

Publication IV

**PROBLEMS, THOUGHTS, AND PROCESSES
IN CRIMINAL JUSTICE ADMINISTRATION**

ALVIN W. COHN, Editor

**Probation
Management
Institutes**

Administered by

THE NATIONAL COUNCIL ON CRIME AND DELINQUENCY

Sponsors

Advisory Council on Parole of the National Council on Crime and Delinquency; Association of Paroling Authorities; Interstate Compact Administrators Association for the Council of State Governments; Probation Division, Administrative Office of the United States Courts; Probation Representative of the Professional Council of the National Council on Crime and Delinquency; United States Board of Parole.

December, 1969

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PREFACE

June 1, 1967 marked the beginning of a projected two-year program of intensive, regional institutes for top-level adult probation administrators in the United States concerned with new approaches to the understanding of decision-making and managerial styles of behavior. This project was made possible by a grant from the United States Department of Justice, Office of Law Enforcement Assistance, now known as the Law Enforcement Assistance Administration.

The program is administered by the National Council on Crime and Delinquency and is sponsored by the Advisory Council on Parole of the National Council on Crime and Delinquency; Association of Paroling Authorities; the Interstate Compact Administrators Association for the Council of State Governments; Probation Division, Administrative Office of the United States Courts; Probation Representative of the Professional Council of the National Council on Crime and Delinquency; and the United States Board of Parole.

The basic objectives of the Probation Management Institutes are two-fold: (1) to increase knowledge among probation administrators and middle managers about new developments in organizational practice and probation and community treatment and to encourage utilization of that knowledge; and (2) to develop a heightened commitment on the part of policy setting probation administrators to new concepts of effectively managing change and the continuous testing of innovative forms of treatment of offenders.

In order to provide correctional administrators with new ideas, thoughts, and feelings about the administration of justice, we invited a number of leading practitioners, academicians, and theorists to write "think pieces" to be included in a special publication. They were asked to address themselves to issues affecting adult probation services primarily, but, as the reader will note, most of the authors are concerned with significant problems and issues affecting the total continuum of the administration of criminal justice. However, all subjects and issues of contemporary relevance are not addressed in this publication and, obviously, the opinions expressed by the authors do not necessarily represent the views of the National Council on Crime and Delinquency or the Law Enforcement Assistance Administration.

The editor wishes to express his grateful appreciation to Arnold Hopkins and Frank Jasmine, both of the Law Enforcement Assistance Administration, for their assistance, encouragement, and willingness to support both the idea and the preparation of this "think piece."

This document is the fourth in a series of publications from the Probation Management Institutes. We hope that this publication and others will stimulate those who are concerned with the administration of probation services to be more sensitive and more effective in their work.

Alvin W. Cohn
 Probation Management Institutes
 National Council on Crime
 and Delinquency

December 1969

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METACORRECTION: STATE OF THE ART

Alvin W. Cohn
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Despite our best efforts and intentions, we continue to be unsuccessful in the development of a scientifically valid correctional process. Nonetheless, although short on institutional success, we have been able to manufacture long lists of organizational achievements. We point with pride to examples of special programs, developed and maintained by correctional agencies -- including work furlough, half-way houses, group counseling and therapy, certain innovative institutions, special publications, community-based treatment programs, and the embryonic use of ex-offenders as correctional employees. Numbers are added up, formal reports disseminated, and effective public relations utilized to convince the lay and professional communities that something worthwhile is being accomplished and that the system is effectively dealing with the problems of crime and delinquency -- even though we have neither arrested nor reversed the rates of crime and delinquency; nor have we produced a bank of professional knowledge useful in dealing successfully with recidivates, youthful and adult. We have developed, on the other hand, interesting and at times unique

'means', but without any real understanding of their relationship to the 'ends' we wish to reach.

Although expensive in terms of available resources, and occasionally important in terms of programmatic developments, these are but organizational achievements which do not permit us to claim significant success in terms of institutional achievement. If we were successful, we would know what we were doing, why, and how best to achieve it on a replicated basis throughout the system; further, we would be working toward the satisfaction of needs and requirements based upon mutually understood and explicitly defined correctional goals. Of course, means to achieve these goals -- hopefully -- would vary and change over the course of time, but consistently, the ends would be clearly stated and understood, albeit not everywhere accepted.

Because we cannot agree on what these correctional goals are or ought to be, we are perceived (probably correctly) as operating in a confused, purposeless manner, causing undue suffering on the part of the beneficiaries of service -- our clients. In fact, it is the client who, paradoxically, becomes the victim -- the victim of bureaucratic ineptness. A further consequence of this failure to serve those whom the system was created to "correct" is an institutionalized bureaucracy that tends to defy remodeling or change. Practices which perpetuate the myth of service

built up over the past century have become ritualized and self-serving so that even the most dedicated change agents within and critics outside of the correctional system are unable to bring about effective and lasting change.

If correction as practiced today is a failure, it has failed for a number of reasons, not the least of which is that we do not agree on what it is we are practicing. The existence of such a variety of services, practices, unknowns, and ideologies suggests that the term METACORRECTION might best describe the current state of both the scientific and the artistic aspects of the correctional system.

