent a number of single-family houses in different villages where the inmates are allowed to live with their families while working in the village. No one — except a few local administration officers — knows that the individual is serving a lengthy prison sentence and the demand on him is only — except of course to do his job and fulfil his other social duties — that he keep in regular contact with the supervisor appointed.

The institutional treatment is characterised by an enormous span within the reward system, and it includes a large number of decision situations. This span and the versatility of the system give room for — or enforce — a continuous state of preparedness on the part of the staff-members to make decisions about the treatment of the individuals.

This is, consequently, my definition of the decision concept at this stage of the decision process (the treatment of the individual in the institution): each time you change the individual's status within the reward system of the institution or at all contemplate a change (the decision may imply a status quo) you make a decision.

Probably, the definition is relevant also to the extra-institutional treatment but, as mentioned above, I am choosing when exemplifying only on the basis of decisions relating to the institution treatment.

One complication of the continued exposition of the decision process in connection with the choice of treatment is obvious: the large number of decisions even when using the restrictive definition already applied.

A second difficulty in the designing of our model for this phase of the decision process is the differentiating of the decision process according to the different decision levels. An indication of this complication was noticeable already in Decision Situation No. 2 when the freedom of the decision-maker was restricted to "the realising of the intentions" of the next higher level, i.e. the controlling level.

The liberty at the decision-making within the scope of Decision Situation No. 3 is, however, far more restricted. First, we shall see that the control rules for the decisions have considerable precision and that already on a priori grounds they leave limited space to the decision levels involved. Secondly, we now find the control function governing many of the decisions to be further developed and, thirdly, there is a new circumstance to be noted: different decision bodies with overlapping competency areas share the right of decision — this results in an additional limitation of the freedom of action in the determinations of the treatment of the individual.

Here, I wish to introduce an approximation of reality in my description of the decision process — this implies additionally a complication in our designing of the model.

The models that we have hitherto drawn up in order to analyse differential treatment effects (possibly in relation to the individual's type category) generally are based on the belief that we have access to a number of treatment alternatives among which we may distribute the individuals: each treatment involves many individuals.

This model always represents considerable difficulties in the generalisation of the results, except when the treatments can be separated on non-controversial quantitative grounds (e.g. in learning experiments; differing numbers of repetitions; in group therapy experiments; varying numbers of sessions per week etc.). If the

differences between treatments are mainly qualitative it is difficult and in practice impossible to tell with any precision what differences — and similarities — actually exist between them.

Still, the model possesses a certain validity if we apply it to decisions on treatment made on one single point in the decision process — Decision Situation No. 1 (choice of sanction) and Decision Situation No. 2 (choice of institution) represent, we may be justified in saying, different types of treatment.

As regards Decision Situation No. 3 which provides the control of the treatment flow during the actual time of treatment, the difference between our conventional model and reality is, however, so great that it is very doubtful if we can at all speak of any approximation of reality with aid of the model — I fear that the word misrepresentation would be a more adequate description.

Instead of a system with a limited number of treatment alternatives among which to distribute the individuals, we now find that at a given time every individual is subject to several different treatments. The total treatment situation at the institution varies both as regards the individual inmate during the treatment process and in respect of the different individuals among themselves: it is fully reasonable to imagine an institution where after a certain time the inmates are subject each one to his own exclusive combination of treatments. I imagine the situation to be like this:

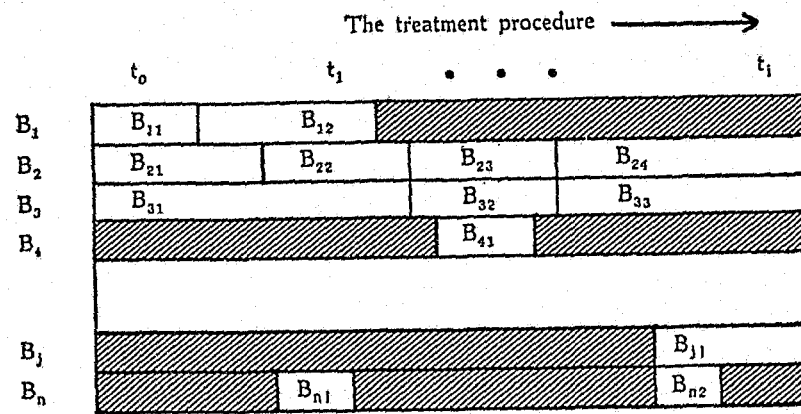


Fig. 9. Basic diagram of the treatment procedure for an individual during the institutional treatment.

The figure is based on two operating principles. First, I look upon the total treatment as a sum of dimensions (B_j), and secondly, the placement of the individual is determined within each dimension (B_{11} , B_{12} etc.) of the reward system.

Examples of the different dimensions within the scope of the treatment are e.g. work assigned, opportunity to carry on studies, "the degree of freedom", extra-institutional work, leave of absence, permission to receive visitors, disciplinary punishment etc.

A treatment within a given dimension does not necessarily go on during the whole period of confinement: in Fig. 9 the B_1 treatment ends after a certain time; treatment B_4 is only an intermittent part of the routine; B_j is initiated only after a certain time at the institution (the filled-in surfaces denote "no treatment").

Self-evidently, some treatment methods are interrelated; a decision on the treatment of the individual may comprise several such dimensions. B_{23} and B_{32} respectively B_{24} and B_{33} are examples of treatment alternatives that are decided on at the same time.

Which then are the control rules governing these decisions on the treatment of the individuals in Decision Situation No. 3?

There are numerous alternative ways to describe these control rules and I chose in the first place to differentiate between the rules that concern the placement of the individual inside the institution, the deliberations that are decisive in a possible reconsideration of the institutional placement of the individual, and, finally, the rules that are applied to the decision on the termination of the institutional treatment and the committing of the offender to extra-institutional correctional treatment. We consequently distinguish between decisions that concern "institutional treatment", "treatment between institution periods", and "treatment between institutional and extra-institutional periods".

Let me exemplify the rules that are relevant to these different decision alternatives within the scope of Decision Situation No. 3. A number of these rules are contained in the law-text and the notes to it (the Correctional Treatment Act, and the Act on Conditional Discharge), whereas other decision rules have been issued by the King in Council or are available in the regulations of the different correctional institutions.

Many of the central norms applicable to the treatment of the inmates naturally are not available in explicit formulation; they are more or less unforeseen and not consciously perceived products of the cultural prison environment (the structure of the system, the treatment process, the influence among the inmates on each other etc.). The scientists endeavour to cause these informal rules to be consciously perceived by aid of their theoretical language. However, in this context I do not aim at this sophisticated effect: the following examples refer to simple and perceptible rules for the treatment of the individuals as formulated e.g. in the text of the law.

In respect of the decision-making we once again are able to discern comprehensive control rules, so-called meta strategies. One of them concerns the objectives of the treatment in very general terms: "An inmate shall be treated firmly and seriously and with respect for his human value. He is to be occupied with work of appropriate character and otherwise to be subjected to treatment of a nature to facilitate his readjustment to society. Detrimental effects of the deprivation of liberty should be prevented as far as possible." And further: "It is incumbent on the inmate to carry out diligently and orderly the work assigned him and to comply with the regulations applying in the institution and, also, the prescriptions and directions communicated to him by the personnel of the institution." (The Act on Correctional Treatment, paragraph 23). The message contained in the law is thus interpreted: "We shall treat you humanely but you have to respond by behaving properly."

Contained in the law-text there is a kind of realism — the rule expresses a minimax philosophy on the part of the correctional system: the treatment should be designed in such a way as to reduce the disadvantages of the deprivation of liberty as much as possible (detrimental effects are to be prevented as far as possible).

We now are able to identify the meta strategy "realise the intentions of the superior decision level" as more distinctly expressed than before: "It is the task of the National Correctional Administration to direct and supervise the treatment of those committed to a correctional institution" (paragraph 2 of the Act on Correctional Treatment). A series of notes and supplementary prescriptions describe the complicated decision machinery that is put in operation after a decision on the treatment of the inmate — in respect of individuals who serve imprisonment sentences we are able to identify six (1) distinctly separated decision-making bodies (Fig. 10) — in respect of offenders committed to youth prison respectively internment institutions there are additional administrative complications that we gladly disregard in this exposition.

