

Crime and Criminal Justice in Iowa

VOLUME IX:

PRISON
POPULATION

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CRIME AND CRIMINAL JUSTICE IN IOWA ACQUISITIONS

VOLUME IX: PRISON POPULATION

STATE OF IOWA
STATISTICAL ANALYSIS CENTER
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PREFACE

This report is the ninth in a series of reports entitled "Crime and Criminal Justice in Iowa." The series reflects much of the analytic work of the Iowa Statistical Analysis Center (SAC) during its first year of operation. The Iowa SAC is a federally funded program in the Office for Planning and Programming dedicated to improved criminal justice information and statistics in Iowa.

In addition to conducting statistical studies of criminal justice - such as in the Crime and Criminal Justice series - SAC is involved in the development of new and improved criminal justice information systems. Currently Iowa has three ongoing systems, including Computerized Criminal Histories (CCH), Uniform Crime Reports (UCR), and Offender-Based State Corrections Information System (OBSCIS). In addition, an Offender-Based Transaction Statistics (OBTS)¹ system is being developed, and discussion is under way concerning the implementation of a Prosecutor's Management Information System (PROMIS) in Iowa.

Other SAC activities include development of a Management and Administrative Statistics (MAS) capability for gathering and disseminating employment and expenditure data, the annual publication of a state-wide criminal justice directory, and the provision of technical assistance and feedback to criminal justice agencies in Iowa.

While Iowa has yet to develop a comprehensive criminal justice information system as a vehicle for statistical analysis, SAC has nonetheless had access to a large quantity of historical data on crime and criminal justice operations in the state. This information, which forms the basis for the Crime and Criminal Justice series, was taken from federal and state reports on reported crimes and arrests, biennial reports of the Iowa Board of Parole, and computerized offender case files maintained by the Iowa Department of Social Services. In addition, some data are available through the efforts of the Advisory Commission on Corrections Relief.

In this volume of the series - Volume IX: Prison Population - SAC discusses the work of the Advisory Commission on Corrections Relief, a group of private citizens formed by legislative mandate in 1976 to study the problem of rising prison populations in Iowa and to recommend appropriate actions to the Governor and the General Assembly. The main emphasis of this report concerns two of the conclusions drawn by the Commission, as expressed in their final report:²

¹ A process for recording and analyzing offender movements through the criminal justice system. Currently SAC shares responsibility for OBTS development with the Iowa Department of Public Safety.

² Advisory Commission on Corrections Relief, Adult Corrections in Iowa, Report to the 67th General Assembly of Iowa, March, 1977.

- 1) *The current correctional institutions have adequate capacity to house inmate populations into the foreseeable future. A new institution is not necessary at this time.*
- 2) *The Commission maintains that at least 15-20% of the current institutional population could be released to community programs. Judicious screening can ensure that this be accomplished with virtually no increase in threat to community safety.*

Both of the above conclusions of the Advisory Commission were tied closely to the changing picture of community-based corrections in Iowa and to the role that community programs play in handling criminal offenders who might otherwise be incarcerated.

In Section I of the report, a brief description is offered of the developing stages of community-based corrections in Iowa, including the pioneering efforts of the widely publicized Des Moines Project. In Section II, research and evaluation activities preceding the Commission's work are discussed to provide some background to the rather detailed analyses of Sections III and IV.

In Section III, the origin, organization and final products of the Commission's effort are discussed, with particular emphasis on the two findings given above.

In Section IV, the Statistical Analysis Center presents the results of a two-year study of these findings and of the assumptions they entail. This work, which was instituted by the Adult Corrections Master Plan Project in late 1977 and early 1978, provides a number of new and interesting perspectives on the development and ongoing operation of the adult sentencing and corrections system in Iowa.

In Section V, the discussion shifts to a concern with the role of "risk" as a factor in felony sentencing in Iowa, with particular reference to the placement of "higher risk" offenders. This section delves into some of the "why" behind the findings of Section IV. In Section VI, SAC attempts to summarize the "new view" of sentencing and corrections deriving from current findings, and to pinpoint some of the errors in thinking that accompanied previous perceptions.

Additional features of the study are presented in Volume V: Felony Sentencing Practices, and in Volume VI: Time Served and Parole Decision-Making. The reader is encouraged to consult these volumes for a better overall picture of the current state and momentum of adult corrections in this state.

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SUMMARY

One of the most perplexing problems facing the Governor, the Legislature, and corrections officials in recent years has been the question of what to do about Iowa's rising prison population.

Iowa, like many other states, has experienced a marked increase in the number of prisoners since the early seventies. This increase has come about despite rapid growth in the state's system of community-based corrections.

In 1973, with the passage of the enabling legislation for community corrections, there was talk of closing one or more state prisons, since many felt at the time that evolving community alternatives to imprisonment would further reduce the prison population, perhaps even below the 57-year low experienced in September of 1972.

The Community Corrections Act of 1973 essentially allowed the statewide expansion of the community corrections model as exemplified by the Des Moines Project, a highly successful program of alternatives to incarceration for adults operating in the state's Fifth Judicial District. One of the key components of the Des Moines Project has been the community residential program, consisting of the Fort Des Moines facility for men and a pre- and post-institutional halfway house for women.

With the enabling legislation in 1973, the Iowa General Assembly served notice that community alternatives were the wave of the future in Iowa corrections. Following enactment of the legislation, the Iowa Department of Social Services began an effort to implement the Des Moines Project model on a statewide basis, including the development of community residential programs in all eight judicial districts.

Despite the stated intent of the Legislature and the Social Services Department, no community facilities of the intended type had opened outside the Fifth District until the late months of 1976. By late 1978, following a mandate by the Legislature in the Spring of 1977, residential facilities were available in all judicial districts.

In keeping with the acknowledged "gap" in correctional services outside the Fifth District prior to 1977, there was a common perception around the state that sentencing judges in the Fifth Judicial District had gone well beyond judges in other judicial districts in the use of community alternatives to imprisonment.¹ Very simply, judges in the Fifth District had access to community residential facilities as sentencing alternatives for convicted felons, while judges in other districts did not. Accordingly, it was believed that a significant portion of the prison population consisted of individuals who were imprisoned because of the previous lack of a statewide residential program. This was consistent with an estimate by Des Moines Project officials that the Fort Des Moines residence had operated as an alternative to state-level imprisonment for 75% of its clientele.

¹ That is, that judges outside the Fifth District had imprisoned convicted offenders at a much higher rate than judges within the District.

With this accepted base of knowledge, expectations were that the new residential facilities would usher in a new era in adult corrections in Iowa. Every indication had it that community corrections would draw away a significant portion of admissions to state prisons, and that, accordingly, the total population in the prisons would fall. In fact, the Advisory Commission on Corrections Relief predicted in early 1977 that the total inmate population would drop by 8% by mid-1978 and would not reach previously observed levels within the foreseeable future.

According to this estimate, which was based in large part on the perceived role of new residential facilities, Iowa would no longer have to face a prison population crisis. As a result, there would be no need to continue discussions of a new state prison. Instead, emphasis could be shifted to improving the conditions in existing prisons. The Commission also suggested that the prison population could be further reduced by up to 15-20% by releasing prisoners who were judged to be the victims of a previously under-developed system of community-based corrections.

Despite the high degree of optimism expressed early in 1977, the total institutional count continued its upward trend, and by the end of 1977 had reached a level 19% higher than that projected by the Commission. Furthermore, the Iowa Board of Parole refused to release individuals on a list of presumed good candidates for release -- since many had serious misconduct records while in prison.

In an attempt to identify why the prison population was not declining as projected, the Adult Corrections Master Plan staff in mid-1977 began an in-depth study of the felony sentencing and corrections system in Iowa. This study, which has been continued by the Statistical Analysis Center during 1978 and 1979, has led to a new and surprising view of sentencing and corrections in Iowa. This new view is described in painstaking detail in this report, in Volume V: Felony Sentencing Practices, and in bits and pieces in other volumes of the series.

Some of the major findings appearing in this report are as follows:

- 1) During 1974-1976 the Fifth Judicial District residential corrections program operated as an alternative to imprisonment for no more than 20% of its clients, and successfully diverted from the state prison system no more than 15% (p. 102);
- 2) There was no pronounced difference in imprisonment rates during 1974-1976 between the Fifth Judicial District (19.8%) and other judicial districts (21.6%) (p. 102);
- 3) No more than 13% of the counterparts to Fifth District residential clients - sentenced outside the Fifth District - were imprisoned offenders who might be considered the "victims" of an incompletely developed community corrections system. Those among the "victims" who were imprisoned as of December, 1976 comprised no more than 17% of the Advisory Commission's select group for early release, and constituted no more than 6% of the total prison population (pp. 102-103);

- 4) During 1974-1976, the Fifth Judicial District residential corrections program reduced the total prison population in Iowa by 3.8%. A statewide program - implemented to the full extent of the Fifth District program - would have further reduced the population by 11.4%. In all, a total statewide residential corrections capability would have reduced the prison population by an estimated 14.8% (below levels expected without any pre-institutional residences). In contrast, if the estimates used by the Advisory Commission to compute the impact of new residences on prison admissions had been an accurate reflection of reality for the years 1974-1976, then a total statewide residential capability in Iowa would have reduced the prison population by 36.8% (pp. 103-104);
- 5) Among 7495 adults sentenced for felonies in Iowa during 1974-1976, there was virtually a random relationship between the risk of recidivism or probation failure¹ and the probability of imprisonment (p. 130);
- 6) Although "risk" was not a notable factor in determining who among convicted felons should be imprisoned in Iowa during 1974-1976, it was a very definite factor in the placement of residential corrections clients. The major portion (63%) of felons directly sentenced to Fifth Judicial District residential corrections facilities during 1974-1976 were higher risk offenders who would otherwise have been placed on straight probation or in county jails (pp. 134,137);
- 7) In conjunction with 6) above, the major portion (60%) of the other-district counterparts to felons directly sentenced to Fifth District residential facilities during 1974-1976 were higher risk offenders placed on straight probation or in county jails. More generally, during 1974-1976, the essence of the "gap" in correctional services between the Fifth and other judicial districts was the lack of residential corrections facilities for the placement of higher risk probationers sentenced outside the Des Moines area (pp. 140, 141);
- 8) As a group, those felony offenders directly sentenced to residential corrections facilities in Iowa during 1974-1976 would have rated as worse risks for release on probation than the group of offenders directly sentenced to state prisons (p. 143);
- 9) Due to a considerable degree of inconsistency in sentencing among judges in Iowa, more than half of those offenders directly sentenced to state prisons during 1974-1976 would not have received prison sentences had they been sentenced by different judges assigned at random. This inconsistency in sentencing has led to a situation of considerable overlap in the characteristics and make-up of clients assigned to residential facilities and inmates in the Men's Reformatory (p. 149);

¹ As dictated by experience with 3051 felony probationers and parolees released from caseloads in Iowa during 1974-1976.

- 10) Based on the findings of this study, it is not likely that new residential corrections facilities in Iowa have had a substantial impact on the state's prison population. Without changes in sentencing practices as observed during 1974-1976, the new facilities cannot be expected to have a substantial impact in the future. Other findings suggest, however, that there are many individuals currently in the prison system who could have been safely sentenced to community-based programs, and/or who could be released on parole at earlier dates than normal without endangering the public.¹ This issue is expanded upon in Volumes V, VI and VII of this series.

Explanations are due concerning several aspects of this report. First, the SAC staff is aware that the data used in the report are somewhat dated, covering the period 1974-1976. The report really should have been prepared approximately 18 months earlier, in that the data were available for research at that time. Several factors prevented this occurrence, however:

- 1) the dissolution of the large-scale effort of the Bureau of Correctional Evaluation;
- 2) the termination of the Correctional Master Plan project;
- 3) the widespread belief that the findings of the Advisory Commission on Corrections Relief were correct;
- 4) the necessity to locate and correct problems and inadequacies in the data base;
- 5) the need for the SAC to conduct criminal justice research beyond the boundaries of the corrections system.

Beyond these reasons, when preliminary analyses of the data indicated some surprising results, the SAC staff believed it necessary to exercise especial caution prior to publication of results. Findings thus were checked and re-checked, and in a number of instances several different methodologies were used to analyze the same phenomena. In these instances, our original findings, surprising as they might be, were consistently confirmed.

¹ In certain cases these individuals are affected by mandatory sentence provisions prohibiting probation or establishing minimum prison terms.

It is useful to note that while the data used here are older than ideal, their age does not necessarily reduce their utility for research purposes. Having analyzed these original data presents the opportunity to do trend analysis comparing new and old data to identify changes in operation or policy which otherwise might go unnoticed. It should also be noted that the SAC staff has just recently become satisfied with the quality and accuracy of the 1977-78 data covering this same area, and that preliminary analyses have shown a clear continuation of the trends identified in the 1974-76 data. Thus, for example, the actual impact of the new residential facilities in judicial districts other than the Fifth has been consistent with that hypothesized here.

This report is intentionally statistical in nature. Because of the unexpected findings presented here, the SAC staff thought it necessary to present the hard data to the maximum degree possible to buttress findings. Without such a statistical presentation, it would still have been possible for dissenters to challenge methodology, statistics, or findings. This presentation thus seeks to avoid this situation by presenting the hard data in painstaking detail, leading the reader through the precise analyses performed. In this manner it is hoped that even those with an elementary understanding of research and statistics should be able to understand our conclusions, the methodology used to reach them, and the certainty with which they are presented.

In assessing the impact of residential facilities on the prison population, this report does not attempt to address the role of probation as a diversion from the prison system. At this point we accept this role as given. Probation developed in Iowa long before the advent of correctional data collection systems, and it would thus be nearly impossible to accurately discern probation's impact on the level of admissions to prison. There is some support in the data, however, for the diversionary role of probation, in that a considerable overlap exists between the types of individuals sentenced to prison and probation and/or residential facilities in the state. Given this overlap, it appears likely that a number of those currently sentenced to probation would have been sentenced to prison in the absence of probation.

Finally, it would be inaccurate to maintain that this report does not support the establishment or continuation of residential corrections facilities in Iowa. This conclusion does not necessarily follow from our analyses. Rather, the data indicate that the residential facilities have not in the past been used primarily to divert individuals from prison, not that they cannot in the future. The data show that there are groups currently being incarcerated who could safely be housed in residential facilities, given changes in sentencing practices in the state. The data also indicate that the residential facilities have been quite effective in protecting the community while their high risk clients are in residence. Thus it should not be concluded that residential corrections facilities in Iowa have been failures. While their impact on the prison population has not been great, this is not a comment on their potential to have such an effect in the future.

I. COMMUNITY-BASED CORRECTIONS

Traditionally, judges in Iowa have had several alternatives for sentencing adult offenders convicted of criminal offenses. The Code of Iowa has perennially allowed judges to impose fines or to suspend jail or prison sentences in cases where incarceration was considered inappropriate as a criminal sanction. In addition, since the early seventies, the Code has provided judges with the option to grant deferred judgments to most non-violent offenders without prior felony convictions. Under this provision of law, a guilty plea is accepted and a period of probation granted. If probation is completed successfully, charges may be dismissed by the judge and the offender's record of conviction expunged.

In recent years, virtually all adults granted deferred judgments or suspended sentences in Iowa have been placed under the supervision of probation officers. Prior to legislation enacted in 1973, most persons granted probation were supervised by probation/parole officers employed by the Iowa Department of Social Services. The remainder were supervised by agents of the court or by county sheriffs, although this practice was not widespread until expansion began in Polk County in 1972 under the aegis of the Department of Court Services.

THE MOVE TO COMMUNITY ALTERNATIVES

Information appearing in Volume I: Statistical Overview and Volume IV: Court Dispositions suggests an increasing reliance on the use of probation in Iowa as a sentencing alternative in recent years. Table 20 and Figure 5 in Volume I clearly indicate increased suspension of prison sentences and a significant movement toward deferred judgment in criminal cases.¹ For example, in FY1958, just 20% of prison sentences were suspended. By FY1974, this had increased to 60%.² In FY1970, no deferred judgments were granted in Iowa, but by FY1975, 14% of those guilty as charged were granted deferred judgments.

In Volume IV, the Statistical Analysis Center took a closer look at sentencing practices in Iowa for the years 1971-1976, based on District Court disposition data collected by the Advisory Commission on Corrections Relief.³ Some of the conclusions of this study were as follows:

...(Among all dispositions) the percent of convictions/deferred judgments resulting in probation rose from 18% in 1971, to 26-29% in 1972-1973,

¹ Restricted to (felony and indictable misdemeanor) cases handled through the District Courts of Iowa.

² The rate of suspension of prison sentences increased unsteadily during the interim, from 23% during FY1958-1960, to 29% during FY1961-FY1964, 38% in FY1965, 41% during FY1965-FY1971, 48% during FY1972-1973, and 57% during FY1974-1976.

³ See Section III of this report.

and 37-39% in 1974-1976. In concert, the percent resulting in fines and incarceration fell, with fines dropping from 54% in 1971, to 50% in 1972, 46% in 1973, and 42-44% in 1974-1976, and with incarcerations falling from 28% in 1971, to 24-25% in 1972-1973, 20-21% in 1974-1975, and 17% in 1976. From 1971-1973 to 1974-1976 the use of fines and incarceration fell by 15% and 24.5% respectively, while the use of probation rose by 55.5%. Due to increased total dispositions and the more frequent use of probation as a sentencing alternative, there were over four times as many probations granted in Iowa during 1976 as during 1971.

...incarceration rates (percent of conviction/deferred judgments leading to incarceration) were four to six times higher for felony charges than for misdemeanor charges (40% to 8% during 1971-1976).

...incarceration rates fell much more sharply for felony charges than for misdemeanor charges:

	<u>1971-1973</u>	<u>1974-1976</u>	<u>1971-1976</u>
FELONY ¹	47.7% ²	35.2%	40.1%
MISDEMEANOR	<u>8.3%</u>	<u>7.3%</u>	<u>7.7%</u>
	25.3%	19.1%	21.5%

...incarceration rates were substantially higher for felonies against persons or involving weapons than for other felonies, and fell much more sharply for the latter category than for the former:

	<u>1971-1973</u>	<u>1974-1976</u>	<u>1971-1976</u>
PERSONS/WEAPONS	64.7%	62.7%	63.5%
PROPERTY/OTHER	45.2%	31.1%	36.6%

Finally,....the rapid movement toward community-based corrections in Iowa during 1974-1976 - as reflected in the increased use of probation - was concentrated in the category of offenders convicted of less serious felonies. This group of offenses consists mostly of property crimes such as burglary, larceny, motor vehicle theft, forgery, bad checks, vandalism, and (receiving or concealing) stolen property. Apparently, the use of probation has remained stable for violent crimes, which include manslaughter, rape, robbery and aggravated assault - among others. (NOTE: Virtually no probations are granted on murder charges.) This movement to community corrections for property offenders is consistent with the less serious nature of such crimes and the common view that violent offenders are dangerous and should not be placed in community programs (such as probation) in large numbers.

¹ Including (filed) felony charges reduced to misdemeanors.

² Note Finding 3) at the top of page 8 of Volume IV is incorrectly stated. The figures 28.1% and 19.8% should have been 47.7% and 35.2% respectively. This does not change the result that incarceration rates fell more sharply for felony charges than for misdemeanor charges.

ENABLING LEGISLATION

With the passage of the landmark Community Corrections Act of 1973,^{1,2} the legislature enabled a full range of community alternatives to incarceration to operate under the authority of local officials not directly responsible to the Department of Social Services. State and local monies were provided to match federal grant monies from the Law Enforcement Assistance Administration (LEAA) for community corrections projects throughout the state. The Community Corrections Act allowed local projects to supervise convicted felons who formerly would have been under the jurisdiction of the Department of Social Services. Projects in each of the eight judicial districts of the state were encouraged to develop a full range of alternatives to incarceration, including pre-trial release with or without supervision, probation, and residential services. The legislature gave the Department of Social Services the option of developing community corrections in areas where local authorities failed to provide such services.

THE DES MOINES PROJECT

The move to community corrections in Iowa was most directly the result of the widely publicized success of the Fifth Judicial District Department of Court Services (commonly referred to as the Des Moines Project). The Fifth District program had been designated "an exemplary project" by the National Institute of Law Enforcement and Criminal Justice of LEAA, based on evaluations of the project and its components by the National Council on Crime and Delinquency (NCCD) in the early seventies. The last of these evaluations, Community-Based Alternatives to Traditional Corrections, The 1973 Evaluation of the Fifth Judicial District Department of Court Services - State of Iowa, which was published in February, 1974, ended with the following statement:

It must be concluded that a substantial savings has accrued to society in correctional costs as a result of the existence of the Department of Court Services. Its impact upon the populations of existing correctional programs has been considerable, and its clients appear well served by the Department through a strong reliance upon existing community resources.

This evaluation indicated that \$454,229 had been saved during 1973 as a result of the programs offered by the Department of Court Services. These cost savings were identified as resulting primarily from an average reduction of 133 inmates at the State Penitentiary and the Men's Reformatory, and an average reduction of 56 inmates at the Polk County Jail. A reduction in prison populations was suggested to have occurred because of the availability of the Fort Des Moines Men's Residential Corrections Program as a felony sentencing alternative

¹ CHAPTER 176, LAWS OF THE SIXTY-FIFTH GENERAL ASSEMBLY, 1973 SESSION

(S.F. 482) AN ACT relating to the establishment of community-based correctional programs and services. (See Appendix I)

² CHAPTER 109, LAWS OF THE SIXTY-FIFTH GENERAL ASSEMBLY, 1973 SESSION

(S. F. 511) AN ACT to appropriate funds from the general fund of the state for establishing community-based correctional programs and services. (See Appendix I).

for District Court judges. A reduction in jail populations was indicated primarily as a result of the pre-trial release programs offered by the Department.

While each of the project's components received favorable evaluations in various areas, the hallmark of the overall program was stated to be the extensive coordination among the various units of the Department. The effective handling of offenders was suggested to be due in significant measure to a coordinated effort among staff of the various programs in moving offenders through the pre-trial and correctional process. Based on the NCCD evaluations, LEAA chose to fund replication projects in other areas of the country to see if the community corrections concept, as typified in the coordinated system of the Des Moines Project, could work in other settings. No similar successes have been publicized to date among the replication projects outside Iowa. This may testify more to the insight and abilities of the Des Moines Project's founder and director, Bernard Vogelgesang, than to any other factors.

THE IOWA EXPERIENCE: 1974-1976

The period 1974-1976 was very much a testing period for community corrections in Iowa. The concept had apparently worked in the Fifth Judicial District, and the question was whether or not it could work on a statewide basis.

Through the assistance and guiding hand of the Division of Adult Corrections of the Department of Social Services, and with the support of both state and federal monies, community corrections projects were organized and operated in each of the eight judicial districts of the state (some being operational prior to the enabling legislation in mid-1973).

As was the case with the Des Moines project, not all of the components of the new projects were implemented at once. Probation services were the first to be implemented in all judicial districts, although in many cases this involved accepting the supervision of persons who would formerly have been under state jurisdiction.¹ Pre-trial release programs, on the other hand, sprang up gradually, and were still not operational in all districts by the end of 1976. Of particular note was the absence of residential programs outside of Des Moines prior to 1977.²

STATE REPLACEMENT OF FEDERAL FUNDS

State funds for community-based corrections were first appropriated by the Legislature in conjunction with the initial enabling legislation in 1973 (S.F. 511). State-level funding increased from \$350,000 in FY1974, to \$500,000 in FY1975, \$625,000 in FY1976, \$2,850,000 in FY1977, and \$6,500,000 in FY1978. In 1977, the Legislature mandated the complete statewide implementation of the community corrections

¹ Also, in some districts, probation remained the responsibility of the Department of Social Services, even though grant funds were utilized for probation services.

² Technically, a few beds for pre-institutional offenders were available in HOPE HOUSE, Iowa City, and in certain post-institutional halfway houses around the state.

model, as exemplified in the Des Moines Project, through passage of S.F. 112.¹

The legislation mandated the existence of pre-trial release, probation, residential, and pre-sentence investigation services in each district. This full range of services was to be offered under eight Judicial District Departments of Correctional Services, with funding provided strictly through state and local monies. Departments were to be guided by local boards, with monitoring responsibility to the Social Services Bureau of Community Correctional Services. This was the format under which community corrections was to flourish in the State of Iowa.

As of the date of this report, the intent of S.F. 112 has been met, in that fully operational pre-trial release, probation, residential and pre-sentence investigation services are now available in each of the eight judicial districts of the state. Full implementation was finally accomplished with the opening of a residential corrections center in Fort Dodge (Second Judicial District) in late 1978.

¹ CHAPTER 154, LAWS OF THE SIXTY-SEVENTH GENERAL ASSEMBLY, 1977 SESSION

(S.F. 112) AN ACT relating to corrections programs by providing work adjustment and training positions at the Riverview release center and requiring that each judicial district in this state develop and maintain a community-based correctional program, providing for the administration, support and context of those programs, extending the work release program, and repealing sections two hundred seventeen point twenty-four (217.24) through two hundred seventeen point twenty-nine (217.29) of the Code.

II. RESEARCH AND EVALUATION

In conjunction with the Community Corrections Act of 1973, the Iowa General Assembly mandated a continuing evaluation of community-based corrections along the lines of the NCCD evaluations of the Des Moines Project.¹ To facilitate the evaluation, the legislature required that agencies administering community programs submit performance data to the Department of Social Services.

Initially, responsibility for evaluation of the statewide program was expected to go to NCCD in recognition of their prior involvements with evaluation in Iowa.² When contract problems arose and NCCD became ineligible to conduct the evaluation, the NCCD employee responsible for the evaluation design - Roger Steggerda - formed a private firm called Justice Research. In anticipation of being awarded the contract for the evaluation, Mr. Steggerda devised data forms and instructions, and contacted all community corrections agencies in the state to begin the flow of evaluation data. Due to a further technicality, however, Mr. Steggerda was judged ineligible to conduct the evaluation, and so the search continued to find a suitable home for the project.

¹ CHAPTER 160, IOWA DEPARTMENTAL RULES - SOCIAL SERVICES DEPARTMENT - JANUARY, 1974 SUPPLEMENT

160.5 (176) Evaluation.

160.5 (1) A continuous, comprehensive program effectiveness evaluation shall be conducted for all community-based correctional programs. The criteria by which programs shall be evaluated shall include but not necessarily be limited to:

- a. Community safety, which refers to the extent to which the community is protected from additional crime during the corrections process.
- b. Social effectiveness, which refers to improved ability of corrections clients to function legally and effectively within society.
- c. Correctional effectiveness, which refers to the reduction of future criminal behavior.
- d. Financial effectiveness, which refers to analysis of program effectiveness as it relates to program costs.
- e. System impact, which refers to program effects on such measures as jail and prison populations, arrest rates, and community resource utilization.

160.5 (2) All programs shall be responsible for the collection and provision of such evaluative and administrative data as may be required by the department of social services.

² Although at least one other firm was being seriously considered.

BUREAU OF CORRECTIONAL EVALUATION

With this rather inauspicious beginning, the statewide evaluation of community-based corrections in Iowa was finally housed with the Iowa Department of Social Services in a special unit called the Bureau of Correctional Evaluation (BCE). The new bureau became operational in the Department's Division of Management and Planning in October, 1974.

During the preceding months of 1974, data forms designed and distributed by Mr. Steggerda were being submitted to Social Services for data processing. In the early months of 1975, the Bureau became fully staffed and the work began on the analysis of data. In June of 1975, a report was released by the Bureau, summarizing the performance of the statewide program during 1974.^{1,2}

This first report from BCE failed to draw any firm conclusions on the success of the statewide program. Instead, it indicated no immediate causes for concern in that failure and rearrest rates for community programs operating in 1974 were not abnormally high. Again, emphasis was placed on the lower costs of community programs operating as alternatives to incarceration.

In the latter half of 1975, the Bureau of Correctional Evaluation began preparation of a new evaluation model for community-based corrections that differed radically from the model originally proposed for the evaluation. The original model, which was based on the NCCD evaluations of the Des Moines Project, proposed comparisons of performance³ among similar programs across judicial districts and among dissimilar programs statewide and within districts. The intent was to isolate districts and programs achieving greater or lesser levels of success. In a way, the model was a natural extension of the single project model, seemingly allowing both a statewide and a project-by-project evaluation.

When the evaluation responsibility was housed within the Bureau of Correctional Evaluation, the original intent was to continue with the approach devised by NCCD and later by Justice Research. In fact, the first BCE publication followed the NCCD model very closely, but avoided

¹ Community Corrections in Iowa: An Alternative to Tradition, Iowa Department of Social Services, Bureau of Correctional Evaluation, June, 1975.

² Data comparable to statewide figures were provided only for the Fifth Judicial District due to time constraints on the evaluation.

³ As measured by rates of rearrest, failure to appear, revocation, service delivery, social improvement, etc., for clients of the various programs.

making conclusions based on district-by-district and program-by-program comparisons. In conducting statistical analyses for the evaluation, BCE staff had discovered several factors that would apparently prohibit meaningful comparisons across programs and districts, at least in the form proposed by the NCCD model.¹ This was not formally publicized and led to considerable dissatisfaction with Bureau performance among outside parties concerned with the evaluation.²

PROBLEMS WITH THE EVALUATION MODEL

The difficulties identified by the Bureau derived from the lack of explicit expectations for the outcome of community programs. The position taken by Bureau management was that decisions couldn't be made about the success or failure of either individual or statewide programs unless some standards were available by which to gauge observed variations. Since no such standards were forthcoming from outside the Bureau, and since the Bureau could not in good conscience make arbitrary determinations left unsupported by the data at hand, there was no choice but to redesign the evaluation model.

Review of literature in the correctional evaluation and research field had suggested the necessity of using statistical controls in the evaluation of correctional programs. In particular, methods of controlling for differences in "risk" among clients of programs under comparison were emphasized.

It would make little sense - for example - to directly compare recidivism rates between institutional and non-institutional programs, since risk of recidivism may well have been a major factor in deciding which offenders were placed in community settings.³ If such were the case, then recidivism rates for institutional programs could be considerably higher than same for community programs despite similar degrees of impact on similar clients. As an extreme example, a rearrest rate for a program designed to handle strictly hard-core heroin addicts could not be compared meaningfully with same for a program designed to handle strictly drunken drivers.

To further aggravate the situation, little provision was made in organizing the statewide evaluation to collect data on persons placed in county jails or state prisons. Without comparable data on persons

¹ In this vein, Bureau staff could find no evaluations of correctional programs outside of Iowa that were conducted in the manner proposed by NCCD and Justice Research. Most successful evaluations relied on either an experimental/control approach or some other method of ensuring the comparability of observed results.

² Including many local project officials, who were anxiously awaiting the evaluation results.

³ In other words, judges may have sent more of the "poor risks" to institutions and more of the "good risks" to community programs.

not served by community programs, it would be impossible to determine the comparative effectiveness of the two forms of treatment.¹

In addition to the above, there were other difficulties with the NCCD model and the nature of data collected that - when considered in unison - dictated the need for a drastic redesign of the evaluation model.² Such was in fact attempted during the latter half of 1975 and the early months of 1976.

CONTROLLING FOR RISK

Perhaps the main weakness in the NCCD model was the failure to allow for variations in "risk" among the clientele of programs to be compared. This was highlighted when probation outcomes for the local project in the Fourth Judicial District were compared with results for probationers handled by projects in other districts. The results indicated that the probation failure rate was substantially lower for the Fourth District than for any other district. Based on this evidence, it was tempting to praise the project for exceptional performance. However, further analysis indicated a much higher concentration of first offense drunken drivers within the population of probationers served by the Fourth District project than was the case with any other district. Furthermore, statewide figures revealed first offense drunken drivers to have the lowest failure rate of any offense group serving time on probation.

Not only did this and associated findings account for the lower failure rate in the Fourth District, they explained it precisely. In other words, when statistical controls were used to account for variations in the risk of probation failure, the observed failure rate for the Fourth District probationers was just as would be expected based on statewide results.

Common sense, background research, and observations such as the above, led the Bureau to develop statistical methods of "risk rating" criminal offenders to control for variations in clientele among the many and diverse programs operating within the corrections umbrella of the State of Iowa. Developing such methods entailed a very extensive research effort, which culminated with the publication of the second major evaluative report completed by BCE.³

¹ Provisions were made to collect data on persons paroled from county jails and state prisons, but the nature of the data collected didn't allow for the direct comparison of persons committed to these facilities with persons not committed, i.e., age at admission, type of admission (direct from court or by probation or parole revocation), employment status at sentencing, and other data, were not collected. Furthermore, persons directly discharged from jails and prisons without supervision were completely ignored.

² Including the failure to recognize and correct for variable lengths of time served in various programs.

³ Corrections in Iowa: A System of Growth and Change, Iowa Department of Social Services, Bureau of Correctional Evaluation, October, 1976.

THE GROWTH AND CHANGE REPORT

In addition to providing a wealth of feedback data to local corrections projects, the report addressed in great detail BCE research work into felony sentencing practices and correctional program outcomes (success and failure) during 1974 and 1975. Analyses of program outcome were facilitated through the application of risk rating methods developed by the bureau during the preceding months. These methods allowed the classification of convicted offenders into HIGH RISK, MEDIUM RISK, and LOW RISK subgroups based on computer-assisted analyses of offender characteristics associated with success and failure in various types of programs. Separate rating systems were developed for five offender groups, including male felons placed on probation, male misdemeanants placed on probation, female felons placed on probation, male parolees, and male felons placed in the Fort Des Moines Men's Residential Corrections Program.

Some of the major findings and recommendations from the report are as follows:

1) Felony Sentencing

...approximately one in five persons convicted of a felony (in Iowa) is placed in a correctional institution, with the bulk of the remainder placed on probation.

The use of probation is at least three times as great for non-violent offenders as it is for violent ones and is similarly at least three times as great for offenders with no prior criminal commitments as it is for those with them.

Available evidence indicates that virtually no non-violent offenders are placed in institutions without some aggravating factor such as a prior conviction, history of a drug or alcohol problem, multiple offenses, or multiple prior arrests. In fact, at least 54% of non-violent offenders committed to institutions have prior criminal commitments.

These findings weigh against the contention that the prison population can be reduced by increasing the use of probation for non-violent offenders. Our findings suggest that the most viable options for reducing the prison population lie in the expanded use of pre- and post-institutional residential facilities (in the community) and in the early release from prison of low risk offenders.

2) Success and Failure in Community Corrections

Although it is possible to determine overall measures of effectiveness for selected community programs, it is not possible to assess the relative effectiveness of programs in terms of such measures alone. Such determinations of effectiveness, if to be used for purposes of comparison among similar or dissimilar programs, must consider the variation in degrees of risk or in other input factors among the clientele of the program.

Statistical analyses reveal that the degree of success or failure of a community program is highly correlated with the individual characteristics of its clientele. Such factors as age, sex, prior record, offense type, drug or alcohol involvements, and employment status are strongly associated with chances of success or failure and must be considered to impartially determine the effectiveness of a program.

The results of this study indicate most clearly that community corrections has been ineffective to the extent that it has attempted to deal with high risk individuals who have had a less than acceptable chance of succeeding under general supervision in the community.

We find a significant potential for increased effectiveness in correctional services through a carefully planned strategy for matching offenders with programming approaches. In particular, by placing more emphasis on the custody, rehabilitation, and supervision of high risk offenders and a lesser emphasis on the same for low risk offenders, a greater return from correctional expenditure can be expected, along with a reduction in the total cost to society in terms of criminal activity at the hands of correctional clients.

3) The High Risk Offender

We find that probation has been especially ineffective for the young male offender with a prior criminal record. As an illustration, our results show that in the recent past 3 of 4 male felony probationers (adult) under the age of 20 who served time in a juvenile institution were unsuccessful on probation. This compares with an overall failure rate of 1 in 4 for probationers.

Our results show that about 1 in 6 male probationers is an unacceptably high risk for probation and that approximately three-fourths of this high risk group are repeat offenders under the age of 20. The remaining high risk male probationers are almost uniformly men under 30 with extensive criminal backgrounds. It is very likely that high risk male probationers are committing new crimes on at least a one-for-one basis.

These results clearly suggest that an altered correctional strategy is in order for the young repeat offender. Many young offenders are awarded probation despite a prior record due to the non-violence of the offense and the lack of another non-institutional alternative to incarceration.

We recommend that high risk pre-institutional offenders be screened more carefully by judges and pre-sentence investigators and that a smaller percentage be placed on probation. We recommend increased institutionalization for males under 25 with prior commitments and the use of residential facilities in the community where ever possible for non-violent offenders in the high risk group.

Probation seems advisable for high risk offenders only in those cases where the offender was successful on pre-trial release. For high risk offenders entering probation we recommend that employment be made a condition of probation and that residential corrections be used for high risk probationers not maintaining employment.

We recommend that high risk institutional releasees be placed in a half-way house for at least four months prior to release on parole.

4) The Low Risk Offender

We find that older probationers without prior adult convictions, among others, are extremely good risks for probation in terms of past performance and can be safely placed under minimum supervision in the community. Many of these offenders were convicted of non-violent, less serious crimes such as larceny, forgery, drawing false checks or first offense OMVUI and offer very little danger in terms of repeat criminal behavior while on probation.

We recommend that low risk probationers and parolees be placed under minimum supervision and that more of these offenders be given an early discharge from probation or parole. With the subsequent cost savings resulting from decreased supervision of low risk offenders a more intensive and effective effort can be directed to the rehabilitation of higher risk offenders.

Additionally, we recommend that low risk pre-institutional offenders without prior convictions who have identified needs be diverted from the criminal justice system to non-correctional treatment or counseling services within the community.

5) Residential Corrections

We find that the residential corrections programs under the Fifth and Sixth Judicial District Court Services Projects offer virtually no threat to community safety and are cost-effective alternatives to incarceration for high risk offenders.

We recommend that the highly successful residential corrections program in the Fifth Judicial District be replicated as quickly as possible in all eight judicial districts. We recommend that residential facilities be used almost exclusively for high risk pre-institutional offenders and that the average length of stay in residential facilities be from nine to twelve months for high risk male felons.

We recommend that individuals be placed in a residential program almost exclusively as a condition of probation and that no high risk offenders be transferred to residential facilities from county jails.

We recommend that probationers released from residential facilities be placed under maximum supervision with all the conditional terms of high risk placement from the court.

6) The Role of Employment

We find that employment plays a key role in determining chances of success on probation and parole for male offenders. Our results indicate that an increased emphasis on finding and maintaining employment for male parolees and for high and medium risk male probationers can significantly reduce the number of probation and parole violators entering adult institutions.

It appears that a male offender's chances of success on probation or parole improve dramatically if he can maintain employment for at least three-fourths of his period of supervision.

RESEARCH VERSUS APPLICATION

Following release of the report, discussions were held with DSS Bureau of Community Correctional Services staff concerning the use of BCE risk rating devices for assigning supervision levels to clients of community corrections programs. The basic rationale for using risk rating methods in this manner stemmed from concerns with the extent of under and over-supervision of correctional clients. At this time it was explained by BCE staff that the original scales published in the Growth and Change report were not meant for implementation as originally developed. The concern here was that the original research was not concerned directly with screening and decision processes affecting the placement and handling of offenders. In particular, the following difficulties were addressed:

1) Description Versus Prediction

The original scales were intended solely to identify the characteristics of offenders who had failed at high rates, at medium rates, and at low rates in community programs. No statements were made at that time to the effect that these scales would accurately predict future patterns of success and failure, although this was judged to be highly probable in certain cases. In other words, the research results would have to be validated before the scales could be used for screening purposes. If not proven valid, then the scales would not be recommended for implementation, and refinements or improvements would be sought. The extent to which a device accurately predicts

future behavior is termed "external validity." Such can vary considerably depending on the methods employed, and the BCE staff wished to ensure that devices recommended for field utilization would indeed be functional in this way.

2) Screening Effects

The original scales were designed to identify and codify characteristics of offenders failing at high, medium, and low rates within "special sub-populations" of convicted offenders. As mentioned above, separate scales were developed for five special groups, including three groups of probationers, one of parolees, and one of residential correction clients. This approach served to pinpoint offender types failing or succeeding at high rates in "single" programs based on past screening and placement practices identifying clients for the program. In other words, the rating methods theoretically could depend in part of the sources and characteristics of program clients and not just on true likelihoods of success and failure among all convicted offenders. If screening practices (sentencing policy, parole release policy, etc.) changed the nature of clientele of a program appreciably, then the risk rating methods might not remain accurate.

For example, there was the possibility of mis-rating offenders who might be atypical of clients placed in the program. Thus a predictably "high risk" rapist placed on probation might be judged to be a good risk among probationers since he had no drug problem and since previous rapists placed on probation without drug problems were highly successful. This type of problem could cause difficulties not only with future placement practices, but also with regard to offenders previously placed. To wit, atypical clients such as the above might periodically enter programs due to inconsistencies in placement and release practices. (Variations can and do occur as the result of differing release policies among decision-makers and as a consequence of natural variation in decision patterns over time.) The appearance of "atypical" offenders would have little effect on research (or evaluation) results but could cause serious problems with an operational screening mechanism based on such research.

3) Implementation Problems

Even if a risk rating device was proven externally valid and devoid of screening effects, it would not follow that it was suitable for implementation as a screening mechanism. The logistics of obtaining the information necessary to code the device, or in fact the actual coding of the instrument, might prove impractical. The information might not be routinely available, or if available might take too much time to translate for coding purposes.

Additionally, the device might not be "fair" or "equitable" in assigning levels of risk. In particular, it might rate all offenders of a certain type at a fixed level of risk, e.g., all car thieves as high risk or all men over 30 as low risks. To ensure equity, it might be advisable to avoid rating an offender at a certain level of risk unless he or she exhibits several characteristics typical of offenders falling in that level.

Furthermore, it might not be advisable to include certain "sensitive" factors in a risk assessment device, such as sex or race, since including such might bring charges of unequal treatment or discrimination. In this case, it might be advisable to stay away from as many "personal" factors as possible, and instead concentrate on factors, such as prior record and current offense, that directly relate to the offender's criminal involvements.