We might agree that correction has attempted to progress as a science, especially in the past several decades, and that it has accumulated a substantial body of clinical experience and research knowledge; however, we would also have to admit that adequate scientific experiments have not been (and perhaps cannot be) devised to either completely sustain or refute comprehensive theoretical approaches to the understanding of deviant behavior, methods of social control, or processes of individual and communal change. Scientific activity in correction does occur, but the extent to which the results are shared, understood, and implemented by correctional authorities, and the extent to which their impact upon institutionalized services is measurable can only be speculated to be minimal.

Artistic factors in correction exist in the form of certain creative, intuitive, or empathic features in the person of the correctional agent -- probation or parole officer, psychologist, psychiatrist, guard, cottage parent -- as well as in the leadership styles of correctional managers. Such factors are difficult to teach, not only because the materials are seldom formalized, but also because the learning process is of an existential nature that is more often experienced than learned. As a consequence, the correctional agent, although frequently supervised because of his low status in the organizational hierarchy, finds himself operating as an independent entrepreneur, in a manner almost to defy the stated policies, traditions, and administrative demands placed upon him by superior fiat. The manager, too, although frequently observed but not supervised, operates in a fashion independent of any stringent form of accountability, save that usually of a political nature.

Although we might agree that METACORRECTION aptly describes the state of correctional practice today, the term does not explain the kinds of failure we experience. It does not help us to understand the reason for the failure to agree upon explicit goals or a standardized set of practices. It does not explain why clients remain "uncorrected" why the recidivism rate continues to climb, how managers might manifest greater leadership, or why we cannot meaning-

fully innovate on a routine basis. It does not clarify the difficult problems of recruitment and maintenance of qualified manpower. METACORRECTION does not help us to find creative ways to resolve our dilemmas, but it may provide a philosophical base upon which to develop constructive ways to bring about change.

It may be that we experience failure because we are committed -- without really knowing why -- to old slogans such as "rehabilitation of the offender", "protection of society", or some combination thereof, as statements of our goals and objectives. We have sought ways to operationalize these cliches, without ever suggesting that they may be fallacious in the first place. Instead, we might consider the possibility of "change" as the primary goal and direct all of our efforts toward its achievement: change in the client to be better able to live in society; change in the community to be better able to permit the offender to remain in its midst; and change in correctional organizations and the total criminal justice system to be better able -- and equipped -- to work with the offender and the community and to assist them in working together.

Rehabilitative and protective activities might become processes utilized where and whenever needed, but not considered goals in themselves. Correctional agents might have to acknowledge, as a corollary to this goal, that the desired

consequence is to get the offender into his community and to keep him there -- to leave him in his home. The worker would have to be held accountable to his organization, his client, and to himself to ensure that he cannot "cop out". He would have to examine his own value system and, perhaps, recognize that his decision-making is based upon what he is willing to tolerate in terms of offender deviancy as well as how much he thinks his organization and community will permit him to tolerate. He would no longer be able to imagine that his decision-making is based upon what is "best" for the client or "best" for the community; rather, he would have to make such decisions himself, taking into consideration all factors based on reality and honesty.

Once we are willing to recognize that we have failed to set meaningful and mutually accepted goals and, further, to infuse these goals throughout the system, we can begin to see that another significant failure is that of ineffective administrative management -- that is, failure to lead. It may be that, because of philistinism, change is looked down upon, the status quo is revered too highly, and innovation and creativity are discouraged since they tend to threaten organizational security. With the continuance of such an approach -- as we have witnessed over the years -- for the most part, only protective and self-serving ventures are tolerated and only "safe" personnel remain. The extent to

which "cosmopolitanism" is encouraged, perhaps, indicates a willingness to change; while the degree to which "localism" persists as the attitudinal and behavior mode measures the organization's commitment to survival rather than to professional or institutional success.

This would suggest that correctional administrators traditionally have maintained a commitment to building layers of service without regard to what is successful and what is inappropriate program. This kind of organizational ritualism, obviously, precludes effective evaluation and, concomitantly, reinforces the notion of METACORRECTION as opposed to scientific process in the administration of correctional services. Correctional managers fail to listen to their subordinates and workers fail to listen to their clients, who therefore remain recipients rather than participants in the correctional process. As a consequence, there is little in the way of meaningful communications which can be applied to the evaluative process. The perception that change is slow to evolve, that it can only be imposed, is reinforced.

While most correctional organizations today have training officers -- or directors of staff development, as the title is euphemistically called -- we rarely inquire what the training should accomplish. We do not ask what this trained and qualified manpower is supposed to do. More

people doing the same thing that has always been done would only contribute to the spiral of failure; more people trained to do it in better ways would result only in more tragic failure. However, if we ever develop meaningful and appropriate goals, then it would be possible for correctional manpower to be trained as effective correctional agents who, as part of a team (organization, client, community) could help to bring about the kinds of change -- meet their goals -- that society has mandated the team to achieve.

Training must be related to the goals of the organization and can be viewed as highly significant in the development of ways to implement these goals. It can rely on processes that not only assist the change agents to better understand their jobs, but to be particularly sensitive to ways in which the correctional client can become a real participant rather than merely a recipient of unwanted services and unreasonable demands. Training might also be utilized to find ways in which ex-offenders (former beneficiaries of service) can share with professionals their knowledge of the ways in which change can be achieved. The utilization of such "sub-professionals" (an unfortunate choice of descriptive terms) in the training of other correctional agents as well as in providing direct services to clients, however, has scarcely begun in this country.

The failure to employ such persons, and the continued failure by correctional administrators to demand the right to employ them, only results in hypocrisy. How can a correctional agent ask that an employer hire an ex-offender when his own correctional organization -- in fact, almost the entire criminal justice system -- not only fails to do so but expresses little interest in the prospect.