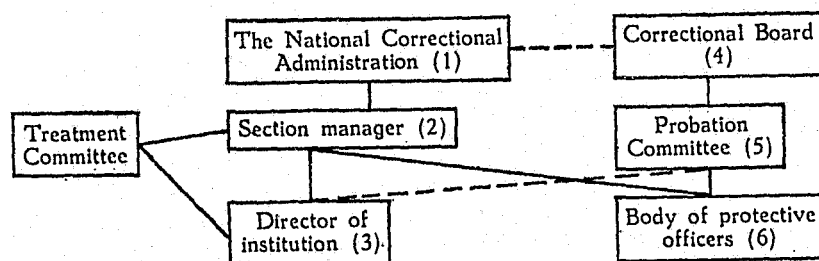


Fig. 10. Decision-making bodies at different levels appointed to decide on the treatment of the individual committed to the institution.

Decision-making body (1) — the National Correctional Administration — is, as mentioned above, responsible for the entire correctional system and supervises the extra-institutional as well as the institutional treatment. Directly subordinated to (1) are the different section managers (the Correctional Treatment Inspectors) who are responsible each for one of the five national sections respectively for the women's the juvenile delinquents' and the internment sections.

The section managers have the twofold responsibility for the institutional and the extra-institutional treatment (subordinated to them are the institution directors, whereas the network of protective officers are subordinated to the National Correctional Administration via decision-making body No. 2).

The immediate responsibility for the extra-institutional treatment, however, is exercised by an independent decision-making body, the Probation Committee (5). Decisions on conditional exemption from institutional treatment are e.g. made here as well as decisions on the appointing of probation officers etc. Appeals against the decisions of the Probation Committee may be filed with the Correctional Board (4), which agency also takes over the decision functions of the Probation Committee in case of decisions on conditional discharge of persons serving long prison terms.

A few additional complications that serve to demonstrate the closed character of the decision system: submitted before the Probation Committee is the director of the respective institution; this brings a decision-making body in one of the two controlling systems into a subordinate relation to a decision-making body in the other "independent system". Correspondingly, the recommendation has been issued (by the Secretary of State) that the head of the National Correctional Administration (1) should be elected member of the Correctional Board (4).

I am inclined to call this organisation for decision and control of the correctional treatment an organisational anomaly. I think this description is correct — I wish to point to the fact that we have in this context only mentioned the explicit decision-making bodies. Everybody realises that, as a consequence, only part of the system has been accounted for. Subordinated to the management of every institution is e.g. additional and strictly differentiated groups of personnel that serve to remove the inmate from the decision-maker.

Sociologists rejoice at finding these social systems operating in an energy field of formal and informal rules with extended control functions and inherent closed circuits where the information flows in a never changing cycle. Such systems offer excellent opportunities of theoretical analysis — my question thus framed is less

general: what latitude is offered in these systems for innovation and research?

In Fig. 10 you find presented with particular emphasis an important instrument not for decision but for planning the treatment of the individual. This is the Treatment Committee which is intended to be in operation in every institution.

We have thus arrived at a new meta strategy for Decision Situation No. 3 and we formulate it like this: "The treatment of the individual should be designed in consideration of information about his personality and his future development".

In order to give a realistic import to this rule the Treatment Committee thus acts as an information processing body. The treatment of the inmate is to be planned on the basis of a treatment examination. The results of this examination are to be presented to the Committee, and at least every third month a report should be submitted to the Committee on "how the inmate has behaved and how the treatment planned for him has turned out". The inmate himself also may present in person his preferences and viewpoints to the Committee.

The meta strategy concerned in this connection is closely related to a control rule that we have already studied as connected with the decision-making at earlier stages of the judicial decision process and which requests the collecting of additional information to forego the decisions to be made by the different decision-making bodies. We now find that this rule is applicable also to Decision Situation No. 3 (decision on the designing of the treatment of the inmate). However, this rule here has got a more general implication recommending that the information be collected continuously during the treatment sequence in order to satisfy the needs of the decision-maker for data in the decision process.

Along with the meta strategies we find objective "situational" and type-of-offender strategies for Decision Situation No. 3. Again, the rule structure is analogous to the one applying to previously mentioned decision situations. We shall see, however, that the emphasis has now shifted in the direction of type-of-offender strategies for the control of the treatment of the individual.

A couple of examples of objective rules: an extensive assortment of rules apply e.g. to the decision on the length of the punishment. In their details these regulations lack interest in this connection — it is however not without interest to observe that the complexity in determining the time of punishment is so great that the inmate can hardly be expected to understand the implications of the regulations.

Here is another control rule that refers to the transition of the institutional treatment into extra-institutional care: "An offender who is serving a fixed term of imprisonment may be discharged on probation after having served two thirds, or, if particular reasons prevail, half of the time. Discharge may, however, not be granted before the execution of the penalty has been going on for at least four months." (The Penal Code 26:6).

Objective rules directly related to the designing of the treatment are to be found e.g. in the Act on Correctional Treatment — in this case the rules have a certain general range of application. Example: "An offender committed to an open institution should, as a rule, work together with other inmates and may also if particular reasons do not prevent this, spend his leisure time in their company" (paragraph 44). "In his leisure hours the offender committed to a closed institution may participate together with other inmates in instruction, divine service, outdoor activities, physical exercise etc., unless particular reasons prevent it" ... (paragraph 46).

When going on to the implementation regulations for the Act on Correctional Treatment, and in particular when studying the regulations of the different institutions, we find detailed provisions that in various ways lay down a fixed pattern of life for the inmates and extensively restrict their liberty of choice. Here are a few but not fully representative examples: "You must not have a canary in your room"; "You must not have a flower-pot in your room"; "You must not have pin-up girls on the walls" etc.

The "situational" control rules refer to the designing of the treatment in consideration of the special conditions prevailing in an institution (temporarily or permanently). Here, the institution management is afforded room for extending respectively restricting the privileges of the inmate after having studied the current situation. To the decision-maker at this level this means a liberty of action where his individual treatment philosophy can have a certain latitude in relation to higher decision levels that could not as correctly determine and balance the considerations to be paid to the "situational" prerequisites. This applies in particular when restrictions on the inmates' privileges are concerned.

Liberty to the decision-maker means increased lack of liberty to the inmate in one respect: the scope for his independent judgment of permissible/forbidden and acceptable/unacceptable behaviour is restricted in excess of the limitations already introduced by the objective control rules.

The "situational" appraisal by the decision-maker certainly may result in increased privileges for the inmate but there are conditional "rewards" that may be revoked at any time.

From the formal viewpoint the scope of action of the decision-maker when setting out from the "situational" premises is regulated in the following way: "Should detrimental effects on the inmate's physical or mental health appear or be expected to appear as a result of the application of some regulation in this law, the adjustment should be made that will be judged necessary for the remedying or prevention of such detrimental effects."

If required for the maintaining of order and security within the institution the privileges granted the inmate under this law may be reduced" (paragraph 24).

We note that the legislator makes higher demands on the introduction of alleviations for the inmates than on the procedure in case additional restrictions are to be imposed on them. To this may be added that the modifying of the provisions of the Act on Correctional Treatment to the benefit of the inmate should be of limited character (one speaks of the adjustment that may be required), whereas the situation may permit general limitations ("... the privileges may be reduced ...") to the disadvantage of the inmate.

In other respects we often find the "situational" control rules for the treatment of inmates in the shape of reservations or limitations of the applicability of the objective rules. Passages in the text of the law like: "unless particular reasons prevent it"; "if this is possible without inconvenience"; "if it is deemed effectible without detrimental influence (among the inmates)" etc., reflect the importance of the "situational" deliberations.

The combination of objective and "situational" control rules is fully expressed in the following rules: "to the extent this is possible without disadvantages an inmate may acquire or receive books, magazines, newspapers ..." (paragraph 30) and "An inmate may, according to what may be found feasible, possess simple personal belongings" (paragraph 31).

Despite the almost unbelievable multitude of objective and "situational" provisions of higher or lower order the type-of-offender information has acquired increased importance in Decision Situation No. 3 — in many cases such data are almost decisive for the treatment of the inmates.

I have already touched upon the enormous span of the so-called reward system in the institutional organisation: to a great extent the treatment of the individual is shaped according to information about his personality and his "behaviour" at the institution.

The Treatment Committee and the Probation Committee are two important information-processing bodies where type-of-offender data play an important role. The principles of the treatment exami-

nation have been so formulated that "to the extent required" an examination should be made of the inmate's living-conditions, personality development, state of health, talents, and knowledge.