Finally, to be useful for screening purposes, a device should show a high degree of accuracy or efficiency in classifying successes and failures within the study population. In particular, it should classify a relatively high percentage of successes as "lower risk" and a relatively high percentage of failures as "higher risk." The original BCE scales were not necessarily developed to provide extensive accuracy of this type (internal validity), although this type of accuracy was a major consideration. A device which does not exhibit a high degree of internal validity or accuracy in the study sample might not be valid or reliable enough to be useful in future applications (external validity). Thus the development of new devices for implementation involved attempts to enhance the internal validity of rating methods.

The original BCE research did not attempt to take these factors into account, since the primary goals were not to develop reliable methods of risk assessment.¹ Rather, the original goals were 1) to highlight types of offenders "previously" failing in certain programs at high or low rates, and 2) to take the resulting patterns of "ex post facto" risk into account in evaluating past correctional efforts. These goals could best be accomplished by analyzing "within program" rates of success and failure, i.e., by "capitalizing on" screening effects rather than by "factoring them out." To provide valid, reliable and functional risk assessment devices as aids to future decision practices in criminal justice, it would be necessary to conduct "across program" analyses that would avoid screening effects. Such was the intent of BCE staff in developing new

¹ In other words, BCE was not initially concerned with the problem of rating "a-priori" chances of recidivism or program failure among all persons convicted (risk assessment as a research activity), or in providing such ratings as an aid to offender screening (risk assessment as a functional tool).

predictive devices in late 1976 and the first six months of 1977.

The findings and recommendations appearing in the Growth and Change report (listed above) were offered from two alternative perspectives:

- 1) To highlight the need to "counteract" previously occurring patterns of failure among correctional clients and to encourage a more efficient allocation of resources within correctional agencies. This was attempted through the identification of offender groups which might deserve or benefit from either more or less attention (supervisory, treatment, or both) in various programs. Thus, young property offenders with prior records were identified as having high failure rates (leading to higher risk ratings) and were recommended for closer attention and care.¹
- 2) To provide a foundation for discussion and development of risk assessment devices as screening tools in criminal justice.

The use of the term "risk," both in the methods of classifying offender types and in the presentation of findings and recommendations, was intended to suggest the utility of "risk assessment" as a tool for screening and managing criminal offenders. Although it was not stated explicitly in the report, the specific scales and rating methods discussed were not intended for direct implementation.

IMPLEMENTATION

As mentioned above, release of the Growth and Change report led to discussions with Bureau of Community Correctional Services (BCCS) staff concerning the use of BCE risk rating devices for assigning supervision levels to correctional clients. Based on concerns listed above, BCE staff chose to develop a new system that could be directly implemented for screening purposes. This process, which began in December, 1976, was not completed until July, 1977. The result was a device called the Bureau of Correctional Evaluation Base Expectancy Scoring System, which consisted of a one-page coding schedule and instructions designed to apply to all persons convicted of criminal offenses.

¹ The use of the terms "high risk," "medium risk" and "low risk" to describe offender types failing at high, medium and low rates was particularly unfortunate in this context, since the terms inferred, for example, that offenders failing at higher rates were "inherently" higher risk, and that offenders failing at lower rates were "inherently" lower risk. The validity of this inference would of course depend to a great extent on screening and program effects. Labels such as "high risk" used to describe research results are themselves "high risk" to the extent that they might easily lead to charges of "labelling" and discrimination. (See discussion below).

In the meantime, BCCS was involved in the development and dissemination of minimum performance standards for local correctional services departments.¹ Without directly informing BCE, BCCS chose to include certain standards requiring the identification of the Bureau of Correctional Evaluation "risk score" (later "base expectancy score") in each client's case file. Because of the delay in completing the development of the new system, BCCS was unable to provide the tool necessary to identify such scores when the standards were distributed. Unfortunately, the standards and the accompanying memorandum failed to mention that revision efforts were in progress and that scores need not be recorded pending further notification. On August 15, 1977 revised standards were distributed, and local agencies became aware of the revision process.²

However, prior to the August 15 notification, some local agencies apparently interpreted then-available standards to mean that the original risk rating scales publicized through the Growth and Change report should be used to compute risk scores.³ Furthermore, there apparently was a misinterpretation on the part of the probation office in Waterloo that levels of supervision should be assigned on the basis of these scores. Because racial designations appeared in two of the original scales, this oversight led to charges of "blatant discrimination" by the director of the Iowa Civil Rights Commission.

These charges were, of course, unfounded since the scales in question were not intended for implementation, or even as methods of assessing risk for research purposes.⁴ Unfortunately, this fact was never officially publicized. As a result, the BCE process of risk rating criminal offenders was criticized by the Des Moines Register in an

¹ As required by S.F. 112, local Departments of Correctional Services were to assume full responsibility for the administration and operation of pre-institutional corrections programs in Iowa by July 1, 1977. Per the legislation, BCCS was given the responsibility to monitor and regulate community correctional programs. This included the authority to develop minimum performance standards and to assist local agencies in meeting these standards.

² From the memorandum accompanying the revised standards: "Finally, the standards for Pre-conviction Services, Pre-Sentence Investigative Services, Probation Services, and Residential Facilities, refer to the identification of 'client's base expectancy score.' These scales have been under revision since originally published in October, 1976. To date that revision process has not been completed. We will not expect programs to use the base expectancy scales until the revision process has been completed and a training session for their use provided.

³ BCE was not made aware that this was in fact occurring. If such had been known, ensuing problems could have been avoided.

⁴ The use of racial indicators in two of the scales was intended to suggest that black offenders in two of the study groups were found to exhibit abnormally high failure rates that could not be explained by other factors. The purpose was again to encourage the provision of more and better services to those with greater established need. (See discussion above concerning the intent of the original research as contrasted with the intent of efforts at "risk assessment.")

editorial entitled "Risky Ratings,"¹

The editorial criticized the use of racial indicators in the BCE risk rating system, suggesting that higher failure rates for blacks on probation were due to economic factors not considered in the rating method. It was also suggested that the method was inaccurate since it was based only on performance of probationers and not on a "random sample" of all those convicted. The implication here was that screening effects could distort observed failure rates to favor some groups over others. While this would have been a problem with the original scales (see above discussion of screening effects and their impact on the validity of risk assessment methods), the revised system was devised to eliminate just this type of problem.

The "Risky Ratings" editorial by no means constituted the final attempt to disparage the BCE risk rating systems. Des Moines City Attorney Philip Riley,² in a guest opinion published by the Register in early 1978,³ severely criticized the efforts of the Adult Corrections Master Plan Project based in part on the risk rating methods initiated by BCE and continued by the Project. Mr. Riley attempted to cast doubt on the validity of Project findings through association with the "Risky Ratings" problems previously encountered by project staff, despite the fact there was no logical connection between the two, save some similarity in personnel.

Following a discussion of this author's work with the Master Plan Project, Mr. Riley stated:

This same statistician has sent to all of the state's judicial districts a series of guidelines for use by all persons writing pre-sentence reports on convicted offenders in Iowa. Buried in those guidelines (which have questionable status, since they have not been legally adopted under the administrative rules procedures) is a requirement that every pre-sentence report written in the state contain a statement of the risk factor determined by the Bureau of Correctional Evaluation's formula.

A hidden agenda is also buried in that formula. "The System of Growth and Change" publication contained an analysis of women offenders which indicated race as a major indicator of likelihood of failure on release -- i.e., part of the "risk factor." From that, the statistician suggested longer sentences for minority women offenders, without suggesting that the systems, inside and outside the walls, program these women for failure.

When his simplistic conclusion was challenged, he withdrew it. When the bureau sentencing formula was distributed race was not a stated indicator for determining the risk factors and, thereby, the proper sentences for women offenders.

¹ See Appendix II for the complete text of this editorial.

² Chairman of the now defunct Advisory Commission on Corrections Relief. Mr. Riley was reacting to Project findings that contradicted earlier conclusions of the Commission. (See Section IV.)

³ See Appendix II for the complete text of this guest opinion.

Mr. Riley's comments are interesting in light of the chain of events pre-dating the Risky Ratings editorial. The guidelines mentioned in the first paragraph above could only refer to the "standards" disseminated by the Bureau of Community Correctional Services. These standards were devised without the slightest involvement of the author or of the Bureau of Correctional Evaluation. Furthermore, they had nothing whatsoever to say about recommendations given in pre-sentence investigation reports. During the entire tenure of BCE, there was not so much as a single communication between BCE staff and judges or pre-sentence investigators (or any other officials for that matter) concerning the use of BCE rating systems in the sentencing process. BCE staff were fully aware of the concept of sentencing guidelines, and were not so naive as to believe that risk ratings would ever form the sole basis for sentencing decisions. Perhaps misunderstandings in this regard grew from misperceptions by local corrections officials as to the intended use of risk assessment methods. Again, the only use intended was for the assignment of levels of supervision to community corrections clients. Such applications of risk rating systems are standard practice in many jurisdictions across the country.¹ In contrast, the author knows of no jurisdiction using risk rating methods as the sole - or even the major - determinant of criminal sentences.

¹ M. Bohnstedt, Classification in Criminal Justice: A National Survey of Screening Instruments, American Justice Institute, 1979.

III. THE ADVISORY COMMISSION ON CORRECTIONS RELIEF

In March of 1976, the Bureau of Correctional Evaluation released a report entitled "Iowa's Rising Prison Population." The report came in response to a 22% increase in the state's prison population during 1975. Among study findings was a warning that the "age-bulge" in Iowa's general population created by the post-war baby boom was just beginning to move through the "crime-prone" group of 15-29 year-old males, and that by the mid-1980's the crime rate could increase dramatically as a result. Since more crimes ultimately lead to more prison admissions, the report projected that the prison population would increase and would likely reach 3000 offenders by that time. This would amount to a virtual "doubling" of the population since the upward trend began in early 1975. The report recommended that immediate consideration be given to means of avoiding serious overcrowding in the prison system.¹

Based on the conclusions of the BCE report, the Department of Social Services and the Governor asked the Legislature for authorization to construct a new 340 bed medium security prison on the grounds of the Riverview Release Center at Newton. The construction cost was estimated at \$5.6 million, and the yearly operating cost at \$4.6 million, with design features allowing later expansion to accommodate 500 inmates.

Because of the high cost of prison construction and operation, and in light of previous commitments to community-based corrections, there was considerable sentiment among legislators that other alternatives (besides construction) should be considered.

¹ Following release of this report, the Des Moines Register published an opinion by Charles Bruner, (then) of the Human Resources Association of Iowa, entitled "Iowa's Prison Crisis: Economic Problem." In this opinion, Mr. Bruner criticized the Bureau of Correctional Evaluation's methods in projecting rising prison populations. Specifically, he suggested that rising crime was more a function of unemployment and other economic factors than of increased numbers of crime-prone individuals (aged 15-29) in the general population of the state. Mr. Bruner stated, in addition, that "In the men's reformatory at Anamosa, there are 348 young men who have no previous criminal records and who were convicted of non-violent crimes. If given employment, or training for employment, and if not hardened through extensive prison experience, they stand a good chance of being rehabilitated. Community-based correctional programs are geared for this type of offender." The figure "348" for the number of non-violent first offenders in Anamosa was, in fact, an erroneous interpretation of a prison inmate profile developed by the Bureau of Correctional Evaluation and forwarded to the Social Services Bureau of Community Correctional Services. Indeed, many of the 348 were probation and parole violators, and many of the rest had previously been arrested, convicted or incarcerated, although none had previous prison time as adults and all were convicted of non-violent offenses. More will be said in a later section concerning inmate profiles.

After much discussion and debate, the Legislature opted for a temporary solution by authorizing \$1.35 million for the conversion or modification of an existing facility in the state to a medium security prison facility. The Legislature offered the Governor and the Department of Social Services three options:¹

- 1) Convert the physical plant occupied by the State Training School for girls at Mitchellville.
- 2) Modify Building 20 at the Mental Health Institute at Mount Pleasant.
- 3) Convert the physical plant formerly occupied by Midwestern College at Denison.

The legislation stated: "If the Governor elects to direct the department to implement one of the foregoing options, the facility so converted or modified shall under no circumstances have a capacity in excess of one hundred fifty prisoners, and shall not be operated for more than two years after the effective date of this Act without specific extension by the general assembly of authority to operate the facility."

Pursuant to the passage of this legislation, Governor Ray selected option two, and in a short time work began on the modification of Building 20 at the Mount Pleasant Mental Health Institute to a 144-bed medium security prison facility for male offenders. The new facility began accepting inmates by transfer from the Men's Reformatory at Anamosa in early 1977. The authority to extend the operation of the medium security unit beyond the two-year limit set by the Legislature was granted by the 1978 Session of the Sixty-Seventh General Assembly.

FORMATION OF A TRIPARTITE COMMITTEE

In addition to authorizing a new prison facility, House File 1539 provided expanded funding for community-based corrections programs (\$2,850,000), authorized the conversion of the minimum security dormitory at the Fort Madison penitentiary to either a minimum or medium security facility, and called for the creation of a special "blue ribbon committee" to study both the adult and juvenile corrections systems in Iowa and to report back to the General Assembly by March 1, 1977. With respect to the latter, Section six states:

It is the intent of the general assembly to seek an analysis of the state's total adult and juvenile corrections system, independent of advice thus far received, from qualified persons chosen by the judicial, executive and legislative branches of state government, and to consider this analysis before deciding upon a long-term program to update the state's prisons and make their capacity adequate for the actual needs of the state.

¹ CHAPTER 1043, LAWS OF THE SIXTY-SIXTH GENERAL ASSEMBLY, 1976 SESSION (H.F. 1539) AN ACT to appropriate funds for the purpose of providing a program to alleviate overcrowded conditions existing and anticipated in state correctional facilities.

To carry out the intent expressed in subsection one (1) of this section, there is created as a temporary body the advisory commission on corrections relief composed of six persons, none of whom shall be members of or candidates for election to the general assembly during their tenure on the commission, two of whom shall be appointed by the chief justice of the Iowa supreme court, two by the governor and two by the legislative council. These appointments shall be made within thirty days after the effective date of this Act... Staff assistance shall be provided to the commission by the legislative service bureau.

To further carry out the intent expressed in subsection one (1) of this section, the advisory commission shall hire professional corrections consultants to evaluate the state's correctional needs... This evaluation shall be completed and submitted to the legislative council by March 1, 1977, and it shall be submitted along with (a) final report...

The commission shall make such interim progress reports as the legislative council may request, and shall submit a final report not later than March 1, 1977. The final report shall include, but need not be limited to, information concerning:

- a. Whether present major correctional facilities in the state are sufficient to contain current and foreseeable populations of adult male and female offenders.
- b. Whether present community corrections facilities are sufficient for male and female offenders.
- c. The need for more medium security institutions in the form of either new construction or of modification of one or more existing state facilities, including those not now used as penal institutions.
- d. The alternatives to construction as contemplated by paragraph b of this subsection.
- e. The economic and other impacts of construction of new facilities or modification of existing ones on community corrections facilities and the philosophy of community placement in this state.
- f. The appropriate actions for the legislative and executive branches of Iowa government in resolving the conflicting demands and proposals for relief of Iowa's corrections problems.

To help insure that the general assembly is knowledgeable of the commission's work and of the background of the report submitted by it, the joint human resources subcommittees of the senate and house committees on appropriations shall meet (up to four times) with the commission... The joint human resources subcommittee shall not have authority to mandate, alter or reject any comment or recommendation in the report required of the commission...

...The commission is abolished July 1, 1977.

A short time after the passage of H.F. 1539, six persons were appointed to serve on the Advisory Commission on Corrections Relief as required by the legislation. They were as follows:

Philip Riley (Commission Chairman) - Corporation Counsel
for the City of Des Moines
Janet Johnson - Drake University law professor and (then)
member of the Iowa Board of Parole (now a member of the
Iowa Court of Appeals)
John Stratton - University of Iowa sociology professor
Fritz Henn - University of Iowa professor of psychiatry
Ernest Buresh - Anamosa banker and lawyer
Harold McCormick - former state legislator from Manchester

KEY QUESTIONS

Based on the mandate of the legislation, the Commission was faced with the difficult task of deciding whether or not a new state prison would be required or if, in fact, existing facilities would be sufficient to meet future correctional needs. The situation was complicated by questions concerning the use of community-based correctional facilities. As there was but one such facility in the state at that time (Fort Des Moines) that handled a significant number of directly sentenced offenders, the Commission would have to decide the feasibility of new facilities in other areas, and determine the potential impact of such facilities on prison admissions. Indeed, if felony convictions were to continue increasing, could community-based facilities stem the tide and provide relief from possibly overcrowded conditions in the prison system? More generally, assuming a continued increase in convicted felons, could the use of community alternatives such as probation and residential treatment be expanded to meet the expected "crunch" without compromising community safety or depreciating the role of sentencing as a retributive or deterrent force in the criminal justice system? Or, from another angle, could the parole board speed the release of inmates on parole to accomplish the same intent and with clear rationale?

Specifically, the Commission would need to address the following:

- 1) The sources of the observed increase in the prison population.
- 2) The likely effect of the new criminal code on the prison population.
- 3) The possible disparity in judicial utilization of community-based corrections in the state.
- 4) The possible existence of "lower risk" individuals serving time in prison who might be released early without endangering the public.

STAFF SELECTION

These were serious questions that would require a detailed and sophisticated study of the clientele, structure, and operation of the corrections system in Iowa, at both institutional and community--

based levels. Because of the importance of the work required, and the desire of Commission members to be directly involved in the study, it was decided that the work should not be turned over to a consultant. Instead, the Commission hired a staff to collect and analyze data and to facilitate Commission deliberations. Accordingly, the Commission chose Roger Steggerda, the president of Justice Research, Inc., to head the Commission staff. Mr. Steggerda, in turn, hired eight assistants, including Thomas Austin, a graduate student at Michigan State University, who was to be responsible for the data processing component of the project.

DATA COLLECTION

Due to the nature of the questions facing the Commission, it was apparent from the outset that much statistical data would have to be gathered and analyzed before reliable conclusions could be reached. Rather than rely on existing data collected by units of the Social Services Department, Mr. Steggerda chose instead to collect independent data.¹ In this vein, five separate data collection efforts were begun:

- 1) Collection of extensive data on active prison inmates from the files of the Iowa Board of Parole. Two forms were coded on each inmate active in the adult prison system on or near October 1, 1976, including a prison inmate survey form designed by the National Clearinghouse on Criminal Justice Planning and Architecture, and the correctional evaluation "blue sheet" previously designed by Mr. Steggerda for the statewide correctional evaluation effort.²

Completing the blue sheet on prison inmates would allow the comparison of profiles between inmates and community-based offenders, since information on the latter was available through computer files of blue sheet information maintained by the Bureau of Correctional Evaluation.

- 2) Gathering of movement summaries on all adult correctional programs in Iowa. These summaries would provide a time series on admissions, releases, and active populations for correctional institutions, parole, and probation. Detailed data of this type were provided by the Division of Adult Corrections of Social Services.

¹ The Social Services Division of Adult Corrections maintained IBM card files of statistical data on all persons committed to the prison system. In addition, the Bureau of Correctional Evaluation kept similar - although not directly corresponding - information on probationers, parolees and residential corrections clients.

² Only certain limited elements were coded on the blue sheet for all inmates. Other elements were coded on a sample basis.

- 3) Compilation of disposition reports submitted by District Court clerks to the Division of Adult Corrections. Normally, these data are compiled for the Biennial Reports of the Iowa Board of Parole. Mr. Steggerda wished to compile these data in other ways to provide an accurate view of felony and misdemeanor dispositions and sentencing practices within each of the eight judicial districts in the state.
- 4) Collection of recidivism data on ex-inmates and former clients of community-based programs. A data form was designed for this component of the study and was implemented on a sample basis, with recidivism data collected from Bureau of Criminal Investigation rapsheets.
- 5) Collection of information on staffing patterns, budgets, expenditures, and other financial and organizational information on adult corrections programs in Iowa. These data were again acquired from the Department of Social Services.

DATA PROCESSING

To facilitate the analysis of data, Mr. Steggerda arranged access to the Drake University computer center. Statistical data on prison inmates were keypunched and read onto computer tape for data processing purposes. In addition, a computer file of data on community corrections clients was provided by the Bureau of Correctional Evaluation and was modified for processing in the Drake computer system.

Eventually, a single computer file containing all blue sheet data on offenders was generated.¹ This file was built in such a way that data could be analyzed with the Statistical Package for the Social Sciences (SPSS), a set of instructions and programs that could generate frequency distributions, crosstabulations, and other statistics from the raw data. As Commission staff did not have extensive experience with SPSS, this author was asked to assist in the retrieval and analysis of data from the computer file.

Initially, simple profiles were generated to allow superficial comparisons of inmates, probationers, and residential corrections clients. These profiles, which gave comparative data on age, sex, race, marital status, schooling, employment, skill level, prior record, drug/alcohol abuse history, offense type, and other factors, appeared in the data book which preceded the Commission's final report.

In addition, a profile of prison inmates was generated - for each institution and for all inmates combined - which broke down the prison population according to the seriousness of the offense for which the offender was committed and the offender's prior conviction record.

¹ By request the author assisted Commission staff in setting up computer files.

This profile categorized current offenses as against or not against persons, with the former separated between those using and those not using weapons. Prior conviction record stipulated the most serious prior conviction, from an adult felony against persons, to an adult felony not against persons, to a misdemeanor or juvenile conviction, to no record of conviction. This profile, which also appeared in the data book, revealed that 20% of the prison population consisted of non-violent offenders without prior adult felony convictions. See Appendix IV.

Unfortunately, a comparable profile could not be generated for community-based offenders since data on weapon use and prior adult felony convictions did not appear on the original blue sheet collected by BCE. Accordingly, it was decided to use only those data elements available on both sets of offenders to generate a comparative profile. The envisioned strategy was to isolate offender characteristics that differentiate inmates from their community-based counterparts, and to combine these indicators into a single scale that would serve to contrast the two groups to a greater extent than could individual factors. But, again, there were complications, since the blue sheet items collected on every inmate were insufficient to allow meaningful comparisons with probationers and residential corrections clients. On the other hand, complete blue sheet items were available on too few inmates to allow a valid statistical analysis. At this point, the author chose to rely on the BCE data system maintained in the state computer center to develop the scale in question.

In particular, the analysis was set up to identify and codify offender characteristics differentiating probationers from parolees. The idea here was that parolees had been committed to prison, while probationers had not, and although directly discharged offenders were ignored in the analysis - as well as other factors - the envisioned scheme was judged to be adequate for the purposes at hand.

Thus the scale was designed specifically and only to differentiate between those released on probation and those sentenced to prison. It was not - as we shall see later - designed to determine who should or should not receive either of these sentences, nor was it meant to differentiate between good and bad risks in the prison and probation systems.

The result of this analysis - as completed by this author - consisted of a 0-100 additive scale based on the following factors:

- 1) Type of Offense (5 levels)
- 2) Prior Record (4 levels)
- 3) Number of Convicting Offenses (2 levels)
- 4) Employment Status (2 levels)
- 5) Age at Sentencing (4 levels)
- 6) Drug/Alcohol Abuse History (2 levels)
- 7) Marital Status (2 levels)
- 8) Race (2 levels)

After the scale was constructed through use of the state computer system, this author incorporated the scale data (coding scheme) into the Drake Facility computer file on inmates and community-based offenders. Scale profiles for each correctional population under study were then generated and this information was provided to Mr. Steggerda. He then collapsed the 0-100 scale into seven levels and asked that new profiles be generated - based on the 7-level version of the scale - for offenders in each program according to the judicial district from which the offender was sentenced. Once this was provided, the author had very little further contact with the research prior to the release of the Commission's final report. In particular, the conclusions of the Commission involving use of the 7-level scale - which came to be known as the Offender Attribute Scale - were not checked with the author prior to publication.

In the meantime, Mr. Steggerda, with assistance from the Commission staff, was involved in the compilation and analysis of data of the other four types mentioned above. This author had very little - if anything - to do with these analyses, which concerned court dispositions, movement and cost data, and recidivism rates. In particular, these analyses made no use of techniques and results of a similar nature publicized through the Bureau of Correctional Evaluation's report "Corrections in Iowa: A System of Growth and Change," which was released just prior to this author's involvement with the Advisory Commission staff. Mr. Steggerda had expressed an interest in avoiding use of BCE results and techniques in order to insure the independence of the Commission findings from previous work of BCE and the Department of Social Services.

FINAL REPORT

On March 3, 1977, the Advisory Commission on Corrections Relief met with the Governor, Social Services officials, and state legislators to announce the results of their eight-month study. Their report was received enthusiastically by legislators, as the Commission had reached the conclusion that the prison population would not continue rising as projected by the Department, but would instead decline as new community residential facilities began accepting convicted felons who would otherwise have gone to prison. The Commission had concluded that no new institution would be required to handle future inmate populations. Instead, they recommended a number of modifications and improvements to the sentencing and corrections systems in Iowa.

Some of the major findings and recommendations from their final report¹ are as follows (emphases added):

- 1) The current correctional institutions have adequate capacity to house inmate populations into the foreseeable future. A new institution is not necessary at this time. (p. 111)
- 2) The comparisons of non-institutional and institutional offender profiles indicate that a substantial number of persons are incarcerated in Iowa who, in all probability, could be handled safely in non-institutional programs. A large number of current inmates have not been convicted of any prior felony, and an additional number have not been involved formerly in any correctional program, adult or juvenile.

The Offender Attribute Scale presented in the section on "Offender Profiles" accounts for the eight characteristics which most significantly distinguish among the offender populations in different correctional programs. The great majority of the offenders in the first three levels of the scale are in probation or residential programs. Yet more than 650 of the incarcerated inmates are in those three scale levels.

The Commission does not believe that all of those 650 offenders should be released. Among them are certainly some offenders who pose such a threat to community safety that they should not be released. However, the Commission is aware that many of those offenders are incarcerated due to sentencing disparities among the judicial districts. Offenders with relatively "low-risk"² characteristics are incarcerated in some judicial districts at rates four or five times higher than similar offenders in other judicial districts. This disparity is correctible and can be dealt with in a fair and objective manner.

¹ Adult Corrections in Iowa: Report to the 67th General Assembly of Iowa, Advisory Commission on Corrections Relief, March, 1977.

² The use of the term "low-risk" in this context suggests that the Offender Attribute Scale was being viewed - in part - as a risk assessment device.

The Commission maintains that at least 15-20% of the current institutional population could be released to community programs. Judicious screening can ensure that this be accomplished with virtually no increase in threat to community safety. (pp. 112-113)

- 3) The Commission believes that the offender, the institution, and the public would benefit from improved and expanded prison industries. (pp. 114-115)
- 4) The Commission believes that much could be gained in terms of both effectiveness and safety by dividing institutional populations into functional units, separate from one another organizationally, physically and programmatically. (p. 115)
- 5) The men's penitentiary at Fort Madison should be retained for long-term sentences and maximum security needs... The prison farms and the dormitory should be utilized for minimum-security housing... Educational and treatment programs should be available, but the program concentration should be vocational skill development and productive and meaningful employment. (p. 116)
- 6) The men's reformatory is well-maintained and well-managed. It should be retained for short-term sentences and medium-security needs... A minimum-security housing capability should be developed near the institution. [Short-term] educational, vocational, and treatment programs should be the focus of the men's reformatory, and should be contracted from outside, when possible, to provide greater flexibility in programming. Prison industries should be retained, but concentration in industries should be secondary to educational and vocational skill development. (p. 117)
- 7) The newly-remodeled facility at Mt. Pleasant should be operated by the Mental Health Institute, and should be used, under contract to the correctional system, as a secure treatment facility for selected inmates in need of treatment for drug abuse, alcohol abuse, or personality disorders. In general, inmates should be transferred to parole or community programs upon successful completion of the treatment program rather than back into the institutions. (p. 117)
- 8) With the development of functional unitization and minimum-security capabilities in the institutions, and expanded residential programs in the communities, the Riverview Release Center is no longer necessary and should be discontinued. (p. 117)
- 9) The Women's Reformatory is distant from the major population centers of the state. The women sentenced to the reformatory have relatively "low-risk" profiles indicating that a sizable number of them are good prospects for parole or transfer to community programs. The facility at Rockwell City should be closed and disposed of by the state. The Women's Reformatory should relocate in the facility vacated by the termination of the Riverview Release Center at Newton. (p. 118)
- 10) The Security Medical Facility (at Oakdale) is strategically located near the University of Iowa... One unit should be converted for use in housing 24-30 inmates with psychological problems needing secure, long-term treatment. An assessment and classification team should be created and based at the facility both to perform inmate evaluations

and to serve as a resource to the assessment and classification efforts in the other institutions. (p. 118)

- 11) Non-institutional correctional approaches are relatively inexpensive on a per-offender basis, and, in most instances, have been effective in preserving the safety of the community. In addition, offenders who are successfully terminated from non-institutional programs commit fewer and less severe new offenses than offenders released from the institutions. (p. 119)
- 12) The Commission supports the idea that local correctional efforts should be controlled and administered locally. Local Boards should include representatives appointed by the courts as well as local boards of supervisors. The Bureau of Community Corrections Services (or its counterpart) should retain fiscal administration and monitoring, as well as development and monitoring of operational standards. (pp. 119-120)
- 13) The use of probation in Iowa has increased significantly during the past few years. Even with the increase, however, probation is used far less frequently in Iowa than in many other states. A large number of first offenders currently incarcerated in Iowa prisons have not been sentenced formerly to probation. Probation appears to be utilized well by the judges in some judicial districts, and very rarely, by comparison, in others...

The Commission believes that the use of probation should be greatly expanded in Iowa, and that probation staff be sufficient to ensure effective supervision. A sentence of probation should be the rule unless incarceration is necessary for public protection, the treatment needs of the offender can only be filled in secure confinement, or a probation sentence would unduly depreciate the seriousness of the offense. (p. 120)

- 14) Many offenders do not appear to warrant incarceration but warrant closer supervision than can be afforded by probation. Rather than risking community safety, many of these offenders are incarcerated due to the lack of sentencing alternatives. Pre-institution residences provide an alternative to incarceration.

...The Commission recommends that the development of planned pre-institution residential correction programs be supported. These programs should be closely monitored to assure that they are being utilized primarily as alternatives to incarceration rather than probation, and that the capacities of the programs reflect the actual needs of the communities they serve. (pp. 120-121)

- 15) Post-institutional residential capability should be expanded throughout the state. Residential programs should be utilized for a brief period of time for the majority of offenders released from the institution. (p. 121)
- 16) The Commission believes that a strong and active parole board is necessary in Iowa. It supports the expansion of the board from three to five members, and believes that the part-time nature of the board should be retained. (p. 122)

17) The Commission believes that a separate Department of Corrections should be created by the Legislature. Within the Department of Corrections, a single focus should be directed towards the continuum of correctional services. Artificial distinctions between institutional and non-institutional correctional approaches are divisive, and as such, are dysfunctional to the overall management of corrections. (p. 124)

18) The Commission attaches much importance to the concept of restitution as it affects both the offender and the victim...

Restitution should become part of the standard correctional program of the incarcerated offender as well as that of the probationer...

The Commission believes that restitution to victims of crime, administered from a fund made up of state appropriations and offender contributions, should be made an essential part of correctional programs. (pp. 125-126)

19) The Commission believes that the State of Iowa should retain an indeterminate sentencing structure.

...The flexibility offered by indeterminate sentencing allows dangerous offenders to be confined longer and non-dangerous offenders to be released earlier. The parole board is the key to the successful utilization of indeterminate sentencing. Inequalities in sentence due to variations in judicial attitude, plea bargaining or other uses of discretion at earlier stages in the process may be balanced by the parole board.

It (the Board) has more recent information than earlier decision makers and makes the last decision in the correctional process. Standardized releasing policies that are well articulated can reduce some of the feeling of inequity expressed by inmates. (pp. 126-127)

20) A further step in protecting against arbitrary differences in sentencing is appellate review of sentences. Fairness suggests that sentencing should be relatively uniform while allowing for discretion due to individual circumstances. The finding that rates of incarceration vary greatly between judicial districts in Iowa suggests that some sentencing guidelines are needed...

The Commission believes a formal mechanism for review of indeterminate sentences should be established within the appellate court structure. (pp. 127-128)

21) The Commission suggests the Legislature reconsider the imposition of mandatory minimum sentences for felonies as currently developed in Senate File 85, Acts of the 66th General Assembly.

There is reasonable likelihood that the use of discretion in the initial stages of the criminal justice process will result in inequitable enforcement of these statutes, and

that their enforcement, if carried out, will operate directly against the rehabilitative goals central to the Iowa Correctional System.

- 22) The Commission recommends that a permanent, tri-partite body exercise ongoing oversight of the Iowa corrections system. That body should have the capability to conduct continuous, independent evaluation on the basis of which regular reports can be submitted to all branches of the state government as well as to the operating corrections system. (pp. 130-132)
- 23) Much of the work of the Commission would ordinarily be performed in the context of a well-conceived correctional master plan. Originally, it was intended that a master plan be conducted and completed by the Iowa Crime Commission along a schedule somewhat parallel to that of the Commission..

The Iowa Crime Commission has assisted the Commission through the provision of some master plan funds for the collection of data which might serve the purposes of both studies. Further, the Crime Commission has been involved in the architectural inventory and assessment which was contracted by the Commission for the benefit of both bodies. However, except for the assistance given to the Commission, as well as some organizational planning, the primary work of the master plan has been delayed until the submission of this report by the Commission in order to avoid needless duplication...

Through its cooperation with the advisory commission, the correctional master plan project of the Iowa Crime Commission has participated in and has access to a thorough description of the Iowa adult correctional system and a study of its architectural needs. Remaining funds in the master plan should not be depleted through further efforts in these two areas.

Master plan funds should be utilized to develop and implement long-range strategies rather than to meet short-term needs.

The Commission recommends that the Iowa Crime Commission contract with independent, qualified persons or organizations to assist the correctional system in two areas: first, the development of procedures by which the distinct components of the corrections process might be operated as a unified continuum of services; and second, the development of an information system which is consistent with the requirements of the National Offender Based Correctional Information System (OBCIS).¹
(pp. 132-133)

- 24) While the Commission has chosen a series of solutions it deems reasonable, certain others should be noted for consideration by the system's planners and operators. Those are:

¹ Now referred to as OBSCIS (Offender-Based State Corrections Information System).

1. Move Rockwell City inmate population to the Girl's Training School at Mitchellville. Until final determination is made on the continued uses of the Toledo and Mitchellville facilities for juveniles, this solution is of questionable value.
2. Build a new maximum-security prison with less than 500-man capacity and close the present Men's Penitentiary. This Commission has found no need for a new medium-security prison, in the light of the viability of present facilities. Data gathered by the Commission supports that provided by the Department of Social Services which indicates that the current men's penitentiary provides nearly double the maximum security capacity warranted for the offender population. However, if rehabilitation of the Penitentiary proved to be too expensive, its replacement by a new centrally-located, maximum-security institution should be considered.
3. Make system evaluation a function of legislative oversight. The "G.A.O." function now being considered by the General Assembly could conduct the evaluation and reporting function heretofore proposed for a tri-partite body. Such a location for that function could tend to house the particular evaluative needs of one branch of government rather than the needs of all three branches which the Commission has underscored in its recommendations. The sole value of such an alternative might be that the function would be performed for the corrections system in a manner similar to its performance for other departments.

Many alternatives were considered but not endorsed by the Commission. Some of the more obvious are to continue to operate the system components as they now exist, to construct a new medium-security prison, to move toward a form of determinate sentencing, to leave the correctional system within the Department of Social Services. The reasons against each are embodied elsewhere in the report and will not be repeated here. (pp. 133-134)

LEGISLATIVE RESPONSE

To say that the legislature was pleased and impressed by the Commission's report would be an understatement. The Des Moines Register quoted one Senator as saying "It may be the best task force we've ever had." Another was to have said "It is an excellent study. It is similar to the conclusions that many of us had reached and which were expressed by our own interim study committee." Still another legislator was quoted as saying "In the first place, the Legislature was certainly dragging its feet (in authorizing a new prison.) And the Governor had some reluctance about it. The only people who weren't reluctant were in the Department of Social Services. So when you get a solid, professional report of this sort, I would doubt that anybody would seriously propose a new prison." Finally, another was quoted as commenting "We feel vindicated. It shows we should never have given the Governor the Mount

Pleasant option."

Indeed, the final report of the Advisory Commission quashed all discussion of a new state prison during the remainder of the 1977 Session. Instead, legislators became concerned with other aspects of the corrections system. Following release of the report, the General Assembly acted quickly in authorizing several improvements to the prison system as recommended by the Commission. In particular, Section 27 of S.F. 112 appropriated \$150,000 to the Division of Adult Corrections of Social Services for the establishment of a work adjustment and training program for inmates housed at the Riverview Release Center. This program later came to be known as the Prisoner Employment Program.

In addition, H.F. 464 authorized two other improvements to the prison system. Sections 25 and 26 authorized and appropriated funds for the subdivision of cellhouses at the Penitentiary and Men's Reformatory into smaller units so that correctional services could be delivered on a more individualized basis. This "unitization" program, which was based directly on an Advisory Commission recommendation, received funding from the Legislature in the amount of \$1,255,100.

H.F. 464 also authorized a special unit at the Mount Pleasant medium security facility for the treatment of inmates in the prison system "who exhibit treatable personality disorders, with or without accompanying history of drug or alcohol abuse."

In summary, the Legislature felt that the need for a new state prison was no longer imminent and that, instead, emphasis should be placed on: 1) improving the prison system to lessen the effects of overcrowding, and to facilitate the rehabilitation of offenders and their return to society, and 2) the full development of community-based alternatives in Iowa as supported by the Commission and as required by S.F. 112.

PRISON POPULATION PROJECTIONS

The central finding of the Advisory Commission study was that:

The current correctional institutions have adequate capacity to house inmate populations into the foreseeable future. A new institution is not necessary at this time. (p. 111)

This finding was based on new population projections developed by Roger Steggerda for the Commission which indicated that prison populations would drop by the end of FY1977, would drop further in FY1978, and would increase gradually to a peak in FY1980 or 1981 before a gradual decline.

According to even the most pessimistic of three projections developed by Mr. Steggerda, the prison population would peak at no more than 1939 inmates (in FY1982), which would amount to an increase of only 27 offenders over the FY1976 ending population. The following table, which is taken from the report, summarizes the three projections developed for the Commission. (The figure for FY1976 is the actual prison population as of June 30, 1976.)

Fiscal Year	Projections		
	High	Low	Probable
1976	1912	1912	1912
1977	1866	1761	1814
1978	1817	1644	1752
1979	1829	1626	1763
1980	1865	1612	1780
1981	1891	1626	1811
1982	1939	1605	1802
1983	1928	1584	1786
1984	1904	1555	1758
1985	1868	1513	1716
1986	1824	1467	1670
1987	1777	1428	1630
1988	1732	1390	1590

These projections lie in stark contrast with the projections developed earlier by the Bureau of Correctional Evaluation,¹ which were as follows:

Fiscal Year	Projections		
	High	Low	Probable
1980	2744	2554	2648
1982	3016	2754	2893
1983	3050	2704	2888
1985	2995	2429	2656
1990	2618	1664	1980
1995	2290	1264	1370
2000	1918	1254	1667

The difference between the probable estimates given in the two tables above is as large as 1091 offenders (at the end of FY1982). Clearly, the two projection methods involved drastically differing sets of assumptions. The BCE projection labelled "probable" or "intermediate" is the one taken as the basis for the Department of Social Services request that the Legislature authorize a new state prison. The projection was based on several assumptions as follows:

- 1) that the crime rate would increase in proportion to an increase in the size of the crime-prone group of males aged 15-29, would accordingly peak in 1980, and then would decline roughly in the manner in which it increased,
- 2) that the performance of the criminal justice system in turning reported crimes into prison admissions would not vary from performance observed in the mid-1970's and
- 3) that the average amount of time served in the state prison system would also remain at a level observed in the mid-1970's.

¹ D. Powers, I. Turpin, D. Fischer, Iowa's Rising Prison Population, Iowa Department of Social Services, Bureau of Correctional Evaluation, March, 1976, pp. 21-29.

The projection amounted to an attempt to estimate, as accurately as possible, the likely consequences of these assumptions on future prison populations in Iowa. The extent to which the projection would indeed be accurate would depend on 1) the accuracy of the statistical relationships summarizing past patterns of crime and criminal justice performance in Iowa, 2) the accuracy of the methods used to assimilate these relationships into a projection, and 3) the accuracy of the hypotheses that the projected patterns would indeed hold true. The validity of the projection method concerned contingencies 1) and 2) only, since 3) involved hypotheses rather than actual estimates. In other words, BCE staff did not attempt to "crystal ball" future crime in Iowa or the future performance of the criminal justice system.

Essentially, the projection dictated that if crime increased in proportion to the increase in citizens aged 15-29, and the criminal justice system performed as during the mid-1970's, then prison admissions and prison populations were likely to increase as suggested. As stated on pp. 26-27:

The crime rate used will depend upon one's assumptions about: the size of various groups in the population, the degree of general social change or dislocation, the economy and its affect (sic) upon specific groups, changes in criminal law, and law enforcement activity...The connection between the crime rate and prison admissions is determined by: the ratios of crimes to arrests, arrests to adjudications, adjudications to convictions, and convictions to actual prison admissions. These ratios are affected by the criminal law, the quality of enforcement and prosecution, the nature and number of the offenses and offenders, the quality of the defense, the sentencing practices of the judges. Most of these, in turn, are influenced by public opinion, which is extremely difficult to estimate in advance...The degree to which alternatives to prison are developed, the speed and effectiveness of corrections in redirecting prisoners, policies in paroling and revoking...all these affect the use of prisons and the amount of time offenders may spend in prison.

In line with the above, the BCE projection amounted to more of a "warning" than an actual estimate of future prison populations. The warning was essentially that the prison system might have to face serious overcrowding in the near future unless something was done to curb existing trends moving in the direction of increased prison admissions. No attempt was made to incorporate or otherwise consider the likely consequence of policy changes in criminal justice that might influence prison admissions and releases.