If there is any willingness to redirect our efforts achieve institutional success instead of being satisfied only with organizational achievements, we need first to accept the METACORRECTIONAL base of our activities and, second, to develop meaningful and explicitly understood goals. Thereafter, the process of introducing change -- never an easy task -- into a tradition-bound and sometimes insensitive system will require that attention be paid to organizational, operational, and theoretical issues. Scientific process will have to be adhered to vigorously and ritualism discarded in favor of continuing evaluation and the proper utilization of the findings obtained. Rethinking of existing standards of manpower needs and training will be necessary. Similarly, the relationships of correctional organizations and systems to existing power structures and vested interests will need intensive examination -- and change.

To keep the offender on the street (except in those instances where a physical threat truly exists) will require

RESEARCH ON PROBATION

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In the evolution of probation from its beginning in the suspended sentence to the diverse diagnostic, supervision, and assistance services in the courts today, research has always been of great potential value. The extent to which this potential was realized generally has been negligible. Nevertheless, in recent years there has been enough dramatic proof of the value of research in probation to encourage more probation research in the years ahead.

Most probation policy issues and arguments raise questions which could be answered by more precise and complete information. Research is the systematic collection of information, in as objective and precise a manner as possible. Research may describe, classify, count, or otherwise measure phenomena, so we know exactly what our circumstances are, or what our experience has been. This is descriptive research. Alternatively, research may attempt to alter circumstances and practices deliberately, to determine the consequences of different policies. This

the sound and innovative development of alternatives to existing practices. Ideologically, it probably will require that we begin to talk of "alternatives to community-based service (e.g., probation)" instead of "alternatives to incarceration." With the implementation of such a philosophy, the amount and kinds of savings in terms of money and human resources might stagger the imagination of legislative officialdom!

Regardless of reason, the correctional establishment no doubt will resist efforts to change, but it cannot remain immune to change forever. To successfully accomplish this, however, will require that clients, communities, and correctional organizations find synergistic ways of relating to one another and develop sensitivity to each other's needs. Additionally, it will require the development of a scientifically valid process for identifying success. It will require a Herculean effort on the part of all concerned and the possibility of being forced to admit failure at any time cannot be ignored. To admit failure, when it is necessary to do so, does not imply weakness; rather, it signifies strength.

The question of whether we are prepared to change our METACORRECTIONAL practices into a scientifically valid profession of correction demands an answer.

is experimental research. Both approaches are concerned with answering either theoretical or practical questions. Both have been prominent in studies that are significant for probation.

The concern here is not only with research in probation, but with any research relevant to the determination of probation policy. Some of this research may have addressed issues in a parole or other setting, rather than in probation, yet have produced findings of value for probation.

How Extensively Should Probation Be Granted?

This is perhaps the primary question in probation administration, yet it is one for which a precise answer can least readily be obtained. The extent of use made of probation is a function of the importance attached to both the risks and the benefits involved, the types of offender to be considered, and the supervision services available. Some interesting research has been done at various locations on this question.

Leslie T. Wilkins noted that in Britain some courts granted probation to a much greater proportion of the offenders who came before them than did others. While the courts he studied placed on probation an average of 15 to 20 percent of the males they convicted, there was much

deviation from this average in different jurisdictions. One court granted probation to 52 percent of its cases. A comparison was made of reconvictions of those sentenced in this court with the reconvictions of a sample of similar cases from all the other courts of the area which granted probation to only 18 percent of those convicted. The cases compared were similar in offense, age, and prior offenses; yet reconviction following probation was slightly less frequent in the court granting probation most extensively than for similar cases in the other courts.¹

Another kind of inquiry was the Saginaw Project, in the city and county of that name in Michigan, where the court simply increased the percentage of cases in which probation was granted over two successive three-year periods, from 59.5 to 67.1. At the same time, however, another variable was altered. Counting one presentence investigation and report per month as equal to five supervision cases, staff caseloads were reduced from between 70 and 100 cases to 50 cases per officer. Initial education requirements for staff, and the training and direction provided them, also were improved. Despite the increase in the use of probation, the percentage of probationers subsequently sentenced to prison decreased from 32.2 to

17.4 percent. Not only the percentage, but also the number sentenced to prison decreased in the county by 88 cases. With imprisonment costing the state over five times as much as even this enriched probation service, increased use of probation produced net savings to the state of nearly half a million dollars, by reducing prison and parole operation costs, and saving on costs of welfare for the families of prisoners.²

The experience of the State of California is producing similar results. In 1966 that state initiated a program whereby any county could receive state funds to improve its probation supervision staff if, through increased use of probation, the number of offenders committed to California Youth Authority institutions was reduced. Previously, many counties were inclined not to invest in extensive use of probation, in part because their commitment of offenders to state institutions cost the county nothing, while probation staff were on county budgets. Under the Probation Subsidy Program, counties receive from the state some of the funds saved by their increased use of probation. These funds are used to improve probation services. In the first two years of this program, concluded June 30, 1968, the rate of first commitments to the Youth Authority declined 25.9 percent from that of the

preceding five-year period. In the same period the courts of 57 counties, Los Angeles excluded, granted probation to 22 percent more persons, while the number of probationers receiving institutional sentences because of probation revocation did not increase (indeed, declined two percent).³ A program similar to California's has been adopted by the State of Washington and, at the time of this writing, such programs are under consideration in several other states.