A decision exceedingly important to the inmate is, naturally, the choice of time of the conditional discharge — I have already said that the objective control rule offers the possibility of a reduction of the time of punishment by as much as fifty per cent. And the law says: "When judging the question of conditional discharge particular importance should be attached to the convict's behaviour during the institutional term and his (her) mental attitude at the time when the discharge is planned to take place ..." (The Penal Code 26:7).

In the notes to the Penal Code this basic idea is further developed — the relation between the advantages to the inmate of the reward system and the possibilities thereby to control his behaviour is particularly obvious in this connection: "That good behaviour is rewarded with conditional discharge has, on the other hand, empirically a favourable effect on the conduct of the inmates, not the least on their willingness to work. Conditional discharge is a means of encouraging willingness to work and good behaviour..."

The Secretary of State for Justice also emphasised during the preparatory work on the Penal Code that great consideration should be paid to the inmate's willingness to work when judging his behaviour — and consequently when deciding on the time of his discharge.

We also have noted in the above that the decision on institutional placement (Decision Situation No. 2) is to an important extent guided by type-of-offender information. During the institutional treatment this decision may be reconsidered (it then comes within the scope of Decision Situation No. 3) and also here type-of-offender data have a high decisive value. This particularly applies to the transfer from a closed to an open institution (or vice versa). In order to grant the enjoyment of the very extensive liberties of the open treatment (stays at study centres etc.) the prerequisite is a very positive judgment of the inmate, fundamentally based on this type of information.

Finally, here are a few examples of the control function of the type-of-offender rules in the planning of the treatment at the institution.

A matter of principle in Swedish correctional policy extensively discussed is the prohibition for the inmates freely to write or receive letters: "An inmate may not without permission dispatch or receive letters or other written messages"; this is the objective control rule.

And the modification of it is being justified on the basis of type-of-offender data: "Otherwise an inmate who has proved to be reliable may be granted permission to dispatch and receive letters without these having been examined in advance".

Another example of central importance — the possibility of being granted leave from the institution is of enormous importance to the inmate. The implications of the leave are not exclusively positive. The intermittent freedom creates a sharp contrast to the loss of time of the institution term. Hence, returning to the institution is to the inmate an act at short sight and from certain viewpoints self-destructive: by returning he is compelled himself to contribute to the legitimating of a number of his basic needs being frustrated. A misspent leave puts into action a system of sanction measures and reduces his prospects of an early conditional release and prolongs the interval to his next leave etc. At the same time, the leave naturally has a positive implication in that (I resort to a psychological cliché) it gives the inmates "something to look forward to", in that it facilitates the readjustment to realities — "there is a world outside the institution". The psychological game carried on around the granting of leave is extraordinarily interesting — it ought to be subjected to a special analysis. The law allows only a narrow limit on this point but it is well known that the application of this part of the treatment is fairly generous. I have received complaints against the institution management from inmates about a too liberal granting of leave — this treatment policy has a negative effect on the unity among the inmates.

The formal rule is of the following wording: "If risk of misuse is not deemed to prevail an inmate may be granted permission... in consequence of the length of the institutional term or else if powerful reasons exist, to leave the institution for a certain short time" (paragraph 36).

The decision principles governing the granting of leave also illustrate in a striking manner the lack of liberty of the decision-maker: it is the section manager who decides on the leaves (Decision Body No. 2, Fig. 10), although he is entitled to delegate the right of decision to the director of the institution (Decision Body No. 3) who deals with the cases in accordance with instructions issued by the National Correctional Administration (Decision Body No. 1).

The complexity of decision model No. 3 makes it difficult to draw up a schematic reproduction of the decision-making like the one we outlined for Decision Situations 1 and 2, Fig. 8. Above all, the multitude of decisions is such that they could hardly be systematically incorporated in diagrams.

In this case I consequently restrict myself to the illustrating of the decision sequence in respect of decisions about the termination of the institutional treatment (Fig. 11). The decisions of Decision Situation No. 3 concerning the treatment of the individual within the institution or the transfer of him between institutions however correspond in principle with the model drawn up for Decision Situation No. 2; the only supplement needed to that model is a square containing "continuous data collecting", i.e. information to be used in the decision-making. The "preliminary decision" square of the model may be excluded.

Well, let us try building up a model on decision-making about the termination of the institutional treatment in the individual case.

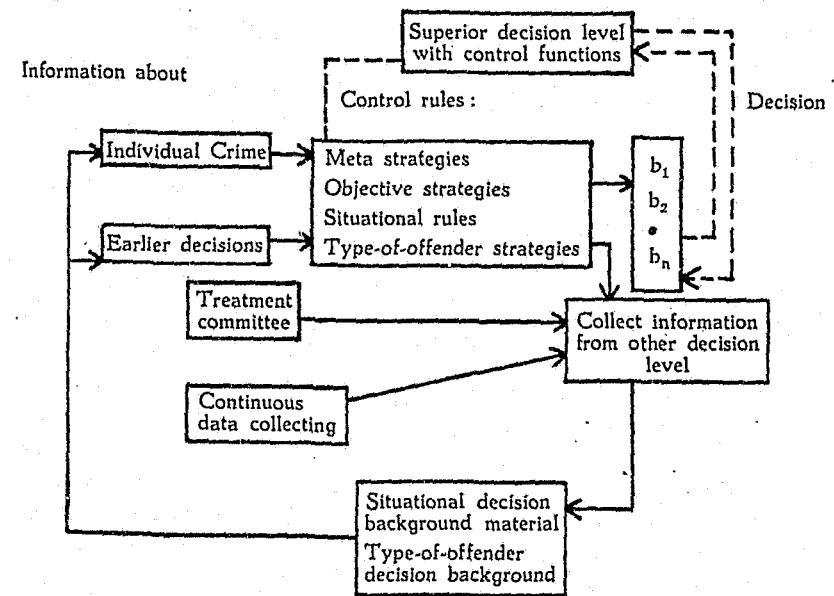


Fig. 11

There is not very much to add about Fig. 11 — the same general pattern of decision procedure as in earlier decision situation applies in this case too. A few comments may, however, be of some interest. It is evident that the decision-making about the possible termination of the institutional treatment in the individual case is to a high degree controlled by information produced outside of the control range of the deciding body or officer.

The information is furnished by another deciding body (the institution management). In reality, this means a great limitation of the freedom of decision of the decision-making body (the Probation Committee).

In this manner the institution management is able to control the decisions of the formal decision-maker by its access to information. The decision-maker, however is able to control the institution management's interpretation of the information and, at the same time, to draw up frames for the possible range of variation in the decision-making. It is possible to restrict the institution management's "manipulations on the basis of the information" by making these frames as narrow as possible.

This alternative decision model within the scope of Decision Situation No. 3 thus is an interesting example of a negative power balance and of the restrictive manœuvring facilities at the decision-making: the best chance of each party to secure freedom of action and control is to restrict the relative liberty of the other party.

II. *Some conclusions of the description of the implementation of the judicial rules*

I would like to put a full stop here, finishing my accounting for the procedure at different levels and stages of the decision-making on the treatment of the individual.

What does my description of it tell you?

Once again I wish to emphasise that it has only indicated the complexity of the decision process, giving a restrictive import to the decision concept as applied to a limited clientele — those sentenced to imprisonment. In all fundamental respects my description also has been limited to the formal organisation behind the decision-making: in this respect my description is not only incomplete but also systematically misleading. An elementary knowledge of the sociology of organisation tells us that the paying of consideration to the informal social system complicates considerably the picture provided by a formal delineation of the structure of the organisation.

I wish to make additionally one reservation: In my exposition I have described the decision flow under Swedish conditions, and it is obvious that we cannot unconditionally generalise from this environment. Nor is it easy to point to the part of judicial application in our country that corresponds to or differs from the practice of the judicial systems in other countries. However, in this respect

I venture the opinion that my exposition is more relevant to a system of sanctions where the treatment ideology has gained considerable influence — perhaps greater than in most other nations.

It remains to me to make a confession: my account has not been rich in viewpoints in the sense that I have offered new interpretations of the social organisation that selects and shapes the penalty of the offender. Anyone who is interested in criminological or criminal law matters might say — we know the picture presented, we know of the rules that govern the behaviour of the decision-makers.