In developing a prison population projection for application in Advisory Commission deliberations, Mr. Steggerda took a somewhat different approach, as suggested by the following comments from the Commission's final report:

One fact is evident: population projections are general indications of the direction in which populations will go. They are approximations whose accuracy depend (sic) upon both the analytical techniques which are used and the ability of those doing the projections to anticipate correctly the many related policies and events. (pp. 93-94, emphasis added)

Clearly, Mr. Steggerda was taking the position that the likely effects of future policy changes in criminal justice could be foreseen and could be incorporated into estimates of future prison populations. The Commission's report goes on to state:

Prison populations are not inevitable consequences of events or conditions clearly visible in advance. Rather they reflect the many policies which are operational within the system, and, to an extent, a variety of other conditions which are no less difficult to predict than prison populations. Many population projections have gone wrong, for example, by basing future prison populations upon predicted unemployment or crime rates, neither of which is very predictable. Many projections also minimize the ability of correctional systems to affect prison populations through policy, instead characterizing the correctional system inferentially as a helpless and reactive recipient of whatever products are created by a set of inexorable forces far beyond its control.

The fact is that correctional systems can and do affect population size through proactive policy formulation and implementation. This is no less true in Iowa than in other states. (p. 94)

In setting the stage for a discussion and selection of projection techniques, the report states:

Prison population size is created by two factors, admission to prison and releases from prison. Calculation of future population is quite simple conceptually, in the sense that new admissions are added to population and releases are subtracted from it. Prison population is the product of a simple arithmetic relationship between admissions and releases. In order to project prison populations, therefore, it is necessary to project both admissions and releases. (p. 94)

To project future prison populations in Iowa, Mr. Steggerda chose the following strategy:

- 1) Calculate historical rates of prison admission (admissions per 100,000 population) for selected age groups, concentrating on the groups 18-24 and 15-29 (identified as having high rates of admission).

- 2) From projections of future age distributions in the general population of the state, use rates developed as under 1) above to project future prison admissions.
- 3) Adjust projected prison admissions to reflect identified changes in policy toward the sentencing of convicted offenders.
- 4) Project prison releases based on the most likely attrition rates for existing and future populations, considering policy changes affecting the length of incarceration where possible.
- 5) Calculate projected prison populations by simple arithmetic, i.e., by adding admissions to existing populations and then subtracting releases.

To calculate historical prison admission rates (for selected age groups), Mr. Steggerda chose three separate base periods: 1971-1976, 1973-1976, and 1975-1976. In line with increasing prison admissions during the six-year period 1971-1976, the three base periods gave (in the order listed) increasing admission rates for individuals in the crime-prone age groups 18-24 and 15-29. As a result, use of admission rates for these three periods would result in three estimates of future prison admissions, one judged Low (1971-1976 rates), one judged Probable (1973-1976 rates), and one judged High (1975-1976 rates). These three sets of projected admissions would of course lead to three projections of future prison populations.

The resulting projected admissions were as follows:

Fiscal Year ²	Projected Admissions		
	High (1975-1976 Rates)	Probable (1973-1976 Rates)	Low (1971-1976 Rates)
1977	943	881	845
1978	961	896	859
1979	972	906	871
1980	982	915	878
1981	973	907	872
1982	967	902	865
1983	954	891	853
1984	938	875	839
1985	917	855	820
1986	893	834	798
1987	872	814	780
1988	853	796	763

According to these figures, prison admissions would go no higher than 982 (during FY1982 and at 1975-1976 admission rates), and would probably peak at 915 in FY1980.

¹ Prison admissions during the preceding nine fiscal years, beginning with 1968, were as follows: 847, 835, 805, 726, 722, 739, 724, 890, 889.

The latter figure would be just 26 higher than total admissions during FY1976. Again, these figures differ substantially from admissions projected by BCE:

Fiscal Year	Projected Admissions		
	High	Probable	Low
1981	1320	1320	1320
1986	1225	1050	970
1991	1075	760	650
1996	920	550	550
2000	800	810	550

The discrepancy between these two sets of projected admissions forms a large part of the difference between the final population projections developed by BCE and the Commission staff. This discrepancy, however, is not the total extent of the difference. In particular, the Advisory Commission projection incorporated an adjustment to the original figures for projected admissions. To wit, the Commission's report states:

Since the preparation of its population projections in the spring of 1976, the Department of Social Services has provided for the development of several pre-institution residences. This policy implementation is predicted to reduce further the rates of admissions to Iowa prisons. It is anticipated that the new pre-institutional residences will have a combined capacity of 195.

The impact of these residences upon prison admissions will depend upon a number of factors. Of primary concern is the manner in which these programs will be used by the judges. It is estimated that the residential corrections program for men in the Fifth Judicial District is an alternative to prison for about 75% of the men sentenced there. It is usually filled and men who successfully complete the program are released (usually to the probation department) in an average (median) of about 4 months. Approximately 30-35% of its residents are revoked during the process, however, and are transferred to jail or to the reformatory. (pp. 96-97)

This statement is referring to the Fort Des Moines Men's Residential Corrections program, a minimum-security facility for pre-institutional offenders operating under the Fifth Judicial District Department of Correctional (then Court) Services. The Fort Des Moines Program, one of the first of its kind in the nation, was judged to have handled successfully a large number of convicted felons who would otherwise have been placed in the Men's Reformatory or the State Penitentiary (most to the former). Initially, this conclusion was based on evaluations of the program by the National Council on Crime and Delinquency.^{1,2} The latter of the two evaluations attempted to

¹ P. Venezia, R. Steggerda, Residential Corrections: Alternative to Incarceration, National Council on Crime and Delinquency Research Center, July, 1973.

² R. Steggerda, P. Venezia, Community-Based Alternatives to Traditional Corrections, 1973 Evaluation of the Fifth Judicial District Department of Court Services, National Council on Crime and Delinquency Research Center, February, 1974.

estimate the impact on the adult correctional system of the post-conviction programs offered by the Courts Services Department, including the Fort Des Moines program:

Assessment of the impact of the post-conviction programs of the Department of Court Services upon the existing correctional system must also necessarily be based upon some assumptions. If it is assumed that all of the convicted offenders who had been assigned the Probation unit of the Department of Court Services were sentenced instead to the probation and parole component of the Bureau of Adult Correction Services, the average daily population of the unit would have increased by approximately 400 clients.

Of the clients who were sentenced to the Men's Residential Corrections unit of the Department of Court Services, 65% or 111 clients, during this evaluation period were sentenced on the basis of felony convictions. Of the remaining clients, 19% were sentenced on indictable misdemeanor charges and 16% for misdemeanor offenses. Assuming that all of the clients who were sentenced to Ft. Des Moines on the basis of misdemeanor and indictable misdemeanor convictions had instead been sentenced to the Polk County Jail and had served sentences averaging 90 days for each client, an additional 5,400 days would have been served in the jail by the clients of Residential Corrections. Spread evenly throughout the year, these additional jail days being served by convicted offenders would have resulted in an average daily population of the Polk County Jail of 15 additional inmates. If all of the clients sentenced to the Residential Corrections program on felony convictions had been sentenced instead to the Men's Reformatory or State Penitentiary and had served an average of 684 days in one of these state institutions, a total of 75,924 days would be served in the state institutions by these clients, thereby increasing the average daily populations of those two institutions by 111 persons. Since the Residential Corrections program tends to dispose of persons more quickly than the state institutions, this number could be expected to nearly double within the next year.

The Women's Residential Corrections Facility of the Department of Court Services has operated primarily as a half-way house for women leaving the Women's Reformatory at Rockwell City. During the period of this evaluation, 29 clients were assigned to the Women's Facility. In the absence of this program, these clients would either have had to spend additional time at the Women's Reformatory, or would have been assigned to the State Department of Probation and Parole, or would have to be sent to another half-way house program developed and operated by the Bureau of Adult Corrections. If all of these women had been released from the Women's Reformatory and sent to the State Department of Probation and Parole, the parole case-load would be increased by 29 persons.

¹ The report also gave an estimate of the impact of the pre-trial release program on the county jail population.

...Based upon these calculations, a conservative estimate of the impact of the Department of Court Services upon the existing correctional system would be:

- A reduction of an average of 515 clients per day from the State Department of Probation and Parole.
- A reduction of 133 average clients per day from the Men's Reformatory and State Penitentiary.
- A reduction of 56 inmates per day from the Polk County Jail.

The Fort Des Moines program, which has an average population of from 50 to 55 offenders, had handled approximately 1000 offenders from its opening in 1971 through 1976. At the time of the Commission's final deliberations (approximately 3 years after release of the NCCD evaluation), it was estimated by Court Services officials that the Fort Des Moines program had operated as an alternative to state-level incarceration for 75% of its clients.¹ This would mean that approximately 750 offenders were placed in Fort Des Moines in lieu of imprisonment during 1971-1976. Recent studies by BCE and the Statistical Analysis Center, however, indicate that not all of these 750 offenders were successfully diverted from the prison system. In particular, a follow-up study indicated that about 25% of Fort Des Moines clients admitted during 1974-1976 ended up in prison (most by revocation of probation) before discharge from the system.

From these figures it would then follow that the Fort Des Moines program had successfully diverted 562 persons (75% of 750) from the state prison system since its opening, with an average of 102 offenders diverted per year for 5½ years. The statistics of this impact translate to an average reduction in the state's prison population of around 200 offenders, which is indeed significant.

Mr. Steggerda clearly wished to use the presumed record of experience with the Fort Des Moines program to estimate the impact of new community residential programs on prison admissions. The new facilities were to have a combined capacity of 195 and were to be located in Cedar Rapids, Waterloo, Davenport, Sioux City, Council Bluffs, Dubuque, and Marshalltown.² As stated in the Advisory Commission's report:

¹ In response to a request from the Advisory Commission, this author - while with BCE - was asked by a Court Services official for an estimate of the percentage of Fort Des Moines clients who would have gone to prison if the program had not been available. No estimate was offered at that time since BCE had not studied this particular question. Accordingly, the official (or someone unknown to this author) derived the 75% estimate from other sources. Note also that the 75% estimate is higher than the 65% estimate used in conjunction with the 1973 evaluation.

² Residences eventually opened in Cedar Rapids, Waterloo, Davenport, Sioux City, Council Bluffs, Dubuque, Fort Dodge, and Burlington.

It is not likely that the new pre-institution residences in the state will be utilized in precisely the same manner (as the Fort Des Moines program). For projection purposes, two different sets of assumptions were made to produce two projected levels of impact (both somewhat conservative, as compared to the experience of the Fifth Judicial District). For both projections it was assumed that:

- a 90% occupancy rate would be maintained
- 100 beds would be available by March, with the other 95 beds available by June
- those who are admitted as an alternative to incarceration and who successfully complete the residential program will be released after an average of 6 months
- all others will have an average 3 month length of stay

Based upon those common assumptions, two projections were made, using certain additional assumptions. For the first projection it was assumed that 60% of the population of the programs would be sentenced there as an alternative to incarceration, and that 40% of that group would be revoked (to prison) during the program. Making these assumptions, the pre-institutional residences should reduce prison admissions by 118 during FY1977 and by 187 each year thereafter.

For the second projection, it was assumed that 70%¹ of the population would be alternative to incarceration and that 30% of that group would be revoked. If these assumptions are correct, the number of prison admissions should be reduced by 136 during FY1977 and by 235 each year thereafter. (p. 97)

Using these figures for the estimated reduction in prison admissions due to the availability of the new community residences, Mr. Steggerda computed revised estimates of future prison admissions:²

¹ On page 98, the report states that a 75% estimate was used for the second projection.

² That is, he subtracted the estimated reductions in admissions due to the residences from the original estimates for prison admissions given above.

Fiscal Year	Revised Projected Admissions					
	High		Probable		Low	
	Est.1	Est.2	Est.1	Est.2	Est.1	Est.2
1977	825	807	763	745	727	709
1978	774	726	709	661	672	624
1979	785	737	719	671	684	636
1980	795	747	728	680	691	643
1981	786	738	720	672	685	637
1982	780	732	715	667	678	630
1983	767	719	704	656	666	618
1984	751	703	688	640	652	604
1985	730	682	668	620	633	585
1986	706	658	647	599	611	563
1987	685	637	627	579	593	545
1988	666	618	609	561	576	528

The report goes on to identify the following three projections as worthy of further analysis: High (Est.1), Probable (Est.1), Low (Est.2). Of these three projections, the first and third essentially give upper and lower limits of a "confidence interval"¹ for future admissions, while the second of the three gives the most probable level of admissions.

According to the Commission's "most probable" estimate, admissions would fall from 889 in FY1976 to 763 in FY1977 and would not rise above 728 in any other year through the range of the projection. As stated in the report, these admission figures would result from a reduction in admissions of 118 during FY1977 and of 187 each year thereafter, all due to the presence of new residential facilities as felony sentencing alternatives in judicial districts other than the Fifth.

After calculating admissions, the report goes on to discuss the projection of future prison releases, based upon:

- 1) a determination of release policies and rates,
- 2) projected attrition of the current institutional population, and
- 3) projected attrition of projected future incoming populations.

In this process, the following were developed:

- 1) calculations of the length of time served by persons between 1972-1975,
- 2) estimates of the impact of new pre-institutional residences on the incoming population, and
- 3) estimates of the impact of the new criminal code on the incoming prison population.

Based on the above, projected releases were developed to correspond to each of the three final (adjusted) admission projections:

¹ Between which admissions are likely to fall.

Fiscal Year	Projected Releases		
	High	Probable	Low
1977	871	861	860
1978	823	771	741
1979	773	708	654
1980	759	711	657
1981	760	689	623
1982	732	724	651
1983	778	720	639
1984	775	716	633
1985	766	710	627
1986	750	693	609
1987	732	667	584
1988	711	649	566

Finally, to compute projected end-of-year prison populations: Projected admissions for FY1977 were added to the FY1976 ending population (1912) and projected releases for FY1977 were subtracted from the result. This gave the figures 1866, 1814 and 1761 for projected FY1977 ending populations. This process was repeated successively to generate projected ending populations for FY1978-FY1988 (as given earlier in this section).

The section of the Commission's report dealing with prison population projections closed with the following comments:

The projections presented here are estimates of the future prison populations in Iowa. Even the High projection indicates a future population consistently lower than the present population. Several factors which would affect prison populations have not been taken into account. The new Iowa Criminal Code could have greater impact than anticipated. Further, the use of probation in this state and the releasing policies (particularly of the Parole Board) could cause significant reductions in the projections; as could the development of a broad post-institutional residential capability. Overall, those factors not accounted for in the projections would tend to reduce rather than increase the projections.

Stated earlier was the position of the Commission that prison population is primarily a matter of policy. It is due to the policy formulations and implementation by the corrections system that future prison populations are projected far lower than they could have been a year ago. Additional major policy changes in the corrections system could have equally significant effects. The accuracy of these projections will depend in large part upon the policies which are effectuated by the system in the future.

It seems fair to say that the population projections discussed above constituted the pivotal conclusion of the Advisory Commission. Clearly the finding that no new prison construction was necessary paved the way for many of the Commission's recommendations. In

particular, it is doubtful that the Legislature would have decided to fund both a new prison and the unitization of existing facilities, although it is impossible to know for sure at this time.

In any case, the import of the Commission's work was beyond question. Indeed, with previously rising prison populations and the spectre of future overcrowding, the Legislature was depending on an accurate assessment of the situation before proceeding with further deliberations. To the extent that the Commission was unsure of its population projections, and the assumptions upon which they were based, their findings constituted a substantial level of "risk-taking." It is doubtful, however, that either the Commission members or the Commission staff had any significant doubt concerning the projections. As quoted above, the report states "Overall, those factors not accounted for in the projections would tend to reduce rather than increase the projections." Both the apparent quality of the report and the background research upon which it was based appeared to be beyond question. At the very least, there is no hint of skepticism in the method of presentation or in the wording of findings and recommendations.

In reviewing the development of the Commission's projections, the one assumption that appears most vital to the nature of the final results is the estimated effect of new pre-institutional residences on prison admissions. In a way, this impact was the "clincher." Even if the basic methods used to project admissions and releases were in question, the impact of the new residences was there to clear away any residue of doubt. From the Commission's perspective, the new residences would effect a definite change of policy toward the sentencing of convicted felons in corresponding jurisdictions. In particular, with the new residences, judges would begin placing sizeable numbers of individuals in community programs who would normally have gone to prison had the residences not been available.

In retrospect, one might have easily come to the conclusion that the Commission would have taken a different focus if their findings had agreed with those of the Department of Social Services. On the other hand, even if the Commission projection had agreed in large part with the BCE projection, it is possible that they would still not have recommended a new prison. Indeed, they may have chosen to concentrate on means of effecting a population reduction, such as through accelerated parole release or modified sentencing practices. As it was, the Commission's projections and the no-prison recommendation were merely buttressed by another finding --- that "at least 15-20% of the current institutional population could be released to community programs. Judicious screening can ensure that this be accomplished with virtually no increase in threat to community safety."

FORT DES MOINES "COUNTERPARTS"

As suggested above, the Commission had a considerable investment riding on the accuracy of their population projections. In turn, the accuracy of the projections depended heavily on the validity of the assumptions upon which they were based. The major assumptions underlying their "most probable" estimates were:

- 1) that 60% of the clients of new residential facilities would have been imprisoned had the facilities not been available, and
- 2) that 40% of residential clients would be revoked (sent to prison) during the program.¹

The four other assumptions were 3) that the facilities would maintain a 90% occupancy rate, 4) that 100 beds would be available by March, 1977 and another 95 by June, 1977, 5) that those admitted as an alternative to incarceration and who successfully complete the residential program would be released after an average of 6 months, and 6) that all others would have an average 3 month length of stay.

Of these assumptions, the one most directly tied to the final projections was the first. Clearly, for the projections to be accurate, the assumption concerning the future use of residential facilities as sentencing alternatives would have to be reasonable.

This major assumption would be reasonable, for example, if "counterparts" of Fort Des Moines clients sentenced in judicial districts other than the Fifth had in the past been sent to prison in large numbers. In other words, the validity of the assumption could be checked if a significant portion of the existing prison population sentenced from these other districts could be isolated and identified as "counterparts." The same goal could seemingly be achieved by comparing sentencing practices among judicial districts to determine whether or not they were consistent with the stated assumption, i.e., that judges in other judicial districts had incarcerated more offenders than judges in the Fifth, and especially so for the types who would have been placed on probation or in Fort Des Moines had they been sentenced in the Fifth.

On basic principles, it would seem likely that checks such as the above would support the assumption, at least in significant measure. This seemed likely since the alternative would mean that judges in the other districts had placed many Fort Des Moines "counterparts" on straight probation, suggesting that judges in the other districts were less severe in their sentencing practices than judges in the Fifth, and that, accordingly, reliance on community-based sentencing was as widespread outside the Fifth as within the district. This possibility would not have generated much support at the time.

The implications of such a finding, however, would be staggering. It would provide evidence that residential facilities, rather than diverting large numbers from the prison system, were operating as a source of increased social control over individuals who would otherwise have

¹ Presumably, this would also include persons whose probations would be revoked after release from a facility.

received probation. Further, it would contradict the conclusions of previous NCCD evaluations which, in part, led to designation of the Fifth District project as "exemplary." It would also undermine many of the assumptions used by the Legislature in supporting the expansion of community-based corrections statewide.

THE OFFENDER ATTRIBUTE SCALE

As previously explained, this author assisted Mr. Steggerda in the development of offender profiles for various adult correctional programs, including a profile which indicated that 20% of the prison population in Iowa consisted of non-violent offenders without prior adult felony convictions. In addition, a 7-level rating system called the Offender Attribute Scale was developed to provide a means of statistically differentiating prison inmates from clients of community-based programs. The coding schedule for the scale, which was not given in the Commission's report, appears in Appendix III.

To determine the statistical significance of the Offender Attribute Scale as a measure of differences between prison inmates and community-based offenders, 7-level scores were computed for all felony offenders active in the adult correctional system as of October 1, 1976. The following statistics summarize the results of these calculations:¹

SCALE LEVEL	% OF TOTAL OFFENDER POPULATION	% IN COMMUNITY PROGRAMS ²	% IN PRISON SYSTEM ³
7	2.5%	6.6%	93.4%
6	4.9%	21.6%	78.4%
5	8.5%	34.5%	65.5%
4	15.0%	57.9%	42.1%
3	19.7%	76.6%	23.4%
2	24.0%	86.5%	13.5%
1	25.3%	94.7%	5.3%
ALL OFFENDERS	100%	72.7%	27.3%

Based on these figures, the Offender Attribute Scale was judged to be of sufficient accuracy to allow an in-depth analysis of correctional program assignments. The accuracy of the scale in this regard is supported by a recent SAC computation of the Mean Cost Rating for the data in the table above.⁴

¹ Adapted from Tables XXIII and XXVII of the Commission's report.

² Probation and community residential corrections.

³ State institutions and post-institutional halfway houses, but not parole.

⁴ Mean Cost Rating (MCR) is a measure of the power (ability) of a multi-level scale to explain a dichotomous (0,1) variable. MCR ranges from 0.00 (no explanation) to 1.00 (complete explanation) and increases as the explanatory power of the scale increases. In the case of the Offender Attribute Scale, MCR measures the extent to which the seven levels account for the splitting of the offender population between community-based offenders (0) and prison inmates (1). The observed value of MCR, which can be calculated from the table above, is 0.625, which is an indication of a strong relationship between scale levels and the community/prison dichotomy.

The most salient features of the scale are 1) the overall observed accuracy in distinguishing prison inmates from community-based offenders, 2) the high percentage of offenders falling in the lower levels of the scale, and 3) the high percentage of offenders in lower levels who were assigned to community programs. In particular, 69% of offenders fall in the lower three levels (1,2,3), and 87% of this group were assigned to community programs. On the other extreme, 16% of offenders fall in the highest three levels, and 26% of this group were assigned to community programs.

To allow the reader to gain an appreciation for the significance of the Offender Attribute Scale and the way in which it differentiates criminal offenders, the offender profile on the following page was developed. For convenience, the seven levels of the scale were grouped into four "incarceration ratings" designated HIGH (levels 5,6 and 7), HIGH-MEDIUM (level 4), LOW-MEDIUM (level 3), and LOW (levels 1 and 2). The profile applies to the group of all persons convicted and sentenced for felonies in Iowa during 1974-1976.¹

From examination of the table, strong distinctions become apparent. As one moves from lower to higher incarceration ratings, the percentage of offenders sentenced for violent crimes increases, as does the mean age at sentencing and prior criminal involvement. Of all factors displayed in the table, the fact of a violent crime on the current sentence and the fact of prior prison time appear to best differentiate the four offender groups.

Of particular note is the fact that 75% of offenders fall in the lowest three levels of the scale (LOW and LOW-MEDIUM incarceration ratings), while just 6% of this group were previously in prison or were convicted of violent crimes. Stated otherwise, 70% of those sentenced were rated in the lowest three levels of the scale, had no prior prison time, and were convicted of non-violent offenses.

Since - for the most part - offenders reside in state prisons as the result of criminal sentences, it was deemed appropriate to interpret the Offender Attribute Scale as a measure of the factors that judges consider in reaching sentencing decisions. In this regard, the Commission's report states:

Although the Offender Attribute Scale cannot be considered a predictor of risk (those analyses have not been completed), it is apparent that the scale is a representation of the factors which judges take into account in the sentencing process. (p. 68)

More accurately, the scale incorporates factors that tend to agree or coincide with factors considered by judges.² For example, judges might explicitly consider the use of a weapon or injury to the victim in reaching sentencing decisions. Neither of these factors is figured

¹ With some further qualifications. The exact group represented here consists of precisely those felony offenders profiled in Tables 34 through 37 of Volume I.

² In statistical jargon, the factors weighted into the Offender Attribute Scale would appear to have strong statistical correlations with factors considered by judges, but need not coincide exactly with those factors.

OFFENDER PROFILE
 FELONS SENTENCED DURING 1974-1976
 BY INCARCERATION RATING (OFFENDER ATTRIBUTE SCALE)

INCARCERATION RATING	TOTAL CASES	VIOLENT CRIME ¹	AGE AT SENTENCING (MEAN)	YEARS SINCE FIRST ARREST (MEAN) ²	PRIOR ADULT FELONY CONVICTIONS	PRIOR PRISON TIME	NUMBER OF PRIORS (MEAN) ³			NON-VIOLENT AND NO PRIOR PRISON
							ARRESTS	CONVICTIONS	INCARCERATIONS	
HIGH (5,6,7)	827	62%	29.6	11.2	66%	61%	6.4	4.7	3.2	8%
HIGH-MEDIUM (4)	1055	37%	28.1	8.4	46%	39%	5.6	3.8	2.3	28%
LOW-MEDIUM (3)	1602	9%	24.3	6.0	29%	10%	4.6	2.8	1.5	82%
LOW (1,2)	4011	1%	25.2	3.8	11%	0%	2.1	1.1	0.4	99%
ALL OFFENDERS	7495	15%	25.8	5.6	26%	15%	3.6	2.2	1.2	75%

¹ SENTENCING OFFENSE AGAINST PERSONS.

² TO CURRENT CONVICTION.

³ PRIORS INCLUDE BOTH JUVENILE AND ADULT INVOLVEMENTS. THUS "CONVICTIONS" INCLUDE JUVENILE ADJUDICATIONS, AND "INCARCERATIONS" INCLUDE JAIL TERMS, PRISON TERMS AND JUVENILE COMMITMENTS.

explicitly into the scale, although they would tend to coincide with the more serious crimes categorized as the most serious, according to scale coding. In another vein, the amount of dollar loss involved in a given crime may be an explicit factor considered by judges. Although dollar loss is not incorporated per se into the scale, crime categories rated higher on the scale might involve - on the average - a greater dollar loss. Finally, age and race may not be explicit factors considered by judges, although older and black offenders are more likely to be sent to prison if convicted.¹ In this instance, such may be due in large part to the fact that older and black offenders are more likely than younger and white offenders to have serious or lengthy prior records and are more likely to be sentenced for more serious crimes.²

While the scale was not devised to be a measure of risk,³ it is quite evident from statements in the report that the Commission believed offenders scoring in lower levels of the scale to be "lower risk."⁴ This would seem to be a logical assumption if indeed judges routinely send (or had sent) most of the worst risks to prison and maintained most of the better risks in community programs.⁵ The validity of the latter would rest on the validity of the assumption that most of the truly high risk offenders sentenced in court were either convicted of violent crimes or were former convicts. If such were the case, then offenders scoring in lower levels of the scale would be especially good candidates for success in community programs, in addition to looking relatively "clean" in terms of current offense and prior record. The (near) coincidence of the factors "high risk" and "violent or ex-con" would clearly split convicted felons into two groups, one consisting of (generally older) higher risk, violent and habitual

¹ In fact, SAC studies indicate that for the same offenses and the same prior records, black offenders - on the average - are sentenced the same as white offenders, i.e., race is probably not an explicit factor considered in sentencing. See Volume IV of the Crime and Criminal Justice series.

² To the extent that factors such as age and race "mirror" other explicitl considered factors and are not "true" indicators of sentencing outcomes, reaseach should be able to identify (and incorporate into devices such as the Offender Attribute Scale) only "legitimate" factors. However, for the purposes at hand, "stand-ins" such as age and race allow an enhanced statistical (not causal) explanation of sentencing results, and thus facilitate the study of offender populations. Inclusion of such factors in an actual screening device, such as in sentencing guidelines, would be an entirely different matter, bringing into play considerations outside the limited concerns of a research study.

³ Risk as discussed in this context usually refers to "the risk of probation failure," or more generally "the risk of recidivism." Risk can also refer to "dangerousness" or "the risk of violence."

⁴ And, correspondingly, offenders scoring in higher levels to be "higher risk."

⁵ In this context, witness the following comments in the Register editoria "Risk Ratings" (Appendix II): "The BCE's entire 'risk rating' scale is risky. It is based on statistics concerning those already chosen for probation rather than a random sample of all offenders. The judges weeded out those they considered bad risks and sent them to jail. The probation 'failures' among the remainder could as easily be blamed on the criteria used by correction workers and judges."

offenders, who were not good candidates for community programs for various reasons and who accordingly were incarcerated at high rates by judges, and the other consisting of (generally younger) lower risk, non-violent first-offenders,¹ who were good candidates for community programs.

If, on the other hand, the Offender Attribute Scale had no relationship to risk, and risk of recidivism or probation failure was not a major factor considered by sentencing judges, then releasing large numbers of offenders scoring in the lower levels of the scale might pose a significant threat to the community.

In developing the Offender Attribute Scale, a large number of factors were examined in an effort to identify those factors most highly associated with an offender's program assignment. Accordingly, as described above, the final product was envisioned to account for the major factors considered by sentencing judges - or at least indicators associated with such factors. In a sense, the scale can be viewed as affording an explicit statistical representation of sentencing policy according to statewide norms, i.e., according to policies common among sentencing judges in the state. Stated otherwise, the scale establishes explicit categories of consensus among judges.

From this perspective, offenders scoring low on the scale who were incarcerated might be viewed as exceptions to the rule, associated with harsher sentencing philosophies than normal or with exceptional circumstances limiting the use of community alternatives.² Offenders scoring high on the scale who were placed in community programs might also be viewed as exceptions, associated with more lenient or liberal sentencing practices among certain judges, perhaps in situations where greater use of community alternatives was justified.

The validity of these perceptions would appear to rest on the hypothesis that - in most cases - there were no offender-related factors³ outside the domain of the scale that accounted for low-level offenders being incarcerated or high-level offenders being placed in community programs. Assuming the scale to be a relatively complete measure of offender-related factors considered by judges, fairness and consistency would dictate that those low-level offenders in the prison system should instead have been placed in community programs.

The table below gives the number and percent of offenders active in adult correctional programs in Iowa as of December, 1976⁴ who fell at each level of the scale.

¹ No prior adult felony conviction or no prior prison term, depending on the nature of the split desired.

² Such as the lack of residential facilities or other community resources.

³ Such as other aspects of the offender's prior record or circumstances of the current involvement.

⁴ The percentages in the table were derived from the computer file and reflect the October 1, 1976 population. These percentages were assumed to apply also to the December, 1976 population of 7153 active offenders.

SCALE LEVEL	ALL PROGRAMS		COMMUNITY PROGRAMS		PRISON SYSTEM	
7	182	2.5%	12	0.2%	170	8.7%
6	351	4.9%	76	1.5%	275	14.1%
5	607	8.5%	210	4.0%	397	20.3%
4	1075	15.0%	622	12.0%	453	23.2%
3	1410	19.7%	1080	20.8%	330	16.9%
2	1717	24.0%	1486	28.6%	231	11.8%
1	1811	25.3%	1715	33.0%	96	4.9%
ALL OFFENDERS	7153	100%	5201	100%	1952	100%

Of particular relevance to the discussion at hand are those in the prison system who fall in levels 1,2 and 3, and secondarily those in community programs who fall in levels 5,6 and 7. The former, 657 in number, constitute 33.6% of the prison population, while the latter, 298 in number, constitute 5.7% of the community population.

In light of the Commission's charge to consider alternative means of avoiding a continuing prison population problem, the existence of 657 imprisoned offenders rating in the lowest three levels of the scale was of special concern. If, indeed, there were grounds to question the incarceration of the 657, then perhaps a substantial portion of the group could be released, either in mass or at an accelerated pace. If enough could be released at earlier dates than normal, then the prison population would likely be reduced to manageable levels. The fact that the 657 consisted primarily of non-violent offenders without prior prison time supported the belief that many in the group could be safely released. In this regard, the report states:

The comparisons of non-institutional and institutional offender profiles indicate that a substantial number of persons are incarcerated in Iowa who, in all probability, could be handled safely in non-institutional programs. A large number of current inmates have not been convicted of any prior felony, and an additional number have not been involved formerly in any correctional program, adult or juvenile. (p. 112)

In an ensuing section on probation, the Commission's report goes on to state:

A large number of first offenders currently incarcerated in Iowa prisons have not been sentenced formerly to probation. (p. 120)

The above statements on the criminal records of Iowa prisoners appear to be based on information appearing in the Commission's data book.¹

¹ See Appendix IV for the data book table upon which these conclusions appear to be based.

There appeared to be adequate factual support in the data book for the belief that a significant portion of the prison population consisted of relatively "clean" offenders who were good candidates for community programs. Accordingly, the Commission could easily have recommended the early or outright release of such individuals without probing for the reasons behind their incarcerations. Instead, an effort was extended to pinpoint these reasons as a rationale for an envisioned release recommendation.

In this vein, the obvious attack was to search for sentencing jurisdictions imprisoning relatively high percentages of the offenders in question.¹ To accomplish this goal, incarceration rates² for each of the seven levels of the Offender Attribute Scale were broken down by the judicial district from which the offender was sentenced. The eight judicial districts, major cities in each, and the numbers of offenders active in the adult correctional system as of December, 1976, are as follows:

JUDICIAL DISTRICT	OFFENDER POPULATION	MAJOR CITIES
FIRST	911	Dubuque, Waterloo
SECOND	891	Ames, Fort Dodge, Marshalltown, Mason City
THIRD	489	Sioux City
FOURTH	332	Council Bluffs
FIFTH	1836	Des Moines
SIXTH	1160	Cedar Rapids, Iowa City
SEVENTH	742	Clinton, Davenport, Muscatine
EIGHTH	734	Burlington, Ottumwa

Incarceration rates, by scale level and judicial district were as follows (see p. 77 of Commission's report):

¹ If such jurisdictions could be isolated, and if a large proportion of the "clean" group within the prison population were identified as being sentenced in these areas, then it could easily be inferred that the offenders in question were placed in prison unnecessarily (or at the very least that they could be safely released). This would follow since similar offenders in other jurisdictions were apparently released on probation or to residential corrections without risk to the community. On the other hand, if no such jurisdictions could be isolated, or if isolated didn't significantly influence the size of the group in question, then there would be no firm basis - beyond the analysis of offender profiles - for recommending early release. In particular, it could well be the case that offender-related factors not considered in the Commission's analysis explained the incarceration of otherwise "clean" offenders.

² Percentage of the October 1, 1976 adult correctional population residing in the state prison system.

SCALE LEVEL	JUDICIAL DISTRICT								ALL DISTRICTS
	1	2	3	4	5	6	7	8	
7	85.0	100.0	100.0	100.0	96.1	88.2	100.0	100.0	93.4
6	70.8	84.8	93.3	68.7	86.1	63.8	93.1	50.0	78.4
5	70.5	74.6	60.0	81.1	64.8	47.0	59.2	83.8	65.2
4	36.9	41.4	49.3	42.2	41.2	27.0	48.1	50.0	42.2
3	33.5	30.4	30.8	35.7	17.4	14.7	30.5	25.6	23.4
2	14.3	15.6	4.3	20.0	13.9	7.4	14.0	19.0	13.5
1	4.5	4.4	3.8	22.6	2.8	0.0	11.9	8.5	5.3
ALL OFFENDERS	27.6	26.3	26.2	38.6	28.5	15.9	32.5	30.9	27.3

Clearly, incarceration rates in the table are highest for the Fourth Judicial District and lowest for the Sixth Judicial District. To highlight differences among districts, Mr. Steggerda chose to group districts into three relatively homogeneous¹ categories as in the following table, which is reproduced from p. 78 of the report. The table indicates incarceration rates for grouped districts and grouped levels of the Offender Attribute Scale.

GROUPED SCALE LEVELS	JUDICIAL DISTRICT GROUPINGS		
	3,5,6	1,2	4,7,8
1,2	5.9	9.4	14.6
3,4	26.5	35.1	36.4
5,6	67.2	74.0	77.2
7	95.4	89.3	100.0

Based on these data, the Commission concluded:

An offender in one of the first two levels of the scale is two and one-half times as likely to be incarcerated if convicted in the fourth, seventh, or eighth judicial districts as in the third, fifth, or sixth. The impact of these sentencing differences is clear. If the incarceration rates of the third, fifth, and sixth judicial districts were the norms for equivalent offenders across the state, the prison population (1,952 at the end of 1976) instead would be 1,684. Conversely, if all of the judicial districts incarcerated offenders at the average rates of the fourth, seventh and eighth judicial districts, the prison population at the end of 1976 would have been 2,342...the differences in incarceration rates alone produce a difference of 658 incarcerated offenders. (p. 78)

¹ Homogeneous in terms of incarceration rates.

From this analysis, the Commission concluded that a major source of prison overcrowding in Iowa, and indeed the needless incarceration of sizeable numbers of convicted felons, was the result of sentencing disparity among the state's judicial districts. In referring to the 657 imprisoned offenders in the lowest three levels of the Offender Attribute Scale, the report states:

*The Commission does not believe that all of those 650 offenders should be released...[However, we maintain] that at least 15-20% of the current institutional population could be released to community programs. Judicious screening can ensure that this be accomplished with virtually no increase in threat to community safety.*¹

The Commission's position clearly evolves from the belief that some districts in Iowa could vastly expand their use of probation. Combined with this increase, the Commission supported the development of residential programs which, in the Commission's view, would be used primarily as an alternative to incarceration in the prison system.² To ensure that these residential programs had the "desired" effect, the Commission suggested that their use be closely monitored. In this way the stage would be set for the population reduction foreseen in the population projections discussed earlier.

In the era of expanded community corrections programs, the Commission obviously foresaw the elimination of much of the sentence disparity that had plagued the prison system in the past and that had led to the inequities in incarceration rates discussed above. New residential programs were expected to serve many offenders sentenced in districts such as the Fourth, Seventh, and Eighth who might otherwise have been imprisoned. In other words the new programs would kill two birds - a prison population problem and sentencing disparity - with one stone.

For good measure, to correct for past inequities and to reduce the prison population below even the levels outlined under their projections, the Commission recommended release of 15-20% of the prison population. These were to be many of the offenders who would have been placed in community residences had they been available, or perhaps placed on straight probation had they been sentenced in districts with greater reliance on this alternative. Releasing the 15-20% would thus make the effect of new residences and expanded probation partially retroactive.

To support the use of community alternatives, the Commission found that:

Non-institutional correctional approaches are relatively inexpensive on a per-offender basis, and, in most instances, have been effective in preserving the safety of the community. In addition, offenders who are successfully terminated from non-institutional programs commit fewer and less severe new offenses than offenders released from institutions. (p. 119)

¹ For the complete text of this recommendation, see pp. 28-29.

² See the Commission's recommendation 14 on p. 30.

The latter statement refers to the results of a recidivism study conducted by the Commission staff that found post-program recidivism (new offense) rates of 17.6% for probationers, 18.1% for parolees, 40.6% for community residential corrections clients, and 40.5% for offenders discharged from institutions.

Of particular interest to the Commission was the fact that the profile of Offender Attribute scores for residential corrections clients and for residents of the Men's and Women's Reformatories were quite similar, as can be seen from the table below (adapted from Table XXVI in the Commission's report).

SCALE LEVEL	STRAIGHT PROBATION	RESIDENTIAL CORRECTIONS	REFORMATORIES	STATE PENITENTIARY
7	0.2%	1.9%	1.1%	14.0%
6	1.4%	4.8%	7.6%	21.4%
5	3.9%	12.4%	14.7%	24.0%
4	11.8%	20.9%	28.8%	21.4%
3	20.7%	24.8%	19.9%	11.4%
2	28.7%	20.9%	19.3%	5.2%
1	33.3%	14.3%	8.6%	2.6%
MEDIAN SCORE	29	39	46	60
0-100 Scale				

Based on recidivism results and the comparative profiles as above, the Commission draws the following parallel between residential corrections and prison programs:

As mentioned earlier in "Offender Populations" Section, the residential population had 45.7% within levels 3 and 4 of the Offender Attribute Scale, while the Men's and Women's Reformatories populations had 48.8% in the same levels. It might be concluded, then, that the offenders sentenced to residential corrections are slightly less serious risks¹ than persons sentenced to an institution, yet spend far less time in the program, and have a similar rate of recidivism.²

It is quite obvious from the statements above that the Commission perceived reformatory inmates as a whole to be quite similar to residential corrections clients. This would agree with the contention that many of the reformatory inmates were placed there for lack of community residences in other than the Fifth Judicial District. This mode of comparison would suggest that a large share of the reformatory population in Iowa could be taken as the "Fort Des Moines counterparts" discussed previously. In other words, if the Commission had hoped to find imprisoned counterparts³ to Fifth District residential clients, it had no further to look than (virtually) the entire population of two of the three major institutions in the state.

¹ Based on slightly lower Offender Attribute Scores.

² The reader is encouraged to study the underlined comment closely, as the implications of the statement are quite far reaching and lead to many side issues.

³ From districts other than the Fifth.

Accordingly, the Commission - in effect - suggested that such offenders would be better served in residential corrections programs since the average cost per term would be much lower, yet recidivism rates would likely be no higher. In other words, most of the younger inmates in the prison system shouldn't have been sent there to begin with.

In line with a relatively high number of females at the Women's Reformatory scoring in low levels of the scale, the Commission recommended that the Rockwell City facility be closed and that the physical plant of the Riverview Release Center be altered to house up to 50 women.¹ The remaining portion of the female population at the reformatory could be safely released to the community, according to the Commission.

DEINSTITUTIONALIZATION

One might characterize the thrust of the Advisory Commission recommendations as formulating an on-going and partially retroactive policy of deinstitutionalization. Essentially, the Commission had identified a large portion of the population of convicted felons in Iowa as being suitable for various types of release or semi-release programs, including probation, parole, work release, and community residential corrections. This split - as of the wheat from the chaff - separated the violent and habitual criminals, traditionally and unarguably sent to state prisons, from younger non-violent first-offenders considered to be better risks and more worthy candidates for rehabilitation in a community setting.

Quite clearly, the Commission's perspective on adult corrections embraced a strong faith in the viability of community programming. Emphasis was placed on the fact of lower costs per term, the advantages in maintaining and enhancing community ties, the hardening and destructive effects of incarceration, and the minimal threat to the community that accompanies the wise use of community alternatives.

Specifically, the Commission recommended:

- 1) an increased use of probation (p. 120),
- 2) expansion of residential corrections to a statewide program (p. 121),
- 3) expansion of post-institutional work release (p. 121), and
- 4) an increase in the use of parole (p. 122).

In addition, the Commission recommended an increase in the minimum-security capacity of the prison system (pp. 116-117), urged the Legislature to reconsider mandatory minimum prison terms [that might well prove inflationary] (pp. 128-129), and supported the establishment of initial parole hearings within 60 days of sentencing. To increase the potential for effective rehabilitation in the prison setting, the Commission endorsed the development of a treatment program at the Mount Pleasant medium security facility for offenders with drug

¹ That is, the Commission recommended that the Release Center be closed and that the facilities thus vacated be used as the Women's Reformatory.

or alcohol problems or personality disorders, and an assessment and classification function at the Oakdale Security Medical Facility. Clearly, the Commission foresaw that the Mount Pleasant facility would be available for the treatment of offenders with special problems once community programs began drawing away sizeable numbers of younger offenders who would normally be housed there.