Is Casework Responsible for Probation Success?

While the Saginaw Project and the Probation Subsidy Program suggest that improved casework services are responsible for increased probation success, contrasting conclusions have been reached by several other studies. Lewis Diana found that in Pennsylvania's Allegheny County (Pittsburgh) Juvenile Court the amount of service a juvenile received, as indicated in the file, was unrelated to outcome for any type of offender.⁴ Ralph England obtained similar findings on the probation and post-probation recidivism of 500 federal offenders in Philadelphia. He also noted that almost identical probation and post-probation recidivism rates were found in fifteen different probation follow-up studies, in vastly different court settings. From this he concluded that the selection for

probation of offenders with relatively little prior criminality, rather than supervision services, is the main determinant of success on probation.⁵

Even more dramatic evidence that the nature of casework is irrelevant to probation outcome was provided by the San Francisco Project, an elaborate experiment in the U.S. Probation Office of the Federal District Court for the Northern District of California. Cases were randomly distributed to four different types of caseloads: 1) "minimum," in which one officer handled several hundred cases and persons under supervision needed only to submit a monthly written report, receiving further service or attention only if they or others requested it; 2) "regular," in which each officer's workload consisted of 100 units per month (counting one presentence investigation as four units and a supervision case as a single unit) and supervision cases were seen about once in six weeks; 3) "ideal," involving caseloads of 50 units; and 4) "intensive," in which caseloads were comprised of only 25 units, and contact occurred at least weekly. No significant differences in felony rates were found for these different types of supervision. It was concluded that this established "the relative unimportance of supervision for certain categories of offenders as a variable in probation and parole

adjustment as compared with other variables prior to and apart from the supervision experience".⁶

Other research has indicated that generalization from the San Francisco experiment should be cautious. Time studies of probation and parole officers at work suggest that variation in the number of cases assigned a probation officer might be reflected by differences in the amount of service he gives them. Still other studies suggest that the key question is a matter of quality not quantity, with respect to both the caseload and the caseworker, and this contention is supported by Dr. Robert G. Carter of the San Francisco Project. The central question then is: what types of casework are best for what types of offender?⁷

Of Time and Service in Probation

In 1961 a national sample of 31 federal probation officers kept a detailed record of their activities for 18 days. Thirty-four percent of their time was spent in presentence investigation, 29 percent in supervision of probationers, 12 percent in supervision of parolees, and the remainder in miscellaneous activities not specifically related to any of these functions. Converted to hours per case, this amounted to approximately 14 hours per presentence investigation and 1.1 hours per month per supervision case (probationer or parolee), or a ratio of

about thirteen times as much time for one presentence investigation and report as for one supervision case per month. This 13 to 1 ratio contrasted with the official work-unit ratio which equated one presentence investigation with only four supervision cases.⁸

What seems to be indicated is a persistent tendency to give priority to report preparation over supervision. In a questionnaire completed in 1962 by 96 percent of U.S. probation officers, the officers were asked to which of four types of problem they would give highest priority, if all required immediate attention. Sixty-nine percent designated presentence investigation; 11 percent, probation supervision; 12 percent, parole supervision; and four percent, postsentence counseling.⁹ This is consistent with a widespread tendency in casework for diagnosis to expand at the expense of counseling, surveillance, and other supervision tasks. Major reasons for this appear to be:

1. diagnostic reports must be completed by more specific deadlines than supervision tasks;
2. diagnostic reports are submitted to the caseworker's superiors, to guide their decisions, but in supervision tasks the caseworker interacts

with persons whose reactions have little consequence for the caseworker;

3. diagnostic efforts produce a tangible product, the report, on which the caseworker can evaluate himself and be evaluated by his superiors, while supervision achievements are less immediately and clearly visible.

In one experimental research project in parole supervision the California Youth Authority placed extra parole agents in Alameda County (Oakland) to form ten experimental caseloads of 36 parolees each and five geographically matched control caseloads, each with 72 parolees, then the norm for this agency. In the first six months of this program only eight percent of the parolees in small caseloads had parole revoked, as compared with 23 percent of those in the large caseloads. However, the difference in revocation rates for these two groups diminished over time until after two years they were nearly identical.

This similarity of outcome despite differences in service might suggest that the services are irrelevant; still, at first they seemed to make a difference. A separate tabulation was made of the number of officer contacts with the parolee, or with the parents, employer,

or others on the parolee's behalf. Those cases in which these contacts were most frequent (averaging five per month) had a violation rate of 11 percent in ten months on parole, while those in which contacts were least frequent (averaging one per month) had a violation rate of 50 percent.¹⁰ It appeared that frequency of contact had little to do with size of caseload. Apparently, contacting the parolees, parents, or other persons is not as rewarding to most officers as laboring to give extra polish to their written reports. When more time is available for casework, each officer tends to expand only that activity which is most immediately and definitely gratifying to him, rather than expanding all types of work.

One remedy for this situation in probation is to separate presentence investigation and reporting from probationer supervision, with each function performed by a different person. Major arguments against this are: 1) that during presentence investigation the probation officer builds a counseling relationship with the probationer which would be disrupted if another officer took over when probation begins; 2) that it is uneconomical to have a new officer duplicate the time necessary to become acquainted with a case; and 3) that it is uneconomical in terms of travel costs if two officers must cover the same

geographical area, instead of each taking a smaller territory.