I am consequently aware of the fact that I could be accused of having by lack of understanding presented and discussed truisms, and I have assumed the heavy burden of providing proof to the contrary — evidence to show that such a description of my exposition is erroneous.

I now intend to formulate my countercharge, and since I find myself in a tight place intellectually also this task will prove a difficult one.

First, I would like to make a distinction between two kinds of knowledge. I believe that we who are active in criminology possess a great deal of insight about how we are treating those who are convicted, but we have a very scanty knowledge of why we chose to design the treatment in the way we do. And we have almost no ideas of how we would prefer to plan the treatment if we had the liberty of trying out new alternatives.

My countercharge also may be formulated thus: It is my opinion that the social scientist, the psychologist, the psychiatrist, or the criminologist have in their exercising of their professions — as researchers and in practice — gravely violated the rule that they make valid conclusions from the knowledge they possess about judicial application, about the principles governing the treatment of the offenders.

Like blind mice they have sought their way in the maze — among the control rules — of the judicial decision process; futilely, they have sought for space and latitude for the administering of the methodological alternatives in which they believe themselves. Instead they have willingly lent out bits of their theoretical systems to be fitted into ready-made patterns for the decision-making; they have never tried with their theoretical instrument equipment to influence or alter the basic structure of the system.

In the following, I am going to put forward a number of extenuating circumstances in favour of the researcher; his is no easy

task, and it is difficult to find a way out of the intellectual dilemma in which he finds himself.

Which then will be our main impression of the description of the decision-making in connection with the choice of treatment of the individual convicted for a crime? My first impression is of the complexity of the system. And I wish to add — this complexity is "sick", it is a cancerous tumour that has been growing and will continue to grow up to the limit of reason, since the system lacks validity regulators. Nowhere in the system are there undisputable facts to aid the decision-maker in choosing between strategies in consideration of the benefits that would result from a choice controlled by such means.

The organisation built up around the choice of type-of-offender treatment I should like to place in a category of social systems which I call "no information but big power" systems.

This type of organisation has been ingeniously described by Galtung in his essay, "The organisation of dilemma"; he finds that a characteristic feature of the decision-maker's exploitation of his big power is constituted by the multiple restrictions imposed on him — the big power is the relation to the individual who becomes subject to the decision, not an independent decision in relation to environmental social systems. The big power is meant to be exercised on the basis of multiple premises and with multiple objectives; an important prerequisite for the legitimation of the decision-maker's exercising of big power also is that the system function in a narrow sense — an excessive escape rate, too many assaults on personnel etc. will tend to undermine the confidence in the decision-maker.

According to Galtung the complexity of the system consequently is to a great extent a function of the multiple restrictions in connection with the power function of the system; to this I now add the no-information aspect. Incorporated in the decision process there are a multitude of potential control stations where information is lacking however — the controlling function does not materialise.

Here, we are able to discern one of the reasons for the requests for criminological treatment research: results from such a research would mean that we would add to the social system a selection mechanism, a control function in the choice between alternative decisions.

Real progress in the research area of type of treatment in relation to type of offender would mean — setting out from the idea of the irrational complexity of the system — a simplified decision-making and as a result a simplified social organisation.

However, these viewpoints have a very hypothetical character and I shall go on to a theme on which we are able to make safer statements. You have followed the above exposition to the decision process in its different stages. On various points I have found it important to touch upon the question of the freedom of the decision-maker in forming his decisions. A first impression is that this freedom is very limited: a host of control rules dictates the latitude of the decision-maker's movements. But this is an uninteresting aspect of liberty of conception at decision-making: the number of control rules is in no given relation to the relative degree of lack of liberty on the part of the decision-maker — there are, in fact, control rules that afford him a certain liberty!

Instead, we observe the following tendencies in respect of the restrictedness of the decision situations: first, there is a clear trend towards a gradually more restricted liberty for the decision-maker the further on we move in the decision process. A simple explanation of this fact is that the decision-makers — at later stages in the judicial application process — are bound by the earlier decisions made; these early decisions are among the decision premises of the subsequent decisions.

Secondly, we can trace a tendency towards a more restricted liberty for the decision-makers who are "near the offender", i.e., those who decide on the actual treatment procedure.

By these two observations we thus have identified two quantitatively measurable correlates of the degree of liberty in the decision-making: on which point in the decision process the decision is made, respectively the degree of closeness to the offender. A third observation is qualitative: the organisational structure of the decision-making body, and particularly the character of the control function, is of decisive influence on the degree of freedom offered the decision-making body. The organisation of the court has been created in order that its own judgment of the individual case is ensured considerable weight. The decision-making of the institution management, on the other hand, is meant in all essential respects to realise the intentions of the superior levels in the hierarchical system.

I emphasise this viewpoint strongly: I believe in fact that it is of considerable influence on the prediction of the scope that could be afforded the treatment-in-relation-to-offender strategies within the action frame of the decision-making body. For the present, we may establish generally that our valuations in this respect must be differentiated in regard to at which point in the decision-making process we want to apply the strategies concerned.

Let us study the aspect of liberty at decision-making from a fourth aspect: in respect of the implication which the concept of "liberty" carries in the minds of the different decision-makers when implementing the law. And in this connection it is illustratively favourable to contrast the court respectively the institution management as decision-makers.

The liberty of action of the court is related to both objective and type-of-offender strategies. Within wide, objective limits the court may itself arrive at a concrete decision. In respect of the type-of-offender rules the court has the task — often on the basis of competent information from bodies assigned for the purpose — of independently making decisions setting out from its own opinion of the personality of the offender.

And, finally, the court may weigh different viewpoints against each other: information from one reference system may be subordinated to or overlap data speaking for the application of another control rule or — which is the natural procedure — the court will combine by weighing the different bits of information into a decision.

The institution management is restricted in a completely different manner already at the formal level. The objective rules are orders that can be modified only by referring to "situational" circumstances: certain measures cannot, for instance, be carried through in an institution due to a shortage of premises or personnel; restrictions for environmental reasons of the liberty of movement of the clientele may result from the character of the security system of the institution etc.

The liberty of decision of the management is, however, a negative freedom, a freedom under coercion, the pressure of the given situation. The decision-maker cannot reasonably conceive the latitude thus given as a constructive ingredient in his own activity.

To the decision-maker — the institution management — the type-of-offender rules become in this situation vital for experiencing his role as purposeful. To the extent that the institution managements are able to make an "independent", "free", decision concerning the population of the institution this decision has to be justified with type-of-offender data.

Also these decisions, thus justified, are to fit into the intentions of the superior decision levels. These intentions may, however, be subject to liberal interpretation as long as the extraction of the intentions is made in type-of-offender terms.

This insight we have to keep fresh in our minds: the decision-making in consideration of type-of-offender data has far-reaching implications for the clientele, but primarily this strategy also implies an advantage to the decision-maker who administrates the treatment.

In the following we now must bring up a couple of important questions in connection with the viewpoints put forth. What are our possibilities to carry on type-of-treatment-in-relation-to-type-of-offender research within the scope of judicial administration — i. e. the decision process which we have discussed in its different stages? An important request at the initiating of such a research process is, as a matter of fact, that we are permitted — at least temporarily — to put out of function the control rules that apply to the different decision situations on which we turn our spotlights¹. Obviously, a research effort of this kind demands an introduction of a random allocation of individuals to different treatment alternatives. To use chance as a control function is to abolish a deeply founded philosophy in the designing of the structural organisation and intended function of the decision situations.

Additionally a question: Which are the possibilities offered us — after having obtained possible results of a research effort — to feed these results into the premises for the decision-making? And is it possible to express any advance opinions on which decision levels will make use of them?

Is it likewise possible to say anything about the possibilities of at all achieving any results within our problem area of type of treatment in relation to type of offender?

And finally: Is it desirable to supply the decision bodies with information derived from a research effort of this kind, i.e. is a distribution of intellectual energies to this research area of importance?

I believe that we are able to give fairly well-founded answers to several of these questions. However, I realise all the same that we have to content ourselves with indications on the formalising of these answers. A detailed description for each individual answer would carry us too far.

1. I very briefly develop some viewpoints on the possibility to make conclusions on the basis of quasi-experiments in which the random method has not been used at the distribution of individuals to alternative treatments.

III. *The possibilities of
"type-of-treatment-in-relation-to-type-of-offender" research*

We have for a long time been aware of the difficulties in pursuing an experimental approach in the criminological treatment research — a research effort to which we have attached and still attach hopes that it will provide knowledge about the effects of the system of criminal law application.