To ensure the orderly progression of the existing system to the enlightened approach proposed in the report, the Commission urged the development of explicit guidelines, monitoring of programs to facilitate compliance with stated expectations, an on-going oversight/evaluative function, and the movement of the entire correctional system to a unified and coordinated continuum of services.

SPECTRAL VIEW

In many ways, the findings and recommendations of the Commission addressed the need for a unity of purpose within the Iowa courts and corrections system. In fact, one of the criticisms expressed in the report was that no one entity in the system had full awareness of its role in the overall scheme of criminal justice. To wit:

Without such knowledge (management information), each portion of the system will continue to work toward its own level of autonomous efficiency without review of its contribution to the whole. With such knowledge, and only with it, can the whole be expected to become a coordinated system. (p. 130)

As characterized by this indictment, the courts and corrections system in Iowa was a hodgepodge of often disparate, counterproductive, and ill-timed approaches, aimed at differing goals and with no clear and consistent perception as to which offenders should be handled in which ways.

From this vantage point, the system as it was perceived by the Commission was virtually powerless to respond to potential crises such as rising populations and overcrowding. In effect, the Commission had proposed that system actors gain a greater degree of control over their common destinies through the formulation and application of innovative and insightful policies toward the management of convicted offenders. Furthermore, this "proactive policy orientation" was envisioned as a continuing strategy encompassing actions by the Legislature, the judiciary, the parole board, and corrections authorities. In short:

...the focus of the recommendations of the Commission is to utilize system management, planning, programming, and evaluation to move toward a system which maximizes the probability for positive change in individual behavior. (p. 109)

IN SUPPORT

As previously emphasized, the weight of all available evidence was in the Commission's favor. If, indeed, the Department proceeded with the full implementation of the Des Moines project model, then according

to experience with the residential corrections component of that project, prison admissions - and accordingly the prison population - "would" decrease. There appeared to be no other possibility.

The Commission was not alone in its assumption that the new residences would decrease prison admissions. In fact, in late 1976 the Division of Adult Corrections of Social Services had modified the original BCE projection for the impact of the new residential programs, although this modified projection still indicated an increase in the population sufficient to call for a new state prison.¹

There was, of course, the possibility that judges in districts with new residences would use these programs for offenders who normally would have been placed on probation (or in a county jail), despite the mandate to do otherwise and the potential to do otherwise as determined by the Commission's analysis of the prison population.

To allow for this possibility, the Commission specifically recommended that the new programs "be closely monitored to assure that they are being utilized primarily as alternatives to incarceration rather than probation..." (p. 121) Thus, even if the system - when left to its own devices - failed to move in the direction forecast by the Commission, there would be a mechanism to ensure a course correction.

This was but one aspect of the Commission's position that policy was the major factor governing correctional populations, and that policy could be controlled to achieve the goals of the system. In this instance, policy would be manipulated to guide a gradual process of deinstitutionalization in Iowa, and a move to a statewide emphasis on community-based corrections as recommended by the Commission and its predecessor, the National Advisory Commission on Criminal Justice Standards and Goals (NACCJSG).

The final report of NACCJSG² stated:

The failure of major institutions to reduce crime is incontestable. Recidivism rates are notoriously high. Institutions do succeed in punishing, but they do not deter. They protect the community, but that protection is only temporary. They relieve the community of responsibility by removing the offender, but they make successful reintegration into the community unlikely. They change the committed offender, but the change is more likely to be negative than positive.
(p. 1)

In the new view, crime and delinquency are symptoms of failure and disorganization in the community as well as in the offender himself. He has had too little contact with the positive forces that develop law-abiding conduct - among them good schools, gainful employment, adequate housing, and rewarding leisure-time activities. So a fundamental objective of corrections must be to secure for the

¹ The assumption here was that eventually the new residences would divert as many as 208 offenders (admissions) per year from state prisons. This would reduce the prison population below expected levels by around 400 in the long run.

² National Advisory Commission on Criminal Justice Standards and Goals, Corrections, Washington, D.C., 1973.

offender contacts, experiences, and opportunities that provide a means and a stimulus for pursuing a lawful style of living in the community. Thus, both the offender and the community become the focus of correctional activity. With this thrust, reintegration of the offender into the community comes to the fore as a major purpose of corrections. (p. 3, emphasis added)

In this light, the NACCJSG found that:

- 1) there was a need to expand probation and parole;
- 2) a moratorium should be placed on large prison construction;
- 3) large juvenile institutions should eventually be phased out;
- 4) too many offenders were classified as dangerous;
- 5) a broader range of treatment alternatives was necessary.

Thus, the thrust of the argument presented by the Advisory Commission on Corrections Relief was consistent with the best thinking of the time.

IV. A NEW COURSE FOR CORRECTIONS?

The weeks and months following release of the final report from the Advisory Commission on Corrections Relief constituted a period of great testing for the Commission's position. Many of their findings and recommendations ran directly counter to the previous position of the Department of Social Services that the prison population would continue to rise and that a new state prison would be necessary to meet the expected "crunch." The Commission felt otherwise, and their findings were wholeheartedly endorsed and applauded by the Iowa General Assembly.¹

CONTINGENCIES

The position of the Advisory Commission was clear. Due to an uneven development of community-based corrections programs across the state, many individuals had been committed to state correctional institutions unnecessarily. As a result, a significant portion of the prison population, estimated at 15-20%, consisted of good candidates for community programs.

¹ Shortly after release of the report, the Des Moines Register ran an editorial entitled "Alternatives to Prison," which read as follows: "The report of the Advisory Commission on Corrections shows the wisdom of the 1976 Legislature's decision to invest \$100,000 in a study of the state's prison needs instead of being stampeded into spending millions on a new prison. The need for a prison seemed urgent a year ago when the state's prisons were bulging and a Department of Social Services study projected steady increases in inmate population for the next several years. The special study commissioned by the Legislature throws doubt on the validity of the projections. The Commission's report notes that the number of inmates has remained steady and will decrease for the next 18 months. The numbers then are expected to climb gradually until 1982, but even then they will be below present levels.

The Commission's key conclusion: 'The current correctional institutions have adequate capacity to house inmate populations into the foreseeable future. A new institution is not necessary at this time.'

This finding is critical because of the high cost of building and operating institutions. The Commission's study shows that the state annually spends \$16 million and employs a staff of 1000 to keep 1,900 inmates behind bars. Iowa spends only \$6.3 million a year and employs 393 persons to deal with 6,200 offenders in Iowa communities.

The study commission believes many inmates now being sent to prison could be handled in the community; it favors eliminating the mandatory imprisonment features of the new criminal code; it urges closing the prison for women at Rockwell City and housing women offenders at the existing release center at Newton; it calls for major modifications at the Anamosa and Fort Madison prisons; it wants overhaul of sentencing and parole procedures; it recommends a restitution system, improving prison industries and creating a separate Department of Corrections.

The report, in short, recognizes that there is no single 'answer' to the prison problem. Another state prison is not even part of the answer."

The Commission recommended that such individuals be released from the prison system - albeit with careful screening - to correct for past inequities in sentencing and the aforementioned lack of adequate community alternatives.

The Commission's statistical analysis of offender populations indicated that these 15-20% were similar as a group to probationers and other community-based offenders, being for the most part younger non-violent "first" offenders. Accordingly, the Commission felt that little danger to the community would ensue through the release of such individuals. Further evidence indicated that - as a whole - the population at the two state reformatories had nearly the same profile as the client population of existing community corrections facilities. This finding engendered further support for the belief that many offenders in the reformatories were housed there for the lack of facilities comparable to the above in other judicial districts.

As a whole, these analyses provided clear and seemingly conclusive evidence that the prison population would fall as District Court judges began using the new community residences in lieu of incarceration.¹ Accordingly, the Commission developed population projections for the prison system which took into account the reduction in admissions foreseen to accompany the advent of the new programs. To develop its "most probable" estimate or projection of future prison admissions, the Commission assumed that 60% of offenders admitted to the new community residences would have been sentenced to prison had the new facilities not been available as sentencing alternatives. This estimate, along with others, was used to develop projections of a reduction in the prison population, in contrast to the huge increase projected by the Social Service Department's Bureau of Correctional Evaluation.

The 60% estimate was deemed to be conservative in that it was somewhat less than the 75% estimate for the percentage of residential clients in the Fifth Judicial District who would have gone to prison had existing facilities in that district² not been available as felony sentencing alternatives.

The combination of the Commission's projections - with the accompanying "no prison" recommendation - and the suggestion that 15-20% of the prison population was releaseable as a corrective action, created a rather dramatic situation. According to the Commission's "most probable" estimates, the prison population in Iowa would fall from 1912 on June 30, 1976 to 1760 by mid-1978, and then would rise slowly, but would peak at no more than 1811 by June 30, 1981. However, in the interim between June 30, 1976 and the release of the Commission's final report

¹ Such residences, with a combined capacity of 195, were opening during and soon after the final stages of the Commission's deliberations.

² The Fort Des Moines program for men, and a smaller facility in Des Moines for women.

in early March of 1977, the prison population had risen from 1912 to just over 2000. Clearly, for their most probable estimate to hold true, either:

- 1) prison admissions would have to reduce significantly, such as through the diversion of many convicted felons to new community residences, or
- 2) the 15-20% identified by the Commission as good candidates for community programs - or a comparable group - would have to be released in mass or at a vastly accelerated pace.

In other words, either admissions would have to decrease dramatically (as predicted), or else releases would have to increase substantially (as suggested), or both.¹ If neither were to occur, then there would be no telling where the prison population would go in the months ahead. With the uncertainty concerning the effect of mandatory sentence provisions of the new criminal code, the failure of the total institutional count to decrease in the short run would bode ill for the future trend of the population. This, in turn, would cause problems with many of the recommendations of the Commission regarding the upgrading of existing programs and facilities in the prison system.

SYSTEM "RESPONSE"

Many readers may be familiar with Murphy's Law, which states: "If anything can go wrong, it will!" In many ways, Murphy's Law best characterizes the fate of the Advisory Commission's findings and recommendations dealing with the prison population and the envisioned expansion of community-based alternatives.

To lead off, the Iowa Board of Parole was provided with a list of potentially good candidates for parole drawn up by the Commission staff. Without doubt this list consisted of many of the individuals in the prison population who scored in the lowest three levels of the Offender Attribute Scale, and who accordingly were given the nod for inclusion in the 15-20% release group. According to informed sources, the Board conducted approximately fifteen interviews with offenders so-selected. Based on these interviews and the accompanying review of inmate records, the Board determined that proceeding with the screening process would not constitute an efficient or effective use of the Board's time. In fact, the Board found that many of these supposedly good candidates had not adjusted well in prison and consequently had received misconduct reports that would weigh against early release.²

¹ The fact that the prison population had continued to increase during the Commission's deliberations was not inconsistent with the validity of their projections since the new community residences were not expected to begin having a noticeable effect on the prison population until they had been open for several months.

² Apparently, institutional misconduct of a more serious nature is a major factor in the parole release decision-making process in Iowa. (See Volume VI of this series and Table 53 of Volume I.)

Thus the 15-20% recommended for release by the Commission were not released by the Iowa Board of Parole. In addition, no further attempts were made by the Board to identify an early release group. If there was to be an early release strategy, it would have to come about through other means than that recommended by the Advisory Commission.

Of even greater significance was the fact that the prison population failed to take the downturn projected by the Commission. In fact, the population continued its upward trend without the slightest hint of deceleration. From the "base point"¹ of 1912 on June 30, 1976, the population increased by 40 - to 1952 - by the end of the year, and then increased successively to 1977 by the end of January, 2000 by the end of February, 2026 by the end of March, and 2046 by the end of April. In total, the population had increased by 134 during a 10-month period for which the Commission had projected a decrease of 82 inmates (to 1830).² As a result, the Commission's most probable estimate was in error by 216 (11.8%) after only ten months.

In contrast, the most probable estimate according to the Bureau of Correctional Evaluation's projection was in error by as little as 10-15 inmates after ten months (same base point).³

THE ADULT CORRECTIONS MASTER PLAN

As stated in the Commission's report, the Iowa Crime Commission had received an LEAA grant to develop a long-range master plan for adult corrections in Iowa. To avoid duplication of effort, the Crime Commission chose to postpone the development of a plan until after the final report of the Advisory Commission had been filed. To assist the Commission, some of the master plan funds were used to support the Commission's data collection efforts.

In the weeks following release of the Commission's report, a group of executive branch employees was organized to continue the master plan effort, using the work of the Advisory Commission as a point of departure. This group consisted of employees from the Crime Commission, the Office for Planning and Programming (OPP), and the Social Services Bureau of Correctional Evaluation. After several weeks of planning and orientation, the master plan staff joined forces on the ground floor of the Lucas State Office Building in early June, 1977.

In a planning document prepared shortly after the selection of staff, the director of the Iowa Crime Commission spelled out the following areas for emphasis in the master plan project:

¹ The point of departure for the Commission's projections.

² Or 5/6 of the decrease of 98 anticipated during FY1977, according to their "most probable" estimate.

³ See Figure 32 in Volume I. The original BCE projection was for males only. A modification of the projection to include females appears in Figure 32.

- a) Correctional programming within the institutions needs to be examined fully.
 - i) Cost of upgrading prison industries as recommended by the Advisory Commission on Corrections Relief.
 - ii) Feasibility of emphasizing education at Anamosa and skilled industry at Fort Madison.
 - iii) Examine in detail the possibilities of expanded and diversified programming since that is a major factor cited by both the Department and the Advisory Commission in handling any institution.
 - iv) Possibilities of initiating some sort of restitution program. Examination of possible legal blocks.
- b) Compare the unitization and remodeling proposals of the Advisory Commission for cost effectiveness with other possible architectural alternatives, such as:
 - i) Use of Anamosa as a maximum security facility, building of a new medium security facility, and closing of Fort Madison.
 - ii) Cost of constructing a maximum security facility and phasing out Fort Madison.
 - iii) Cost of constructing a new core prison facility and building housing units as necessary and as units can be closed at the other institutions.
- c) Impact of the Advisory Commission's recommendations on cost, programming, staffing, housing, etc. for community-based corrections.
 - i) Pre-institution facilities.
 - ii) Post-institution facilities.
 - iii) Parole and probation staff.
 - iv) Increased housing for community-based corrections.
- d) Fully explore with the Board of Parole, community-based corrections state and local staff, criminal code experts, and others the alternatives to rising prison populations.
- e) An examination and outline of each possible alternative of each program and building of the corrections system.
- f) Since two opposing population projections have not been put forward and prison populations have risen each month of the current year, a close analysis of trends and an examination of all new data should be made to determine corrections needs, and appropriate ways to meet these needs.
- g) Development of a new statistical analysis center and attendant comprehensive data system for corrections should be paramount and be tied carefully to the specific informational needs of all components of the judicial and corrections system.

- h) *Any change in administration of the Mt. Pleasant facility (per the Advisory Commission recommendation) should be delayed until studies now in progress of drug and alcohol usage at our institutions and the need for treatment programs are presented and evaluated.*
- i) *Costs of recommended changes in the Women's institutions should be enumerated, such as:*
 - i) *Cost of moving the facility.*
 - ii) *Cost of establishing programs at a new location.*
 - iii) *Cost to increase community-based programs for women.*

In addition, the document called for the exploration of contingencies associated with "unitizing" cellhouses at the Penitentiary and the Men's Reformatory, as recommended by the Commission:

- a) *Staffing costs to be examined.*
- b) *Cost effectiveness to be determined in comparison with other alternatives.*
- c) *Questions of unitizing prior to increasing cell size to be examined.*
- d) *Since cost of all architectural recommendations of the Advisory Commission totals \$27 million, cost effectiveness and comparisons should be made with other possible alternatives.*

During the middle months of 1977, the Master Plan staff mobilized an Advisory Committee, contracted with Folsie/HDR¹ of New Orleans for the development of architectural alternatives for the prison system,² and proceeded to develop a data base sufficient to meet the analytic goals of the plan.³ In addition, site visits and extensive interviews were conducted to determine the extent to which existing programs and facilities in the prison system met proposed standards and goals for adult corrections in Iowa. Finally, staff members assigned to the project from OPP worked on population trends and projections and the prospects for a restitution program in Iowa.

¹ Previously, this firm had conducted a facilities assessment of Iowa's major correctional institutions. The results of this assessment appear in the Commission's final report, a supplemental report, and detailed data books compiled by the firm.

² Folsie/HDR in turn subcontracted with SUA, Inc. of Los Angeles for the development of staffing patterns for unitization and for a survey of existing programs in the institutions.

³ No attempt will be made in this report to systematically review all the work of the Adult Corrections Master Plan Project. Our main concern here is with Master Plan analyses of the 15-20% group proposed for release by the Advisory Commission and of the assumption of the Commission that new pre-institutional residences would markedly reduce prison admissions.

The following individuals agreed to serve on the Master Plan Advisory Committee: Representative Donald Doyle, Sioux City; Representative Julia Gentleman, Des Moines; *Janet A. Johnson, Des Moines (Iowa Board of Parole); Roland McCauley, Des Moines (Adult Corrections Director); Lt. Governor Arthur Neu; Judge Leo Oxberger; Senator Richard Ramsey; Senator James Redmond; *John R. Stratton, Ph.D., Iowa City; and Harry Woods, Des Moines (Bureau of Community Correctional Services Director).

Several meetings were held over the course of the project during which the committee provided valuable guidance to the master plan staff.

During the summer of 1977, the staff arranged for the temporary employment of four individuals to assist in the collection of data from the inmate files of the Iowa Board of Parole. This effort served to augment information on prisoners maintained by the Division of Adult Corrections, and allowed the staff to conduct statistical analyses of the prison population and of felony sentencing practices in the State of Iowa.

In particular, data elements were collected that would allow the application of "risk assessment" methods to the prison population,¹ facilitating the analysis of Commission findings dealing with sentencing practices and correctional populations.² An effort was made to include data that would provide a detailed comparison of prisoners with offenders in community-based programs. Data on the latter were available to the staff from the files of the Bureau of Correctional Evaluation.

ANALYSIS OF THE "15-20% RELEASE GROUP"

Once all data had been collected and computerized, the Master Plan staff proceeded to analyze as carefully as possible the question of the 15-20% release group.³ The Master Plan staff chose to analyze this question from three perspectives:

- 1) The characteristics of the 650-group⁴ and possible reasons for their imprisonment;
- 2) the effect of sentencing differences among judicial districts on the size and character of the prison population; and

* Served on the Advisory Commission on Corrections Relief.

¹ Based on previous work of the present author and SAC's research analyst while with the Bureau of Correctional Evaluation.

² See p. 172 of Volume I for a list of data elements collected for addition to the core data base (forms on pp. 170-171).

³ Recall that the Board of Parole had reviewed only a small number of those purported to constitute "good risks" for release. The staff wished to "statistically" review the entire group to develop a better view of why they were imprisoned and what the prospects would be for their successful release.

⁴ Since the 15-20% group was to be screened from the 650-group, the staff could not actually analyze the 15-20% group itself. Furthermore, the Commission gave no hint as to which of the 650 should compose the 15-20%.

- 3) the release potential¹ of the 650-group, without reference to reasons for their incarceration.

The staff viewed these perspectives as separate and distinct, in contrast to the Commission's "unified view" which identified "releasability" with "the lack of an adequate basis for incarceration," and "the results of sentencing inequity/disparity."

In simple terms, the staff wished to determine:

- 1) if there were reasons (perhaps not totally justifiable in some cases) for the incarceration of offenders in the 650-group,
- 2) if many of the 650 were indeed incarcerated because of abnormally harsh sentencing practices in certain judicial districts, and
- 3) if the 650 were as a group better risks for release than the remainder of the prison population, and if so, of how much less risk.

The answers to these questions, although distinct, would all relate to the question of whether or not a group such as the 15-20% "should" be released.

If many of the 650 were indeed incarcerated without good reason, and especially if for lack of adequate community alternatives in certain districts, then perhaps offenders so-identified should be released whether or not they were "good risks," or perhaps only if they were, in fact, good risks.

If, on the other hand, there were good reasons for their admissions, and most were not imprisoned for the reasons identified by the Commission, perhaps many were still "good enough risks" to release. In the latter situation, might not "good risks" be identified without specific reference to the 650-group?

A more difficult situation would arise if reasons were found for the incarceration of many of the 650, yet most were imprisoned due to sentencing disparity. In this situation, releasing the 15-20% would amount to "second-guessing" the reliance of the judges in question on those reasons.²

Finally, the staff might find defensible reasons for the incarceration of many of the 650, that most were not in prison because of sentencing differences, and that many were not good enough risks for release. This would be in direct opposition to the portrayal of the Commission.

As the staff was unaware beforehand of any specific reasons for the incarceration of the 650 offenders in question, the initial thrust of the analysis dealt with the release potential of the group. The

¹ That is, the potential for success following release and the danger to the community that might result.

² In other words, the release of the 15-20% would be a "value judgment" that certain judges were "wrong" in the use of selected factors as criteria of imprisonment.

first observation in this regard was that the Commission's analysis considered pre-institutional factors only, whereas the parole board had historically placed strong emphasis on institutional factors. As mentioned above, the Board discontinued review of offenders identified by the Commission staff as releasable, since apparently many had recorded serious misconduct records while incarcerated.

This exemplifies one of the difficulties in designing a "retroactive" release strategy, i.e., to be applied to offenders previously sentenced. Ideally, a release strategy set up to apply to all active offenders should consider current information in addition to that which applied at the time of the sentence - as was the case with factors appearing in the Offender Attribute Scale. Incidents of escape, assaults on inmates or staff, rioting, and other forms of misconduct - once occurring - cannot be wiped off the record, and will likely continue to affect release decisions in Iowa unless and until Iowa moves to a system of fixed (determinate) sentencing without parole.

As suggested on page 68 of the Commission's report,¹ the Offender Attribute Scale was not designed to be a measure of risk. However, certain aspects of the analysis indicated that it would likely be such.² Common sense seemed to dictate that higher risk offenders would reside - for the most part - in institutions, and lower risk offenders - for the most part - in community programs. Since the Commission did not expressly check on the validity of this assumption, the Master Plan staff felt inclined to do so.³

Accordingly, the staff embarked on a recidivism study for the state prison system to determine how well previously released offenders with characteristics of the 650-group had done after release, in comparison to offenders without such characteristics. In other words, the staff wished to determine the extent to which past experience with similar offenders would establish the 650-group as good risks for release.

The Master Plan recidivism study involved the follow-up of 1051 male and female offenders released from the prison system by parole or expiration of sentence between July 1, 1973 and December 31, 1975.⁴ The study indicated that 243 or 23.1% of the 1051 had returned to prison in Iowa during an average follow-up period of 2 3/4 years.⁵ Of those returned, about two-thirds (155 or 14.6% of the 1051) were returned on new felony charges (either by revocation of parole or on a new commitment).

¹ "Although the Offender Attribute Scale cannot be considered a predictor of risk (those analyses have not been completed)...."

² In particular, this would seem likely if indeed risk was a factor considered by judges in reaching sentencing decisions. See Section V of this report.

³ The staff was well aware that the parole violation rate in Iowa had increased substantially in the ensuing months after a massive release of inmates in 1972.

⁴ This study was later expanded to cover persons released during 1976. The results of the expanded study appear in Volume VII of the series and Chapter XIV of Volume I.

⁵ All offenders were followed for at least eighteen months, while some offenders could be followed for as long as four years.

The following is excerpted from a brief report prepared by the Master Plan staff for presentation to the Advisory Committee:

The return rate (23%) and the felony return rate (15%) break down among the three prison facilities as follows, with rates presented separately for persons released by parole and by expiration of sentence:

<u>PRISON FACILITY</u>	<u>OFFENDERS FOLLOWED</u>	<u>RETURN RATE</u>	<u>FELONY RETURN RATE</u>
State Penitentiary	406	22.4%	14.3%
- Parole	262	26.7%	13.6%
- Expiration	144	15.6%	15.6%
Men's Reformatory	552	24.0%	15.2%
- Parole	425	26.9%	15.4%
- Expiration	127	14.5%	14.5%
Women's Reformatory	93	21.8%	13.8%
- Parole	71	26.0%	15.6%
- Expiration	22	8.3%	8.3%
All Male Releases	958	23.1%	14.7%
- Parole	687	26.1%	14.5%
- Expiration	271	15.3%	15.3%
All Releases	1051	23.1%	14.6%
- Parole	758	26.1%	14.6%
- Expiration	293	14.7%	14.7%

Several of the major findings of the base study include:

- 1) 3.2% of males and 0.0% of females were returned to prison for a new felony against persons,
- 2) an additional 6.2% of males and 7.5% of females were returned for a new Part I felony not against persons (larceny, burglary and motor vehicle theft),
- 3) an additional 5.3% of males and 7.5% of females were returned for a new Part II felony not against persons (OMVUI-subsequent, forgery, false checks, drug crimes, weapons crimes, conspiracy, etc.), and
- 4) 8.4% of males and 8.6% of females were returned for a misdemeanor or technical violation (no new felony offense).

For comparison purposes the staff conducted an identical follow-up study of recidivism for felony clients of the men's residential corrections program operated by the Fifth Judicial District Department of Correctional Services (Fort Des Moines). We found that 26.7% of the 176 Fort Des Moines clients in the study group were admitted to prison during the average 2 3/4 year follow-up period. New commitments among the 176 include for the most part revocations of probation for clients placed in the facility as a condition of probation.

Although the 26.7% figure can be compared to the 23.1% return rate for male prison releasees, a more valid comparison would contrast the 21.7% new felony commitment rate for Fort Des Moines clients with the 14.6% felony return rate for male prison releasees.

As suggested above, a special concern of the Master Plan recidivism study was the relative post-prison performance of 1) those scoring in the lowest three levels of the Offender Attribute Scale, and 2) those scoring in the remaining four (highest) levels of the scale. The former group (LOW RATING) consisted of offenders who would have been tabbed by the Advisory Commission as candidates for early release, while the latter (HIGH RATING) would constitute those not so-eligible. The only difference between these two groups and the corresponding groups studied by the Commission was that the former had been released, while the latter had not. Presumably the degree of success of those who had been released would give an indication of the likely success of those who had not.

The Master Plan recidivism results for the two groups in question were as follows:¹

OFFENDER ATTRIBUTE DICHOTOMY	CASES	RETURN TO PRISON?		RETURNED FOR? NEW FELONY MISD/ NEW AGAINST TECH FELONY PERSON(S)		
		NO	YES			
HIGH RATING	446	74.2%	25.8%	11.7%	14.1%	2.9%
LOW RATING	406	73.4%	26.6%	11.8%	14.8%	3.0%
COMPOSITE	852	73.8%	26.2%	11.7%	14.4%	2.9%

These results delineate virtually identical recidivism rates for the two groups, including overall return rates, return rates for new felonies, and return rates for new felonies against persons. In other words, those rated high on the Offender Attribute Scale, despite having much worse credentials, did no worse when released on parole. In fact, they were slightly more successful.²

If these findings are applied to the question of the relative prospects for successful release of the 650-group and the counterpart group, one must conclude that the Advisory Commission's "Select Group" of offenders scoring in the lowest three levels of the Offender Attribute Scale would likely have been no more successful after release than would a group of comparable size selected at random from the prison population.³

¹ Restricted to those released by first parole.

² See page 24 of Volume VII for updated findings concerning the comparative success of the two groups.

³ Technically speaking, this would follow if the relative "risk" of those released and those not released was the same for those scoring low and for those scoring high on the scale. Follow-up analyses, using a parole risk assessment device developed by the Master Plan staff, indicated that - in fact - this was the case.

Thus, independent of all other considerations - such as the question of sentencing disparity and the presence or absence of reasons for incarceration - the 15-20% release group would not constitute the "good risks" that the Commission had envisioned. Of course one could counter this conclusion with the observation that the Commission had recognized the possibility that the 650-group might contain some poor risks: "The Commission does not believe that all of those 650 offenders should be released. Among them are certainly some offenders who pose such a threat to community safety that they should not be released." (p. 113). However, absent some further criteria for separating the good risks from the poor risks among the 650, there would be no way - except perhaps through intensive parole screening - to identify which of the 650 could be safely released. In other words, the Offender Attribute Scale would provide no assistance to the Iowa Board of Parole in identifying good risks for early release.

With this result, the Master Plan staff chose two separate courses for further analysis:

- 1) to determine if - in fact - the recidivism results were indicative of further problems with the 15-20% finding, and
- 2) to develop a mechanism similar to the Offender Attribute Scale that would identify good risks for early release.¹

(In as much as discussion of the latter would divert attention from the 15-20% question, we restrict immediate attention to the former).

Having come to the rather surprising conclusion that members of the 650-group were likely no better risks for release than other inmates, the staff was most eager to take a closer look at the group to determine if there were recognizable reasons for their confinements. Perhaps the Advisory Commission had overlooked one or more factors that would explain the incarceration of many of the 650, and that at the same time would account for a higher recidivism rate than expected among similar offenders previously released.^{2,3}

In reviewing the Commission's argument, it is readily apparent that the onus for the incarceration of the 650-group was placed squarely on the shoulders of sentencing judges. To wit, the Commission had suggested that many or most of the 650 should have been sentenced to community corrections programs, but instead were sentenced to prison. In support of this argument, the Commission had identified certain judicial districts as the source of much of the 650-group. With this

¹ That is, to develop a statistical rating system that would bring past experience (in this case post-prison performance) to bear against current problems (the need to reduce the prison population).

² From another - totally independent - perspective, one could hypothesize that the 650-group had as high a recidivism rate as other offenders because they were incarcerated, i.e., because the prison system had increased their probabilities of recidivism. This would certainly be consistent with the Commission's position that young "naive" first offenders should not be confined with older "hardened" convicts.

³ In this context, the staff wished to avoid value judgments as to whether certain individuals should or should not be incarcerated.

in mind, the first item of business was to check on the particular avenues by which these offenders had entered the prison system.

Specifically, the staff was aware that not all offenders enter the system directly from the criminal courts, and that - in fact - some entering the system have not been sentenced at all. From the computer file,¹ the staff determined that there were 3446 admissions to the prison system during 1974-1976. Of these admissions, just 1586 or 46.0% were direct criminal court commitments. Of the remaining 1860, 712 (20.7%) were commitments of probation violators, 362 (10.5%) were admissions of parole violators, 22 (0.6%) were other re-admissions of criminally committed offenders, 689 (20.0%) were admissions for safe-keeping or evaluation, and 75 or 2.2% were non-criminal commitments. It became apparent to the staff that the Advisory Commission analysis leading to the 15-20% finding had ignored the fact that many persons admitted to the prison system were not directly sentenced by the court.

The following table breaks down the prison population (1952) in Iowa as of December, 1976 by Offender Attribute Rating and type of admission:

TYPE OF ADMISSION	OFFENDER ATTRIBUTE RATING ³							ALL RATINGS
	1	2	3	4	5	6	7	
DIRECT COURT COMMITMENT	69	117	194	284	255	182	90	1191
PROBATION REVOCATION	60	103	123	88	68	30	6	478
PAROLE REVOCATION ²	7	10	29	28	42	66 ⁴	29	211
OTHER RE-ADMISSION	0	1	1	0	3	4	1	10
SAFEKEEPING/EVALUATION	9	5	7	7	3	3	5	39
CIVIL COMMITMENT	0	0	4	4	2	8	5	23
ALL ADMISSIONS	145	236	358	411	373	293	136	1952

The view of Iowa's prison population evolving from the above tabulation lies in stark contrast to the stated interpretations and conclusions of the Advisory Commission. According to the above data, 48.6% of inmates falling in the lowest three levels of the Offender Attribute Scale were

¹ Provided by the Division of Adult Corrections, and covering the span of time from July 1, 1973 to January 31, 1977. This file was later expanded to include all admissions and releases for 1977.

² Including parolees with added sentences.

³ The numbers falling in the various scale levels differ from those appearing in the Commission's report (and thus in the preceding tables of this report) since the ratings are based on a totally separate data collection effort. The numbers, however, are quite similar and in no way do the observed differences alter the validity of our re-examination of the Commission's results.

⁴ The fact that more parole violators fall in higher than in lower levels of the scale does not mean that those falling in higher levels have a higher parole violation rate. The difference here is that parole violators in higher levels serve much more time after returning to prison since they more often have added sentences.

not directly committed by the criminal courts of Iowa. In other words, almost half of the "select group" tabbed by the Commission for early release had previously (on the current sentence) violated release conditions, or had not been sentenced for a criminal offense in the first place.

Even more striking is the fact that a significant number of the select group (38.7%) were originally placed on probation,¹ yet were identified by the Commission as having been sentenced to prison unnecessarily. Stated otherwise, the Commission felt that such offenders should have been placed in community programs, but weren't, when - in fact - the opposite was closer to the truth. To wit, these offenders were placed in community programs, but apparently didn't adjust well there and were sent to prison.

Of particular note with regard to the presence of probation violators in the prison population is the fact that such offenders fall disproportionately in the lower levels of the Offender Attribute Scale.² That this pattern prevails is consistent with the fact that probation violators were - of course - originally placed on probation.³

The appearance of parole violators among the 650 is also of significance in that the Commission would have rated these offenders as "good risks" for release despite their failure on a previous parole.

To reiterate, the Commission was classifying probation and parole violators among the 650 (45% of the group) as good prospects for outright release, when in reality they had been given an opportunity in community-based programs and had "failed."

Overall, the avenue by which an offender entered the prison system, i.e., the type of admission, accounted for the incarceration of 48.6% of the 650-group. In such cases, it was invalid to suggest that sentencing disparity or the lack of adequate community alternatives in certain areas had led to their incarcerations.

The reader may have observed that probation and parole violations are "post-sentence" occurrences, while the Offender Attribute Scale considers only "pre-sentence" factors. In essence, anything that occurred after the date of sentencing⁴ would be ignored in the Commission's analysis.

In addition to the pure fact of a release violation, the Offender Attribute Scale fails to reflect new charges that may have been filed against the offender while in the prison system or on probation or

¹ Including some who were placed in community residential facilities.

² According to figures in the table, 60% of probation violators fall in the lower three levels, while just 32% of the directly committed offenders score in these levels.

³ Since most offenders placed on probation score low on the scale, we would expect the same to be true of probation violators, although perhaps not to the extent of successful probationers.

⁴ The original date of sentencing rather than the possible date of "re-sentencing" of release violators.

parole. In the area of legal involvements, the scale considers only the current (original) sentencing offense or offenses, and the record of convictions occurring prior to the current conviction. Any post-sentence behavior, such as new offenses, institutional misconduct, or - for that matter - progress while in the prison system, would be totally ignored in the Commission's method of analyzing offender populations.¹

On page 112 of their final report, the Commission states "A large number of current inmates have not been convicted of any prior felony, and an additional number have not been involved formerly in any correctional program, adult or juvenile." On page 120, the Commission goes on to state: "A large number of first offenders currently incarcerated in Iowa prisons have not been sentenced formerly to probation." In support of this statement, the Commission comments: "Probation appears to be utilized well by the judges in some judicial districts, and very rarely, by comparison, in others."

In the context of the statements above, it occurred to the Master Plan staff that perhaps the Commission had labelled some inmates as having had no prior probation time, when in fact they had been placed on probation "on the current sentence." Indeed, as with the 650-group, the staff found that many inmates without prior (adult) felony convictions were admitted as probation violators (31%). The staff determined that, overall, 78% of the December, 1976 prison population had prior juvenile or adult commitments or adult felony probations (many of the latter on the current sentence). Of the remaining 22%, a good share (70%) were currently convicted of crimes against persons or on drug charges carrying mandatory prison terms.⁵

¹ The Commission is not totally at fault here in that comprehensive data on post-sentence factors - including type of admission to prison - were not available in the data base. This author was fully aware of the above limitations and would have warned the Commission to exercise caution in interpreting statistical findings if he had been given an opportunity to review the analysis prior to publication. Such, however, was not the case. That this author was fully aware of the necessity of considering "type of admission" in an analysis of the prison population is evident from the fact that he had completed an analysis of the same type as attempted by the Commission at least twice in the preceding year. (See footnotes 2 and 3 below). Results of an analysis completed during the late summer of 1976 ran directly counter to the conclusions of the Commission.⁴ Note also that the Commission wished to avoid use of previous findings of the Department of Social Services.

² Corrections in Iowa: A System of Growth and Change, Iowa Department of Social Services, Bureau of Correctional Evaluation, October, 1976. See pp. 39-46, and especially the next to the last paragraph of page 40.

³ Iowa's Rising Prison Population, Iowa Department of Social Services, Bureau of Correctional Evaluation, March, 1976.

⁴ See the finding in the middle of p. xi of Corrections in Iowa: A System of Growth and Change.

⁵ These comments are not meant to suggest that all of such offenders "should" have been committed to prison. Rather, they are offered to provide a more accurate view of Iowa's prison population than that put forth by the Advisory Commission.

Additional analyses indicated that just 6% of the active prison population consisted of yet-to-be-paroled property offenders¹ without prior juvenile or adult commitments or adult felony probations. To check on possible reasons for the commitments of these 6%, the Master Plan staff examined inmate files maintained by the Iowa Board of Parole. In most files there is a form, completed upon admission, that asks for the reason the offender was denied probation. In about three-fourths of the cases examined (the 6%), "reasons for the commitment" were given, either on this form or elsewhere in the file.

Typical "reasons" were as follows:

- 1) The offender was awaiting final disposition on previous charges, or was on probation for previous charges, when the current offense was committed, or when arrested on the current offense;²
- 2) Failure to appear in court or new charges while awaiting final disposition;
- 3) Many current charges - including multiple counts, and cases where the offender was known to have been involved in a "crime spree" or was suspected of a "string" of crimes of a similar nature;
- 4) The offender had exhibited a recent assaultive behavior or was judged suicidal (although not currently convicted of an assaultive crime);
- 5) A very serious or extensive juvenile record (although not committed as a juvenile); and
- 6) Charges (often serious) dropped or reduced in return for a guilty plea.

With regard to 6), the staff noticed that guilty pleas and dropped or reduced charges were quite frequent among offenders imprisoned without the usual indicators of a prison term, i.e., current conviction for a violent offense or prior prison time. In other words, because of plea bargaining, the "final" or "convicting" offense considered by the Commission frequently didn't take into account the number or seriousness of original charges against the offender.

In summary, juvenile commitments, adult felony probations, and "aggravating factors," such as those listed above, occurred in almost all cases of yet-to-be-paroled property offenders without prior prison time,

¹ All offenders not convicted of crimes against persons or of drug-law violations.

² This does not include those whose probations were revoked, as such individuals were counted as having prior felony probations (and thus did not appear in the 6%). The staff, however, did come upon cases where the offender was serving a previous felony probation when committed (directly) for the new felony.

and correspondingly among the 650-group identified by the Commission as having been sentenced to prison without apparent reason.¹

To check on the (remote) possibility that many of the property offenders without prior commitments or adult felony probations - and without aggravating factors - had been released early by the parole board, and thus didn't appear in the prison population, the staff shifted focus to a study of prison admissions during the three-year period 1974-1976. This analysis gave virtually the same results as the preceding, i.e., parole release practices didn't account for the absence of the expected group of "clean" offenders.

From another angle, the staff became concerned with the "risk profiles" of directly committed offenders in the 650-group, and the question of whether or not they would have been "good risks" for release on probation. At the outset of the Master Plan effort, the staff had extended and refined previous work of the Bureau of Correctional Evaluation in "risk rating" convicted offenders.

In particular, the staff had developed a new rating system - initially called the Probation Base Expectancy Scoring System - from data on the outcome of 4749 probationers and parolees released from caseloads over the three-year period 1974-1976. The new system was perceived as greatly improving on previous Bureau systems, and was judged to provide a highly accurate gauge of the probability that a convicted offender would fail or be rearrested if placed on probation.

In applying this new rating system to directly committed offenders in the 650-group, the staff determined that 51% of such offenders would have rated as HIGH or ULTRA-HIGH RISK for release on probation, and another 24% would rate as higher than average risk (HIGH-MEDIUM).² In applying these results to the broader question of the existence of good candidates for community programs within the prison population, the staff found that just 5% of the population consisted of directly committed offenders in the 650-group who were better than average risks for release on probation. Again, a review of inmate files revealed many instances of "aggravating factors" that were often given as reasons for denial of probation. In fact, the staff felt that - based on such factors - the 5% would likely be worse risks for release on probation than their lower ratings on the risk scale indicated.

Furthermore, the staff found that among directly committed inmates, those in the 650-group would have been only slightly better risks for release on probation than other offenders (with higher Offender Attribute ratings). In particular - as stated above - 51% of those in the 650-group would have been HIGH or ULTRA HIGH RISK for probation,

¹ Again, this is not intended to suggest that these factors were "good reasons" for incarceration, but - instead - that their appearance was to a degree inconsistent with the Commission's perceptions.

² Just 25.2% would have rated as better than average risks for probation - LOW-MEDIUM RISK, LOW RISK, OR VERY-LOW RISK - in the Iowa system. More will be said about the probation risk rating system when the stage is set for an extended discussion of this topic.

while no more than 54% of other offenders would have been rated as such. Again, as with the previously described recidivism results, the 650-group didn't stack up as better release risks than other offenders.

In the late summer of 1977, the Master Plan staff was becoming increasingly aware of difficulties with the 15-20% finding as summarized above. To illustrate the magnitude of these problems and to suggest the difficulty that would arise if the Board of Parole were to pursue an early release strategy based on the rationale expressed by the Commission, the staff drew up a short working paper entitled "An Analysis of the Advisory Commission's Recommendations for De-Escalating Iowa's Prison Population." The goal of the analysis described in this document was "to determine the number of individuals in our adult institutions who could be released safely on parole and who exhibit characteristics that indicate that probation "could," and in most cases "would," have been granted, but was not."

The basic intent, as expressed in the statement above, was to identify the number of inmates who were "clean" in terms of their admission characteristics, and who would be "good risks" for parole. This was more or less an attempt to translate the observation of the Commission that many good candidates for community corrections were instead sent to prison and could be safely released -- into a target group for parole screening. This analysis was not an attempt to judge who should be in prison and who not, or who among the prison population were releasable. Very simply, it was an attempt to push the stance of the Commission on the 15-20% to its logical "ends," namely the safe release of "clean" offenders.