Opposing these arguments are the facts demonstrated by the cited U.S. Probation Office research. 1) When both tasks are done by the same officer, time devoted to presentence work tends to be over three times greater than official regulations presume, if this time is measured in comparison with time given to supervision work; and 2) over two-thirds of the officers assert that if immediate action were needed in both cases they would assign lower priority to supervision than to presentence investigation. It may also be argued that these are different tasks requiring different skills. A good diagnostician and report writer may not be as effective in counseling or other supervision tasks, for some types of probationer, as another person who may not be as good at diagnosis and report writing.

This argument will be resolved only by well designed experimental research. A number of large city probation offices--notably New York City's, the largest of them all--have assigned presentence and supervision specializations to different officers. While John Wallace, the head of this system, reports satisfaction with this arrangement, there are no precise data available on its

advantages or disadvantages, because measurement of the comparative effects of the alternative systems was not planned in advance of the change-over.

In the California Youth Authority caseload experiment and time study, it was also found that extra time given to parolees was associated with lower violation rates primarily for first offenders, rather than for all cases. Indeed, there was a slightly higher violation rate with increased time in supervision of advanced offenders.¹¹ This reinforces the conclusion that the urgent need in probation is research to determine the type of supervision methods best for each kind of offender, rather than to prescribe more of any particular kind of remedy for all offenders.

Towards Prescriptive Probation Supervision

The most extensive controlled experiment in correctional history was California's Special Intensive Parole Unit (SIPU). In this experiment, initiated in 1953, a randomly selected group of parolees was released three months early, placed in 15-man caseloads for the first three months of their parole period, and then transferred to regular 90-man caseloads. The violation rates of the two groups were virtually identical. In the second phase of SIPU, the experimental caseloads each consisted of

60 men supervised for six months before transfer to regular caseloads, but again this did not affect violation rates. In the third phase, the experimental cases were placed in 35-man caseloads for the duration of their parole period, on the assumption that, in the previous phases, change in parole officer with change to regular size caseloads had deleterious effects. At this time parolees in California were being classified into risk groups on the basis of statistical prediction or "base expectancy" tables. Phase III analysis revealed that parolees in the lower-middle risk categories had significantly fewer violations in 35-man than in 90-man caseloads. Regardless of size of caseload, the types of parolees classified as high risks violated extensively and the parolees in the low-risk categories seldom violated, but for the middle-risk cases the smaller caseloads were a distinct advantage. In Phase IV a large proportion of the low-risk parolees were placed in very large caseloads and did as well in these as in regular caseloads. Also in this phase, as in the Youth Authority experiment, a time study revealed that the amount of time actually spent in supervision activities for a parolee was directly related to his probable success.¹²

Perhaps the major incentive to differentiation of

treatment has come from the California Youth Authority's Community Treatment Project. In this experiment all youth from the cities of Sacramento and Stockton who were committed to the custody of the Youth Authority were intensively studied as soon as they were received in the Reception Center. Here they were classified according to three levels of social-psychological maturity and placed in additional categories according to whether they were neurotic, anxious, manipulative, aggressive, or passive. They were also assessed by the Youth Authority, as the paroling authority, with respect to the probable community acceptance of their being paroled immediately. About one-quarter of the boys and about one girl in twenty were deemed not immediately acceptable in the community. The remainder were randomly divided, and about half were placed in regular institution programs, where average confinement before parole was about eight months, while the other half were paroled within a month of their commitment to the reception center.

Those paroled to these two communities went into special caseloads of eight or ten per officer, with additional psychological and tutorial services. They saw their officers almost daily, at a special center for this program or in the community. The most distinctive feature of the

program was that a special type of officer and a special mode of supervision were prescribed for each type of parolee, according to the classification given him at the Reception Center (and occasionally modified thereafter). For example, mature but neurotic and anxious youths were assigned to the most warm, sensitive, articulate, and involved officers, who were relatively permissive but quite concerned in their supervision. The manipulative youth and those highly conforming to delinquent subcultures were assigned to more formal, firm, and controlling officers, of distinct masculinity. An emphasis on intensive and ego-supportive relationships and rewarding mature responsibility development characterized supervision of the most immature cases.

The results of the Community Treatment Project are most impressive. At the end of 15 months on parole, 31 percent of the experimentals and 50 percent of the controls had violated. After 24 months these figures were 39 percent for the experimentals and 61 percent for the controls. The advantages of the experimental program were especially evident for those classified as neurotic acting-out and for the immature conformist. Sometimes personnel were unavailable to permit assignment of each experimental case to the prescribed type of officer. At the end of

15 months those experimentals who had been matched with a particular type of officer had a 19 percent parole failure rate as compared with 43 percent for those not so closely matched.¹³

The Community Treatment Project has been extended to three centers in San Francisco, one in Oakland, and four in Los Angeles, with some variations in research design. The California Department of Correction in 1965 began a controlled experiment with a "work-unit system" of assigning parole caseloads according to the different amounts of officer time that parolees were presumed to require. High-risk cases counted as five work units, medium-risk cases as three units, and low-risk cases as one unit. All officers had about the same number of work units, but the number of cases assigned to each officer varied with the classification of his cases. Some officers specialized in high-risk cases, some in medium-risk, and some in low-risk, with specialization modified to varying degrees by considerations of officer preference, geography, and various administrative restraints. In the first six months no differences in violation rate were found, but thereafter work-unit parolees had consistently lower violation rates than those in regular caseloads, particularly the non-aggressive cases and those with a

narcotics history.¹⁴

Caseload differentiation and agent specialization strategies have been used in probation as well as in parole, but have not been systematically evaluated. What is needed, clearly, is a research orientation, to test differential treatment strategies on a controlled experimental basis and to determine systematically their optimum application to probation.