Also, permit me to say: the restricting factors in respect of such a research effort we find above all at the points in the decision process where the decision-maker enjoys the greatest freedom. It is far more probable that we shall have to introduce an experimental design within the scope of Decision Situation No. 3 (the planning of the treatment) than in Decision Situation No. 1 (the dispensing of the sanctions). Why?

A possible explanation of this is that the court's loss of freedom (its own control of the decision-making) would be more extensive; the court has got far more to lose than the institution management by accepting that a random-selection mechanism become a control rule at the decision-making.

However, this is only one side of the problem. We also have to keep in mind that the court's "freedom in making decisions" is not primarily a question of status — behind this decision premise there is a philosophy that, in the court's taking position to a case, one should consciously consider and weigh the relevance of a penal rule system when judging the individual case and when deciding on the sanction to be imposed on the individual offender.

A decision dictated by random selection results would eliminate this conscious striving, and we experience chance as an unethical judge in consideration of the interests of the offender. And there is additionally one important point. It is true that the ideology on which the court's acting is based encompasses the idea that the court should arrive at "the best decision" in the interest of the given party, but this decision is a solution of a conflict between two parties, society and the law-breaker. One cannot retain the confidence of these parties by replacing oneself with a random mechanism, and also research results concerning the effects of the sanction system must be interpreted by the court in such a way that the interpretation is accepted by both these parties. In a conflict of interests where the decision-maker is "above" the parties the empirical information will always have — at the best — a relative value. But more important in this connection is — again — that one cannot make a decision that means that a dispute is settled by the introduction of an experimental manipulation — such a manner of acting would be more or less incompatible with the court's decision methods.

The situation is entirely different in the case of the institution management being the decision-maker. Also here there is a tradition prescribing a decision procedure in consideration of the individual case — the best solution sought, however, is a problem solution and not a conflict solution in the sense we have regarded it on part of the court.

An experimental arrangement would temporarily suspend the decision-making connected with the individual case; this explains the resistance we are meeting to the scientist's efforts to manipulate the decision-making within the scope of Decision Situation No. 3. But in this case it is, in fact, much easier to regard the experimental manipulation as an instrumental component introduced in order to secure in the future an improved foundation for the problem solutions of the decision-maker. The experimental manipulation is based on the same or similar value premises as the acting of the decision-maker, and consequently it is not fundamentally contra-indicated as in the court's choice of sanction.

IV. *The possibilities of introducing the research results
into the decision premises for the judicial application*

Let us assume that we have arrived at certain research results within the problem area of type of treatment in relation to type of offender. How would they be received? Would they be used?

My suggested answer will in this case be similar to the one I offered regarding the possibilities of carrying on manipulative research within the scope of the given decision situations.

I believe that the court has only slight inclination towards basing its decisions more or less exclusively on research data of this kind, and in my opinion a decision-making body of the type "institution management" would have a "relatively high degree of inclination" towards a modification of its decision strategy according to the information supplied by the scientist.

An observation: the duties of the court include the considering of the individual's forecast when deciding on the sanction, and I have shown in Fig. 8 that the court does realise this ambition. The forecast instrument — e.g. in the form of base-expectancy-scores — has since long been an information offered by the research scientist. The point is that courts around the world do not want to use this type of information — with few exceptions. And this is not a time-lag phenomenon: the use of formalised forecast information data would reduce the court's possibilities of using other — non-formalised — data in its conflict-solving decision-making.

Data relating to type of treatment in relation to type of offender would constitute an important restriction at the realisation of the institutional role expectations on the court as a conflict-solving agency, and in my opinion they have a limited application value at this stage of the decision process.

To the decision-maker/institution management the situation is different and in a certain sense more complicated. Let me repeat this: the freedom of this decision-maker is to a high degree connected with the application of type-of-offender rules. However, this freedom is continuously watched from two directions — by the superior authority and by the clientele. The decision-maker must always be prepared to answer the question: Why? as a consequence of the decision at which he has arrived. Also he has a constant and powerful need of being able to legitimate his decision function when he sets out from type-of-offender data.

Now, this line of thought leads up to two predictions. First: to the extent that the decision-maker needs to legitimate his decision in relations to the offender he will have a stronger position if research results have been used as a basis of the decision and have controlled the formulation of the decision premises. Secondly: research data also strengthen the deciding officer's legitimation in relation to higher levels, but on the other hand this information also implies an increased possibility of control on the part of these higher levels. It is probable that the superior bodies will not permit research data — information of high status — to be freely used by subordinated decision levels.

The two predictions can be combined into one predictive statement: research data from our given problem area leads to an increase in the degree of control in the system processing information and making decisions about the continuous treatment of the offender (Decision Situation No. 3).

V. The experimental situation: an appraisal of the possibilities to achieve results

Under this heading it would be possible to carry this exposition very far. A reasonably competent appraisal of the possibilities of the experimental situation in respect of result processing would, in fact, be of great interest to criminology. It would fill a large methodological gap in our discipline.

But it is just as evident that I have in this context to refrain from such a development of the theme. Otherwise the exposition would very soon develop into methodological argumenting at a complication level above my competence. In many respects

Mr. Spark's excellent review also has provided the information required on this point.

I thus intend to limit my reflections to certain viewpoints of principle respectively to the formal specifying and defining of a specific import of the problem "type of treatment in relation to type of offender".

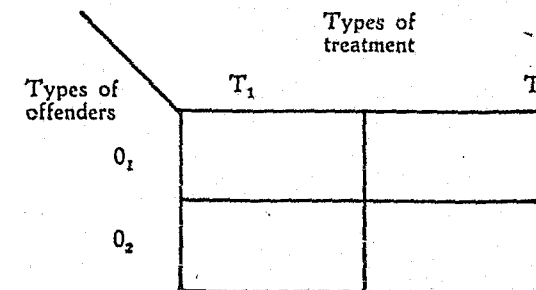
What does this heading mean?

It contains two concepts "type of treatment" and "type of offender" that connote two prevailing occurrences in Nature; they are concepts aiming at the measuring of factual occurrences. A bad but relatively descriptive term applicable to the two is "empirical concepts". The third concept in our heading is "relation" more explicitly put: "in relation to", which relates the two empirical concept definitions. This third concept is more versatile as to meaning than the preceding ones — we know of many kinds of relations. We are able to differentiate between the direction, degree of necessity etc. of the relation.

The definition of the term "relation" closest at hand in this connection is the defining of it as a statistic interaction in a variance analysis reference system or as a differential inclination of the regression curves in a regression analysis context.

In his review Mr. Sparks provides excellent examples of the the first-mentioned technical implication of the relation concept; the second implication is discussed and illustrated above (see e.g. Figs. 6 and 7).

A couple of comments in connection with these explanations of the key concept in our problem area will now be of relevance. We should keep in mind our lack of sophistication when trying to illustrate the significance of a statistic interaction by verbal description. We attain a certain level of abstraction when we interpret the statistic interaction already in the simple case that we deal with compulsory information in two dimensions, e.g. simple variants of types of treatment and types of offenders (Fig. 12).



If we complicate this design by introducing a variation of the treatment in two dimensions or by the introduction of a corresponding differentiation on part of the clientele (the test persons) we obtain three information inlets and our schematic figure above will be complicated and develop into a three-dimensional figure. In addition to simple interaction effects we may obtain interaction effects of the second degree which will immediately become difficult to interpret and still more difficult to translate into terms of decision strategy. Assume that we denote the three information inlets in an experiment A, B and C (the denomination of "factors" as used for A, B and C is common); A and B may for instance denote treatment alternatives according to two principles of division (with sub-groups A_1, A_2, \dots respectively B_1, B_2, \dots) whereas C refers to the types of offenders (C_1, C_2, \dots).

The verbal interpretation of the second degree interaction will thus be that it represents the interaction between one of the "factors" with the interaction between the remaining "factors". Example: The interaction between A and B is specific to the different groups of the C "factor".

If we chose to illustrate the interaction concept as a differential inclination, the appraisal of the interaction effect of the second degree will in this case set out from an estimation of the inclination of regression levels instead of the inclination of regression curves.