This analysis, which roughly paralleled arguments given above, came to the conclusion that 1.3% of the prison population consisted of "clean" offenders who could be "safely" released, as a means of correcting for the sentencing disparity identified by the Advisory Commission. The analysis was based in part on the identification of offenders who would be HIGH or ULTRA-HIGH RISK for release on parole. The system used to identify such offenders evolved as one of the end-products of the Master Plan recidivism study. This new system, which was initially called the Parole Base Expectancy Scoring System, was judged to be highly accurate in gauging the likelihood and severity of new criminal acts by offenders released from Iowa prisons, in terms of past behavior of ex-prisoners.¹

In early 1978, the Des Moines Register published a guest opinion by Philip Riley, Des Moines City Attorney and chairman of the then defunct Advisory Commission. The opinion, entitled "Risk factor in releases set by one statistician," included the following comments by Mr. Riley:

. . .The advisory commission identified 15 to 20 percent of current institutional populations as selectively releasable. Since such release was in the hands of the Parole Board and corrections authorities, the advisory commission cautiously

¹ See Section IV of Volume VII.

CONTINUED

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avoided embodying that estimate in its population projections. The commission did deem such action just and fair, where warranted, and it encouraged the appropriate authorities in the system to make up for the prior lack of community corrections across the state, sentencing disparity, and other causes of unneeded incarceration. The new Master Plan Task Force has focused on that portion of the advisory commission's study and has come to radically different conclusions: The task force's expressed belief is that instead of the 15-20 percent of the institutional populations proposed for release last year by the advisory commission, only 1 percent of those populations should be considered releasable. Daryl Fischer, a statistician appointed to the task force from the Bureau of Correctional Evaluation, the Corrections Division's in-house statisticians, has identified a series of "risk factors" which he says are indices of the failure potential of convicted offenders. He now has analyzed the inmates of Anamosa and Fort Madison in his work for the task force and has listed factors which in his judgment present a likelihood of failure of those inmates to succeed if released. Applying those to the inmate "release" group suggested by the advisory commission, he declares that, in effect, 99 percent of those within the walls are properly placed there... If his stated and written conclusions are applied in an analysis of current offender populations in and out of the institutions in this state, we find that large numbers of offenders currently on probation would have to be incarcerated to meet his "risk" criteria, despite their current success on probation. . . . Local community corrections officials have had opportunity to review the reasons Fischer gives for denying consideration for release to that portion of the prison population who look like good candidates for community corrections, the questioned 15-20 percent. Their conclusions echo my own. They advise that if his judgment of what makes up "risk factors" were applied by the sentencing courts of this state, and if mandatory minimum sentences remain the law, community corrections will be effectively dead, destroyed, in Iowa within two years, at a cost of untold millions to the citizens of this state. If we let the survival of that process hinge on the technical determinations of one individual within the system, I submit that we make a grave mistake. . . .

Mr Riley was reacting to the above-described analysis of the prison population, with particular reference to the application of parole risk ratings. His comments clearly reflect his dissatisfaction with the Master Plan staff's review of the 15-20% finding. He appears to draw the conclusion that "risk factors" are the agents most directly responsible for the finding that "99 percent of those within the walls are properly placed there." He goes on to suggest that the future application of these risk factors in sentencing decisions - in conjunction with the new criminal code - would effectively destroy the community corrections system in Iowa within two years.

Before continuing with an analysis of the Commission's position, it is vital to point out that the major thrust of the preceding analyses of the 650-group concerns factors¹ other than "risk,"

¹ Such as type of admission, prior non-prison convictions, and aggravating circumstances.

and that "risk" was brought into the argument primarily as a means of bridging the gap between the question of an inappropriate criminal sentence and the early release of those thus identified. In no way were these analyses directed to a determination of "criteria for imprisonment." It was not at the time, and is not at present, the prerogative of the researcher to dictate "who should be in" and "who should be out."

Another point missed in the above opinion is that the Master Plan analyses had led to the finding that 24% of the prison population consisted of extremely "low risk" offenders who could be released at earlier dates than normal without risk to the community. In fact, the Master Plan staff met with the Iowa Board of Parole to discuss the prospects for using rating systems developed by the staff in their release deliberations.¹

The difference between the 24% and the 650-group recommended by the Commission is considerable. In fact, 74% of the 24%-group fall in offender categories that could² involve mandatory prison sentences under the new criminal code.^{3,4} Most of the offenders with such characteristics would fall in the highest four levels of the Offender Attribute Scale, and thus would not appear releasable to the Advisory Commission.

To summarize, the Commission had made use of the Offender Attribute Scale to arrive at the conclusion that 15-20% of the prison population could be released without danger to the community. The Commission's analysis had indicated that the group of 650 offenders scoring in the lowest three levels of the scale (from which the 15-20% were to be drawn) had "the same characteristics" as offenders on probation or in existing community residences, and thus would likely be "good risks" for outright release. The Commission suggested that many of the group should have been placed in community programs, but instead were sentenced to prison -- unnecessarily.

Reviewing the same data, the Adult Corrections Master Plan staff discovered a number of "difficulties" with the 15-20% finding and associated statements:

¹ See Volume VI of this series.

² The word "could" refers to the fact that such offenders have characteristics covered by the mandatory sentence provisions. In practice, however, system decision-makers might seek to avoid the imposition of such sentences in many cases.

³ Including mandatory minimum prison sentences and mandatory imprisonment (no probation). Of the 24%, 10.3% were lifers, 37.0% were others who could have received minimum prison terms, and 25.2% were others who could have been denied probation (under the new code).

⁴ The fact that many of the lower risk offenders in state prisons might have mandatory minimum sentences under the new criminal code could seriously hamper efforts to reduce the prison population through an early release strategy.

- 1) The Commission's analysis counted all inmates as if they were directly committed by the criminal courts, when in fact nearly half of their "select group" were admitted as probation or parole violators or for safe-keeping or evaluation prior to trial or sentencing.
- 2) The Commission took a "cross-sectional" look at adult correctional populations in Iowa, i.e., at those active in various programs at a single point in time, yet limited consideration to information known at a previous point in time - the date of sentencing - which may have been months, years, or even decades into the past. Thus the possibility of violations, new charges, or institutional misconduct was ignored.
- 3) The Commission failed to clearly establish that the proposed release group would be "good risks" for release based upon past experience with similar offenders. In fact, the Master Plan staff found that the Commission's select group would likely be no more successful after release on parole than would offenders not selected.
- 4) Perhaps the most noteworthy difficulty with the 15-20% finding is the assumption on the part of the Commission that directly committed offenders¹ in the select group were - for the most part - committed without reason. In making this claim, the Commission overlooked the possibility that many were high risks for probation failure,² missed the existence of aggravating factors leading to incarceration, and ignored the mandatory imposition of prison terms in some cases. When the variety of factors considered by judges were taken into account, the number of inmates who were truly "clean" - and who constituted obviously good candidates for community programs - was reduced to nearly zero.

In a way, the best characterization of the observed difficulties with the 15-20% finding is to say, "If it wasn't one thing, it was another!" That is to say, if a particular indicator of incarceration was missing, then another would pop up to take its place.³

In searching for a brief description of the prison population that would best exemplify this pattern, the staff came upon the following profile, wherein each successive category draws from the pool of inmates not covered by the preceding categories:

¹ Assuming the Commission would be willing to delete those in the select group who were not directly committed. With this deletion, the select group would reduce in size from 34% of the prison population to 19%.

² One potential criticism of risk ratings is that they might unjustly discriminate against certain offenders because they are young, or black, or single, or unskilled, or under-educated. The statistics show, however, that HIGH and ULTRA-HIGH RISK offenders generally have serious prior records. Within these groups, those scoring low on the Offender Attribute Scale (lowest three levels) had prior records averaging 5.2 arrests, 2.8 convictions, and 0.9 incarcerations. In fact, 85% were previously arrested within two years of their current incarcerations.

³ Without making the judgment that any factor or set of factors was sufficient to warrant incarceration.

- 40% NOT DIRECTLY COMMITTED BY THE COURT
- 40% COVERED BY MANDATORY SENTENCE PROVISIONS OF THE NEW CRIMINAL CODE
- 13% HIGH OR ULTRA-HIGH RISK FOR PROBATION OR UNLIKELY TO RECEIVE PROBATION¹
- 6% AGGRAVATING CIRCUMSTANCES GIVEN AS REASONS FOR COMMITMENT
- 1% NONE OF THE ABOVE

In retrospect, one might ask what circumstances would have been sufficient to ensure the validity of the Commission's assumptions about the select group. One such set of circumstances would have been the "overwhelming" and "near total" success of community-based programs in rehabilitating criminal offenders. In this situation, success rates in community programs would have been near 100%, and, accordingly, few offenders would have entered institutions by probation or parole revocation. In addition, those offenders in the select group who were sent to prison would be - for the most part - extremely good risks for probation. Thus, assuming such circumstances could exist, the only complaint of any magnitude that could be made about the select group would involve the question of aggravating factors, and this likely would apply in only a small percentage of cases.

Note also that these circumstances - high success rates in community programs - would be consistent with the Commission's major thesis that community programs were more likely to end in rehabilitation than were institutional programs.

This hypothetical set of circumstances would essentially separate convicted felons into two groups, namely 1) those violent and habitual offenders who normally were sent to prison at high rates and who were judged not to be good candidates for community programs, and 2) the non-violent most often first offenders who were suitable for community programs and who succeeded in such programs at uniformly high rates. These two groups would constitute the "black"² (prison types) and the "white"² (community types), with a clear identification of the offender with programming approach. The "black" would fall predominately in high levels of the Offender Attribute Scale and the "white" predominately in lower levels. As a result, the Commission's analysis would exact a near perfect split between the two groups and the programs most perfectly attuned to them.

The difficulty with these hypothetical circumstances is that they could not logically have occurred in the context of the Commission's efforts. To wit, Iowa would not have reached the situation of potential overcrowding in the prisons that led to the Commission's formation if community programs had attained the stated levels of success. Indeed, if community programs had recorded extremely high success rates, then probation and parole revocations would have been nowhere near the observed levels, and furthermore direct court commitments would likely have been lower in recognition of the greater rehabilitative efficacy of the community approach.

¹Falling in the highest four levels of the Offender Attribute Scale.

² Not racial indicator.

One final comment is in order concerning the general strategy of the Commission in selecting a target group within the prison population for early release. Essentially, the Commission was faced with the problem of how to reduce the prison population in an equitable manner without endangering the general public. It was natural, in this instance, to look for a group of inmates who were similar to many offenders already serving time in the community, and who would likely pose no significant threat to the public if released. Accordingly, based on a statistical analysis, the Commission chose to recommend the release of 15-20% of the prison population, to be drawn from the group of 650 offenders scoring in the lowest three levels of the Offender Attribute Scale.

The essence of the logic involved here was that offenders with "low" incarceration probabilities should be handled almost exclusively in community-based programs. However, the Commission chose not to recommend that offenders with "high" incarceration probabilities (top levels of the Offender Attribute Scale) be handled for the most part in institutional programs. In other words, they saw the logic in handling "good candidates" for community programs in the community, but failed to suggest that "poor candidates" should be handled in institutions.¹

In sum, neither the Offender Attribute Scale nor any "single" rating system² based on limited information can tell the analyst how many inmates should be in prison. The reality is that the question of who should be "in" and who should be "out" has no simple answer. Indeed, any such determination would involve a number of value judgments not rightfully within the purview of the unbiased analyst. This does not mean, however, that the analyst cannot assist in the development of improved strategies for sentencing and parole decision-making. On the contrary, the potential is great for significant contributions in this area.

Finally - in line with the above - it is vital that the reader not jump to the conclusion that the thrust of the preceding analysis is to support the incarceration of offenders of the type recommended for release by the Commission. Indeed, no statements were made by the Master Plan staff³ that the factors isolated in the analysis - such as high risk ratings - would justify the incarceration of any single individual. Rather, the existence of such factors helped to explain why many of the offenders in the select group were incarcerated.⁴ The sole conclusion of the analysis was that the existence of these factors was inconsistent with the characterizations offered by the Advisory Commission.

¹ If the Commission had recommended that all inmates scoring in the lowest three levels of the scale be released and that all community-based offenders scoring in the highest four levels of the scale be imprisoned, then 657 inmates would be released, and 922 community-based offenders would be imprisoned, resulting in a net increase in the prison population of 265.

² Such as a risk-rating device.

³ Or by the SAC staff since the termination of the Master Plan efforts.

⁴ The concern here was why they were incarcerated rather than whether or not they should have been.

SENTENCING DISPARITY

The Master Plan analysis discussed in the previous section had led to the conclusion that felony sentencing practices in Iowa, including sentencing disparity among the judicial districts, had not resulted in the incarceration of a large number of "obvious candidates" for community programs. This would seem to suggest that sentencing disparity was not of the nature and extent that the Commission had suggested it to be.

Note, however, that the Master Plan analysis was limited to an examination of the prison population, and thus did not directly address the question of sentencing patterns or the characteristics (beyond Offender Attribute ratings) of community-based offenders. Perhaps a more broadly-based analysis would support the basic contentions of the Commission concerning disparate patterns of incarceration.

In fact, the Commission's statement that "many of those offenders (in the select group) are incarcerated due to sentencing disparities among the judicial districts" (p. 113) - is not totally inconsistent with the exceptions expressed above. In other words, higher incarceration rates outside the Fifth District could well have involved the incarceration of offenders with the characteristics discussed in the previous section.¹ Perhaps "totally clean" offenders were consensus picks for probation in all districts, but "intermediate" types, such as HIGH and ULTRA-HIGH RISK directly committed offenders in the lowest three scale levels, were placed in the community much more frequently in the Fifth District. Also, it could well have been the case that many of the probation violators in the Fifth District were being handled in existing community residences, and accordingly that many of such offenders in the select group who were sentenced outside the District would have been placed in residences had they been available.

Thus, it would be necessary to examine actual sentencing practices to determine whether or not sentencing disparity and the lack of community residences in other than the Fifth District had led to the incarceration of a significant portion of the existing prison population.

In reviewing the Master Plan analysis of difficulties with the select group, one might note that the factor least open to debate was the presence of offenders in the select group who were not directly committed by the court. Of the 657² offenders in the select group, 48.6% were admitted as probation or parole violators or for special reasons such as safekeeping or evaluation prior to trial or sentencing. In such cases, one cannot legitimately argue that sentencing disparity was the "cause" of incarceration.

¹ Probation or parole violations, ratings of HIGH or ULTRA-HIGH RISK, prior non-prison records, and aggravating circumstances.

² The Commission referred to the group as containing 650 offenders.

When offenders admitted by other than direct court commitment are deleted from the select group, those remaining would have constituted 19.4% of the prison population. The existence of a group of directly committed offenders of this size in lower Offender Attribute levels could still be consistent with the Commission's major thesis on sentencing disparity.

Indeed, the 19.4% could well have exhibited characteristics common among a significant portion of the community-based population.¹ Note also that no comments have been offered to this point to explain or rationalize the similarity in Offender Attribute scores between the reformatory population (men and women) and the client population of community residences.

To examine actual sentencing practices, it is necessary to take a somewhat different approach than that of the Advisory Commission. As discussed previously, the Commission's analysis constituted a "cross-sectional" view of the adult correctional population in Iowa in that only those offenders active in the system as of October 1, 1976 were examined.

This particular approach does not generally give an accurate view of the results of the sentencing process since it doesn't cover all (and only those) persons sentenced during a given interval of time. Namely, persons serving shorter periods of time are under-represented and persons serving longer periods of time are over-represented.² Another aspect of the cross-sectional method is that many persons placed in community residential programs or in county jails are counted as being on straight probation since offenders entering such programs generally serve only short periods in the facility itself and longer periods on probation after release.³

The comments above emphasize the advantages of examining the totality of sentences for felonies in Iowa during a given interval of time. Accordingly, the Master Plan staff - and later the SAC staff - examined available information on felony sentencing in Iowa during the three-year period 1974-1976. During this period, there were a total of 7495 persons sentenced for felonies in Iowa, not including those already in the criminal justice system when

¹ Witness the following comments from the Register guest opinion "'Risk factor' in releases set by one statistician," by Philip Riley: "If his (this author's) stated and written conclusions are applied in an analysis of current offender populations in and out of the institutions in this state, we find that large numbers of offenders currently on probation would have to be incarcerated to meet his "risk" criteria, despite their current success on probation. . . ." See Appendix II for the complete text of the opinion.

² In other words, types of offenders serving short terms in correctional programs move through the system more quickly and are less likely to appear in any given active population.

³ Thus the 85 (active) residential corrections clients examined by the Commission didn't include former clients on probation as of October 1, 1976.

arrested (and thus not including probation and parole violators).¹

This new² approach of examining only directly sentenced offenders (not already in a correctional program when sentenced), and all offenders sentenced over a fixed period of time, was judged to correct for many of the difficulties (as identified above) with the Commission's cross-sectional approach. Namely, the analysis concentrated on the event of sentencing itself, without reference to the fact that the offender was or was not in a particular program (such as a state prison) at a later point in time, e.g., October 1, 1976. In other words, a case (or sentence) was identified with the date of sentencing and the information known about the offender at that date, and not with information applicable at a later point in time, such as prison misconduct or new offenses while in a release condition. In short, the period-in-time method was judged to be more directly suited to an analysis of sentencing practices and their effect on prison admissions than the point-in-time method of the Commission.³

In particular, use of the Offender Attribute Scale as a measure of the probability of incarceration was judged to be more appropriate for the new period-in-time approach, since information coded into the scale applied directly to the date of (original) sentencing in a case. Furthermore, a study covering the three-year period 1974-1976 was judged to cover most directly these aspects of sentencing that would affect the active prison population in late 1976.

The following thus reflects an effort initiated by the Master Plan staff - and carried forth by SAC - to thoroughly study felony sentencing disparity in Iowa during 1974-1976.

Of the 7495 cases examined by the Master Plan staff, the following breakdown of sentences was observed:

¹ The population of offenders covered here includes all adults who were convicted of felonies or received deferred judgments on felony charges during 1974-1976, with several further stipulations. Namely, persons receiving fines or straight jail sentences (without probation) and persons who were already in the criminal justice system when arrested were excluded. In addition, persons convicted of delivery or possession with intent to deliver a controlled substance - accomodation offense (an indictable misdemeanor) - were included to give an accurate view of sentencing on drug charges.

² Actually the approach wasn't new in that the Bureau of Correctional Evaluation had conducted similar analyses of felony sentencing over a period of time prior to the work of the Commission. Again, the Commission chose not to make use of this information.

³ But, of course, not to an analysis of an active prison population.

SENTENCE	CASES	%
STRAIGHT PROBATION	5322	71.0%
RESIDENTIAL CORRECTIONS	363	4.8%
COUNTY JAIL	224	3.0%
STATE PRISON	1586	21.2%
	7495	100%

It is interesting to note that this percentage breakdown of felony sentences during 1974-1976 is similar to the percentage breakdown of the active adult correctional population¹ studied by the Commission, which was as follows:

CORRECTIONAL ASSIGNMENT	CASES	%
PROBATION	5116	71.5% ²
RESIDENTIAL CORRECTIONS	85	1.2%
PRISON SYSTEM	1952	27.3% ³
	7153	100%

The basic sentencing statistics itemized above document a high degree of reliance on community alternatives to imprisonment in Iowa during 1974-1976. In all, 79% of felons were handled in community programs. The question of primary interest with regard to the Commission's work is the extent to which these results vary among the judicial districts in Iowa, and in particular, the extent to which the results support the Commission's assumptions on sentencing disparity. Indeed, do sentencing results support their contention that the lack of community residences outside the Fifth District led to a substantial number of unnecessary incarcerations?

¹ Of those sentenced for felonies.

² Most of those originally sentenced to residential corrections and county jails were released from these facilities and were on probation at the point in time (October 1, 1976) examined by the Commission.

³ The percentage of active offenders who are in the prison system is higher than the percentage of offenders sentenced to prison (in the preceding breakdown) because of the admission of probation violators - originally counted as sentenced to probation - and the fact that offenders on the average serve more time in prison than in the community. (See Volume I).

Here, then, are the statewide results broken down according to the judicial district in which the offender was sentenced.¹

JUDICIAL DISTRICT	TOTAL SENTENCED	STRAIGHT PROBATION	RESIDENTIAL CORRECTIONS	COUNTY JAIL	STATE PRISON
FIRST ²	950	82.2%	0.2%	3.3%	14.3%
SECOND	1129	77.6%	0.2%	1.9%	20.4%
THIRD	561	75.4%	0.0%	4.5%	20.1%
FOURTH	379	69.4%	0.8%	1.6%	28.2%
FIFTH	1922	61.1%	18.2%	0.9%	19.8%
SIXTH	857	79.7%	0.1%	2.6%	17.6%
SEVENTH ²	784	64.4%	0.1%	2.4%	33.0%
EIGHTH	753	66.3%	0.5%	9.6%	23.6%
STATEWIDE	7495	71.0% (5322)	4.8% (363)	3.0% (224)	21.2% (1586)

According to these figures, the First (14.3%), Second (20.4%), Third (20.1%), Fifth (19.8%) and Sixth (17.6%) Districts had less than average (21.2%) reliance on state prisons for felony sentencing, while the Fourth (28.2%), Seventh (33.0%), and Eighth (23.6%) Districts had greater than average reliance on the prison system.

On the other side of the coin, the First (82.2%), Second (77.6%), Third (75.4%), and Sixth (79.7%) Districts had greater than average (71.0%) reliance on straight probation, while the Fourth (69.4%), Fifth (61.1%), Seventh (64.4%), and Eighth (66.3%) Districts made less than average use of this alternative. Most noteworthy is the fact that the Fifth Judicial District made the least use of straight probation at 61.1%.

Notice, however, that the Fifth District made the greatest use (19.1%) of intermediate alternatives (residential corrections and county jails).³ In fact, only the Eighth District - among other districts - made any substantial use of intermediate alternatives (10.1%).

¹ See also Table 18 of Volume IV.

² Figures for the First District exclude results for Dubuque County, while figures for the Seventh District exclude results for Cedar and Jackson Counties -- due to missing data. All counties are represented in the statewide figures, however.

³ Most of the offenders among the 19.1% were placed in the Fort Des Moines Men's Residential Corrections program.

Due to the fact that our primary interest here is with differences in sentencing between the Fifth and remaining judicial districts, no attempt will be made to discuss in detail results on a district-by-district basis. Rather, concentration will be placed on obtaining answers to the following questions:

- A) What were the observable differences in sentencing between the Fifth and remaining districts during 1974-1976? In particular, did Fifth District judges commit significantly fewer offenders to state prisons - on a percentage basis - than did judges in other districts?
- B) What would a comparison of results suggest was the use of Fifth District community residential facilities as alternatives to other sentences? Specifically, what percentage of the offenders sentenced to such facilities would likely have received prison sentences had the facilities not been available as sentencing alternatives?
- C) What would have been the most likely sentencing pattern outside the Fifth District had residential facilities been available, and had they been used to the extent of the Fifth District facilities? What would such assumptions dictate as the number of offenders sentenced to prison outside the Fifth District who would have been placed in residential facilities had they been available? Again, under these assumptions, what would have been the impact of such residences on direct court commitments and on the prison population? Finally, what percentage of total direct court commitments falling in the lowest three levels of the Offender Attribute Scale could have been avoided had residential facilities been available outside the Fifth District?¹
- D) Would there likely have been a significant difference in sentencing between the Fifth and other districts had residential facilities not been available as sentencing alternatives? Indeed, would sentencing outside the Fifth District have been "more severe?"
- E) Did offenders sentenced outside the Fifth District have "the same profile" as offenders sentenced in the District? Would we expect more - or less - severe sentencing outside the Fifth District based on a more - or less - serious offender profile? Assuming a significant difference in profile - and thus in sentencing expectation - how should we take this into account to provide more accurate answers

¹ Recall that 19.4% of the prison population consisted of directly committed offenders scoring in the lowest three levels of the Offender Attribute Scale. The question remains: How many of this 19.4% were imprisoned due to the lack of residential facilities statewide?

to the questions expressed above. (Note: The reader should review questions A-D to determine if they need to be - and how they might be - reworded to reflect consideration of "a difference in profile.")

To identify direct differences in sentencing between the Fifth and other districts, the following table was constructed:

JUDICIAL DISTRICT(S)	TOTAL SENTENCED	RESIDENTIAL			
		STRAIGHT PROBATION	CORREC-TIONS	COUNTY JAIL	STATE PRISON
FIFTH	1922	61.1% (1175)	18.2% (350)	0.9% (17)	19.8% (380)
OTHER DISTRICTS	5573	74.4% (4147)	0.2% (13)	3.7% (207)	21.6% (1206)
STATEWIDE	7495	71.0% (5322)	4.8% (363)	3.0% (224)	21.2% (1586)

According to the table, there was a big difference (13.3%) between the Fifth (61.1%) and other districts (74.4%) in the percentage of sentences to straight probation, and a rather small difference (1.8%) in the percentage of prison sentences (19.8% for the Fifth to 21.6% for other districts). In fact, the difference in the use of county jails (3.7% minus 0.9% or 2.8%) was greater than the difference in the use of state prisons.

THE ASTONISHING THING ABOUT THESE FIGURES IS THAT THEY SUGGEST THAT THE RESIDENTIAL CORRECTIONS PROGRAM IN THE FIFTH JUDICIAL DISTRICT DID NOT OPERATE PRIMARILY AS AN ALTERNATIVE TO IMPRISONMENT DURING THE PERIOD IN QUESTION.

Indeed, one would have expected a much greater difference in the use of state prisons than the observed 19.8% to 21.6%, had residential facilities in the Fifth operated primarily as an alternative to imprisonment. If, in fact, the 1.8% difference in the use of state prisons was due solely to the availability of residential facilities in the Fifth District, and if sentencing results would have been expected to be identical - absent the residential program - then it would follow that the facilities had operated as an alternative to imprisonment for no more than 10.4% of the 350 felony offenders directly sentenced to the program.¹

We now raise the question as to whether or not the assumption on which the 10.4% figure is based is indeed a correct one. Would sentencing likely have been the same - inside and outside the Fifth District - had residential corrections not been available in the Fifth District?

¹ This finding follows simply and directly from the stated assumption and the figures in the table above.

This concern can best be addressed by comparing the total population sentenced in the Fifth District with same for the other districts. If, in fact, these populations had "the same profile" or at least "the same sentencing expectation,"¹ then one would have little basis for questioning the stated assumption.

To determine whether or not the offender population sentenced in the Fifth District differed significantly from same for the other districts, Offender Attribute scores were examined. The following condensed profile shows that - in fact - offenders sentenced in the Fifth District tended to score slightly higher on the scale than did offenders sentenced outside the District. We would thus expect to see a somewhat higher rate of imprisonment in the Fifth District -- all else equal.

OFFENDER ATTRIBUTE GROUPING	FIFTH DISTRICT	OTHER DISTRICTS	ALL DISTRICTS
5,6,7 (High impris.)	13.6%	10.3%	11.1%
3,4 (Medium impris.)	36.2%	35.2%	35.5%
1,2 (Low impris.)	50.2%	54.5%	53.4%

Furthermore, the noted difference dictates that one cannot legitimately compare sentencing results as above, since observed results for the Fifth District would apply - on the average - to a more serious case with higher expectation of imprisonment. Accordingly, it was deemed necessary to compare sentencing results -- while allowing or controlling for the difference in Offender Attribute Scores between those sentenced inside and outside the Fifth District.

In order to control for differences in Offender Attribute Scores, it is necessary - and sufficient - to re-examine sentencing results for each level of the scale:

¹ The same profile of characteristics associated with sentencing decisions.

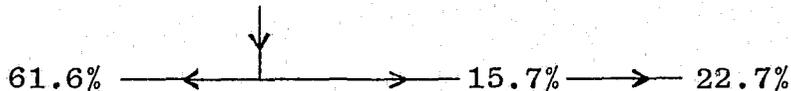
SCALE LEVEL	JUDICIAL DISTRICT(S)	TOTAL SENTENCED	STRAIGHT PROBATION	RESIDENTIAL CORRECTIONS	COUNTY JAIL	STATE PRISON
7	-FIFTH	22	0.0%	5.0%	0.0%	95.0%
	-OTHERS	43	7.9%	0.0%	0.0%	92.1%
6	-FIFTH	86	14.1%	17.7%	1.3%	66.8%
	-OTHERS	162	24.0%	0.0%	2.9%	73.1%
5	-FIFTH	153	21.6%	26.3%	1.5%	50.6%
	-OTHERS	367	40.1%	0.5%	2.2%	57.1%
4	-FIFTH	281	44.8%	22.1%	0.8%	32.4%
	-OTHERS	771	56.9%	0.6%	3.8%	38.7%
3	-FIFTH	416	57.0%	25.9%	1.1%	16.1%
	-OTHERS	1192	71.1%	0.2%	6.3%	22.4%
2	-FIFTH	453	74.9%	15.6%	0.5%	9.0%
	-OTHERS	1449	86.2%	0.3%	3.0%	10.5%
1	-FIFTH	511	83.6%	10.4%	0.9%	5.1%
	-OTHERS	1589	89.5%	0.0%	2.9%	7.6%
<hr/>						
ALL LEVELS						
	-FIFTH	1922	61.1%	18.2%	0.9%	19.8%
	-OTHERS	5573	74.4%	0.2%	3.7%	21.6%

According to the table, the percentage of offenders placed on straight probation was higher outside the Fifth for each of the seven levels of the Offender Attribute Scale. On the other extreme, the percentage imprisoned was lower within the Fifth District for all levels except the highest (7). Clearly, we can't explain away the original perception as being the consequence of differing offender populations. On the other hand, we can ask whether or not the 10.4% figure would hold up under this refined perspective.

Indeed, we can compare observed sentencing results for the Fifth District with results that would have been expected had the sentencing pattern in the District been the same as the pattern outside the District -- for each level of the Offender Attribute Scale. In other words, we can apply the observed rates for the other districts - per scale level - to cases handled in the Fifth District, accumulate the results,

and compare the end product with the observed pattern for the District:¹

FIFTH JUDICIAL DISTRICT	TOTAL SENTENCED	STRAIGHT PROBATION	RESIDENTIAL CORRECTIONS	COUNTY JAIL	STATE PRISON
EXPECTED	1922	72.2% (1387.6)	0.2% (4.6)	3.7% (71.3)	23.9% (458.5)
OBSERVED	1922	61.1% (1175)	18.2% (350)	0.9% (17)	19.8% (380)
DIFFERENCE	0	11.1% (212.6)	18.0% (345.4)	2.8% (54.3)	4.1% (78.5)



According to the above, the 18.0% difference (345.4) splits into three parts as follows:

RESIDENTIAL CORRECTIONS-- ALTERNATIVE TO:	CASES	%
STRAIGHT PROBATION	212.6	61.6%
COUNTY JAIL	54.3	15.7%
STATE PRISON	78.5	22.7%

In other words, to obtain the expected results from the observed, the 345.5 residential correction cases that must be shifted to the remaining alternatives split as 61.6% to straight probation, 15.7% to county jails, and 22.7% to state prisons.

IF THE RESIDENTIAL CORRECTIONS PROGRAM IN THE FIFTH JUDICIAL DISTRICT, AND A HIGHER OFFENDER ATTRIBUTE PROFILE AMONG OFFENDERS SENTENCED IN THAT DISTRICT, WERE THE SOLE SOURCES OF SENTENCING DIFFERENCES BETWEEN THE FIFTH AND OTHER DISTRICTS DURING 1974-1976, THEN DURING THAT PERIOD THE PROGRAM OPERATED AS AN ALTERNATIVE TO IMPRISONMENT FOR 22.7% OF THE FELONY OFFENDERS DIRECTLY SENTENCED TO THE FACILITIES.

¹ For example, we apply the 92.1% imprisonment rate for offenders in level 7 sentenced in other districts to the 22 offenders in that level who were sentenced in the Fifth District to obtain the expected number of level 7 imprisonments in the Fifth District. When this is repeated for all scale levels, the seven resulting figures are added to obtain total expected imprisonments for the District. The overall expected imprisonment rate for the District is then computed by dividing by 1922. The overall procedure essentially "corrects" the observed results for the other districts so that they will apply to "the profile" of cases handled in the Fifth District.

Under the stated hypotheses, and according to the above-stated results, the Fifth District residences operated as an alternative to pre-existing non-institutional programs for 77.3% of clients directly sentenced for felonies, and indeed to straight probation for 61.6%.

Had the residences not been available, an additional 22.7% of 345.4 or 78.5 offenders (round to 78) would have received prison sentences, and accordingly total direct court commitments from the Fifth District would have been 20.5% higher at 458 (up from 380). Also, direct court commitments across the state would have been higher by 4.9% at 1664 (up from 1586), and the prison population an estimated 4.0% higher.

From the other side of the ledger, one can use the stated assumptions - that Fifth District residences and higher Offender Attribute ratings in the Fifth District were the sole sources of sentencing differences between the Fifth and other districts - to determine what the impact of residences would have been on sentencing outside the Fifth -- had they been available as sentencing alternatives, and had they been used to the same extent as residences in the Fifth. Again, we accomplish this aim by comparing observed results for the other districts with results that would have been expected had sentencing followed the pattern observed in the Fifth District:¹

OTHER JUDICIAL DISTRICTS	TOTAL SENTENCED	STRAIGHT PROBATION	RESIDENTIAL CORRECTIONS	COUNTY JAIL	STATE PRISON
EXPECTED	5573	63.5% (3540.6)	17.9% (997.2)	0.9% (48.1)	17.7% (987.0)
OBSERVED	5573	74.4% (4147)	0.2% (13)	3.7% (207)	21.6% (1206)
DIFFERENCE	0	10.9% (606.4)	17.7% (984.2)	2.9% (158.9)	3.9% (219)

61.6% ← → ↑ ← → 16.1% ← → 22.3%

According to the above, the 17.7% difference is the union of three parts as follows:²

HYPOTHETICAL RESIDENTIAL CLIENTS WERE SENTENCED TO:	CASES	%
STRAIGHT PROBATION	606.4	61.6%
COUNTY JAIL	158.9	16.1%
STATE PRISON	219.0	22.3%

¹ Expected results were computed in the same manner as before, only observed rates for the Fifth District - per scale level - were multiplied by observed numbers of cases for the other districts (opposite of previous calculations).

² Previously, in comparing observed with expected rates for the Fifth District, the 18.0% difference was seen as splitting into three parts. Notice that the arrows move back to the 17.7% rather than away from the figure - as was the case before.

To obtain the expected results, including 997.2 residential corrections clients, judges would have placed in these (hypothetical) facilities 606.4 persons who otherwise would have received straight probation, 158.9 who otherwise would have been placed in county jails, and 219 who otherwise would have received prison sentences. Accordingly, under the stated assumptions, residential facilities outside the Fifth District would have reduced direct court commitments from these districts from the observed 1206 to 987, or by 18.2%. Total direct court commitments across the state would have dropped from 1586 to 1367, or by 13.8%, and the prison population would have dropped by an estimated 11.4%.

Under the stated assumptions, one could then calculate that a statewide residential corrections program - including the Fifth District facilities - could have reduced direct court commitments in the state from 1664¹ to 1367, or by 17.8% (drop of 297). This, then, would have been the total estimated impact of statewide residential corrections programs on direct court commitments -- under the stated assumptions.

Stated otherwise, without residential programs - in or out of the Fifth District - total direct court commitments would have been 297/1367 or 21.7% higher than in the situation of total statewide programming. This, then, would have been the total estimated impact of not having a statewide residential corrections program -- under the stated assumptions.

In terms of the sentencing disparity issue raised by the Commission, the results - and the assumptions on which they are based - lead to the conclusion that 219 offenders were directly committed to state prisons during 1974-1976 because of higher rates of incarceration outside the Fifth District. To better illustrate the source of these 219 offenders, observed and expected results for the other districts are displayed individually for each level of the Offender Attribute Scale. Again, the expected rates are observed imprisonment rates - for individual scale levels of persons handled in the Fifth Judicial District.

SCALE LEVEL	IMPRISONMENT RATES - OTHER JUDICIAL DISTRICTS		
	EXPECTED (E)	OBSERVED (O)	O-E ²
7	95.0%	92.1%	-2.9%
6	66.8%	73.1%	6.3%
5	50.6%	57.1%	6.5%
4	32.4%	38.7%	6.3%
3	16.1%	22.4%	6.3%
2	9.0%	10.5%	1.6%
1	5.1%	7.6%	2.5%
ALL OFFENDERS	17.7%	21.6%	3.9%

¹ The estimate previously given of what total direct court commitments would have been had the Fifth District residential program not been in existence during 1974-1976.

² Note that the largest differences are in levels 3 through 6.

These differences in imprisonment rates translate into hard numbers of sentenced individuals as follows:

SCALE LEVEL	NUMBER IMPRISONED - OTHER JUDICIAL DISTRICTS		
	EXPECTED (E)	OBSERVED (O)	O-E
7	41.3	40.1	-1.3
6	108.0	118.1	10.1
5	185.6	209.8	24.1
4	249.4	298.3	48.9
3	191.4	266.7	75.3
2	130.2	152.9	22.7
1	81.1	120.2	39.1
ALL OFFENDERS	987	1206	219

The connection between the numbers given above and the thesis of the Advisory Commission regarding sentencing disparity is direct. That is, these numbers provide precisely the information that the Advisory Commission would have examined to isolate the effects of sentencing disparity between the Fifth and other judicial districts, had it been available at the time.¹

As previously stated, the assumption leading to the 219 figure was that observed differences between incarceration rates in and out of the Fifth District - for the same offenders - were due solely to the lack of residential facilities outside the Fifth. Thus the 219 offenders would constitute the total number of "victims" of the type of sentencing disparity concerning the Commission, at least among felons directly sentenced to prison during 1974-1976. Again, as previously noted, the 219 amounted to 13.8% of all offenders directly committed during 1974-1976, and an estimated 11.4% of the active prison population as of December, 1976. The question remains: How does the existence of the 11.4% relate to the issue of the 15-20% release group?

Quite clearly, with the 15-20% recommendation, the Commission was aiming at what they felt were a good number of the "victims" mentioned above, i.e., imprisoned offenders who would have been placed in community residences had they been in existence. The difficulty in translating this recognition into a release strategy was that there would be no direct way of pinpointing precisely which individuals would have been handled in this manner had statewide residential programs been available.² To address this gap, the Commission chose instead to recommend the release of individuals with low Offender Attribute ratings - regardless of the judicial district from which they were sentenced. The idea here was that it seemed likely that most of the so-called victims would be rated low on the scale, and that accordingly, most would be released if those in low levels were uniformly released. Releasing in-mass all those scoring low - except those screened out by the parole board - would also seem a more just procedure, since otherwise offenders with worse (higher) scores might be released ahead of offenders with better (lower) scores.

¹ For all that the Commission examined only active correctional populations and failed to delete probation and parole violators in discussing sentencing patterns.

² In other words, our 11.4% group identified above were "in number only."

However, as was previously discussed, an analysis of the 650-group of inmates scoring in the lower three levels of the scale determined that many were, in fact, "poor risks" for release, and that many had recognizable factors behind their incarcerations. Thus how would the wheat be separated from the chaff?

Ideally, if the "victims" could be individually identified, then there would seem to be sufficient cause to release them. However, it will be observed that the 219 group (last column of last table above) contains offenders scoring in all but the highest level of the scale. Releasing counterparts of the 219 in an active prison population would then involve releasing a number of "higher level" individuals while at the same time ignoring "lower level" offenders who were not so-identified. This too would cause a problem.

One might then think of releasing only those "victims" who scored low on the Offender Attribute Scale. This would serve the dual purpose of limiting consideration to actual "victims," and simultaneously to "better candidates" for community programs. Indeed, the group of offenders scoring in the lowest three levels of the Offender Attribute Scale who were imprisoned because of sentencing disparity would seem to be the ideal or "true" select group for the Commission.^{1,2}

According to the last table above, this group of low-level victims contained just 137 (75.3+22.7+39.1) among the 1586 directly committed offenders for 1974-1976 -- or 8.6%. Furthermore, low-level victims would likely comprise no more than 5.7% of the active prison population as of December, 1976. Thus a suitable release group of persons incarcerated for the reasons identified by the Commission might contain 6% of the prison population. However, there would be no obvious way to draw the 6% from those inmates scoring low on the scale.

From another angle, one can observe that the victims of sentencing disparity among the (650-member) select group comprised only a small fraction of that group, namely 5.7%/33.6% or 17%. In other words, of the 650 inmates scoring in the lowest three levels of the Offender Attribute Scale, only 17% were incarcerated for the reasons addressed by the Commission, i.e., higher imprisonment rates outside the Fifth District directly attributable to the under-development of community-based corrections.

According to the logic used by the Commission, the "true" select group (as discussed above) would have consisted of that portion of other-district "counterparts" to Fifth District residential clients (among directly sentenced felons) who scored in the lowest three levels of the scale and who were imprisoned. The following is a breakdown of all counterparts according to Offender Attribute score and sentence imposed:

¹ This since the Commission tied releasability of the 15-20% to sentence disparity and to the characterization of the 650-group as good candidates for release.

² Even though the individuals in the group couldn't be individually identified.

SCALE LEVEL	TOTAL COUNTERPARTS	STRAIGHT PROBATION	RESIDENTIAL CORRECTIONS	COUNTY JAIL	STATE PRISON
7	2.2	3.4	0	0	-1.3
6	28.6	16.0	0	2.5	10.1
5	96.6	67.8	2	2.7	24.1
4	170.1	93.4	5	22.8	48.9
3	308.3	168.3	2	62.6	75.3
2	225.9	163.5	4	35.8	22.7
1	165.5	93.9	0	32.4	39.1
ALL OFFENDERS	997.2 (100%)	606.4 (60.8%)	13 (1.3%)	158.9 (15.9%)	219 (22.0%)

According to this table, most of the counterparts (699.7 or 70.2%) fell in the lowest three levels of the Offender Attribute Scale. If a large share of this group (the 699.7) had been committed to prison, then many more counterparts would have appeared among the Commission's select group than the observed 17% (as in the paragraph above). But, according to the observed sentencing of the counterparts, just 19.6% of the 699.7 (137.1) were imprisoned. Thus most (80%) of the Commission's ideal candidates for corrective release were not imprisoned to begin with. Indeed, as many as 61% were placed on straight probation.