How is Presentence Work Done and How is It Utilized?

A survey of federal probation practices in 1957 revealed considerable variation in the details of presentence investigation and reporting work. For example, in about one-sixth of the federal court districts or their independent branches, clerical personnel filled out much of the presentence report worksheet for the probation officer; in nearly one-tenth the defendant or his representative helped to complete the worksheet; in three-quarters it was completed solely by the probation officer. Only about one-third of the probation offices surveyed procured social service exchange information. About three-fourths verified family information supplied by the defendant, while about nine-tenths validated his reports on school, employment, and military service. About three-quarters summarized the indictment rather than copying it.

Only about three out of five recommended case disposition to the judge, although an additional one-quarter evaluated the defendant's probable adjustment on probation without making a recommendation. Nearly three-fifths regularly included a treatment plan in the report, and an additional one-fourth sometimes included such a plan. Finally, in about two-thirds of the federal courts the presentence report was available only to the judge; in most of the remainder it was also available to the U.S. Attorneys, but not to defense counsel.¹⁵

The presentence report is the first step in the creation of a cumulative record for a probation supervision file. To what extent are these records used? In a Wisconsin central office for the supervision of statewide probation and parole services, certain case files were given identifying tags and designated as an "Experimental File." Staff were instructed that every time they used one of these files they were to record the purpose, whether they found it satisfactory, and their job title. In this central office only seven percent of these marked files were recorded as used during a nine-month period, and they were usually used by administrative officers searching for answers to fairly specific questions. It is probable that in field offices records would be used to a

different extent and by various categories of personnel. In these experimental files the usual running log of supervisor observations on the case, largely in narrative form, was replaced by a much briefer and more structured and standardized set of record forms. Only ten percent of the users rated the records as unsatisfactory for their purposes; 22 percent reported them to be "very good"; and 32 percent reported them to be "good." The rest were not evaluated.¹⁶ It would be useful, whenever alternative types of record systems are being considered, if some records were kept in each of the systems. If during a research period staff were instructed to record their purposes in using the files and to rate the usefulness of the files for these purposes, the alternative record systems could rapidly be evaluated. In view of the tremendous amount of professional and clerical staff time devoted to maintaining probation records, and the great variation in length and format which such records can have, a small investment in records evaluation research might prove extremely economical in the long run.

The primary use of presentence reports, as well as violation reports, is in the guidance of decisions. These decisions concern the granting, revoking, or other modification of probation, as well as the imposition of

sentences instead of (or in addition to) probation, or the provision of special conditions of probation. An interesting "decision game", developed by Leslie Wilkins and his associates in Britain and America, may be used to determine which parts of the record are relied upon for each type of decision.

To prepare a decision game, a case file is broken down into those distinctly separate types of information that are potentially relevant to the decision, and each type is placed on a separate card. From one case there will be separate cards for age, education, medical history, and so forth, perhaps two dozen separate headings. A number of cases (as few as four or five or as many as 50 to 75) usually are converted to such standard sets of separate topical cards. The more cases used, the longer the game takes to complete. The players in the game may be probation officers, probation supervisors, judges, or any other persons. Generally, each plays the game alone, one case at a time.

The first step is to give each person a list of the topics for which there are separate cards. Ideally, there should be several separate lists, each with topics in a randomly different sequence. For each case the player is told the type of decision he is to make--for example, to

grant or deny probation--and asked what type of information he would need first in order to reach a decision. The type he chooses is recorded and he is given the card containing information on this topic, for example, age, offense, or psychological/psychiatric summary. He is then asked if he could recommend a decision on the case and, if so, what that recommendation would be. His response is recorded, and if he is unable to recommend a decision he is asked to select an additional topic. This sequence of recording choice of topic, querying on decision, and selection of an additional topic is repeated until he recommends a decision on the case. He is then asked to select three or more additional types of information to insure that his decision is correct, and after he reads each additional card he is asked if he wishes to alter his recommendation.

Analysis of the choice and sequence of case data topics in this game reveals the use made of different types of information in guiding decisions. For example, offense and prior criminal record are the only items selected in almost all cases. For federal probation officers in San Francisco these were followed by Psychological/psychiatric Summary in 80 percent of the cases; Defendant's Statement, 70 percent; Defendant's Attitude, 62 percent;

Employment History, 61 percent; Age, 54 percent; Family History, 52 percent; Marital Status, 42 percent; Medical History, 29 percent; Education, 22 percent; Military History, 17 percent; Alcoholic Involvement, 16 percent; Homosexuality, 16 percent; Drug Usage, 13 percent; Interests and Activities, 13 percent; Family Criminality, 12 percent; Plea, seven percent; Confinement Status, seven percent; Residence Data, four percent; and Religion, four percent. All decisions were made and confirmed before anyone requested information on legal representation, place of birth, or race.¹⁷ Undoubtedly, another selection of players would have a different set of information priorities for reaching their decisions.