What I want to say is this: the complexity of the experimental models means that we are trying to achieve results at an abstraction level that makes the results difficult to apply. And this claim will obtain considerably increased weight if we recall that our experimental model is fundamentally based on the assumption that we have at our disposal a number of treatment alternatives on which we are to distribute the individuals by aid of the decision rules. As I have already pointed out (see Fig. 9) this model of thought has not got realistic merit to the legal decision process and particularly not to the decisions made in Decision Situation No. 3.

I have shown in the above that our set-up of methods produces results that are difficult to interpret. In reality the situation is — as we know — a different one: very often we do not obtain any results whatsoever, neither simple nor complicated. As a matter of fact I do not know of any criminological analysis which has produced significant interaction effects of the second degree (but I have read some twenty textbooks on the methodic procedure when testing the existence of such effects). A point of interest in this connection is that such results are hardly to be found in other behaviour research connections either, and when demonstrated they are often regarded as methodological oddities.

Well, why the low a priori probability of obtaining significant interaction effects? I find three reasons for it: first, the power of the statistic technicians when testing these effects is small and this is a circumstance that we can do nothing about except carrying out the experiments on large groups of test persons with the distinctly negative consequences that are the result from both economic viewpoints and aspects of research strategy.

Secondly, most of the experimental facilities at our disposal have built-in restrictions — our measurements often are actually measurements of differences between treatments (and measuring of interaction between "treatment and individual") when the treatment alternatives show obvious mutual correspondence. We are searching for differences in respect of that which is similar.

Almost all "intra-institutional" experiments have this character. Example: we try to verify the differential effect of group conversations which are administered once or twice a week in so-called respectively open groups etc. — this is the latitude that the system offers to the research scientist.

There is much more to be gained in this connection if we examine the consequences of the court's decision-making, since these decisions have markedly different consequences for the individual (e.g. extra-institutional/institutional treatment, long/short times of punishment).

A third circumstance that implies, at least for the present, a control effect towards the result of "no result" of a research effort in this problem area is our low level of measuring techniques in respect of the type-of-offender concept. The different types of inmates identified in the sociological literature, the dividing of the individuals in different maturity levels, the distribution of the offenders on different risk categories — all these efforts are unsophisticated from the viewpoint of measuring techniques or scarcely fit to be incorporated as information in models with the aid of which one wishes to verify individual treatment effects of different schemes respectively interaction effects between treatment and individual.

A definitely valid experience from the related behaviour research disciplines is, in fact, that information of high explanatory value in respect of the forecast of the individual (irrespective of what treatment he is subject to) has a low explanatory value when it comes to saying something about his forecast in relation to a certain specific treatment. The so-called base expectancy scores thus suffer from this fundamental limitation.

Among the reasons that today tend to show that our experimental method is ineffective as regards the production of results, the third circumstance mentioned is the least disheartening of them. There is nothing contradicting that it would be possible to a considerable extent to gain important ground by the characterisation of different types of offenders, and such a theoretical qualification actually has already been initiated in several fields of criminological research.

A brief comment may be justified with reference to a central point in my analysis: I have contended that a prerequisite condition for a valid experimental model is the random distribution of the individuals on different treatment alternatives. Everybody knows, however, that there are so-called quasi-experimental designs where the researcher does not intervene in the control system of the decision-maker but where he still tries to establish by statistical method a control function that enables him to make conclusions as if he had carried out a real experiment. The methodology of co-variance analysis may serve as a model for these quasi-experimental research efforts; the results in respect of the consequences of the court's decision-making that I have accounted for above emanate, in fact, from a quasi-experimental model.

My opinion is, consequently, that there exist such alternative opportunities of extraction of indicative results: they are very limited, however, as a result of the influx of error sources thus permitted, and I dare say that there are very faint prospects of our being able to verify interaction effects by aid of this methodology supplementary to the experimental manipulation.

In my characterisation of the possible results of a research effort in our given problem area I have been predominantly negative. This brings us up to my last question: Is research in this area at all desirable or fundamentally valuable?

*VI. Is research in the problem area
"type of treatment in relation to type of offender"
at all desirable?*

In my above exposition I have presented mainly negative viewpoints on the possibility of obtaining safely established and theoretically interesting results in respect of the interaction between type of treatment and type of offender; also, I have expressed considerable doubt as to the prospects of being able to transform the (very much presumptive) results into parts integral of the background material for decision-making.

There are, however, additional arguments behind my sceptical attitude, but I readily admit that my reasoning below does not meet competent demands on intellectual congruence.

The first observation I wish to make concerns the "over-positive" attitude to this kind of research on the part of the administrators. When a research problem-complex has got this obvious face validity there is every reason to enquire about the cause of the enthusiasm shown by the consumer of the research results. In fact, criminal policy is a field where every piece of information which results in a demand for change puts a strain on the organisational system. And here, I believe, you will find the value of this research discipline from the administrator's viewpoint: the solution of the research problem will come some time in the far-away future; if the scientists are busying themselves with the problems, then the administrator is left alone to make decisions for a long time without interference from outside.

From this viewpoint the problem of type of treatment in relation to type of offender is well chosen, and a logical continuation of the "what-is-the-forecast-of-this-individual?" problem and the "what-treatment-is-the-best?" question. These matters of discussion were presented to the criminologists with the promise that the information would possess a high decision value. When the scientists had delivered the answers (fairly definite in respect of the forecast research and at least suggestive as regards the treatment research), the administrators, however, found themselves in a difficult situation — but the formulating of a new problem variant offered a way out. My experience consequently is that the criminologist/researcher is being deprived of real opportunities to influence the making of criminal policy decisions by being fed with distant problems (and given large research appropriations) in order to distance him in this way from the choice of immediate problems — i.e. the actual decision-making incessantly going on, the concrete and continuously administered treatment of the offenders.

And this game — naturally unconsciously on the part of the decision-maker as well as the research scientists — can go on because of the fact that we scientists experience ourselves as manipulators (having built up an ingenious ethical system for the legitimating and limiting of our manipulating of the world around us) but are blind to the fact that we are manipulated, in fact controlled.

Let me give you a suggestive illustration. I grew up in a rather desolate part of the country near the sea which engages the shore in shallow gulfs. There, behind the shore-line, are the low-lying meadows where an abundant bird life has developed. This is what I remember of the strolls along the shore during my child-

hood — the sky all around, the sea gradually vanishing towards the horizon, the even line of which was unbroken by islands that otherwise frame the shore-line of our country — long, expansive meadows, and birds, birds...

When you walked along the shore it sometimes happened that you came close to a bird's nest. When you were at a distance of only fifteen yards the female was still lying immobile with a kind of unconscious hope that the human being, the child, would pass without noticing her. But when you approached the nest a few steps more she flew up, and afterwards she would keep at a few yard's distance from the human child who foolishly hunted her further and further away from the nest with the vulnerable, exposed eggs.

The scientist	—	the human being, the child
The decision-maker	—	the hiding bird
The important problems	—	the bird's eggs.

However, this explanation may be altogether inapplicable, a misconception on my part. Perhaps the decision-maker actually wants us to arrive at positive results.

Still, I am doubtful, and this time on exactly those grounds on which other analysts are legitimating the problem. As we have formulated our problem, the use of the treatment x offender model implies that we are able to distribute the individuals in an optimum manner on the different treatment alternatives given beforehand. We study the individual's reaction to the treatment but do not reflect about the adapting of the treatment to the individual.

Looked upon in this way, our research problem is static and strategic, not dynamic and constructive. You may extract gains without changing the existing system, and the results may, at least theoretically, be taken as a justification for the possible stagnation of our efforts at innovation in the field of treatment of offenders.

The adapting of the individuals to the treatment which is implicit in the treatment x offender model is effected through decisions which are beyond the individual's range of influence. Are we prepared to reinforce the decision-maker's manipulation of the individual within the reward system by furnishing him with information which makes possible such a reinforced manipulation?

And are we prepared for the possible consequence that the court may use our data for the purpose of additionally intensifying the influence of a control rule for their decision-making, i.e. to give individuals having a bad forecast — or individuals belonging to a specific category of offenders — a more profound treatment as a consequence of this quality or association?

Earlier, the criminologist has been ready to answer these questions in the affirmative, basing his opinion on two partly different premises. If the scientist has had his views oriented to a sociological reference system he certainly has based his perception of the prisons in their capacity of social systems on the models developed in regard to the large, closed custodial institutions. In such a case the scientist has presumed that every increase of the stress on treatment of the sanction system would imply a decrease of the stress on surveillance.