IN LARGE PART (83%), THE SELECT GROUP OF THE ADVISORY COMMISSION ON CORRECTIONS RELIEF WAS A MIRAGE ASSOCIATED WITH AN INACCURATE ASSESSMENT OF PAST SENTENCING PRACTICES IN THE STATE. INDEED, MOST OF THE "TRUE" SELECT GROUP - CONSISTING OF "COUNTERPARTS" OF OFFENDERS PLACED IN COMMUNITY RESIDENCES IN THE FIFTH DISTRICT¹ - WERE ALREADY SERVING TIME IN COMMUNITY PROGRAMS.

In short, the fact that most (80%) of the "true" select group had not been imprisoned to begin with explained why most (83%) of the "chosen" select group (of prisoners) were not victims of sentencing disparity, and - secondarily - why so few of the select group came through the Master Plan analysis looking "clean" and like "obvious candidates" for community programs. Indeed, most of the expected group of "victims" of sentencing disparity among prisoners either were serving time on probation, were discharged to the free community, or had been placed in jail or prison as probation violators. In fact, many of the latter (probation violators) were recommended for release along with the intended group of "victims."

¹ Who scored in the lowest three levels of the Offender Attribute Scale.

COMMUNITY RESIDENTIAL CORRECTIONS

In discussing the use of the Fifth District residential program as an alternative to other programs, and the actual sentencing of counterparts to the Fifth District residential clients, we have referred to this point only to those offenders directly sentenced by the court for felonies. Indeed, the following results - based on the stated assumption¹ - play key roles in the renewed perspective on the use of residential facilities as sentencing alternatives:

- 1) Of the 350 directly sentenced felony residential clients in the Fifth District (1974-1976), 61.6% (215.4) were placed as an alternative to straight probation, 15.7% (55.0) as an alternative to county jail placement, and 22.7% (79.5) as an alternative to imprisonment.²
- 2) Of the 984 other-district counterparts to the 350 Fifth District residential clients (1974-1976), 61.6% (606.4) were placed on straight probation, 16.1% (158.9) were placed in county jails, and 22.3% (219) were placed in state prisons.³

Thus, without any residential placements whatsoever in the Fifth District during 1974-1976, direct court commitments from the District would have been up (over expected levels) by 80. Similarly, with a full residential program outside the District (used to the extent of the Fifth District program) direct court commitments from the other districts during 1974-1976 would have been down (below observed levels) by 219. The questions remain:

- 1) What percentage of total Fifth District residential corrections admissions during 1974-1976 were as alternatives to direct court (prison) commitment?

In other words, to what extent did the Fifth District residential program operate as an alternative to direct court commitment for all admitted clients?

- 2) What percentage of total out-of-Fifth District residential corrections admissions during 1974-1976 (again assuming similar level of use to Fifth District) would have been alternatives to direct court commitment?

¹ That the availability of residences and higher Offender Attribute scores among offenders sentenced in the Fifth District were the sole sources of observed sentencing differences between the Fifth and other districts.

² These figures were derived to apply to the 345.4 difference between the Fifth and other districts, but are applied in this context to all 350 of the Fifth District group.

³ Not including the 13 offenders who were placed in existing pre-institutional residential beds.

In other words, to what extent would an other-district residential program have operated as an alternative to direct court commitment for all admitted clients?

The answer to the first question is dictated in part by the result that 22.7% of directly sentenced felony clients were admitted "as an alternative to imprisonment." The complete answer then rests on knowledge of the percentage of Fifth District residential clients who were admitted by direct sentence from the court for felonies. An analysis by the SAC staff of all data on 1974-1976 admissions to Fifth District facilities indicates that this percentage was approximately 58%. Namely the 350 directly sentenced felons composed 58.3% of an estimated 600 total admissions.¹

We then have the results that 58.3% of Fifth District residential admissions were of directly sentenced felons, and that 22.7% of the latter group were placed "as an alternative to imprisonment (direct court commitment)." It then follows that 22.7% of 58.3% (79.5 among 600) or 13.2% of total Fifth District residential admissions during 1974-1976 were as alternatives to direct court (prison) commitment.

Assuming that the 58.3% figure would have applied equally to the other districts had a full residential program been in existence, it would result that 22.3% of 58.3% or 13.0% of an estimated 1710 residential corrections clients outside the Fifth District would have been placed as an alternative to direct court (prison) commitment.²

In a broader context, one can ask to what extent the Fifth District residential corrections program operated as an alternative to imprisonment in general, and - equally - how often the group of counterparts to "all" Fifth District residential clients were imprisoned (in general).³

To answer these questions, we rely on previous findings, and on the further estimate that no more than 7% of admissions to Fifth District residences during 1974-1976 were of persons who would have been imprisoned by other than direct court commitment (probation revocation,

¹ Indeed, about 25% of admissions were of misdemeanants who could not possibly have received prison sentences, and an additional 17% were of pre-trial or pre-sentence (alleged) felons who were not directly sentenced to the facilities. The latter group (of felony offenders) included offenders transferred from other (pre-trial and post-conviction) programs, including pre-trial services, state parole, probation, state prisons (work release), drug and alcohol treatment facilities, and county jails (the latter by administrative transfer rather than delayed imposition of sentence).

² Based on a full count of 997 expected admissions of directly sentenced felons (13 of whom were actually placed in residential beds).

³ In other words, how many Fifth District residential clients would have been imprisoned by direct court commitment, probation revocation, etc., had the program not been in existence, and how often were their counterparts in other districts imprisoned by direct court commitment, probation revocation, etc.?

etc.) had the program not been in existence.¹ We could then conclude (by adding the 13.2% and 7% figures) that:²

DURING 1974-1976, THE FIFTH JUDICIAL DISTRICT RESIDENTIAL CORRECTIONS PROGRAM OPERATED AS AN ALTERNATIVE TO IMPRISONMENT FOR NO MORE THAN 20% (120) OF THE ESTIMATED 600 OFFENDERS ADMITTED TO THE PROGRAM.³

But, according to program outcome and recidivism data developed by SAC, approximately 25% of Fifth District residential clients (and particularly those most likely to fall among the 120) were admitted to prison before discharge to the free community.⁴ Thus:

DURING 1974-1976, THE FIFTH JUDICIAL DISTRICT RESIDENTIAL CORRECTIONS PROGRAM SUCCESSFULLY DIVERTED FROM THE STATE PRISON SYSTEM NO MORE THAN 15% OF ITS CLIENTS.

Based on parallels drawn between the Fifth District residential corrections experience and the likely experience in other districts - had residences been available, we can estimate that:

JUST 15% OF THE OTHER-DISTRICT "COUNTERPARTS" TO FIFTH DISTRICT RESIDENTIAL CORRECTIONS CLIENTS WERE IMPRISONED OFFENDERS WHO WOULD HAVE BEEN SUCCESSFULLY DIVERTED FROM THE PRISON SYSTEM HAD RESIDENCES BEEN AVAILABLE.

IN CONTRAST

With the above, we can now bring into focus the essence of the contrast between views of the Advisory Commission on Corrections Relief and findings of the Adult Corrections Master Plan Project and the Statistical Analysis Center.

In simple terms, the Advisory Commission perceived the state of adult

¹This 7% consisted of all persons admitted to the residences as probation or parole violators, or on institutional work release status, plus a (very) few others who rated as "possibles." It is likely, however, that a significant (but unknown) fraction of the 7% would have been placed in county jails or state halfway houses had the facilities not been in existence. Thus the 7% figure is an "upper limit."

² Again, retaining the assumptions upon which the 13% figure and other results were based, namely that the availability of residences in the Fifth District and higher Offender Attribute scores among Fifth District offenders were the sole sources of observed sentencing differences.

³ That is, no more than 120 of the 600 would have been admitted to prison (or would have remained in prison) had the program not been in existence.

⁴ This 25% includes those who were transferred directly to prison from the residential facilities, and those who were subsequently sent to prison while serving time on probation (or parole) after release from the facilities.

corrections in Iowa to be along the following lines:

- 1) Existing community corrections facilities in the Fifth Judicial District had operated mainly as alternatives to imprisonment.
- 2) The void created by the lack of community corrections facilities outside the Fifth District had led to high rates of incarceration outside the District. Indeed, sentencing disparity based in part on the lack of a statewide residential program had resulted in a large number of unnecessary incarcerations.
- 3) New residential facilities outside the Fifth District held the potential to substantially decrease prison admissions, and - accordingly - the prison population. No thought would need to be given to the possibility of a continuing increase in the number of prisoners.

The contrasting portrait of adult corrections leading from more recent work of SAC and the Master Plan Project is as follows:

- 1) During 1974-1976 the Fifth Judicial District residential corrections program operated as an alternative to imprisonment for no more than 20% of its clients, and successfully diverted from the prison system no more than 15%.
- 2) There was no pronounced difference in imprisonment rates during 1974-1976 between the Fifth Judicial District and other districts.

JUDICIAL DISTRICT(S)	IMPRISONMENT RATE	
	ACTUAL	CORRECTED ¹
FIFTH	19.8%	17.7%
OTHER DISTRICTS	21.6%	21.6%

- 3) It is likely that no more than 15% of the "counterparts" to Fifth District residential corrections clients (from other judicial districts) were imprisoned offenders who would have been successfully diverted from the state prison system had residential corrections programs been available outside the Fifth District. Indeed, no more than 13% of these counterparts were directly committed offenders who might be considered the "victims" of an incompletely developed community corrections system.

¹ Fifth District rate corrected to apply to "profile" of offenders handled in other districts.

In addition, those among the "victims" who were imprisoned as of December, 1976 comprised no more than 17% of the Advisory Commission's select group for early release. In all, the actual "victims" among the select group consisted no more than 6% of the prison population, and furthermore were not individually identifiable for the purposes of early release screening.¹

An independent analysis of the Commission's select group found that nearly half (48.6%) were inmates who had previously been placed in community corrections programs on the current sentence and had failed (probation and parole violators), and others who were not committed for criminal acts in the first place.² Furthermore, recidivism results for similar offenders previously released suggested the select group to be no better risks for release on parole than other inmates. Among members of the select group who were directly committed, 75% would have been rated - at the time of sentence - as worse than average risks for release on probation.³ For most of the rest (25%) "aggravating circumstances" were given (in case files) as reasons for commitment.

- 4) The current study estimates that if residential facilities had been available outside the Fifth District during 1974-1976, and if they had reached the level of use of the Fifth District facilities, then the facilities would have admitted a total of 1710 clients. With an average 570 admissions per year (1710 over three years), and an average length of stay of four months, 190⁴ beds would have been required (plus a few extra to act as a buffer against uneven flow).
- 5) During 1974-1976, the Fifth Judicial District residential corrections program reduced the total prison population in Iowa by an estimated 3.8%.⁵ A statewide program, such as that contemplated in this study, would have further reduced the population by an estimated

¹ Indeed, the victims were "in number only," i.e., they didn't have precise identifiable characteristics that would separate them from other offenders.

² The latter consisting of civilly committed persons, and individuals admitted for safekeeping or evaluation prior to trial or sentencing.

³ According to a probation risk assessment device developed in the early stages of the Adult Corrections Master Plan project.

⁴ An average four-month length of stay would have meant three population turnovers per year on the average, and accordingly 1/3 as many beds as total admissions.

⁵ From an expected 2030 to 1952, as of December, 1976.

11.4%.¹ In all, a total statewide residential corrections capability would have reduced the prison population by an estimated 14.8%² (below levels expected without any pre-institutional residential capability).

If the estimates³ used by the Advisory Commission to compute the impact of new residences on prison admissions had been an accurate reflection of reality for the years 1974-1976, then a total statewide residential capability in Iowa would have reduced the total prison population by 36.8%.⁴ This level of impact would have been 150% higher than that estimated here. Indeed, the 150% discrepancy is a simple way to "sum up" the essential differences between the Advisory Commission and Master Plan/SAC positions on the matters at hand.

SUPPORTING OBSERVATIONS

In retrospect, one can gain an appreciation for the wide divergence of views as expressed above by examining the circumstances that would have had to be in effect for the Commission's assumptions to be accurate.

Essentially, the Commission's position revolved around the validity of the assumption - left unsupported - that 75% of Fifth District residential corrections clients were admitted as an alternative to imprisonment, i.e., that 75% would have been imprisoned had the program not been available. If this assumption had been correct, then it would seem logical that most of the residential corrections "counterparts" sentenced in other districts were being imprisoned, that most of these individuals would fall in the "select group," and that new residences outside the Fifth District would hold the potential to substantially decrease prison admissions. But, as seen above, the weight of available evidence suggests that the 75% estimate was vastly in error. Indeed, an analysis of sentencing differences between the Fifth and other judicial districts during 1974-1976 suggests that residential facilities operated as an alternative to imprisonment for no more than 20% of their clients.

¹ From 1952 to an expected 1729, as of December, 1976.

² From an expected 2030 to an expected 1729, as of December, 1976.

³ That 75% of 600 Fifth District residential corrections admissions and 60% of 1710 admissions to residences in other districts, would have been "as alternatives to imprisonment," and that 40% of those admitted to the new residences would have failed (and been sent to prison) before completing the program. The stated result (36.8%) is also based on the fact that 25% of the Fifth District residential clients did fail in this way.

⁴ From an expected 2296 to an expected 1451, as of December, 1976.

For the 75% estimate to have been accurate, it would need be the case that all or virtually all felony clients (of the Fifth District residential programs) were placed as an alternative to imprisonment. This follows since from 20-30% of program clients were misdemeanants who could not possibly have received prison sentences. That the Commission staff director believed 75% of program clients to be sentenced for felonies and that all of such were placed as an alternative to imprisonment follows from statements appearing in the last of the NCCD evaluations,¹ which Mr. Steggerda authored:

On the basis of the seriousness of the sentencing offense - felony or non-felony - it was discovered that the [residential] program exists both as an alternative to jail and as an alternative to prison. Of the 246 clients in the first 18 months, 188 (76%) were sentenced on felony charges and 58 (24%) on non-felony charges. (p. 61). . . If all of the clients sentenced to the Residential Corrections program (Fort Des Moines) on felony convictions had been sentenced instead to the Men's Reformatory or State Penitentiary and had served an average of 684 days in one of these state institutions, a total of 75,294 days would be served in the state institutions by these clients, thereby increasing the average daily populations of those two institutions by 111 persons. Since the Residential Corrections program tends to dispose of persons more quickly than the state institutions, this number could be expected to nearly double within the next year. (p. 151)

Suppose, then, that all felony offenders sentenced to residential corrections programs during 1974-1976 were placed as an alternative to imprisonment. It would then follow that the Fifth District imprisonment rate would have been 38.0% had the residential program not been available (including the observed 19.8% who were imprisoned). This 38.0% rate would have been 59% higher than the comparable 23.9% rate² for the other districts. Even if the Commission had assumed that just half of felony residential corrections clients were placed as an alternative to imprisonment, it would still follow that judges in the Fifth District tended to imprison significantly more often (28.9% to 23.9%).

If, in fact, all (18.2%) of the residential clients were placed as an alternative to imprisonment, it would seem logical to assume that their "counterparts" in other judicial districts were all imprisoned.³

¹ R. O. Steggerda, P.S. Venezia, Community-Based Alternatives to Traditional Corrections - The 1973 Evaluation of the Fifth Judicial District Department of Court Services - State of Iowa, National Council on Crime and Delinquency Research Center, February, 1974.

² Corrected from 21.6% to apply to the same profile of offenders as handled in the Fifth District.

³ In other words, that the lack of comparable programs in other districts had led to the imprisonment of comparable offenders.

In other words, the original assumption regarding the 75% leads logically to the conclusion that residential programs outside the Fifth District would have drawn all of the counterparts (17.9% of all sentenced outside the District) away from the prison system, thereby reducing the imprisonment rate for the other districts from the observed 21.6% to 3.7% (21.6%-17.9%). The 3.7% figure is 79% lower than the corrected 17.7% rate for the Fifth District. That this result is out-of-bounds is consistent with the specious nature of the 75% estimate.

In short, for the Commission to have been correct with the 75% estimate, and the resulting implications concerning sentencing disparity, judges in the Fifth District would have to have been much more inclined - a-priori - to imprison offenders than judges in other districts. Considering the fact that community corrections first came to the fore in Iowa in the Fifth District, it would seem highly unlikely that this situation could have existed during the period in question.

There is another - independent - line of reasoning that casts doubt on the validity of the Commission's assumption that all felony residential corrections clients were placed "as an alternative to imprisonment," and on the accompanying 75% estimate. The stated assumption essentially would mean that judges could identify precisely what the sentence would have been - absent the residential alternative - and, in addition, that they chose not to place any felony offenders in the program who would otherwise have been placed on probation or in a county jail.

In other words, the assumption assumes that judges knew precisely who the "prison types" and the "probation types" were, and chose to place only the former in residential facilities. The only other alternative to this high degree of prescience would be that judges somehow made the residential placement decision as an "afterthought" to the original sentence, and that the availability of the residential program had no effect on the initial sentencing decision.¹ Anyone with knowledge of the way sentencing decisions are made would know that both of the above possibilities are baseless.

Judges do not know precisely who the "prison types" and the "probation types" are, and furthermore could not totally ignore the residential capability in imposing the "original" sentence. Even if judges could exercise prescience or could ignore the residential capability in imposing sentences, there would be little reason for them to restrict use of the residences to "prison types" or to those receiving prison terms. In fact, there could well be a group of offenders who would normally receive probation, who would be good candidates for the residential program. Such could include offenders showing a need for more supervision and control than that afforded by straight probation, but who were not in serious enough circumstances to warrant imprisonment. That judges would place none of such individuals in residential programs is another baseless assumption.

¹ That is, judges kept the residential capability "out-of-mind" in imposing the original sentence, and then selected residential clients solely from those receiving prison terms.

We also make note of the fact that the Commission's report itself gives evidence that the stated conclusions are erroneous. Namely, the report shows that the incarceration rate for offenders active on October 1, 1976 was actually higher for the Fifth District than for the rest of the state. Indeed, figures on page 77 of the final report¹ establish that the incarceration was 28.5% for the Fifth District and 26.9% for the other districts. Somehow this fact was disguised in the Commission's discussion of sentencing disparity. If the 75% estimate had been correct, then there should have been a substantially lower incarceration rate in the Fifth District. That there was not should have been an indication that one or more of the assumptions on which the conclusions were based was in error.²

One of the Commission's most interesting conclusions - which appears not to have been supported with any evidence whatsoever - was the statement on page 120 that "probation is used far less frequently in Iowa than in many other states." If sentencing disparity was of the type envisioned by the Commission, then it would seem possible that Iowa could be behind many other states in the use of probation. Without this form of disparity, the validity of the assumption becomes somewhat more tenuous. In this vein, make note of the following comments, which appeared in the March, 1977 issue of Corrections Magazine:

"Judges are drawing the line [on probation]," said John J. Flanagan, professor of social work at the University of Wisconsin at Madison. While they were willing to give offenders a second or even a third chance at probation in the past, Flanagan says they are now sending them to prison. "There are realistic constraints on how far you can push the probation notion," Flanagan said. He suggests that probation may have a natural limit of about 70 per cent of convicted felons who can be safely absorbed. Some states have already surpassed that line, he said, and are now falling back toward it.

Flanagan's comments are interesting in light of the fact that during 1974-1976, 79% of felony sentences in Iowa involved the use of probation, and 71% straight probation. This would seem to suggest that Iowa has been among the most progressive of states in its reliance on community-based alternatives.

In retracing the arguments presented in this report, the reader will find that most of the key numerical results derive from the assumption that the sole sources of sentencing differences between the Fifth and remaining districts were the availability of residential facilities in the Fifth District and higher Offender Attribute scores among offenders sentenced in that district. This assumption was adopted since it provided exactly the format necessary to test the Commission's observations on sentencing disparity and the 15-20%. Having reached the conclusion that the Commission's position was

¹ See also page 54 of this report.

² Also, the observed incarceration rates are inconsistent with the Commission's statement on page 120 that "probation appears to be utilized well by the judges in some judicial districts, and very rarely, by comparison, in others." Note that no district placed fewer than 61% of offenders on straight probation.

essentially without merit, one can now go back and question the validity of the original assumption. Would sentencing have been more or less severe in the Fifth District - for the same offenders - had the residences not been available?

In reviewing the given arguments, it follows that the validity of the assumption in question is most nearly equivalent to the validity of the following result -- which paved the way for most of the remaining observations:

DURING 1974-1976, THE RESIDENTIAL CORRECTIONS PROGRAM IN THE FIFTH JUDICIAL DISTRICT OPERATED AS AN ALTERNATIVE TO IMPRISONMENT FOR 22.7% OF THE FELONY OFFENDERS WHO WERE DIRECTLY SENTENCED TO THE PROGRAM.

To the extent that the stated assumption was inaccurate, this result would be inaccurate in like measure, and vice versa. Thus it is appropriate to provide support for the above conclusion through other evidence not directly tied to the original assumption.

The most obvious way to accomplish this aim is to restrict attention to sentencing in the Fifth Judicial District, thereby ignoring aspects of comparative sentencing between the Fifth and other districts. In particular, one can examine the characteristics of the residential corrections clients of concern and relate these characteristics to observed sentencing for "similar"¹ offenders who were not placed in residential facilities. The idea here is that the sentencing of similar non-residential clients might reflect - in large part - the likely sentencing of the residential clients had the residences not been available. This in turn would provide evidence as to the validity of the 22.7% result.

One simple way to address this question is to note that the average (mean) Offender Attribute score (1 to 7 scale) for Fifth District residential clients is 3.04, which suggests that the "typical" residential client was a "3" on the scale.² But, among non-residential clients rated at level 3 (LOW-MEDIUM incarceration rating), 21.7% were imprisoned. In other words, the rate of imprisonment (21.7%) for non-residential clients with characteristics of the "typical" residential client very nearly matched the "hypothetical" imprisonment rate (22.7%) for residential clients in a non-residential environment.

To expand this approach somewhat, we can take observed sentencing results for non-residential clients in the Fifth District as expected results for the residential clients in a non-residential environment, while controlling for offender differences via the Offender Attribute Scale.

¹ Similar meaning roughly "the same profile."

² Note also that more of the residential clients rates at level 3 on the scale (30.7%) than at any other level (next highest at level 2 (20.2%)).

The results of this calculation show that 28.8% of non-residential clients - with "the same profile"¹ as the residential clients - were imprisoned. In other words, we might have expected 28.8% of residential clients to have been imprisoned - absent the residential program - had they been sentenced in the same manner as observed non-residential clients. However, the same procedure yields a very low percentage (1.1%) of offenders placed in county jails, suggesting that in reality more of the residential clients would have been jailed than that anticipated by experience with other offenders. Indeed, more detailed analyses that are beyond the scope of this report suggest that as many as 15.5% of the residential clients would have been placed in county jails - absent a residential program. The likely sentencing of the residential clients in a non-residential environment would then have been as follows:²

<u>SENTENCE</u>	<u>%</u>
STRAIGHT PROBATION	59.9%
COUNTY JAIL	15.5%
STATE PRISON	24.6%

The 24.6% result is not so far removed from the original 22.7% result as to cast doubt on the validity of the latter.

Essentially, the result suggests that the observed pattern of sentencing in the Fifth District (for non-residential clients) was consistent with the stated assumption that led to the 22.7% finding.

THUS WE DRAW SUPPORT FOR OUR STATED CONCLUSIONS
FROM TWO DISTINCT - AND INDEPENDENT - PATTERNS
OF SENTENCING IN THE STATE DURING 1974-1976.

¹ Result corrected from observed 24.2% to apply to the Offender Attribute profile of residential clients.

² Assuming intra-district sentencing of non-residential clients could dictate - in large part - the likely sentencing of residential clients in a non-residential environment.

RECIDIVISM

Shifting focus to another concern of the Commission, there are some comments that should be voiced concerning recidivism rates developed by the Commission as measures of correctional effectiveness. On page 81 of their final report, the Commission summarized the results of a special recidivism study as follows:

OUTCOME CATEGORY	FINAL PROGRAM ASSIGNMENT			
	PROBATION	RES. CORR.	PRISONS	PAROLE
REVOKED DURING PROGRAM PROCESS	43 (18.7%)	24 (42.9%)	1* (0.5%)	77 (30.3%)
RELEASED FROM FINAL PROGRAM	187 (81.3%)	32 (57.1%)	185 (99.5%)	177 (69.7%)
-NO NEW OFFENSE	154 (82.4%)	19 (59.4%)	110 (59.5%)	145 (81.9%)
-NEW OFFENSE	33 (17.6%)	13 (40.6%)	75 (40.5%)	32 (18.1%)

TOTAL REVOKED OR NEW OFFENSE ¹	76 (33.0%)	37 (66.1%)	76 (40.9%)	109 (42.9%)
TOTAL FOLLOWED	230	56	186	254

On pages 81 and 82 of the report, the Commission comments, "There was considerable variation between programs with regard to frequency of new offenses, as indicated in Table A (the above). Of those released, probation and parole programs had similar recidivism rates (17.6% and 18.1% respectively) as did residential and institutional programs (40.6% and 40.5%). . . . As mentioned earlier in "Offender Populations" Section, the residential population had 45.7% within levels 3 and 4 of the Offender Attribute Scale, while Men's and Women's Reformatories had 48.8% in the same levels. It might be concluded, then, that the offenders sentenced to residential corrections are slightly less serious risks than persons sentenced to an institution, yet spend far less time in the program, and have a similar rate of recidivism."

It seems evident from the nature of the preceding statement that the Commission wished to support the use of residential corrections as an alternative to imprisonment by contrasting past experience between the two forms of correctional programming.

¹ This combined measure was not considered by the Commission.

* Escaped.

The recidivism data summarized above and the Commission's supporting comments merit some discussion.

First note that the Commission measured recidivism solely in terms of new offenses charged against the offender after release from the final assigned program.¹ In the case of probationers, parolees, and residential corrections clients, this definition would not cover new offenses charged against these offenders while under supervision, nor would it cover the fact of a revocation of release status. Because failures (and revocation) while under supervision tend to pull away more of the "poor risks" than the "good risks" from the pool eligible for post-program follow-up, it is not good practice to restrict attention to post-program recidivism rates.

Note, for example, that parolees have a higher revocation rate than probationers (30.3% to 18.7%), but nearly the same (post-release) recidivism rate (18.1% to 17.6%). It could well be the case that the small difference in the latter is due in large part to the large difference in the former. The same argument can be made concerning observed rates for residential corrections and the prisons, namely revocation may have drawn out many of the worse risks from the residential population, thus negating the possibility of a valid comparison of post-program recidivism rates with the prisons (note the high revocation rate [42.9%] for residential corrections). Thus a valid comparison of recidivism rates is hampered by restricting attention to post-program events.

Secondarily, a valid comparison of recidivism rates between community programs and the prison system should control for differences in "risk," i.e., differences in offender populations that can markedly affect recidivism rates. In this area, SAC studies and previous studies of the Bureau of Correctional Evaluation have suggested that differences in risk imposed by screening effects may well dictate more of the variation in recidivism rates than any other observable factors - such as treatment or other program effects. The Commission did attempt to bring in the issue of risk by suggesting that residential corrections clients were less serious risks than prison inmates, since they tended to score somewhat lower on the Offender Attribute Scale - on the average. We comment, however, that findings of SAC and the Master Plan Project suggest the Offender Attribute Scale not to be a measure of risk. Indeed, those inmates scoring high on the scale have been shown not to be significantly better risks for release on parole than other inmates. Also, a similar result has been found to hold true for the Chances of success on probation at the time of sentence. The Commission does comment - on page 68 - that the scale was not derived so as to be a measure of risk, but their use of the term "risk" with regard to the scale (pages 82 and 113) suggests that they assumed the scale to apply in this way.

¹ The final assignment program would be "parole" for those released from the prison system by parole, and would be "prisons" for persons released from the system by direct discharge (expiration of sentence).

A third point of concern is the manner in which ex-prisoners are split between those released on parole and those directly discharged to the free community. If those released by parole are counted as a group with those discharged, then the prison system would have a recidivism rate - according to the Commission's definition - of 29.6%. As it was, the Commission compared the rate (40.6%) for residential corrections with the rate for ex-prisoners who were discharged (40.5%), and thereby failed to take into account the lower rate for parolees (18.1%).

Finally, no statements are offered as to the length of follow-up for any of the groups in question. In terms of the way the study was designed, it seems likely that the Commission staff followed all individuals to a fixed date representing the collection of rapsheets from the Bureau of Criminal Investigation (BCI). If this were the case, and if candidates for the study were chosen based on their dates of release on probation (including residential corrections) or from institutions (parole or discharge),¹ then length of follow-up after release from probation or parole could be considerably less on the average than length of follow-up for those discharged from prison or released (favorably) from residential facilities. In short, the lower recidivism rates for probation (17.6%) and parole (18.1%) could be due to shorter lengths of follow-up.

To correct for the attrition effect (drop-out of higher risk offenders by revocation) and the inequitable splitting of ex-prisoners between parolees and discharges, and to lessen the problem of uneven follow-up, it makes sense to compare the combined measure at the bottom of the table (revoked or new offense²) among three groups as follows:

PROGRAM ASSIGNMENT	OFFENDERS FOLLOWED	REVOKED OR NEW OFFENSE	
		N	%
PROBATION	230	76	33.0%
RESIDENTIAL CORRECTIONS	56	37	66.1%
PRISON SYSTEM	440	185	42.0%

According to this newer definition, the residential corrections program entails a much higher rate of program failure and recidivism than either probation or the prison system.

The fact of a higher rate of recidivism for residential corrections programs is supported by the results of the Master Plan recidivism study, which revealed the following rates of movement to (or return to) the prison system in Iowa during an average 2 3/4 year follow-up of individuals released to the community during the mid-1970's:

¹ This seems likely, considering the method of compiling case outcomes, i.e., the inclusion of revocations along with post-program events.

² New offense after successful release from a program.

PROGRAM ASSIGNMENT	OFFENDERS FOLLOWED	IMPRISONED	
		TOTAL	NEW FELONY ¹
STATE PENITENTIARY	406	22.4%	14.3%
MEN'S REFORMATORY	552	24.0%	15.2%
WOMEN'S REFORMATORY	93	21.8%	13.8%

PRISON SYSTEM	1051	23.1%	14.6%

MEN'S PRISONS	958	23.1%	14.7%
RESIDENTIAL CORRECTIONS	176	26.7%	21.7%

According to these results, we again see a higher rate of program failure² and recidivism for residential corrections than for the prison system.

The concern then shifts to questions of screening effects and risk. Can we explain higher recidivism rates for residential corrections in terms of a selection process that identifies "higher risk" offenders for the program, and indeed higher risk offenders than those entering the prison system? If this were to be the case, it would run counter to the Commission's observation that residential clients were lower risk since they tended to score lower on the Offender Attribute Scale. It might also relate to the potential risk of residential corrections "counterparts" sentenced in other judicial districts, and perhaps explain in part the similarity (by way of risk?) between the Anamosa and residential corrections populations.

IMPLICATIONS

As stated in our initial discussion of the Advisory Commission's findings and recommendations, every indication seemed to point to the validity of their overall position. Indeed, the 75% estimate and the accompanying assumption concerning the potential impact of new residential facilities on prison admissions were supported by previous statements and perceptions of the Legislature, the Department of Social Services, and local corrections officials.³ Witness, for example, the statement of the Fifth District project's founder and director Bernard Vogelgesang: "We're really skimming the cream (of the prison population)."

¹ Sent to (or returned to) prison in conjunction with a new felony charge.

² The figures above cover both new offenses and technical violations of probation and parole, if they lead to imprisonment.

³ According to a former official of the Fort Des Moines program, visitors from other states were frequently told "You have to remember that these people (clients) would have been in prison without the program."

⁴ In other words, the Fort Des Moines program handled only the "best risks" among "prisoners." Mr. Vogelgesang was so-quoted in the September, 1976 edition of Corrections Magazine.

In reviewing the major points of the Commission's argument, we find a number of points that seem mutually supportive and - indeed - near conclusive, when considered as a whole. For example, the fact that 34% of the prison population fell in the lowest three levels of the Offender Attribute Scale was consistent with the fact that (apparently)¹ 20% of prisoners were non-violent and had no prior (adult) felony convictions. Both - in turn - were consistent with the (apparent)² similarity in Offender Attribute scores between reformatory inmates and residential corrections clients. Again, all of these observations were consistent with the belief that the lack of statewide residential facilities had led to a substantially higher incarceration rate outside the Fifth District. Finally, the latter belief was consistent with the (perceived) past role of the Fifth District residential program as a sentencing alternative, i.e., with the 75% estimate.³

That none of the above were based in fact is indicative of the extent to which common perceptions about the recent history of adult corrections in Iowa have been off the mark.⁴ Essentially, the work of the Master Plan project, and more recently of the Statistical Analysis Center, casts a whole new perspective on the comparative development of community-based alternatives inside and outside the Fifth Judicial District. Carefully compiled sentencing statistics for the years 1974-1976 show that - in effect - even more faith and reliance was placed on community alternatives outside the Fifth District than within the District. While the Fifth District residential facility did, indeed, divert a number of offenders from the prison system, still more were found to have been "diverted" from straight probation.

¹ Recall that many of the 20% had previously been on probation "on the current sentence," and had entered institutions as probation violators.

² This similarity was also - to an extent - artificial, although we have not yet discussed this fact. (See next section.)

³ As an afterthought, we might note that the 75% estimate was supported by the (apparent) near-coincidence of recidivism rates for ex-prisoners (40.6%) and ex-clients of residential corrections programs (40.5%). In other words, the fact that the recidivism rate was so high for the latter suggested that the program was dealing with individuals who otherwise would have been in the prison system. Our conclusion that the recidivism rate was - in fact - even higher for the residential program than for the prisons would lend even more weight to this argument.

⁴ It is appropriate to indicate that without Mr. Vogelgesang's emphasis on evaluation and accountability - which led to the NCCD evaluations and later the statewide data collection system now operated by the Department of Social Services - the erroneous conclusions about program operation and effect would likely yet be perceived as accurate.

One might easily conclude from these results that the counterparts - overall - received less supervision and control than the Fifth District residential clients to whom they are matched (in this analysis). This assumes, however, that straight probation involves as much "less" of such as imprisonment involves "more."¹

To settle this concern with "degree of supervision and control," we assign hypothetical "control points" to the various correctional alternatives, and then compare the total amount of control² between the residential and counterpart groups.

If one assigns points in the proportion 0:1:1:2 to STRAIGHT PROBATION, RESIDENTIAL CORRECTIONS, COUNTY JAIL, and STATE PRISON respectively, it results that the residential clients in the Fifth District were the subjects of 65% more control than their counterparts in other districts.³ Other point assignments and the corresponding percentage differences are as follows:

<u>CONTROL POINTS</u>	<u>% DIFF.</u> ⁴
0:1:2:3	1%
0:1:1:3	20%
0:1:2:4	-18%
0:1:2:2	30%
0:1:1:4	-5%
0:2:2:3	102%
0:2:3:3	74%

Note that the only assignments involving more control within the counterparts group are those in which we assume a low degree of control for the residential program in comparison to the prison system. In particular, all assignments with a control point ratio of 1:2 or 1:3⁵ involve more control for the residential clients (as a group).

Above and beyond a consideration of degrees of control afforded by various correctional alternatives, one might ask whether or not the total corrections cost of handling the residential clients in the community facilities was greater or less than the total cost of handling an equivalent number of counterparts in other districts (straight probation, jail and probation, prison and parole). Preliminary analyses completed by SAC suggest that the cost of corrections was not significantly less for the residential group than for their counterparts

¹ In comparison to residential corrections.

² As the sum of control points.

³ The fact that "0" points is assigned to straight probation is not meant to suggest that this alternative involves "no" supervision or control. Rather, this condition involves the "least" extent of such for alternatives considered in this study. Since the comparison desired must be based on a "ratio" scale, it was necessary to assign "0" points to straight probation.

⁴ Extent to which total points are higher in the Fifth District.

⁵ Residential corrections to the prisons.

in other districts.¹ In fact, there is evidence that the total cost may - in fact - have been less for the counterparts group (depending on the methodology used to assess total cost).

Although it may not have cost significantly more to handle the counterparts group in traditional programs, we do note that the costs of imprisonment, and - to an extent - the prison population, would have been reduced had residential programs been available to handle these individuals. (Recall our estimate that the prison population would likely have been 11.4% below observed levels had residential programs been available statewide, and had they been used to the extent of the Fifth District program).

The SAC estimate (11.4%) assumed that judges would have used the residential program as an alternative to imprisonment to the same extent as was the case with the Fifth District program. In reality, however, this assumption may not be an accurate one. Indeed, preliminary analyses of admissions to the new facilities during 1977-1978 suggest that the programs are being used even less as an alternative to imprisonment than were the Fifth District residences. This is supported by analyses of sentencing results for 1977-1978 which indicate no significant reduction in the imprisonment rate - outside the Fifth District - below the observed rate for 1974-1976.²

Due to the fact that the potential impact of new residences on the prison population was much less than that envisioned by the Commission, and the further likelihood that new residences have not reached even that level of impact, there would seem to be little likelihood that the reduction³ in the prison population projected by the Commission will actually take place.

In fact, the Commission's "most probable" estimate was in error by 20.5% after only one year (1780 projected to 2145 actual).⁴ This error remained stable at 21.0% after two years (1755 projected to 2123 actual).⁵ The reader should examine the chart on page 160 of Volume I to gain a full appreciation for the extent of error in the Commission's projection.

We note also that the original BCE projection was highly accurate after one year, but has been very much inaccurate after two years due to a

¹ The highest figure for the cost differential of the residential group over the counterpart group was 12.5%. Under the Commission's hypothesis that all felony clients were placed as an alternative to imprisonment, the cost differential would be 300%, i.e., the prison experience would cost four times as much as the residential experience.

² A thorough discussion of these data appears in Volume V: Felony Sentencing Practices.

³ Recall that the major factor behind the projected reduction was the estimated reduction in prison admissions to accompany the advent of the new residential programs.

⁴ March 1, 1978.

⁵ March 1, 1979.

leveling off of the prison population during 1978. We observe that the actual population trend is midway between the BCE and Advisory Commission (most probable) projections. In fact, the actual population in the prisons was exactly at the midpoint of the two projections as of the end of 1978.

THE PRISON POPULATION - UP OR DOWN?

As of June 30, 1979, the total prison population in Iowa rested at 2173, or 410 over the Commission's most probable estimate (1763) for that date. The source of this large-order difference after only three years (from the base of the projection - June 30, 1976) appears to rest primarily with a faulty estimate of the potential impact of new residential facilities on prison admissions. It may be the case, however, that the Commission failed to give enough weight to other factors that would tend to push the population up. Indeed, it would appear that the "age bulge" movement of the general population in the state into the most crime-prone category for adults (18-24) may account for more of an increase in the prison population than that projected by the Commission.¹

In addition, the new criminal code may have had an impact on the population that could not be foreseen by the Commission.² Indeed, the major conclusion of this study might well be the following:

THE GOVERNOR, THE LEGISLATURE, AND CORRECTIONS
OFFICIALS CANNOT RELY ON COMMUNITY CORRECTIONS
TO COUNTERACT THE POTENTIAL INCREASE IN THE
PRISON POPULATION ACCOMPANYING MANDATORY SEN-
TENCING PROVISIONS OF THE NEW CRIMINAL CODE.

The Master Plan project and SAC have been involved in a detailed study of the new criminal code and of its potential impact on the prison population. The results of this study will appear in another report from the Statistical Analysis Center.

¹ This factor would tend to increase the population only into the early 1980's, as thereafter the age bulge will move into less crime-prone age categories.

² The impact of the new code was given very little weight in the Commission's projection method.

IN SUPPORT OF THE ADVISORY COMMISSION

In retrospect, the evidence available at the time of the Commission's deliberations clearly gave strong support to their stated conclusions. Their position appeared to be correct both from the standpoint of common perceptions about adult corrections, and from the weight of available statistical evidence. In sum, their position appeared to be "air-tight," with various checks and balances figured in to assuage any doubt that might remain in the minds of the Governor, the Legislature, and corrections officials.¹

That the stated characterization of adult corrections was far off the mark did not become apparent until their work had been studied and refined extensively over a period of many months.² Indeed, the difficulties with various aspects of their position came to light only after a much refined perspective could be provided on the types of data considered by the Commission, and then only after careful analyses of many varied aspects of the sentencing and corrections system in Iowa. It is doubtful that the Commission could have discovered the true situation in adult corrections in the limited time allocated for their study.

It is important to recognize that the exceptions expressed in this report are not intended to be criticisms of the Advisory Commission itself. In fact, the Statistical Analysis Center respects the high degree of dedication and competence manifested by the Commission and its staff. The overall quality of their final report - short the difficulties discussed here - was beyond reproach. Both the depth and breadth of its concerns led right to the heart of problems facing adult corrections in Iowa. This report should not detract from the appreciation due the Commission for its landmark effort.

¹ At the time, this author held no grave objections to the Commission's stance, except perhaps from the standpoint of several technical points that were judged not to be of major significance. It was only with the work of the Master Plan Project that serious difficulties with the Commission's methodology came to light.

² The Statistical Analysis Center perceives this study to be a continuation and refinement of the work of the Commission, rather than as a rival effort attuned to an opposing interest. Without the work of the Commission, we would still be ignorant of many of the key forces operating in adult corrections in Iowa.

UNANSWERED QUESTIONS

In many ways, the scenario developed above is near-paradoxical. At the very least, the major findings are beyond normal intuition. Instead of being good risks for release, the Advisory Commission's select group consisted of only marginally better risks than other prisoners. Since the select group consisted of those prisoners most like community corrections clients, one would have expected them to constitute better risks for release than those who were more nearly consensus picks for imprisonment.

Beyond the above, we find that the residential corrections program in the Fifth Judicial District had a higher rate of recidivism than the state prison system, yet dealt mainly with individuals who would have received probation had the program not been in existence. This runs very much against the grain of intuition in that it suggests a group of "probationers" or "community corrections types" to be more prone to recidivism than "prisoners."