One use of this game is to differentiate types of judge, probation officer, or others by the kinds of information on which they base their decisions. A second use is to differentiate individuals according to the amount of information they require. In the San Francisco experiment, the average number of cards selected before reaching a decision was only 4.9 per case in 69 decisions, plus the three cards each player was required to select to confirm his decision. The original decision was changed in only four cases. The first three choices most often included offense (in 97 percent of the cases), prior

criminal record (in 68 percent), and defendant's statement (in 32 percent). Players differed widely in the other items to which they gave priority. Another use of the game is to test different types of recordkeeping, for different decision-makers and different types of case, by observing the variation in amount and priority of information required for a decision according to the quality of the record preparation. This is highly relevant to costs, since it is important to know whether time and personnel invested in elaborate record preparation would alter decisions. Even more important, the types of information relied upon in making decisions can be related to the accuracy of predictions based on these data.

Guiding Probation Decisions

Any probation office which has collected information systematically in presentence reports, even for only a few years, can determine statistically how relevant this information was to the subsequent adjustment of its probationers. Each type of information is used separately to classify past cases into categories; then the probation outcome rates of the cases in each category are tabulated. In this manner cases can be classified by offense and tabulation will reveal the success rate of auto thieves in comparison with the success rates of embezzlers or

sex offenders. Similarly, classification and tabulation can be undertaken according to categories of age, employment record, prior criminality, and other background data, as well as by the case diagnosis, evaluation, prognosis, or recommendation submitted by various specialists or by the probation officer.

The results of past studies suggest some of the findings this type of research is likely to yield. For example, the best index of future criminality undoubtedly will prove to be past criminality, and the best index of future employment will be prior work record. Nevertheless, the range of variation in probation outcome according to classification on these and other items, and on combinations of items, should prove interesting. Many types of information now given considerable attention in case discussions probably will be found to have little relationship to behavior on probation. Additionally, a highly variable relationship will be found between probation performance and the prognosis recorded by probation officers, psychologists, and psychiatrists. Assessments of case study conclusions tend to be based on persuasiveness of rhetoric, and this often is not indicative of their utility for predicting probation outcome. Tabulation of these subjective judgments would be itself a fruitful research

activity. In some offices this will be simple because case reports conclude with a definite judgment in a standard terminology, such as "Guarded," "Doubtful" and "Favorable." In others an inconclusive narrative will have to be classified on its evaluative or prognostic implications into a few categories, such as "Unfavorable," "Neutral" or "Favorable."

Even before probation outcome is tabulated, the evaluations alone will provide interesting statistics, because report writers differ markedly in the proportion of cases to which they assign each type of prognosis. Some probation officers or other case specialists tend to be more optimistic than others and some are distinguished by their unwillingness to reach any definite conclusion on many cases. However, the proportion of cases on which a favorable judgment is made often has little relation to observed differences in success rate. Only by tabulating case outcome rates per type of evaluation separately for each case analyst can one learn the validity of their evaluations as predictive of probation outcome.¹⁸

Ideally, a probation office can maintain a relationship between statistical predictions and case study prognoses by continually comparing the accuracy of each on different types of case. This will make both the

predictions and the prognoses increasingly more accurate, by revealing their strengths and weaknesses.

To develop a statistical prediction system, every past case in the period to be studied must be classified as either a success or a failure, in terms of a decision rule appropriate to the jurisdiction. There will always be borderline cases in which the decision must be arbitrary, but most cases in the success category will be distinctly less involved in further crime than most of those in the failure category. Following classification, both the success and the failure cases must be further classified according to all items of information regularly recorded in the presentence reports to which some attention is given in reaching case decisions, or which prior research suggests have predictive significance. Correlation of outcome and objective information in the record is likely to produce the following findings:

1. Age: Success rates increase with age (in Los Angeles adult probation, 51 percent were successful among those under 28 years old and 76 percent among those 28 or older).¹⁹
2. Neighborhood: Success rates vary with the crime rate of the neighborhood (in Los Angeles there

was 77 percent success for cases released to the approximately half of the city's neighborhoods with the lowest crime rates, and 52 percent for cases released to the rest of the city).²⁰

3. Offense: Success rates are highest for "white collar" crimes (e.g., embezzlement) and for sex offenses (e.g., perversions and rape) and lowest for non-violent crimes against property (e.g., forgery, burglary, theft, auto theft) and for narcotics offenses.²¹
4. Work Record: The greater the proportion of time which the subject was employed, during the period of his life in which he was in the labor market, the greater the prospects for his success on probation.²²
5. Residential Stability: The more consistently the offender lived at one address, the greater his prospects for success on probation.²³
6. Dependency: The less the offender was economically dependent on relief or on support from others, or had debts overdue, during the year preceding his offense, the greater the prospects for success on probation.²⁴

7. Age at First Arrest: The later in life the subject's first arrest occurred, the greater his prospects for success on probation.²⁵

8. Total Previous Detention: The longer the subject had been confined in jails, detention homes, training schools, or other correctional institutions, the less his prospects for success on probation.²⁶

Much better predictions can be achieved by combinations of items than by any single item taken separately. Configuration tables of several variables permit classification of probationers according to all of the items of information that are most relevant to his prospects of success on probation.²⁷ In several counties surrounding Los Angeles, records of behavior of offenders following past court decisions have been tabulated by the Youth Studies Center of the University of Southern California in a manner which will provide a unique service to judges. For presentence reports on current cases, probation officers in these counties will be able to procure by wire from the University, on the basis of specified types of information for a particular case, the past rates of recidivism and of behavior improvement for that type of case following three types of

judicial decision: dismissal, informal supervision, and formal supervision.²⁸

Providing statistical probability information on each case, as described above, does not mean that the computer will determine the judge's decision. The judge must assess the risks in each case, taking into consideration the human values and public interests involved, as he sees them. It is his judicial prerogative to take less risk with persons who have committed offenses he considers heinous, and more risk with persons in whom he sees some redeeming virtues, or whose family he is considering. The statistical information is useful to him only in assessing the facts of risk he may wish to consider in his sentencing decisions, apart from the moral judgments, human feelings, and public opinions that he may also wish to take into account.