However, it is becoming increasingly more obvious to us who are active as criminologists in countries with an advanced applied treatment philosophy that surveillance and treatment within a differentiated reward system represent two different systems for the controlling of the individual. To us, an additional strengthening of the control functions of the reward system by aid of treatment x offender data is not indisputably compatible with our value premises.

If the criminologist is oriented in the methodological-statistical direction, this means that he is, on strategic grounds, positive to a differentiated treatment repertory. The limit value of this differentiation is, in principle, arrived at via cost-benefit analyses: the profitability in making full use of a greatly diversified set-up of treatment alternatives is dependent on the ability to differentiate between the individuals and between the different treatment alternatives; in respect of most practical application areas I venture the allegation that a strategic optimum is reached already at a very limited number of treatment alternatives.

However, this strategic philosophy has developed in areas (educational and industrial psychology) where one may presume that the individual voluntarily submits to the manipulative ambitions of the system. Wouldn't a reasonable conclusion be that complications ensue when we apply this strategic thinking to individuals who are forcibly subjected to influence?

The confrontation between the instrumental methodology of behaviour research and the sociological theory formation cannot be postponed any longer in the field of criminology — as scientists we are torn between the partly incompatible value systems that form the skeleton structures of our theoretical reference systems. In the field of criminology, efforts to bring about a discussion on — and if possible a solution of — this intellectual and moral dilemma have been entirely non-existent.

From this viewpoint the heading of this article has proved very appropriate as a description of our problem area — an analysis of the different problems inherent in it can function as a successive

plotting of intersection points between two theoretical systems. As a result of such an effort we might dare expect a better reference chart for the choice of more productive research assignments in — I hope — a near future.

VII. *Reformulating the given problem area*

Permit me tentatively to formulate some basic premises for a new model design applicable to our problem area.

The first premise is the defining in a new manner of the conception of "relation" in the expression "type of treatment in relation to type of offender". Setting out from a statistical conception referring to the interaction between fixed treatment alternatives and fixed offender categories we introduce a clinical reference system where "type of offender" has the status of diagnosis and "type of treatment" connotes "treatment": the conception of "relation" we implicate as a dynamic interaction between diagnosis and treatment making the continuous treatment modify the original diagnosis which modifies the treatment which modifies the diagnosis etc.

A second characteristic of our model emanates from a renewed definition of the role of the researcher. The running compilation of information directs the gradually modified treatment process, the researcher being assigned a primary role through this control by means of information.

A third distinguishing quality is the new technique of evaluation made necessary by this theoretical approach: the evaluation of the effects of the treatment based on the readjustment achieved by the individuals is reduced to a criterion of — relatively speaking — unimportant standing; criteria which are decisive for the effectiveness of treatment composition control rank higher as guide-posts for the scientist's focusing of his objectives.

The dynamic interpretation of the relation concept in the choice of the problem "type of treatment in relation to type of offender" is presented here not only as a logical supplement to our earlier definition in terms of statistical interaction; in my opinion the dynamic model implies new opportunities for treatment research in a broad sense — potentialities that we are as yet unable to specify more than to a very limited extent.

The "statistical approach" to treatment research has got its opportunity. It has yielded results of great interest and has made possible important theoretical explanations. However, the main

impression is still the opposite: a problem field full of intellectual barriers and theoretical by-paths. In this context I find it justified to repeat: it is not a necessary prerequisite that we find a way out where others have gone astray earlier, by developing the conventional methods to increasingly greater perfection. My "solution" of the dilemma of behaviour research is to replace the chart of the problem field and try to indicate some basic principles for the drawing up of such a reference chart.

However, a reorientation of this kind demands careful consideration. It is all too easy in a state of intellectual incapacity to make a replacement of the reference chart at short sight. This is to choose a road to immediate relief but at the same time to turn your back on the problems. I believe that the new chart should be similar to the old one in several respects — i.e. to permit the application of the conventional methods where they possess a functional value — whereas in other respects and for certain choices of path of advance it should provide entirely new signposts.

VIII. *The dilemma of the conventional treatment research*

You may easily be accused of a hostile methodological attitude if in a social science discipline you advocate a reduced emphasis on a statistical/methodological research approach.

Let me reply at once that once of the reasons for my scepticism is, in fact, a methodological consciousness — I believe that in the criminological treatment research field we have introduced hopes for the application of a set-up of methods, hopes that have made us overlook essential restrictions connected with this instrumental approach. For instance:

1. The psychological measuring methods are not, as far as treatment research is concerned, on par with the relatively far developed statistical models applied on data. Desirable consequences of the treatment are changed relations between the individual and the world around him, or changes "in the individual". This criteria information is difficult to obtain, often unreliable and difficult to incorporate in scales, even at the ordinal level.

2. Also in other respects the prerequisites required for the application of the statistical model are seldom met: the measurements resorted to in order to reflect the treatment effects are pre-respectively post-measurements on the same individuals. This technique requires that the measurement results are independent of each other. The underlying thought is that the treatment influences the individuals separately, consequently requiring that the indivi-

duals do not communicate with each other in such a manner that the communications influence the treatment. This assumption is obviously not realistic as far as the institutional treatment research is concerned — the conventional design of these treatment experiments are consequently solutions on purely statistical grounds.

3. The argumentation under point (2) may be generalised in the following way: the conventional treatment experiment sets out from a mechanical perception of reality which — particularly on the part of the institutional research — is already out of touch with realities. In a complicated system a treatment programme is introduced under which the results are presumed to be produced in the shape of so-called treatment effects. According to the mechanistic model, one assumes that the treatment is added to the other operants of the system whereas the latter remain independent and unchanged by the experimental "treatment". Thus, the only "new" variable in the institutional environment is supposed to be the treatment administered. Expressed in technical terms: no consideration is paid to possible interaction between the experimental and non-experimental operants of the system. In actual fact, one of the most important results of the social psychology analysis of institution environments is that such interaction effects really exist. It is, for example, a well-known fact that "therapeutic programmes" can exert strongly disturbing influence on the institution as a whole, especially if the institution environment is "authoritative" in character.

IX. *A new role for the researcher*

Let me envisage the designing of a new research model by dwelling, as an introduction, for a moment on the situation of the research scientist — i.e. the researcher in criminological treatment.

The treatment researcher is torn between two different roles that make demands on him difficult to make agree with one another. He is devoted to his science and has got a personal system of values. This co-operates to make him strive for results in a certain direction. As a scientist he is expected to be neutral and objectively registering. This conflict of values is more complicated and difficult to settle than one has been willing to admit, or else the full depth of the problems involved has not been sufficiently realised.

The solution of the dilemma to which I have pointed usually has been described in the following way: at the choice of problem the researcher's personal valuations are allowed to exert influences,

but at the interpretation of the results these valuations are not allowed to interfere. However, there is a phase of the research work where this rule does not apply, the treatment researcher being particularly subjected to these complications. In a difficult-to-define manner he often happens to influence the treatment process. When collecting data among patients/inmates he sometimes initiates expectations, and in the "small" treatment experiment he can be induced to start therapeutical processes which complicate his task.

If the researcher functions well in the institution environment the relation between the researcher and the personnel assumes great importance. The validity of the information collected becomes largely dependent on how this relation is functioning. To a much too small extent the "conventional" researcher is conscious of the role he is playing in the institution. Or else, he lacks the opportunity to shape a role which fits his purposes and creates realistic expectations on him on the part of the institution.

An example from a non-criminological research area may serve to bring my point home. Making an investigation on the importance of prenatal instruction to expectant women, a Swedish researcher found that the instruction given resulted in deliveries of shorter duration and fewer complications and considerably less anxiety during the actual confinement. The researcher himself administered the instruction. When the experiment was repeated on a larger scale (the pilot study was limited to a few hundred individuals) the positive effects did not materialise at all. Conclusion: from a conventional viewpoint we reject the results of the first investigation as an experimental, self-generated phenomenon emanating from the scientist's personal engagement in the project. And in such case we have missed the chance to study the operants that were actually effective in the scientist's influencing of the clientele — i.e. in my opinion.