Finally, no comments have yet been offered to explain the high degree of similarity between inmates at the reformatories and clients of residential programs. If this similarity were to hold up under closer scrutiny, one would have an even more baffling set of circumstances to explain than that portrayed by the above. Indeed, how could such circumstances have found reality? Why wouldn't the select group be good risks? Why were offenders placed in community residences if not as an alternative to imprisonment? Are there some underlying forces that would account for the seeming illogic of the above?

V. RISK FACTORS AND SENTENCING

As discussed in Section II, research activities of the Social Services Bureau of Correctional Evaluation during 1975 and 1976 led to the development of a number of "risk rating" systems that identified specific types of offenders as failing at high, medium, and low rates in community corrections programs. Initially, these systems were utilized strictly for measuring past correctional performance. With time, however, refined systems were developed that could be used for screening purposes in the criminal justice system and for analyses of criminal justice decision-making patterns.

One of these new "risk assessment" devices, called the Probation Risk Assessment Scoring System,¹ was developed by the author and SAC's research analyst in conjunction with efforts of the Adult Corrections Master Plan Project. This system was carefully developed over a number of weeks to ensure the utility of the final product as a vehicle for the intended applications. Based on extensive work with the system over a two-year period since its development, the SAC staff believes the system to provide a highly accurate ranking of criminal offenders according to the propensity to fail in community-based corrections programs or to commit recidivist acts after conviction in court.²

It is important to recognize that the system is strictly a method of establishing "relative" risk among "groups" of criminal offenders, i.e., it tells us whether or not one "type" of convicted offender would typically be a better risk for success on probation than would another "type." No known methods exist to tell precisely what an individual offender's chances of success on probation would be or whether or not the offender would - in fact - fail if placed on probation. Strictly speaking, the system provides the best available indication of relative likelihoods of probation success based on past performance.³

¹ This system is not to be confused with another system developed for use in assigning supervision levels to probationers in the First, Third and Sixth Judicial Districts. To date, the original system has not been used for screening purposes by any criminal justice agency in Iowa.

² The system was not intended to provide rankings according to the propensity to fail or recidivate after release from prison, although it has a considerable degree of utility for such. Two other systems, the Parole Risk Assessment Scoring Systems - Versions I and II, were developed for this purpose. See Volume VII: Recidivism.

³ The system was developed to reflect degrees of success and failure of probationers and parolees released from caseloads in Iowa during 1974-1976. The system was structured so as to avoid screening effects associated with correctional placement decisions, e.g., sentencing. See pages 13-19 of this report. Also see Volume V: Felony Sentencing Practices for additional information.

The Probation Risk Assessment Scoring System was developed so as to apply directly to the sentencing decision. By this we mean that the system can be used for the purposes of studying past sentencing decisions, and perhaps also as a tool for improving future decisions.¹ To appreciate the utility of the system for studying past sentencing decisions, it is necessary first to establish the validity of the scale as a measure of "risk," and to provide the reader with enough background data to allow an appreciation of the distinctions between offenders rated at various "risk levels."

RISK ASSESSMENT SCORING

The forms on the following two pages illustrate the calculations and manipulations necessary to determine the risk level or risk rating of a given convicted offender.² The methods were designed to apply to all persons guilty of criminal offenses - misdemeanors and felonies alike. The particular method of computation of an individual risk rating is based on the results of a computer-assisted analysis of offender-related factors associated statistically with the propensity to violate the conditions of probation or parole or to be re-arrested while on probation or parole. A weighted scale of outcome was utilized in which more serious violations/charges were given more weight.³ Detailed discussions of the specific features and development aspects of the system are beyond the scope of this report and will be explained in a coming report from SAC.

The calculation of a risk rating involves a multi-stage process in which three measures of risk are computed separately, and are then combined into a single final measure of risk. The three "components" of risk are based respectively on 1) Socio-Demographic Profiles, 2) Criminal/Substance Abuse History, and 3) Current Offense Category. The first two components are scored by adding "points" applicable to an individual offender and then finding the "risk level" corresponding to the total score for that component. Thus a single male offender of age 26 at conviction, with a high school diploma but no employable skill, would score "3" under SOCIO-DEMOGRAPHIC PROFILE, and - in turn - 3 points would result in a risk level assignment of "2." If, in addition, the offender was committed (and thus also arrested) as a juvenile, had (overall) four prior arrests and a history of narcotics use (thus also a history of drug abuse), but had no aliases and no prior jail, prison or probation terms,

¹ It is vital to recognize the independence of these two applications of risk assessment, since the latter would entail the assumption - or judgment - that decision-making should be changed to reflect past performance in the system.

² The first form applies to male offenders and the second to female offenders.

³ Thus a new felony against person(s) was given the most weight.

STATE OF IOWA
PROBATION RISK ASSESSMENT SCORING SYSTEM
MALE OFFENDERS

SOCIO-DEMOGRAPHIC PROFILE

- 1 Current age 25-29
- 2 Current age 20-24
- 3 Current age under 20
- 1 No employable skill
- 1 No High School diploma
- 1 Common-law or not married

____ TOTAL POINTS

RISK LEVEL: 1 0-2, 2 3-4, 3 5-6

CURRENT OFFENSE CATEGORY - RISK LEVEL

- 1 Sex offense against juvenile, driving under influence - first offense, others not listed below.
- 2 Manslaughter, controlled substances except narcotics, driving under influence - second or third offense, stolen property, carrying weapons, vandalism, attempted rape, embezzlement, shoplifting.
- 3 Aggravated assault, murder, rape, narcotics, going armed with intent, larceny, fraud except bad checks, crimes against public morals, crimes against public justice and authority, conspiracy.
- 4 Robbery and assault to rob, burglary and attempts, motor vehicle theft, forgery/counterfeiting, bad checks, arson, extortion.

RISK PROFILE = SOCIO-DEMOGRAPHIC PROFILE/CRIMINAL-SUBSTANCE ABUSE HISTORY/CURRENT OFFENSE
= _____

RISK RATING

RISK PROFILES FALLING UNDER THIS RATING

ULTRA-HIGH RISK

163,164,263,264,353,354,363,364

HIGH RISK

154,162*244*253,254,262*334*342*343*344,351,352,361*362

HIGH-MEDIUM RISK

124,134,143,144,152,153,161,223,224,233,234,243,252,261,323,324,332,333

LOW-MEDIUM RISK

114,123,133,141,142,151,214,232,241,242,251,313,314,322,331,341

LOW RISK

113,131,132,213,222,231,321

VERY-LOW RISK

111,112,121,122,211,212,221,311,312

*Rate misdemeanants with these profiles as HIGH-MEDIUM RISK.

CRIMINAL/SUBSTANCE ABUSE HISTORY

- 4 Three or more prior arrests
- 4 Arrested as a juvenile
- 4 Committed as a juvenile
- 3 History of drug or alcohol abuse
- 6 History of narcotics use
- 1 One or more aliases
- 4 1-3 prior jail, prison, probation
- 8 4 or more prior jail, prison, probation

____ TOTAL POINTS

RISK LEVEL: 1 0, 2 1-3, 3 4-8,
4 9-13, 5 14-20, 6 21-30

STATE OF IOWA
 PROBATION RISK ASSESSMENT SCORING SYSTEM
 FEMALE OFFENDERS

SOCIO-DEMOGRAPHIC PROFILE

- 1 Current age under 30
- 1 No High School diploma
- 1 Common-law or not married

____ TOTAL POINTS

RISK LEVEL: 1 0-1, 2 2, 3 3

CRIMINAL/SUBSTANCE ABUSE HISTORY

- 1 Three or more prior arrests
- 1 Arrested as a juvenile
- 1 Committed as a juvenile
- 2 History of drug/alcohol abuse
- 1 History of narcotics use
- 2 One or more aliases
- 2 1-2 prior jail, prison, probation
- 4 3 or more jail, prison, probation

____ TOTAL POINTS

RISK LEVEL: 1 0-2, 2 3-5, 3 6-12

CURRENT OFFENSE CATEGORY - RISK LEVEL

- 1 Driving under influence, embezzlement, stolen property.
- 2 All other crimes.
- 3 Prostitution, bad checks, forgery, larceny, shoplifting, controlled substances except marijuana.

RISK PROFILE = SOCIO-DEMOGRAPHIC PROFILE/CRIMINAL-SUBSTANCE ABUSE HISTORY/CURRENT OFFENSE
 = _____

RISK RATING

RISK PROFILES FALLING UNDER THIS RATING

ULTRA-HIGH RISK

233, 331, 332, 333

HIGH-MEDIUM RISK

133, 223, 232, 322, 323

LOW-MEDIUM RISK

113, 123, 131, 132, 213, 222, 231, 312, 313

LOW RISK

112, 121, 122, 212, 221, 311, 321

VERY LOW RISK

111, 211

then he would score a total of "21" under CRIMINAL/SUBSTANCE ABUSE HISTORY, which - in turn - would lead to a risk level assignment of "6" for that component. Finally, if the offender was convicted of larceny, he would rate at level "3" under CURRENT OFFENSE CATEGORY. These three risk levels, "2" for SOCIO-DEMOGRAPHIC PROFILE, "6" for CRIMINAL/SUBSTANCE ABUSE HISTORY, and "3" for CURRENT OFFENSE CATEGORY, would lead to a composite "risk profile" of "263." According to the assignments given at the bottom of the form, an offender with risk profile 263 would be rated as "ULTRA HIGH RISK" for probation.

The reader is encouraged to experiment with the forms by assigning arbitrary characteristics to hypothetical offenders and by noting the resulting risk level assignments.

PAST PERFORMANCE ON PROBATION/PAROLE

The Probation Base Expectancy Scoring System was derived from a statistical analysis of patterns of probation/parole outcome in Iowa during the three-year period 1974-1976.¹ The specific variables and coding categories were identified from analyses of outcome during 1974-1975, with the results checked for validity against performance for cases closed during 1976.

The table on the following page summarizes the overall ability of the system² to distinguish "successes" from "failures" within the total study population of 4749 probationers and parolees. The reader should study these figures carefully to gain an appreciation for the relative extent of "failure" among the various risk levels.³ For those concerned with such matters, the system was found to have MCR ratings as high as .62 (construction), .53 (validation), and .59 (combined), depending on the exact criterion of "failure."⁴

¹ All persons leaving adult probation and parole caseloads in Iowa during this period by discharge, revocation or absconsion were considered. This population reflected 4749 "cases," including 2457 felony probationers, 1684 misdemeanor probationers, and 608 parolees. The use of the terms "success" and "failure" is for convenience only, as the SAC does not wish to make value judgments as to which types of probation/parole performance constitute true success or failure.

² The combined system applicable to both male and females.

³ The 4749 offenders in question served on the average (mean) approximate one year on probation or parole. Actual recidivism rates over a longer period - say two, three or four years - would be somewhat higher than the "within program" rates given in the table.

⁴ The stated levels of MCR apply to an 8-level weighted scale of probation/parole violation defined as follows: 0) NOT 1-7; 1) P.O. judged offender's condition to have deteriorated during probation/parole; 2) disciplinary action taken against the offender; 3) offender placed in jail or isolation at some time during probation/parole; 4) offender arrested for misdemeanor, absconded, or probation/parole revoked for technical violation; 5) offender arrested for Part II felony not against person(s); 6) offender arrested for Part I felony not against person(s); 7) offender arrested for felony against person(s).

PROBATION RISK ASSESSMENT SCORING SYSTEM
 PROBATION/PAROLE OUTCOME
 CASES CLOSED IN 1974-1976
 BY OFFENDER RISK RATING

OFFENDER RISK RATING	TOTAL CASES	NEW ARREST/CHARGE			REVOKED			ABSCONDER AT LARGE	JAILED/ ISOLATION	DISCIP. ANY OF ACTION PRECEDING	
		FELONY	MISD. ONLY	TOTAL	NEW OFF.	TECHNICAL	TOTAL				
ULTRA-HIGH RISK	404	37.4%	16.3%	53.7%	37.4%	6.2%	43.6%	5.7%	57.2%	66.2%	77.8%
HIGH RISK	687	25.2%	15.2%	40.6%	23.5%	7.6%	31.1%	4.9%	45.1%	55.4%	67.2%
HIGH-MEDIUM RISK	1082	15.9%	11.2%	27.1%	12.9%	4.3%	17.2%	3.0%	26.2%	38.6%	47.6%
LOW-MEDIUM RISK	1024	9.0%	9.3%	18.3%	7.4%	1.6%	8.9%	2.9%	16.4%	25.7%	33.3%
LOW RISK	786	2.6%	5.9%	8.5%	1.9%	1.4%	3.3%	1.8%	7.7%	16.4%	21.5%
VERY-LOW RISK	766	1.2%	4.1%	5.2%	1.7%	0.1%	1.8%	0.4%	3.6%	11.2%	13.1%
ALL OFFENDERS	4749	13.0%	9.8%	22.8%	11.7%	3.2%	14.9%	2.9%	22.7%	32.5%	40.1%

The reader may be curious as to why the system was developed as a measure of both probation and parole performance, when the stated intent was to measure the risk of failure on probation (only). The logic of this procedure (including both probationers and parolees) was that the performance of various categories of probationers could well have been affected by sentencing decisions, i.e., judges may have sent more of the "poor risks" to prison among certain categories of offenders than among others. Thus a risk assessment device based solely on the performance of probationers might well be biased by the "screening effects" of the sentencing decision.¹ By including parolees in the study groups, we essentially would have "stand-ins" for imprisoned offenders screened away from probation by judges. The staff found, for example, that the inclusion of parolees in the study sample gave higher risk ratings for certain categories of "violent" and "habitual" offenders - who were infrequently placed on probation - than would have been the case had parolees been ignored.

To fully appreciate the significance of the Probation Risk Assessment Scoring System and the way in which it ranks criminal offenders it is necessary to carefully examine the characteristics of offenders scoring in various risk levels, and to study failure rates for various categories of offenders defined in terms of some of the major "risk factors." The reader is encouraged to consult Volume V: Felony Sentencing Practices for information of this type.

SENTENCING BY RISK

As one of the major aspects of SAC's study of felony sentencing in Iowa, concentration has been placed on assessing the role of "risk" as a factor in sentencing decisions. SAC has not been so much concerned with whether or not risk was an explicit factor considered by sentencing judges as with the question of the degree of correlation of risk with the severity of sentencing decisions. Briefly stated, SAC has been concerned with whether or not judges historically have sent most of the "poor risks" to prison and placed most of the "good risks" in community programs.

This particular question - concerning risk factors and sentencing - came to light when the Master Plan staff, and later the SAC staff, was faced with the unanswered questions expressed at the end of the preceding section. Indeed, the following results of the Master Plan/SAC study seemed to suggest that "risk of recidivism" or "risk of program failure" may have played a somewhat different role in the sentencing and corrections system than had been previously envisioned:

- 1) Prison inmates who were "most like" clients of community corrections programs were not significantly better risks for release on parole (or on probation at the time of sentence) than were other inmates.²

¹ See page 14 of this report for a discussion of screening effects and their impact on risk assessment.

² That is, prisoners scoring in the lowest three levels of the Offender Attribute Scale were not better risks than prisoners scoring in the remaining four (higher) levels of the scale.

- 2) The Fifth Judicial District residential corrections program had higher recidivism rates than the state prison system, despite the fact that most (80%) of its clients would have been placed in non-prison programs had the residential program not been in existence.
- 3) Most (80%) of the other-district counterparts to Fifth District residential clients were placed in non-prison programs (despite a similarity to residential clients - who had high recidivism rates).

The above would seem to suggest that many "community corrections types" were as high risk as - or higher risk than - prisoners. If this was the case, then one could not conclude that judges had historically sent all (or even most) of the "poor risks" to state prisons.¹ Indeed, it would suggest that a "gray area" existed between clear-cut "prisoner types" and clear-cut "community types," where the latter would constitute consensus picks for community programs and good risks for placement in such. If, in fact, this "blurring effect" had a basis in reality, then the new perspective thus afforded might explain the apparent inconsistencies raised by the above findings of the Master Plan Project and SAC.

It should be noted at this point that SAC has great faith in the accuracy of its risk assessment methods. Numerous efforts to pin down possible failings in rating methods have served only to provide more and more evidence that the criteria are accurate. In fact, there seems to be a very definite empirical basis for establishing which convicted offenders are the most prone to recidivism, and furthermore the theory thus established applies well at virtually all stages of the criminal justice process, from pre-trial release programs, to probation, residential corrections, the prisons (misconduct), work release, parole, and post-program recidivism. Forthcoming reports from SAC will help establish the validity of this perception.

In any case, the SAC staff has a great deal of confidence in the Probation Risk Assessment Scoring System as a measure of the likelihood of recidivism and probation failure. At the very least, the system is judged to provide a valuable perspective on past sentencing processes in Iowa. In this vein, it should be noted that both the risk assessment methods and the sentencing results are based on observed experience in Iowa during 1974-1976. Ideally, one would hope to apply a risk assessment device based on prior experience, say for 1971-1973, to decision-making during an ensuing period, in this case 1974-1976.² This would be ideal since one could then hypothesize that judges had applied (1974-1976) knowledge of past experience

¹ We take care to distinguish judges' perceptions of which offenders are the "poor risks" for what actual experience dictates. It may well have been the case that judges uniformly sentenced to prison offenders whom they felt were the worse risks, despite the lack of an empirical basis for such perceptions. That is, judges may not have been able to determine precisely who the worse risks were among convicted felons.

² SAC is in the process of applying risk assessment methods developed from 1974-1976 data to sentencing results for 1977-1978. The results of this effort will appear in a forthcoming report from SAC.

(1971-1973) to their sentencing decisions. That risk assessment addresses the same period as the sentencing study suggests that the risk ratings are in part "after the fact," and not strictly contingencies that might apply "before the fact." However, the apparent universality of the underlying theory suggests that this distinction would cause no major difficulty in the context of the studies at hand.

All questions of interpretation aside, here are the statewide sentencing results for 1974-1976 expressed separately for each the six risk levels (ratings) of the Probation Risk Assessment Scoring System:

RISK LEVEL	TOTAL SENTENCED	STRAIGHT PROBATION	RESID. CORREC-TION	COUNTY JAIL	STATE PRISON
ULTRA-HIGH RISK	919	54.6%	11.3%	6.3%	27.9%
HIGH RISK	1626	59.4%	6.6%	4.6%	29.4%
HIGH-MEDIUM RISK	2009	68.9%	4.4%	1.9%	24.8%
LOW-MEDIUM RISK	1555	81.8%	2.7%	2.4%	13.1%
LOW RISK	834	83.3%	2.0%	1.3%	13.4%
VERY-LOW RISK	552	91.2%	1.0%	0.9%	6.9%
ALL LEVELS	7495	71.0%	4.8%	3.0%	21.1%

The first thing to note in the table above is that nowhere near a majority of offenders in any of the risk levels were sentenced to state prisons. In fact, just 28.8% of the 2454 offenders rated as HIGH or ULTRA-HIGH RISK were sent to prison.

THE POPULAR PERCEPTION THAT SENTENCING JUDGES IN IOWA IMPRISON HIGH PERCENTAGES OF TRULY "HIGH RISK" OFFENDERS IS NOT SUPPORTED BY THE FINDINGS OF THIS STUDY.

Of the 2454 offenders rated HIGH or ULTRA-HIGH RISK, 59.8% received straight probation, 8.6% were placed in residential facilities, 5.4% were jailed, and 28.8% were imprisoned.

The lack of a strong correlation between risk level and rate of imprisonment would suggest that perhaps risk - as defined here - was not a major factor in determining who among convicted felons should be imprisoned during 1974-1976.¹ To test this hypothesis it is necessary to control for other sentence-related factors, i.e., to ensure that any observed variations are due to the impact of "risk" and not to the correlation of risk with other factors considered by judges.

¹ In other words, that the "risk factors" that underlie the risk ratings were not major considerations of judges in handing out prison sentences.

Accordingly, we break out imprisonment rates, as in the last column of the table above, by Incarceration Rating, i.e., according to the 4-level grouping of the 7-level Offender Attribute Scale:

RISK LEVEL	INCARCERATION RATING			
	LOW (1,2)	LOW-MEDIUM (3)	HIGH-MEDIUM (4)	HIGH (5,6,7)
ULTRA-HIGH RISK	11.5% (175)	15.6% (358)	31.5% (196)	62.4% (190)
HIGH RISK	13.4% (524)	22.1% (521)	38.4% (285)	61.9% (296)
HIGH-MEDIUM RISK	10.3% (1021)	21.6% (410)	43.3% (337)	65.3% (241)
LOW-MEDIUM RISK	6.1% (1121)	24.0% (233)	32.3% (138)	56.4% (63)
LOW RISK	7.3% (666)	20.9% (61)	33.7% (69)	72.5% (38)
VERY-LOW RISK	5.6% (495)	21.4% (25)	15.5% (27)	----- (5)
ALL LEVELS	8.5% (4002)	20.7% (1608)	37.0% (1052)	62.9% (833)

IMPRISONMENT RATES (%)

The reader should carefully examine the variation in imprisonment rates within individual columns of this table. Such an examination will reveal that:

- 1) Overall, there is very little relationship between risk level and imprisonment rate.¹
- 2) The extent of association between risk and imprisonment rate in the first table - with no control for Incarceration Rating - is almost totally explained by the Incarceration Rating itself. More simply, most of the association of risk and imprisonment rate is explained by higher Incarceration Ratings among higher risk offenders.
- 3) Only for the lowest Incarceration Rating (LOW) does any apparent relationship of risk and imprisonment rate appear. Within this level, those rating higher risk (highest three levels) have higher imprisonment rates than those rating lower risk (lowest three levels). Within each of the higher and lower risk groupings, however, there is no significant difference in the rate of imprisonment.

¹ If there were a strong relationship, one would expect consistently lower percentages as one reads vertically down the table.

In sum, we are forced to conclude:

OVERALL, THERE WAS VIRTUALLY A "RANDOM" RELATIONSHIP BETWEEN THE RISK OF RECIDIVISM OR PROBATION FAILURE AND THE PROBABILITY OF IMPRISONMENT IN IOWA DURING 1974-1976.¹

The careful reader may sense a possible difficulty with the above interpretation, namely that offenders labelled as higher risk within a given Incarceration Rating may not indeed be higher risk. This could occur if the Offender Attribute Scale was statistically correlated with risk to the extent that offenders with higher Offender Attribute scores had higher failure and recidivism rates (that is were higher risk) than offenders with lower scores -- within individual risk levels. If this were the case, then the preceding table would not reflect an accurate perception of reality. That this possibility is without basis - and thus that our stated conclusions are correct - follows from the table below, which establishes that Offender Attribute scores have no relationship to probation/parole violation rates² within individual risk levels:³

RISK LEVEL	INCARCERATION RATING				ALL OFFENDERS
	LOW (1,2)	LOW-MEDIUM (3)	HIGH-MED. (4)	HIGH (5,6,7)	
ULTRA-HIGH RISK	72.2% (54)	59.7% (126)	60.3% (73)	59.6% (99)	61.7% (352)
HIGH RISK	47.8% (176)	52.8% (163)	50.7% (136)	46.4% (123)	49.5% (598)
HIGH-MEDIUM RISK	31.5% (359)	33.0% (200)	32.8% (128)	29.4% (95)	31.8% (782)
LOW-MEDIUM RISK	19.9% (487)	23.0% (100)	22.8% (57)	12.9% (31)	20.3% (675)
LOW RISK	10.6% (302)	16.7% (30)	12.9% (31)	6.2% (16)	11.1% (379)
VERY-LOW RISK	4.3% (232)	10.0% (10)	0.0% (16)	----- (7)	4.9% (265)
ALL LEVELS	23.3% (1610)	40.7% (629)	39.0% (441)	40.7% (371)	31.4% (3051)

PROBATION/PAROLE VIOLATION RATES (%)

¹ Tests of significance reveal virtually a "random" relationship between risk and imprisonment rate for the three highest Incarceration Ratings, and a non-significant relationship within the lowest rating.

² Re-arrested, revoked or absconded.

³ Based on outcomes for 2445 felony probationers and 606 parolees (no misdemeanants). These are closed cases, only a portion of which fall in the 7495-member sentencing study population.

The two preceding tables establish a persuasive case for the independence of "risk" and "the probability of imprisonment." Since the Offender Attribute Scale is purported to provide a measure of that probability, it is of interest to examine the statistical relationship between risk levels and incarceration ratings:¹

RISK LEVEL	INCARCERATION RATING			
	LOW (1,2)	LOW-MEDIUM (3)	HIGH-MEDIUM (4)	HIGH (5,6,7)
ULTRA-HIGH RISK	175	358	196	190
HIGH RISK	524	521	285	296
HIGH-MEDIUM RISK	1021	410	337	241
LOW-MEDIUM RISK	1121	233	138	63
LOW RISK	666	61	69	38
VERY-LOW RISK	495	25	27	5

A careful examination of this tabulation and of the percentage breakdown of risk within each of the incarceration ratings reveals absolutely no correlation of risk level and incarceration rating within the portion of the table to the right of the dashed line. In other words, for offenders with other than the lowest incarceration rating, there is absolutely no correlation between "risk" and "probability of imprisonment." The only significant instance of correlation derives from the relatively large number of offenders (2282) with LOW Incarceration Rating and VERY-LOW to LOW-MEDIUM Risk Level.

These and previous findings raise the question as to how higher risk offenders with a lower incarceration rating differ from lower risk offenders with a higher incarceration rating, and other questions along a similar vein. Information of this type appears in great detail in Volume V: Felony Sentencing Practices.

With the weight of evidence as given above, there appears to be an adequate basis for our conclusion that the "risk of probation failure or recidivism" was not - during 1974-1976 - a major factor in determining which convicted felons should be imprisoned. The question remains: Did risk have anything whatsoever to do (statistically) with felony sentencing? That is, can we find any pattern of association of risk ratings with observed sentencing results?²

¹ Within the 7495-member felony sentencing study population.

² If the risk assessment system provides a valid measure of the likelihood of probation failure, we certainly would find no support for such from the sentencing behavior of judges as described to this point.

Returning to the first of the tables above, which gives sentencing results by risk level, we make note of the strongest association in the table, namely that the percentage of offenders placed in residential corrections increases significantly from lower to higher risk levels. Of particular note is the relatively high rate (11.3%) of residential placement for ULTRA-HIGH RISK offenders.

Since residential programs of any significance were available only in the Fifth Judicial District, it is of interest to break out sentencing by risk between the Fifth and other districts:

RISK LEVEL	JUDICIAL DISTRICT(S)	TOTAL SENTENCED	STRAIGHT PROBATION	RESID. CORREC-TIONS	COUNTY JAIL	STATE PRISON
ULTRA-HIGH RISK						
	- FIFTH	294	38.9%	34.5%	1.2%	25.6%
	- OTHERS	625	62.0%	0.3%	8.7%	29.0%
HIGH RISK						
	- FIFTH	413	44.7%	24.8%	1.1%	29.4%
	- OTHERS	1213	64.4%	0.4%	5.8%	29.4%
HIGH-MEDIUM RISK						
	- FIFTH	522	62.3%	16.4%	0.9%	20.4%
	- OTHERS	1487	71.3%	0.2%	2.2%	26.3%
LOW-MEDIUM RISK						
	- FIFTH	356	73.7%	11.1%	1.3%	13.9%
	- OTHERS	1199	84.2%	0.2%	2.8%	12.9%
LOW RISK						
	- FIFTH	196	82.6%	7.8%	0.0%	9.6%
	- OTHERS	638	83.6%	0.2%	1.7%	14.6%
VERY-LOW RISK						
	- FIFTH	141	90.1%	3.9%	0.0%	6.0%
	- OTHERS	411	91.6%	0.0%	1.2%	7.2%
ALL LEVELS						
	- FIFTH	1922	61.1%	18.2%	0.9%	19.8%
	- OTHERS	5573	74.4%	0.2%	3.7%	21.6%

This table is reproduced in figure form on the following page. From the nature of these results, we might hypothesize that:

- 1) Risk was an important factor in the selection of clients for the residential program in the Fifth Judicial District. Correspondingly, the residential program dealt with a preponderance of higher risk offenders, most of whom would have received probation had the program not been in existence.

SENTENCING BY RISK
FIFTH JUDICIAL DISTRICT VERSUS OTHER DISTRICTS

ULTRA-HIGH RISK

- FIFTH	STRAIGHT PROB.	RES. CORR.	PRISON
---------	----------------	------------	--------

- OTHERS	STRAIGHT PROBATION	JAIL	PRISON
----------	--------------------	------	--------

HIGH RISK

- FIFTH	STRAIGHT PROBATION	RES. CORR.	PRISON
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- OTHERS	STRAIGHT PROBATION	JL	PRISON
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HIGH-MEDIUM RISK

- FIFTH	STRAIGHT PROBATION	R.C.	PRISON
---------	--------------------	------	--------

- OTHERS	STRAIGHT PROBATION	J	PRISON
----------	--------------------	---	--------

LOW-MEDIUM RISK

- FIFTH	STRAIGHT PROBATION	R.C.	PRISON
---------	--------------------	------	--------

- OTHERS	STRAIGHT PROBATION	J	PRISON
----------	--------------------	---	--------

LOW RISK

- FIFTH	STRAIGHT PROBATION	RC	PRIS
---------	--------------------	----	------

- OTHERS	STRAIGHT PROBATION	J	PRISON
----------	--------------------	---	--------

VERY-LOW RISK

- FIFTH	STRAIGHT PROBATION	R	PR
---------	--------------------	---	----

- OTHERS	STRAIGHT PROBATION		PR
----------	--------------------	--	----

- 2) Most of the "counterparts" to Fifth District residential clients were higher risk offenders who were placed on straight probation or in county jails.
- 3) The availability of community residences for the placement of higher risk "probationers" was the essence of the difference in sentencing results between the Fifth and remaining districts during 1974-1976.

To establish the extent to which risk was a factor in the selection of residential clients in the Fifth District, we need to examine sentencing results broken out both by risk level and incarceration rating:

FIFTH DISTRICT					
INCARCERATION RATING/RISK LEVEL	TOTAL SENTENCED	STRAIGHT PROBATION	RESID. CORR.	COUNTY JAIL	STATE PRISON
HIGH (5,6,7)					
- ULTRA-HIGH RISK	74	20.9%	21.0%	0.0%	58.0%
- HIGH RISK	93	11.9%	22.7%	2.4%	63.0%
- HIGH-MEDIUM RISK	76	20.3%	19.0%	1.5%	59.2%
- LOWER RISK ¹	18	18.1%	30.4%	0.0%	51.5%
HIGH-MEDIUM (4)					
- ULTRA-HIGH RISK	61	42.3%	25.0%	1.9%	30.8%
- HIGH RISK	77	43.7%	21.1%	0.0%	35.2%
- HIGH-MEDIUM RISK	84	40.3%	23.4%	0.0%	36.3%
- LOWER RISK	59	55.0%	18.4%	1.9%	24.7%

LOW-MEDIUM (3)					
- ULTRA-HIGH RISK	106	43.9%	46.1%	0.0%	10.0%
- HIGH RISK	127	53.4%	28.1%	1.8%	16.8%
- HIGH-MEDIUM RISK	100	66.3%	16.6%	2.3%	14.8%
- LOWER RISK	83	67.8%	8.0%	0.0%	24.2%
LOW (1,2)					
- ULTRA-HIGH RISK	54	49.4%	40.6%	4.2%	5.8%
- HIGH RISK	116	62.0%	25.4%	0.0%	12.6%
- HIGH-MEDIUM RISK	263	79.9%	13.4%	0.4%	6.4%
- LOWER RISK	532	86.3%	7.0%	0.6%	6.1%

From the table, we can see very clearly that "risk" was strongly associated with the probability of residential placement for offenders with LOW or LOW-MEDIUM Incarceration Ratings. For those rated HIGH-MEDIUM or HIGH, there was no association whatsoever between the two. Since offenders rated LOW or LOW-MEDIUM (Incarceration Rating) generally receive probation at high rates, we have an indication that many of the higher risk offenders sentenced to the Fifth District residential program were placed as an alternative to probation.

¹ LOW-MEDIUM, LOW or VERY-LOW RISK.

To address the latter concern, we need to estimate how Fifth District offenders in the various risk levels would have been sentenced had the residential program not been in existence. To accomplish this aim, we use the same technique as was originally used in the last section,¹ namely we take observed sentencing results for the other judicial districts as expected results for the Fifth District, holding levels of the Offender Attribute Scale constant.² This procedure was repeated for each of the six risk levels, with the following results:

RISK LEVEL	TOTAL SENTENCED	FIFTH DISTRICT			
		STRAIGHT PROBATION	RESID. CORR.	COUNTY JAIL	STATE PRISON
<u>ULTRA-HIGH RISK</u>					
- EXPECTED	294.4	59.5% (175.0)	0.4% (1.1)	8.3% (24.3)	31.9% (94.0)
- OBSERVED	294.4	38.9% (114.4)	34.5% (101.5)	1.2% (3.4)	25.6% (75.3)
<u>HIGH RISK</u>					
- EXPECTED	412.8	61.6% (254.4)	0.4% (1.8)	5.6% (23.2)	32.3% (133.4)
- OBSERVED	412.8	44.7% (184.4)	24.8% (102.5)	1.1% (4.5)	29.4% (121.4)
<u>HIGH-MEDIUM RISK</u>					
- EXPECTED	522.3	70.0% (365.6)	0.2% (1.0)	2.2% (11.3)	27.6% (144.4)
- OBSERVED	522.3	62.3% (325.4)	16.4% (85.7)	0.9% (4.5)	20.4% (106.7)
<u>LOW-MEDIUM RISK</u>					
- EXPECTED	355.5	83.0% (295.1)	0.2% (0.6)	2.8% (9.9)	14.0% (49.9)
- OBSERVED	355.5	73.7% (262.1)	11.1% (39.5)	1.3% (4.5)	13.9% (49.3)
<u>LOW RISK</u>					
- EXPECTED	196.3	86.5% (169.8)	0.1% (0.2)	1.6% (3.2)	11.8% (23.2)
- OBSERVED	196.3	82.6% (162.1)	7.8% (15.4)	0.0% (0.0)	9.6% (18.8)
<u>VERY-LOW RISK</u>					
- EXPECTED	140.5	91.7% (128.8)	0.0% (0.0)	1.2% (1.6)	7.2% (10.1)
- OBSERVED	140.5	90.1% (126.6)	3.9% (5.5)	0.0% (0.0)	6.0% (8.4)

¹ See pages 91-94.

² Observed sentencing breakdowns for the other districts - for each combination of risk level and incarceration rating - were multiplied by the number of Fifth District offenders falling in this same (cross) category. Results were then added (across the four incarceration ratings) and then the sum was divided by the total count -- for each of the six risk levels. The results of this process were the expected sentencing results appearing above.

By subtracting observed from expected results, as in the preceding section,¹ we can estimate the extent to which Fifth District residential corrections clients in each of the risk levels were placed as an alternative to straight probation, to county jail placement, and to imprisonment. For this purpose we combine the lower three risk levels. The results are as follows:

FIFTH DISTRICT RESIDENTIAL CLIENTS				
RISK LEVEL	TOTAL SENTENCED	PLACED AS AN ALTERNATIVE TO:		
		STRAIGHT PROBATION	COUNTY JAIL	STATE PRISON
ULTRA-HIGH RISK	101.5	60.5% (61.4)	20.9% (21.2)	18.6% (18.9)
HIGH RISK	102.5	69.5 (71.3)	18.6% (19.0)	11.9% (12.2)
HIGH-MEDIUM RISK	85.7	48.4% (41.5)	6.2% (5.4)	45.3% (38.8)
LOWER RISK	60.4	71.8% (43.4)	17.0% (10.3)	11.2% (6.7)
ALL CLIENTS	350	62.2% (217.6)	16.0% (55.9)	21.9% (76.6)

According to the above tabulation, when we control for Offender Attribute score and Probation Risk rating, the estimated use of the Fifth District residential program as an alternative to other programs changes somewhat.² Recall that in the last section, using only Offender Attribute scores, we estimated that the program operated in lieu of other programs in the following manner: STRAIGHT PROBATION - 61.6%, COUNTY JAIL - 15.7%, and STATE PRISON - 22.7%. From the above we see that these figures change respectively to 62.2%, 16.0%, and 21.9% when risk is brought into the analysis.

When we examine the question as it applies within individual risk levels, we find that the program operated as an alternative to imprisonment for a significant portion of its clients only for offenders rated HIGH-MEDIUM RISK (45.3%). Together, for offenders rated HIGH or ULTRA-HIGH RISK, the program operated as an alternative to imprisonment for 15.2%. For those rated at lower risk levels, the comparable figure is 11.2%.

The following table gives the percentage breakdown of the 350 Fifth District residential clients according to risk level and according to the program to which the residential placement was an alternative:

¹ See page 93.

² For directly sentenced felons.

RISK LEVEL	PLACED AS AN ALTERNATIVE TO:		
	STRAIGHT PROBATION	COUNTY JAIL	STATE PRISON
ULTRA-HIGH RISK	17.5%	6.1%	5.4%
HIGH RISK	20.4%	5.4%	3.5%
HIGH-MEDIUM RISK	11.9%	1.5%	11.1%
LOWER RISK	12.4%	2.9%	1.9%
TOTAL	62.2%	16.0%	21.9%

According to these figures, the program operated as an alternative to straight probation or county jail placement for higher risk (HIGH-MEDIUM, HIGH or ULTRA-HIGH RISK) offenders for 62.8% of felons directly sentenced by the court.

THE MAJOR PORTION (63%) OF FELONS DIRECTLY SENTENCED TO FIFTH JUDICIAL DISTRICT RESIDENTIAL CORRECTIONS FACILITIES DURING 1974-1976 WERE HIGHER RISK OFFENDERS WHO WOULD OTHERWISE HAVE BEEN PLACED ON STRAIGHT PROBATION OR IN COUNTY JAILS.¹

Additional analyses show that 64.5% of the 62.8% group had LOW or LOW-MEDIUM incarceration ratings, and thus exhibited characteristics consistent with placement in community-based programs. The following table provides a simple breakdown of the residential clients (350) according to dichotomous risk-level (HIGHER versus LOWER RISK), Incarceration Rating, and the program alternative:

RISK LEVEL/ INCARCERATION RATING	PLACED AS AN ALTERNATIVE TO:		
	STRAIGHT PROBATION	COUNTY JAIL	STATE PRISON
HIGHER RISK			
- HIGH (5,6,7)	10.6%	0.8%	3.0%
- HIGH-MEDIUM (4)	8.5%	2.4%	3.4%
- LOW-MEDIUM (3)	15.6%	5.8%	7.6%
- LOW (1,2)	14.8%	4.4%	5.7%
LOWER RISK			
- HIGH (5,6,7)	0.9%	0.1%	0.6%
- HIGH-MEDIUM (4)	1.8%	0.1%	1.2%
- LOW-MEDIUM (3)	1.5%	0.8%	-0.4%
- LOW (1,2)	8.2%	1.9%	0.5%
TOTAL	62.2%	16.0%	21.9%

¹ The latter followed by release on probation.

From the above tabulation, we can see that 54% of the 350 Fifth District residential clients were higher risk offenders with LOW or LOW-MEDIUM incarceration ratings. Thus we find a very clear indication of why the residential program was found to have high recidivism rates, yet dealt mainly with individuals who would have been sentenced to other community programs had the residences not been available, i.e., the majority of clientele¹ exhibited characteristics consistent with this pattern.

From the weight of the evidence as spelled out above, there appears to be sufficient justification for the following generalized statement of the role and function of the residential program during the period in question:

DURING 1974-1976, THE FIFTH JUDICIAL DISTRICT RESIDENTIAL CORRECTIONS PROGRAM OPERATED MAINLY AS AN ENRICHED ALTERNATIVE FOR THE PLACEMENT OF HIGHER RISK PROBATIONERS.²

The question as to whether or not the program was effective in protecting the community or in reducing recidivism -- beyond the level of pre-existing programs -- is a matter to be dealt with in Volume V: Felony Sentencing Practices.

As to the other-district counterparts to Fifth District residential clients, we would like to estimate the percentage of such who were higher risk offenders placed on straight probation or in county jails. The reader may recall that in the previous section we were able to identify "numbers" of counterparts at each of the seven Offender Attribute levels according to the program to which each was sentenced. This was accomplished by comparing observed sentencing results - by Offender Attribute level - for the other districts with results expected if sentencing agreed with the observed pattern in the Fifth District (per scale level).³ By subtracting observed from expected results for each scale level, we were able to obtain the programs and scale levels of the "counterparts," but not their precise identities.⁴ Here we repeat this procedure, only controlling for both incarceration rating and risk level. The results then give the incarceration ratings, risk levels and (actual) sentencing programs of the counterparts.

Since the above described process is simply the mirror image of the process (for Fifth District residential clients) summarized by the four tables directly above (last four), we could achieve our present goal by providing the "mirror images" of the four tables above, as they yield information about the counterparts. To avoid what we feel is needless detail, we give only the latter three of these tables -- which

¹ That is, directly sentenced felony clients.

² Some of whom may have served a short period of time in a county jail, absent the program.

³ See page 98.

⁴ Note that the same process of comparing observed with expected results per scale level, only in reverse, led to the identification of program alternatives for residential clients.

directly concern the counterparts group.¹

The first of the three tables to be presented concerns the sentencing of counterparts by risk level:²

OTHER-DISTRICT "COUNTERPARTS"				
RISK LEVEL	TOTAL SENTENCED	STRAIGHT PROBATION	COUNTY JAIL	STATE PRISON
ULTRA-HIGH RISK	221.7	61.0% (135.2)	21.0% (46.6)	18.0% (39.8)
HIGH RISK	299.4	67.7% (202.7)	19.6% (58.8)	12.6% (37.8)
HIGH-MEDIUM RISK	240.6	47.0% (113.2)	8.5% (20.5)	44.4% (106.9)
LOWER RISK	209.1	66.0% (138.1)	16.2% (33.8)	17.7% (37.1)
ALL COUNTERPARTS	970.7 ³	60.7% (589.3)	16.5% (159.7)	22.8% (221.7)

Thus, when we control for Offender Attribute score and Probation Risk rating, the sentencing of counterparts changes somewhat (as was the case with alternative sentencing of Fifth District residential clients). Recall, that the original estimates for sentencing of the counterparts (see page 111) were STRAIGHT PROBATION - 61.6%, COUNTY JAIL - 16.1%, and STATE PRISON - 22.3%. From the above tabulation, we see that these figures change respectively to 60.7%, 16.5%, and 22.8% when risk is brought into play.