My conclusion is that the conventional research ethics will bring about a conflict of roles between the researcher's needs of engagement and his demands for objectivity, and one where the researcher will fail to live up to the role expectations in either case. He is incapable of functioning neutrally and objectively — it is a deception against himself as a researcher. And all too easily he chooses a research design that implies, on a priori grounds, small possibilities of attaining constructive treatment results. He chooses to make a conventional treatment experiment in which the precision of his measuring methods are not relevant to the statistical model; the negative results may develop into a restraining factor in the reform work in a certain treatment area. Should this happen, he has committed a deception against his own engagement and his own conviction.

The researcher is not neutral, and should not be, not even in his capacity of a scientist. The myth about the researcher's general objectivity instead has aggravated his conflict of roles and has made him blind to reality. The researcher influences the results of the treatment. The researcher controls the results by way of his — frequently — ineffective choice of methods. This is what I want to lay to the researcher's charge. He has used the wrong chart and he has not been certain of what chart he has been using.

But then, what reference system should the researcher apply? We have indicated several control rules (indirectly) for his acting by pointing to deficiencies in the traditions of treatment research and by maintaining that these traditions have brought the researcher into a conflict of roles which closes his mind to a theoretical discussion. I consider it obvious that a new reference chart for treatment research should be introduced against the background of clearly stated research objectives.

Society demands that treatment research produce results directly applicable to the planning of the treatment of offenders. This demand has resulted in priority being given to projects having this immediate purpose, i.e. to describe in a manner permitting quantification the effects of different methods of treatment.

I regard these intentions of society as entirely legitimate, but as a rule they result in an ineffective research effort. The passive role in research in which the scientist sets out from given problems excludes the exploitation of the finest asset of the researcher, viz. his capacity of methodically judging the theoretical and practical premises of the problems. The researcher's willingness to meet requirements implies (the results attained are evidence of this) that he consumes research resources on projects where the inherent possibilities of a change of the judicial decision process are small.

The researcher must assert his right to work on methodological problems also in a research field like that of treatment research where — in terms of definition — you expect applicable results.

Society's need of criminological treatment research self-evidently emanates from demands for the optimum employment of available resources in the planning of the treatment of offenders. This valuation is also that of the researcher. I believe that the co-ordination of the engagement on the part of both society and research scientists could be realised by means of a paradoxical solution: that the researcher should actively and consciously reformulate the problems that society submits to him.

I consequently advocate a partly new way of perceiving the researcher: the active and social-environment-influencing researcher.

This structuring of the role of the researcher implies that we expect of the scientist that he assists at the directing of the treatment procedure in such way that he lets his experience and observations of this procedure "flow back" to the administrators of the treatment in order thereby to influence the procedure in its future stages.

By this active participation the researcher will reject the logical starting-point of the experimental treatment research, the zero hypothesis, replacing it by his theoretically directed expectations. Setting out from his knowledge of favourable prerequisites for the treatment process, he invests his resources in the promoting within the given system of this process, or in building up a system permitting "positive" treatment processes.

By this we have outlined a new role for the researcher equipped with control functions for the designing of the treatment process. Indirectly, we have used cybernetic terms (of control). We shall outline the application potentialities of this conceptual system slightly more in detail — such a study will also take us back to the basic factor in our problem area: the relation between type of treatment and type of offender.

X. A new research model

We have discussed and tried to identify the inherent inclination of the conventional treatment research towards "negative" results: this discussion has provided reasons for considering a new research model where the verifying of the effects of different treatment alternatives is moved into the background and replaced by an analysis of the treatment procedure and a control of this procedure — by this we have indicated the possibility of applying a cybernetic concept system.

The central concept in this theoretical system is feed-back. The feed-back concept and the cybernetic reference-frame constitute a radical model alternative to the conventional model earlier used in treatment research. The collection of information follows, in principle, the same pattern as at an experimental approach, but the research has to take the consequences of his observations and his data-collecting. He uses this information for the directing of the treatment procedure applying the principle of utilised feed-back.

Valuations are part of this research process, however, not now primarily at the choice of problem but at the selection by the researcher of the information that is to be fed back to the administrators of the treatment.

The verifying obtains a different orientation in this research model: here one wishes to evaluate evidence as to whether the researcher's intentions are being realised and whether his direction of the treatment procedure is in any sense rationally justified.

Here, it is natural to regard the social system administering the treatment as a complex social system with complex functions. The cybernetic research model in this system identifies as its most important quality its capacity of communication. Communication channels and communication content are important concepts as well. The treatment process may be described in terms of the objective-scanning behaviour of the system. The system's ability of effective operation in this respect is dependent on its capability of handling and reacting to the communication in such a manner that it can claim to have the ability of behaving "self-controlled" and "self-correcting".

Translated into everyday terms this means that the system's ability to realise its treatment objectives is dependent on the possibilities of adequate handling of the information, of consistent reaction on information, i.e. ability to make "good" decisions, and to adapt its behaviour to its decision, i.e. to follow up its treatment strategies.

The direction and control of the acting of the system constitutes the decision-making, and its decisions are diagnoses/treatment strategies (type-of-offender descriptions). Information on the individual (type-of-offender data) are translated in the cybernetic reference system into objective-scanning behaviour. If new information on the individual is added during the continuance of the treatment a fast adjustment of the previous diagnosis is required — a conscious acceptance that the current treatment strategy will not reach its objectives, and a revision of the treatment strategy to adapt it to the changed situation.

This description of the relation between diagnosis and treatment is our alternative to the statistical interaction of the conventional experimental approach; also, this description is a description of a feed-back system in operation.

We also have introduced the term of "consciousness" in our description of the acting of the system: I regard the consciousness in the system for the treatment as a consequence of the feed-back function — consciousness is acting in reply to information flowing in, it is to incorporate the result of the acting of the system into the information by means of which the system modifies its future behaviour.

If the feed-back system functions in this way the objective-scanning will consist of a series of adjustments of behaviour. The objective-scanning will be synonymous with a decision strategy that aims at successive approximations of the objective. Consciousness thus is capacity of control via feed-back functions, capability of assuming strategic positions in the communication network. From these positions it is possible to supervise and initiate control and treatment planning.

I now have described the simplest type of feed-back mechanism, the negative or correcting type of treatment control via information about the outcome of the earlier behaviour consequences.

In order that the objective-scanning behaviour be effective it is necessary, however, that the objectives are correct from a broader "therapeutical" aspect.

For this purpose we need more composite feed-back mechanisms which also carry information on the rules that determine if the objective is the right one according to applied theories on the adequate design of the treatment procedure.

The model of this feed-back of "the second order", is vital to the theoretical status of the cybernetic approach: in this context, however, I content myself with only referring to it.

XI. *The researcher as a heightened consciousness*

In my argumentation I have attacked the theoretical cornerstone of the conventional treatment research: the given diagnosis (the type-of-offender categorisation) and the set-up of treatment strategies fixed in advance (the type-of-treatment categorisation).

This conventional picture is not realistic: in the "clinical" reality a continuous adjustment is taking place of both diagnoses and treatment programmes, the introductory treatment necessarily changing both contents and structure of the diagnosis. The new diagnosis demands a new orientation of the treatment which deviates from the initial treatment objective.

The cybernetic model has provided us with a system of symbols to be used in the description of the treatment process. It also has given us an idea of how the researcher should function in a new role. This new role will be to occupy the most strategic positions in the communication network and from these switching stations to direct data into the data register for subsequent processing and to redirect data to the administrators of the treatment for the purpose of rendering their objective-scanning behaviour more effective.

If the researcher functions in this manner he will become the "heightened consciousness" of the treatment process — in this new role we find a platform of a new model for treatment research.

However, isn't my description almost confusingly identical with the statements we make when trying to formulate allegations as to the general task and purpose of social science research? I hope it is. And this has to be my last point of issue in this address: by reformulating the connotation of our heading "Type of treatment in relation to type of offender" in terms of a cybernetic reference system, we claim to be able within a defined and delimited research programme to stimulate and control the restitution by research to "society", i.e. the process that we hope to promote by distributing resources and subsidies to social science research. This process we have not previously had reason to describe and we have pessimistically presupposed that it is taking place so gradually that it is impossible to obtain a comprehensive view of it considering the narrow problem focusing of the social scientist.

Treatment research as a model for the function of social science research? Isn't it an exciting idea? An idea that exploits one of the greatest possibilities there are for the researcher to shape his role: to accept with unchanged scientific stringency the task to contribute in a constructive manner to a rational and humane change of our society. An idea that rejects the passive role of the researcher where he remains the strategist of the administrators assisting them in choosing between alternatives of action devised without his collaboration.

END