As was the case with the residential clients, counterparts were imprisoned at a significant rate only if they were rated HIGH-MEDIUM RISK (44.4%). Together, 14.9% of HIGH and ULTRA-HIGH RISK counterparts were imprisoned, while 17.7% of LOWER RISK counterparts were given such sentences.

The following gives a percentage breakdown of the 970.7 counterparts according to risk level and sentencing program:

¹ We concern ourselves here only with those counterparts who were not placed in residential beds. The reader may recall that there were 13 such placements during 1974-1976 outside the Fifth District.

² As stated above, we used both risk levels and incarceration ratings to obtain these results.

³ Previously, when we controlled only for Offender Attribute score, (non-residential) counterparts numbered 984.2. Here, with control for both incarceration rating and risk level, such number 970.7.

RISK LEVEL	COUNTERPARTS SENTENCED TO:		
	STRAIGHT PROBATION	COUNTY JAIL	STATE PRISON
ULTRA-HIGH RISK	13.9%	4.8%	4.1%
HIGH RISK	20.9%	6.1%	3.9%
HIGH-MEDIUM RISK	11.7%	2.1%	11.0%
LOWER RISK	14.2%	3.5%	3.8%
TOTAL	60.7%	16.5%	22.8%

According to the above, 59.5% of the other-district counterparts to Fifth District residential clients (among directly sentenced felons) were higher risk (HIGH-MEDIUM, HIGH or ULTRA-HIGH RISK) offenders placed on straight probation or in county jails.

THE MAJOR PORTION (60%) OF THE OTHER-DISTRICT COUNTERPARTS TO FELONS DIRECTLY SENTENCED TO FIFTH DISTRICT RESIDENTIAL FACILITIES DURING 1974-1976 WERE HIGHER RISK OFFENDERS PLACED ON STRAIGHT PROBATION OR IN COUNTY JAILS.¹

Going beyond the above, we find that 68.9% of the 59.5% group had LOW or LOW-MEDIUM incarceration ratings, and thus characteristics consistent with placement on probation. In this vein, the following is a breakdown of the counterparts group (970.7) according to dichotomous risk level (HIGHER versus LOWER RISK), Incarceration Rating, and the sentence imposed:

RISK LEVEL/ INCARCERATION RATING	COUNTERPARTS SENTENCED TO:		
	STRAIGHT PROBATION	COUNTY JAIL	STATE PRISON
HIGHER RISK			
- HIGH (5,6,7)	7.8%	0.4%	2.0%
- HIGH-MEDIUM (4)	7.9%	2.3%	3.5%
- LOW-MEDIUM (3)	15.2%	5.5%	7.8%
- LOW (1,2)	15.6%	4.8%	5.6%
LOWER RISK			
- HIGH (5,6,7)	1.6%	0.1%	1.1%
- HIGH-MEDIUM (4)	1.1%	0.2%	2.4%
- LOW-MEDIUM (3)	1.2%	0.9%	-0.2%
- LOW (1,2)	10.3%	2.3%	0.5%
TOTAL	60.7%	16.5%	22.8%

From the above, we see that 54.5% of the 970.7 other-district counterparts to Fifth District residential clients were higher risk offenders with LOW or LOW-MEDIUM incarceration ratings. This result is virtually identical to the 54% figure (of the same type) for the 350 residential clients. Indeed, as the mirror image of the above highlighted conclusion, we can state that:

¹ The latter followed by release on probation.

DURING 1974-1976, THE ESSENCE OF THE "GAP" IN CORRECTIONAL SERVICES BETWEEN THE FIFTH AND OTHER JUDICIAL DISTRICTS WAS THE LACK OF RESIDENTIAL CORRECTIONS FACILITIES FOR THE PLACEMENT OF HIGHER RISK PROBATIONERS SENTENCED OUTSIDE THE DES MOINES AREA.

To fully comprehend the significance of the above findings, it is helpful to examine comparative sentencing results between the Fifth and other districts, for individual combinations of risk level and incarceration rating. The table below is set up to provide just such a comparison. We have highlighted that portion of the table which entails the most notable impact of the Fifth District residential program. Examination of that portion of the table should illustrate quite clearly the major thrust of the findings of this study. In this portion of the table we see offenders with LOW and LOW-MEDIUM incarceration ratings who are also ULTRA-HIGH RISK. Such offenders would have the characteristics that would suggest placement in community-based programs (based on observed sentencing patterns), yet would be rated as very high risk for success on probation.

RISK LEVEL/ INCARCERATION RATING	TOTAL SENT- ENCED	STRAIGHT PRO- BATION	RESID. CORR- ECTIONS	COUNTY JAIL	STATE PRISON
<u>ULTRA-HIGH RISK</u>					
- HIGH (5,6,7)					
= FIFTH	74	20.9%	21.0%	0.0%	58.0%
= OTHERS	117	30.1%	0.9%	4.0%	65.1%
- HIGH-MEDIUM (4)					
= FIFTH	61	42.3%	25.0%	1.9%	30.8%
= OTHERS	136	62.1%	0.0%	6.0%	31.9%
- LOW-MEDIUM (3)					
= FIFTH	106	43.9%	46.1%	0.0%	10.0%
= OTHERS	252	70.3%	0.0%	11.7%	18.0%
- LOW (1,2)					
= FIFTH	54	49.4%	40.6%	4.2%	5.8%
= OTHERS	121	75.3%	0.8%	9.8%	14.1%
<u>HIGH RISK</u>					
- HIGH (5,6,7)					
= FIFTH	93	11.9%	22.7%	2.4%	63.0%
= OTHERS	203	35.2%	0.5%	2.9%	61.4%
- HIGH-MEDIUM (4)					
= FIFTH	77	43.7%	21.1%	0.0%	35.2%
= OTHERS	208	53.9%	1.0%	5.6%	39.6%
- LOW-MEDIUM (3)					
= FIFTH	127	53.4%	28.1%	1.8%	16.8%
= OTHERS	395	68.8%	0.3%	7.2%	23.8%
- LOW (1,2)					
= FIFTH	116	62.0%	25.4%	0.0%	12.6%
= OTHERS	407	80.0%	0.2%	6.2%	13.6%

(continued on next page)

(continued from preceding page)

RISK LEVEL/ INCARCERATION RATING	TOTAL SENT- ENCED	STRAIGHT PRO- BATION	RESID. CORREC- TIONS	COUNTY JAIL	STATE PRISON
HIGH-MEDIUM RISK					
- HIGH (5,6,7)					
= FIFTH	76	20.3%	19.0%	1.5%	59.2%
= OTHERS	165	31.1%	0.0%	0.7%	68.2%
- HIGH-MEDIUM (4)					
= FIFTH	84	40.3%	23.4%	0.0%	36.3%
= OTHERS	254	51.8%	0.8%	1.8%	45.6%
- LOW-MEDIUM (3)					
= FIFTH	100	66.3%	16.6%	2.3%	14.8%
= OTHERS	310	72.8%	0.3%	3.1%	23.8%
- LOW (1,2)					
= FIFTH	263	79.9%	13.4%	0.4%	6.4%
= OTHERS	758	86.0%	0.0%	2.4%	11.7%
LOWER RISK					
- HIGH (5,6,7)					
= FIFTH	18	18.1%	30.4%	0.0%	51.5%
= OTHERS	88	36.1%	0.0%	1.3%	62.6%
- HIGH-MEDIUM (4)					
= FIFTH	59	55.0%	18.4%	1.9%	24.7%
= OTHERS	173	63.9%	0.6%	2.7%	32.8%
- LOW-MEDIUM (3)					
= FIFTH	83	67.8%	8.0%	0.0%	24.2%
= OTHERS	235	73.6%	0.0%	3.5%	22.8%
- LOW (1,2)					
= FIFTH	532	86.3%	7.0%	0.6%	6.1%
= OTHERS	1751	91.5%	0.1%	2.0%	6.4%

Readers maintaining any degree of doubt concerning the validity of our conclusions on the use of Fifth District residences as sentencing alternatives (22.7% of directly sentenced felons placed as an alternative to imprisonment) should reach complete understanding after careful examination of the table above. Indeed, it would be very difficult - if not impossible - to explain the observed sentencing pattern as depicted in this table from any other perspective than that described herein.

RISK PROFILES AND "RE-SENTENCING"

Our characterization of Fifth District residential clients and their other-district counterparts as generally higher risk, and the identification of risk as a major factor in residential placement, suggests that these two groups were "as a whole" exceptionally high risk, and perhaps even higher risk than prisoners "as a whole." That these clients and their counterparts could be higher risk than prisoners is also suggested by an earlier result (see page 130) that there was virtually a random relationship between risk and the probability of imprisonment

in Iowa during 1974-1976. To settle the question of comparative risk, we present the following "risk profile" of offenders in our sentencing study group - broken out among the major sentencing alternatives:¹

RISK LEVEL	ALL PROGRAMS	STRAIGHT PROBATION	RESID. CORR.	COUNTY JAIL	STATE PRISON
ULTRA-HIGH RISK	12.3%	9.4%	28.5%	25.7%	16.2%
HIGH RISK	21.7%	18.1%	29.6%	33.7%	30.1%
HIGH-MEDIUM RISK	26.8%	26.0%	24.4%	16.8%	31.4%
LOW-MEDIUM RISK	20.7%	23.9%	11.4%	16.9%	12.9%
LOW RISK	11.1%	13.1%	4.5%	4.8%	7.1%
VERY-LOW RISK	7.4%	9.5%	1.5%	2.1%	2.4%
TOTAL SENTENCED	7495 (100%)	5322 (100%)	363 (100%)	224 (100%)	1586 (100%)

From this tabulation, we see that - indeed - those sentenced to residential corrections facilities were higher risk - as a group - than were offenders sentenced to state prisons.

AS A GROUP, THOSE FELONY OFFENDERS DIRECTLY SENTENCED TO RESIDENTIAL CORRECTIONS FACILITIES IN IOWA² DURING 1974-1976 WOULD HAVE RATED AS WORSE RISKS FOR RELEASE ON PROBATION THAN THE GROUP OF OFFENDERS DIRECTLY SENTENCED TO STATE PRISONS.

This finding applies most specifically to the Fort Des Moines Men's Residential Corrections program in the Fifth Judicial District, and is consistent with the previous result that the Fort Des Moines program recorded higher recidivism rates than the state prison system.

To provide a single ranking of the major correctional alternatives according to risk,³ it is necessary to attach expected probation violation rates to each of the six risk levels, i.e., to establish how much higher risk a HIGH RISK offender is, for example, than a HIGH-MEDIUM RISK offender. To this end, we use the violation rates given on page 125, with violation defined as revoked or absconder at large. With this definition, probation/parole violation rates⁴ for the six risk levels are as follows: ULTRA-HIGH RISK - 51.3%, HIGH RISK - 36.0%, HIGH-MEDIUM RISK - 20.2%, LOW-MEDIUM RISK - 11.8%, LOW RISK - 5.1%, and VERY-LOW RISK - 2.2%

¹The percentages add "down" column of this table rather than "across" rows.

² Including those placed outside the Fifth District.

³ That is, the "typical" or "average" degree of risk of an offender sentenced to the program.

⁴As discussed previously, we use probation/parole experience - rather than just probation experience - to avoid screening effects.

By multiplying the expected violation rate for a risk level by the number of offenders falling in that level, we obtain the expected number of probation violators at any given level of risk, within any of the sentenced populations. By adding the resulting number of violators across risk levels, we obtain the total number of expected violators, and then the expected probation violation rate by dividing by the total offender count. Repeating this process for each of the major correctional alternatives - and each of the major correctional institutions - we obtain the following comparative risk ratings of offenders directly sentenced for felonies in Iowa during 1974-1976:

CORRECTIONAL ALTERNATIVE	TOTAL SENTENCED	RISK RATING ¹
RESIDENTIAL CORRECTIONS	363	31.8%
COUNTY JAIL	224	31.0%
MEN'S REFORMATORY	957	28.5%
STATE PRISON (ALL)	1586	27.4%
MEN'S PENITENTIARY	543	26.9%
ALL PROGRAMS	7495	22.7%
STRAIGHT PROBATION	5322	20.3%
WOMEN'S REFORMATORY	86	18.6%

The reader will note that these ratings are strictly measures of offender characteristics and in no way reflect the actual performance of offenders placed on probation, e.g., we can't talk about the (actual) probation violation rate of prisoners. In essence, the ratings reflect "a-priori" probabilities of probation violation applied "after the fact." For example, the 28.5% figure for the Men's Reformatory suggests that if all reformatory inmates had received probation instead of prison sentences, 28.5% would have had their probations revoked or would have absconded. Thus, the above figures reflect contingencies that would have applied to these offenders if they had been re-sentenced, and if all had received probation.

In the same vein, one can ask how many within any given group (straight probationers, residential clients, prisoners, etc.) would have received prison sentences had they been sentenced by a different judge selected a random, and had the same sentencing pattern applied as that observed here. To this end, we utilize observed imprisonment rates for each combination of risk level and incarceration rating as given on page 129. For the reader's convenience, we re-list these rates as follows:

¹ Expected probation violation rate for all those sentenced to the given alternative.

RISK LEVEL	IMPRISONMENT RATES			
	INCARCERATION RATING			
	LOW	LOW-MED.	HIGH-MED.	HIGH
ULTRA-HIGH RISK	11.5%	15.6%	31.5%	62.4%
HIGH RISK	13.4%	22.1%	38.4%	61.9%
HIGH-MEDIUM RISK	10.3%	21.6%	43.3%	65.3%
LOW-MEDIUM RISK	6.1%	24.0%	32.3%	56.4%
LOW RISK	7.3%	20.9%	33.7%	72.5%
VERY-LOW RISK	5.6%	21.4%	15.5%	28.6%

These figures give "expected" rates of imprisonment for any group of offenders sentenced or re-sentenced in the state during 1974-1976. To calculate the most likely imprisonment rates for re-sentenced offenders - according to the observed sentencing program - we need to apply the above expected rates to the cross-profiles (risk level by incarceration rating) of each of the sentenced populations. These cross-profiles are as follows:

RISK LEVEL	STRAIGHT PROBATION				TOTAL
	INCARCERATION RATING				
	LOW	LOW-MED.	HIGH-MED.	HIGH	
ULTRA-HIGH RISK	2.2%	4.2%	2.1%	0.9%	9.4%
HIGH RISK	7.5%	6.4%	2.7%	1.5%	18.1%
HIGH-MEDIUM RISK	16.2%	5.5%	3.1%	1.3%	26.0%
LOW-MEDIUM RISK	18.7%	3.1%	1.6%	0.4%	23.9%
LOW RISK	11.3%	0.8%	0.7%	0.2%	13.1%
VERY-LOW RISK	8.7%	0.3%	0.4%	0.1%	9.5%
TOTAL	64.6%	20.4%	10.6%	4.4%	100%

In each of the cross-profiles we have highlighted the five to seven categories occurring most frequently. Thus, among straight probationers, most rate LOW on incarceration rating and VERY-LOW to HIGH RISK, or LOW-MEDIUM on incarceration rating and HIGH-MEDIUM or HIGH RISK.

RESIDENTIAL CORRECTIONS

RISK LEVEL	INCARCERATION RATING				TOTAL
	LOW	LOW-MED.	HIGH-MED.	HIGH	
ULTRA-HIGH RISK	6.3%	13.4%	4.2%	4.6%	28.5%
HIGH RISK	8.4%	10.1%	5.0%	6.1%	29.6%
HIGH-MEDIUM RISK	9.7%	4.9%	5.9%	4.0%	24.4%
LOW-MEDIUM RISK	7.8%	1.2%	1.5%	0.9%	11.4%
LOW-RISK	2.4%	0.3%	1.2%	0.6%	4.5%
VERY-LOW RISK	0.6%	0.3%	0.6%	0.0%	1.5%
TOTAL	35.2%	30.2%	18.4%	16.1%	100%

COUNTY JAIL

RISK LEVEL	INCARCERATION RATING				TOTAL
	LOW	LOW-MED.	HIGH-MED.	HIGH	
ULTRA-HIGH RISK	6.3%	13.2%	4.1%	2.1%	25.7%
HIGH RISK	11.2%	13.7%	5.2%	3.6%	33.7%
HIGH-MEDIUM RISK	8.5%	5.2%	2.1%	1.0%	16.8%
LOW-MEDIUM RISK	12.2%	2.6%	1.5%	0.5%	16.9%
LOW RISK	2.7%	1.1%	1.0%	0.0%	4.8%
VERY-LOW RISK	2.1%	0.0%	0.0%	0.0%	2.1%
TOTAL	43.0%	35.8%	14.0%	7.2%	100%

STATE PRISON

RISK LEVEL	INCARCERATION RATING				TOTAL
	LOW	LOW-MED.	HIGH-MED.	HIGH	
ULTRA-HIGH RISK	1.3%	3.5%	3.9%	7.5%	16.2%
HIGH RISK	4.4%	7.3%	6.9%	11.5%	30.1%
HIGH-MEDIUM RISK	6.6%	5.6%	9.2%	9.9%	31.4%
LOW-MEDIUM RISK	4.3%	3.5%	2.8%	2.3%	12.9%
LOW RISK	3.1%	0.8%	1.5%	1.7%	7.1%
VERY-LOW RISK	1.7%	0.3%	0.3%	0.0%	2.4%
TOTAL	21.4%	21.0%	24.5%	33.0%	100%

MEN'S REFORMATORY					
RISK LEVEL	INCARCERATION RATING				TOTAL
	LOW	LOW-MED.	HIGH-MED.	HIGH	
ULTRA-HIGH RISK	2.1%	5.0%	4.0%	5.6%	16.8%
HIGH RISK	7.3%	10.9%	8.1%	7.8%	34.0%
HIGH-MEDIUM RISK	9.3%	6.9%	7.3%	5.4%	28.9%
LOW-MEDIUM RISK	4.4%	3.8%	2.7%	1.7%	12.5%
LOW RISK	3.2%	0.6%	1.2%	0.6%	5.6%
VERY-LOW RISK	1.5%	0.3%	0.2%	0.1%	2.1%
TOTAL	27.8%	27.5%	23.5%	21.2%	100%

WOMEN'S REFORMATORY					
RISK LEVEL	INCARCERATION RATING				TOTAL
	LOW	LOW-MED.	HIGH-MED.	HIGH	
ULTRA-HIGH RISK	0.0%	4.4%	8.8%	2.9%	16.2%
HIGH RISK	0.0%	0.0%	0.0%	0.0%	0.0%
HIGH-MEDIUM RISK	7.4%	4.4%	5.9%	5.9%	23.5%
LOW-MEDIUM RISK	17.6%	10.3%	4.4%	4.4%	36.8%
LOW RISK	5.9%	1.5%	4.4%	11.8%	23.5%
VERY-LOW RISK	0.0%	0.0%	0.0%	0.0%	0.0%
TOTAL	30.9%	20.6%	23.5%	25.0%	100%

MEN'S PENITENTIARY					
RISK LEVEL	INCARCERATION RATING				TOTAL
	LOW	LOW-MED.	HIGH-MED.	HIGH	
ULTRA-HIGH RISK	0.0%	0.9%	3.2%	11.4%	15.5%
HIGH RISK	0.2%	2.2%	5.8%	19.2%	27.4%
HIGH-MEDIUM RISK	2.0%	3.5%	13.0%	18.2%	36.9%
LOW-MEDIUM RISK	2.4%	2.0%	2.8%	2.8%	10.1%
LOW RISK	2.2%	1.1%	1.5%	2.4%	7.3%
VERY-LOW RISK	2.2%	0.4%	0.4%	0.0%	3.0%
TOTAL	9.1%	10.2%	26.6%	54.0%	100%

The reader should take careful note of the relative degrees of similarity and dissimilarity among the preceding cross-profiles, concentrating on a comparison of marginal totals and of highlighted portions of the tables. Note, for example, the great similarity between the cross-profiles for the categories RESIDENTIAL CORRECTIONS and COUNTY JAIL, and the near-opposite nature¹ of the cross-profile for the category MEN'S PENITENTIARY.

Of particular interest with regard to our discussion of Advisory Commission findings is the extent of similarity or dissimilarity between the categories RESIDENTIAL CORRECTIONS and MEN'S REFORMATORY. Indeed, although reformatory inmates rate somewhat higher on the incarceration scale, and were somewhat better risks for release on probation, a strong degree of similarity is still present - as was the case with the profiles analyzed by the Commission.

How can we rationalize this residual similarity, in light of previous results concerning the use of residential corrections as a sentencing alternative? To wit, if residential clients were so very similar to reformatory inmates, shouldn't we have expected that more would have been imprisoned had the residential program not been in existence? The answer to this question - surprisingly - is no! Indeed, the above similarity in cross-profiles between residential clients and reformatory inmates is not inconsistent with known facts about the felony sentencing process in Iowa.

To clarify this point, we proceed with the original intent of developing cross-profiles, namely to calculate expected imprisonment rates for the "re-sentencing" process discussed above. To calculate these rates, one for each of the sentencing alternatives, we simply multiply the matrix (table) of expected imprisonment rates - based on risk and incarceration rating (p. 145) - by each respective risk by incarceration rating cross-profile, that is by multiplying corresponding entries and then adding the results.² The outcome of this process is as follows:

SENTENCING ALTERNATIVE	TOTAL SENTENCED	EXPECTED RE-SENTENCING IMPRISONMENT RATE
MEN'S PENITENTIARY	543	47.4%
STATE PRISON	1586	36.6%
WOMEN'S REFORMATORY	86	31.6%
MEN'S REFORMATORY	957	30.6%
RESIDENTIAL CORRECTIONS	363	26.3%
ALL PROGRAMS	7495	21.2% ³
COUNTY JAIL	224	20.8%
STRAIGHT PROBATION	5322	16.2%

¹ That is, the degree to which that cross-profile is opposite same for community-based programs.

² Very simply, we multiply the expected imprisonment rate for a cross-category by the percentage of total cases falling in that category to obtain expected imprisonments - the latter as a percentage of total cases.

³ Naturally, this agrees with the imprisonment rate for all offenders.

From this table, we see precisely why the noted similarity between residential clients and reformatory inmates is consistent with previous findings, namely expected re-sentencing imprisonment rates are similar -- 26.3% to 30.6%. Yes, we can estimate that no more than 30.6% of felons directly sentenced to the Men's Reformatory would have received prison sentences had they been re-sentenced through random allocation of sentencing judges. More generally:

IF ALL 1586 OF THE FELONS DIRECTLY SENTENCED TO STATE PRISONS DURING 1974-1976 HAD BEEN SENTENCED BY A DIFFERENT JUDGE SELECTED AT RANDON, THEN JUST 36.6% WOULD HAVE RECEIVED PRISON SENTENCES.¹

In other words, in the situation envisioned, most (63.4%) of the offenders in question would not have received prison sentences - despite the fact that they had originally received such sentences.

The essence of the matter - very simply - is that the lack of express criteria for imprisonment in Iowa has led to considerable inconsistency in sentencing among sentencing judges, with the result that distinct correctional populations along the so-called correctional continuum have considerable overlap in characteristic and general make-up. More directly, judges have not separated the "community types" from the "prison types" with a high degree of consistency.

In short, most offenders are in prison "because they were sentenced there," and not because they exhibit any express characteristics that dictate imprisonment. In such an environment, it makes little sense to discuss who "should" or "should not" be in prison.

¹ Those familiar with statistical methods might note that this finding is partly an artifact of the statistical efficiency of the Offender Attribute Scale and the Probation Risk Assessment Scoring System in separating "prisoners" from "community-based offenders." Theoretically, the better we can statistically exact "the split," the more consistent judges would "appear to be" in sentencing decisions. Lengthy experience in the analysis of Iowa sentencing data suggests, however, that consistency in sentencing does not go substantially beyond that characterized by the two rating systems. Accordingly, the true figure for the re-sentencing imprisonment rate of the STATE PRISON category would likely be somewhat higher than 36.6%, although not substantially higher. It is true, nonetheless, that the similarity of residential corrections clients and reformatory inmates - according to risk and incarceration ratings - is equivalent to the similarity in expected re-sentencing imprisonment rates.

VI. KNOWLEDGE IN CORRECTIONS

Clearly the findings of this study run counter to many previously accepted beliefs about the adult sentencing and corrections system in Iowa. Perhaps the best way to typify the "new view" engendered by this study is to say that it runs "at right angles" to previous perceptions.

THE KNOWN AND ACCEPTED

According to previous beliefs, there was (and is) a clear distinction between prisoners and community-based offenders. Many (or most) of the former were believed to be "high risk," and many (or most) of the latter "low risk." Indeed, this view is perhaps best described by the following comment appearing in the Des Moines Register Editorial "Risky Ratings:"¹

The judges weeded out those they considered bad risks and sent them to jail.

In line with this view, many believed that the Fort Des Moines residential corrections program in the Fifth Judicial District accepted only the "best risks" among would-be prisoners sentenced in the District, that is, that the program was "skimming the cream" of the prison population. With the advent of a statewide residential program, expectations were that many more of these "better risks" could be kept in the community, that sentencing disparity among the judicial districts would thus be greatly reduced, and that the prison population would fall in response.

In short, residential programs would further enhance the splitting of higher risk and lower risk offenders between the prison system and community-based programs respectively.

THE NEW VIEW

In direct contrast to previous perceptions, this study illustrates the existence of a large "gray area" of higher risk offenders who are placed in community corrections programs at high rates. Essentially, the study illustrates that many offenders not considered to be worthy of imprisonment are - in fact - high risk for success on probation.

During 1974-1976, many higher risk probationers in the Fifth Judicial District were assigned to the residential program, while their counterparts in other judicial districts were under the street supervision of probation officers. Accordingly, a statewide residential program would not have substantially reduced the prison population, although it may well have served to protect the community from new crimes committed by higher risk offenders.²

¹ See Appendix II.

² See Volume V: Felony Sentencing Practices for more on this. Results show that Fort Des Moines clients, despite being higher risk, are not frequently re-arrested while residing in the facility.

OTHER CONSIDERATIONS

The reader should note that the Statistical Analysis Center has not taken a stand on the sentencing of higher risk offenders. The question of who should or should not be imprisoned is a very complex issue encompassing a number of concerns.

To arrive at any sensible conclusions whatsoever, it is necessary to carefully examine the goals and philosophy of sentencing and the application of such to the sentencing of various offender types. In addition, past experiences in sentencing and corrections must be carefully studied to determine the relative degrees of utility of various sentencing strategies.

This report offers no direct evidence of the threat to the community of higher risk offenders, or whether or not recidivism rates for such individuals can be reduced by any given correctional alternatives. No attempt has been made to weigh the relative gains and losses in dollars and crimes of placing various types of offenders in community programs. Certainly no evidence is presented here as to the relative effectiveness of various correctional alternatives. Some of these issues are addressed in Volume V.

CAUTION

Besides the substantive aspects of the "new view" previously discussed, this report has served to highlight various errors in thinking about sentencing and corrections and some of the damaging consequences of such. One of the most potentially damaging errors is to assume that a stated intent will be fulfilled in practice. That community residential programs were intended to be alternatives to imprisonment does not mean that they will operate as such. That a function of sentencing is to protect the public does not mean that higher risk offenders will be imprisoned. That a certain group of offenders are identified as releasable does not mean that they will be released.

Another error is to pin a "ready cause" to a particular result, without reference to other possible causes. That the recidivism rate for one correctional program is higher than same for another does not mean that the one program is less effective than the other, nor does it imply that offenders placed in the former are higher risk. Recidivism rates, in isolation, cannot tell us anything about causes, or even effects. Great care should be exercised in interpreting the results of follow-up studies that concern recidivism since the "obvious" conclusions may be in direct opposition to the truth. In a similar vein, we cannot assume that a group of prisoners were imprisoned because of sentencing disparity just because they exhibit "certain characteristics" common among non-prisoners. More generally, offender profiles do not provide comprehensive measures of the forces dictating program placement, and are not sufficient to yield the "causes" of placement.

Above all, it seems evident that to think effectively about sentencing and corrections it is necessary to use the "total system" view, that is, to consider the role of each program and decision-making process and the contribution of each to the total functioning of the system. Without

considering the broader context of felony sentencing and of probation/parole experiences, no proper conclusions could be drawn about the role of residential programs as sentencing alternatives. Without knowledge of the past role of residential programs, no accurate perceptions could be gained on the extent of sentencing disparity in the state.

In sum, things are not always what they seem to be.

APPENDIX I

CHAPTER 176, LAWS OF THE SIXTY-FIFTH GENERAL ASSEMBLY, 1973 SESSION

(S.F. 482) AN ACT relating to the establishment of community-based correctional programs and services.

SECTION 1. Chapter two hundred seventeen (217), Code 1973, is amended by adding thereto sections two (2) through (6) of this Act.

SECTION 2. NEW SECTION. As used in this Act, unless the context otherwise requires:

"Community-based correctional programs and services" means locally administered correctional programs and services designed to rehabilitate persons charged with or convicted of a felony or indictable misdemeanor and persons on parole or probation as a result of a sentence for or conviction of these offenses.

SECTION 3. NEW SECTION. Community-based correctional programs and services may be established to serve the judicial districts of the state.

SECTION 4. NEW SECTION. The department of social services shall provide assistance, support and guidelines for the establishment and operation of community-based correctional programs and services.

SECTION 5. NEW SECTION. The department of social services shall provide for the allocation of any state funds appropriated for the establishment, operation, maintenance, support and evaluation of community-based corrections programs and services. State funds shall not be allocated unless the department has reviewed and approved the programs and services for compliance with state guidelines. If community-based correctional programs and services are not established in a judicial district, or if established are designed to serve only part of a judicial district, the department of social services may provide community-based correctional programs and services for the judicial district or the parts of the judicial district not served by the established program.

SECTION 6. NEW SECTION. The guidelines established by the department of social services shall include, but not necessarily be limited to:

1. Providing for the utilization of existing facilities with a minimum of capital expenditures for acquisition, renovation and repair.
2. Providing for the maximum utilization of existing local rehabilitative resources, such as, but not limited to: employment; job training; general, special and remedial education; psychiatric and marriage counseling; alcohol and drug abuse treatment.
3. Providing for pre-trial release, pre-sentence investigation, probation and parole services and residential treatment centers.

4. Providing for locating community-based correctional programs and services in or near municipalities providing a substantial number of rehabilitation resources.
5. Providing for practices and procedures which maximize the availability of federal funding.
6. Providing for gathering and evaluating performance data.

SECTION 7. Section two hundred forty-seven point twenty-one (247.21), subsection two (2), unnumbered paragraph one (1), Code 1973, is amended to read as follows:

Of the chief parole officer. The chief parole officer may also accept the custody, care and supervision of any person granted probation or parole from a sentence to a term in a county jail. Jurisdiction of these persons shall remain with the sentencing court. The chief parole officer shall not, however, accept the custody, care and supervision of any person who in his judgment could not be properly supervised.

SECTION 8. Rules and guidelines issued pursuant to the authority granted in this Act shall be confined to programs and services authorized by this Act and supported by state funds. Notwithstanding any other provisions of the Code, any rules, regulations or guidelines issued under provisions of this Act shall be subject to approval by the departmental rules review committee and the attorney general. Approved July 20, 1973.

CHAPTER 109, LAWS OF THE SIXTY-FIFTH GENERAL ASSEMBLY, 1973 SESSION

(S.F. 511) AN ACT to appropriate funds from the general fund of the state for establishing community-based correctional programs and services.

SECTION 1. There is appropriated from the general fund of the state for the biennium beginning July 1, 1973 and ending June 30, 1975, to the department of social services the following amounts, or so much thereof as may be necessary, to provide assistance in the establishment and operation of community-based correctional programs and services.

<u>1973-74</u>	<u>1974-75</u>
<u>Fiscal Year</u>	<u>Fiscal Year</u>
\$350,000	\$500,000

SECTION 2. Before any of the funds appropriated by this Act shall be expended, it shall be determined by the department of social services that the expenditures shall be pursuant to the provisions of law providing for the establishment of community-based correctional programs and services.

SECTION 3. The department of social services, the governor, and the state comptroller may obtain federal funds for the state to be used in connection with the funds appropriated by this Act.

SECTION 4. Any unencumbered balance of the funds appropriated by this Act remaining as of June 30, 1975 shall revert to the general fund of the state as of June 30, 1975.

APPENDIX II

Des Moines Register - Editorial - "RISKY RATINGS"

Des Moines Register - Guest Opinion (Mr. Philip Riley)
- "'RISK FACTOR' IN RELEASES SET BY ONE STATISTICIAN"

"RISKY RATINGS" The Iowa Bureau of Correctional Evaluation (BCE) will no longer include race among the factors it lists in predicting whether felons placed on probation will stay out of trouble. A statistical analysis conducted by BCE researcher Daryl Fischer indicated that non-white women placed on probation after commission of felonies posed a greater risk than white women; also that non-white male felons were more likely than whites to get in trouble if placed in residential corrections programs.

The BCE's "risk rating" scale was prepared for use by corrections workers in Iowa in helping them to decide whether to recommend prison or probation for offenders.

The racial designations brought charges of "blatant discrimination" from Thomas Mann, director of the Iowa Civil Rights Commission, and two Waterloo corrections workers.

"We're not admitting a mistake," Fischer said; the decision to drop racial designation was made simply to avoid "a civil rights problem."

Fischer's statistical survey involved persons placed on probation in Iowa in 1974 and 1975 and lists the rate of failure for varying age groups, by marital status, education, employment history, use of drugs and alcohol, etc. Included in the survey were 284 female felons. Fischer sees significance in the finding that 38.2 per cent of non-white women felons failed on probation, compared to 11.8 per cent of white women felons. "The scale is not going to be as good as it would if race were included," he said.

Including race, however, is an oversimplification. That more black females fail on probation could be largely a matter of economic class. A high proportion of Iowa blacks have low income levels. To correlate failure with skin color rather than this factor is racial stereotyping.

The BCE's entire "risk rating" scale is risky. It is based on statistics concerning those already chosen for probation rather than a random sample of all offenders. The judges weeded out those they considered bad risks and sent them to jail. The probation "failures" among the remainder could as easily be blamed on the criteria used by correction workers and judges.

BCE officials emphasize that the rating scale is to be used only as a guide; corrections workers must consider a wide range of factors in making probation recommendations. It is sound advice. A risk scale that told precisely what an offender's chance of success would be on probation would be a handy tool, but it does not exist.

"RISK FACTOR" IN RELEASES SET BY ONE STATISTICIAN - Guest opinion By Philip Riley - The most recent of Iowa's perennial prison studies, conducted this time by a task force of state executive branch employees, is coming in with a request that the Legislature start on a \$50-million prison-building program to produce 900 more beds (cells). The task force is in the process of producing an adult corrections master plan which would map out Iowa's directions for adult corrections for the presently foreseeable future.

Last year the tripartite (executive, legislative and judicial branch appointees) Advisory Commission on Corrections Relief was directed to study pretty much the same ground, and reported its findings and recommendations to the General Assembly last spring before going out of existence. The Legislature endorsed the commission's conclusions.

The advisory commission identified 15 to 20 percent of current institutional populations as selectively releasable. Since such release was in the hands of the Parole Board and corrections authorities, the advisory commission cautiously avoided embodying that estimate in its population projectives. The commission did deem such action just and fair, where warranted, and it encouraged the appropriate authorities in the system to make up for the prior lack of community corrections across the state, sentencing disparity, and other causes of unneeded incarceration.

The new Master Plan Task Force has focused on that portion of the advisory commission's study and has come to radically different conclusions: The task force's expressed belief is that instead of the 15-20 percent of the institutional populations proposed for release last year by the advisory commission, only 1 percent of those populations should be considered releasable.

Daryl Fischer, a statistician appointed to the task force from the Bureau of Correctional Evaluation, the Corrections Division's in-house statisticians, has identified a series of "risk factors" which he says are indices of the failure potential of convicted offenders.

He now has analyzed the inmates of Anamosa and Fort Madison in his work for the task force and has listed factors which in his judgment present a likelihood of failure of those inmates to succeed if released. Applying those to the inmate "release" group suggested by the advisory commission, he declares that, in effect, 99 percent of those within the walls are properly placed there.

In October, 1976, The Bureau of Correctional Evaluation published a document entitled "Corrections in Iowa: A System of Growth and Change." That document contained and explained Fischer's risk factors for probationers, parolees, and community corrections residents. While for some reason it did not directly match the offender population in residential community corrections (principally at Fort Des Moines) with inmates sentenced to Anamosa for similar offenses, its overall thrust reveals those populations to the reader as quite parallel in "risk factor" and make-up, which might lead one to believe that either many of those in Anamosa should be out or those in Fort Des Moines should be in.

Ironically, he has been heard by the writer to state that community corrections releasees cause no greater danger to the community than those released from Iowa's penal institutions.

If his stated and written conclusions are applied in an analysis of current offender populations in and out of the institutions in this state, we find that large numbers of offenders currently on probation would have to be incarcerated to meet his "risk" criteria, despite their current success on probation.

This same statistician has sent to all of the state's judicial districts a series of guidelines for use by all persons writing pre-sentence reports on convicted offenders in Iowa. Buried in those guidelines (which have questionable status, since they have not been legally adopted under the administrative rules procedures) is a requirement that every pre-sentence report written in the state contain a statement of the risk factor determined by the Bureau of Correctional Evaluation's formula.

A hidden agenda is also buried in that formula. "The System of Growth and Change" publication contained an analysis of women offenders which identified race as a major indicator of likelihood of failure on release - i.e., part of the "risk factor." From that, the statistician suggested longer sentences for minority women offenders, without suggesting that the systems, inside and outside the walls, program these women for failure.

When his simplistic conclusion was challenged, he withdrew it. When the bureau sentencing formula was distributed, race was not a stated indicator for determining the risk factors and, thereby, the proper sentences for women offenders. The elements that go to make up "risk factors" apparently can come and go as pressures dictate.

Local community corrections officials have had opportunity to review the reasons Fischer gives for denying consideration for release to that portion of the prison population who look like good candidates for community corrections, the questioned 15-20 per cent. Their conclusions echo my own. They advise that if his judgment of what makes up "risk factors" were applied by the sentencing courts of this state, and if mandatory minimum sentences remain the law, community corrections will be effectively dead, destroyed, in Iowa within two years, at a cost of untold millions to the citizens of this state.

If we let the survival of that process hinge on the technical determinations of one individual within the system. I submit that we make a grave mistake

APPENDIX III
OFFENDER ATTRIBUTE SCALE
CODING SCHEDULE

For any given convicted felon, circle points as applicable to the offender for each of the following variables, and then add the results to obtain a total score:

CRIMINAL HISTORY*

- 0 0
- 7 1-4
- 15 5
- 22 6 or more

*Score 1 for each probation term, adult jail term or juvenile commitment, and 5 for each adult commitment.

CURRENT OFFENSE GROUP

- 0 OMVUI, embezzlement, shoplifting
- 11 All other felonies
- 23 Non-narcotic drugs, motor vehicle theft, burglary or B & E, uttering forged inst.
- 34 Narcotics, assault, manslaughter, robbery (2nd deg.), crimes agt. children
- 45 Murder and assaults, rape or sexual abuse and assaults, robbery with agg. (1st deg.)

NUMBER OF CURRENT OFFENSES

- 0 One
- 8 Two or more

TOTAL SCORE _____

EMPLOYMENT STATUS AT SENTENCING

- 0 Full-time employed
- 4 Unemployed or part-time

AGE AT SENTENCING

- 0 19 or younger
- 4 20, 21
- 9 22, 23
- 13 24 and older

HISTORY OF DRUG/ALCOHOL ABUSE*

- 0 0,1, 2
- 3 3 or more

*Score 1 for each type of non-narcotic involvement and 3 for narcotic involvement.

RACE

- 0 White
- 3 Non-white

MARITAL STATUS AT SENTENCING

- 0 Married
- 2 Not Married

SCORE RANGE

OFFENDER ATTRIBUTE RATING

0-24	1	
25-33	2	
34-44	3	
45-55	4	
56-66	5	(Circle
67-82	6	one)
83-100	7	

APPENDIX IV
IOWA CORRECTIONAL POPULATION
CURRENT OFFENDER PROFILE (CONTINUED)¹

		Anamosa	Ft. Mad.	Rockwell City	Oakdale	Newton	Luster Heights	Total
<u>SERIOUSNESS PROFILE</u>								
<u>Current Offense</u>	<u>Most Serious Prior Conviction</u>							
Felony Against Persons (Weapon Involved)	Felony Against Persons	20/3%	103/13%	2/3%	6/12%	6/7%	0/0%	137/8.3%
	Othey Felony	57/9%	133/16%	2/3%	6/12%	10/11%	0/0%	208/12.6%
Felony Against Persons (No Weapon)	Felony Against Persons	3/.5%	38/5%	0/0%	2/4%	3/3%	0/0%	46/2.8%
	Other Felony	18/3%	25/3%	0/0%	2/4%	1/1%	0/0%	46/2.8%
Felony Against Persons (Weapon Involved)	Misdemeanor/Juvenile	36/6%	40/5%	1/1%	3/6%	2/2%	1/5%	83/5.1%
	No Prior Convictions	73/12%	54/7%	13/19%	8/16%	3/3%	0/0%	151/9.2%
Felony Against Persons (No Weapon)	Misdemeanor/Juvenile	13/2%	9/1%	0/0%	1/2%	1/1%	0/0%	25/1.5%
	No Prior Convictions	25/4%	14/2%	1/1%	4/8%	2/2%	0/0%	46/2.8%
Other Felony	Felony Against Persons	26/4%	84/10%	2/3%	0/0%	10/11%	0/0%	122/7.4%
	Other Felony	153/25%	217/27%	20/29%	9/18%	33/38%	15/71%	447/27.2%
	Misdemeanor/Juvenile	66/11%	44/5%	11/16%	6/12%	13/15%	5/24%	145/8.8%
	No Prior Convictions	111/18%	53/7%	18/26%	4/8%	3/3%	0/0%	189/11.5%
Total Number		602	814	70	51	87	21	1645

¹Taken from the data book prepared for the Advisory Commission on Corrections Relief.

END