New Developments in Probation Manpower

The newest developments in probation seem to involve primarily a reduction of the separation between the court staff, the offender, and the general public. This is achieved by drawing on ex-offenders and on the general public to assist the court staff. Research can play an important part in assessing these developments.

In a research project in progress at the U.S. Courts for the Northern District of Illinois (Chicago), probation officers hire as part-time "Probation Aides" some of the people who have successfully completed probation under them. These aides assist and observe probationers in their neighborhood, usually working part-time in the evening and on weekends as a supplement to their regular job. In emergencies the aides can contact the officers for assistance, but normally they telephone at night or on weekends to log a report on automatic tape-recorders connected to a special number at the probation office. The tapes are transcribed each morning so that the officer can keep abreast of developments. This procedure permits more extensive supervision of each case than would be possible if the officer had to make all of the contacts himself. The Probation Aide is located close to the neighborhood of his clients, and is able to contact them during hours when the probation officer normally is not on duty. In addition, since the Aide generally comes from a background similar to that of the probationer, and he represents an example of successful completion of probation under the officer, he often may be able to achieve better rapport with the probationer. This project was designed and is being evaluated by the Center for Studies

in Criminal Justice of the University of Chicago Law School.

After the "Watts Riots" in Los Angeles, one of the remedial efforts was a program in the Los Angeles Juvenile Court known by the acronym RODEO, which stands for "Reduction of Delinquency Through Expansion of Opportunity." This program began on March 1, 1967. It is based on the assumption that minors from the ghetto area who normally are committed to probation camps following delinquency can be rehabilitated more successfully, and at less expense to the county, if supervised in small caseloads with adequate staff to permit intensive work with both the minor and his family. To facilitate this type of service, mature persons living in the community were recruited to work with the probation officers as Probation Aides. Two Aides who live in the neighborhood for which an officer is responsible are assigned to work with him as a three-man team. Each team is assigned an average of 30 juveniles, ages 13 through 18. Team members mobilize community support and assistance for the probationer and his family, in addition to working with them directly. They are instructed to deal with the family as a unit, rather than just the probationer, conducting group discussions with the family and helping all members to improve their

economic situation or resolve other problems. Offenders were randomly assigned to this program on an experimental basis, and of two different randomly selected control groups, one was sent to probation camp and the other was placed in a regular probation caseload.

Initial experience in the RODEO program has been distinctly successful, even though the minors in the program had been officially designated as "hard-core delinquents." At the end of the first year the experimental cases had a 75 percent success rate, as compared with 68 percent for the in-camp control group and 50 percent for those in the regular probation caseload. "Success" here is defined as not returned to the camp or committed to another correctional institution. On the basis of RODEO's superior success rate and the fact that this program's extensive services cost appreciably less than confinement, it is estimated that the RODEO program saves the public \$950 per year per probationer.²⁹

Apart from these experimental programs of expanding probation office manpower, there has been extensive recruitment of volunteers for every type of court service, many inspired by the outstanding efforts of Judge Leenhouts of the Municipal Court of Royal Oak, Michigan.³⁰ O'Leary has distinguished four types of volunteers: the "correctional

volunteers" who work directly with the clients, such as the Probation Aides in the RODEO program; the "social persuaders", typically in Citizens Councils, who promote public support for improvement of all aspects of the criminal justice system; the "gatekeepers of opportunities", such as government and large corporation executives who can greatly alter the job and training opportunities of offenders; and "intimates", such as the Probation Aides of the federal court in Chicago, who are likely to know the offenders on a personal basis and can have a unique influence on them.³¹ All four types hold great promise for probation, and research is challenged to test alternative strategies for utilizing each of them.

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EVALUATION OF THE EFFECTIVENESS OF
CORRECTIONAL PROGRAMS

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It may be assumed that the goals of probation, such as the reduction of criminal offenses, can better be achieved through programs based upon empirical knowledge than through programs based upon mere speculation about effects. However, there are surprisingly few well-designed studies of innovative probation programs that could contribute to probation policy formulation. While there are, of course, economic and political considerations that limit the range of possible research or innovation, a number of research designs are available for use in evaluative studies.

Research Designs

One of the most common forms of research is the survey, such as that used in compiling the Uniform Crime Reports. Recently this has been augmented by more direct, systematic sampling techniques such as those utilized by the National

Opinion Research Center of the University of Chicago,¹ or the Survey Research Center of the University of Michigan.² Questionnaires, psychological tests, and interviews also have been used to measure attitudes, abilities, and behavior. Based on the information gathered, many theories regarding the cause and prevention of illegal behavior--some of them mutually exclusive or contradictory--have been formulated. This proliferation of theories has led to what some writers have called "a chaos in delinquency research."³

One of the consequences of the existing dissatisfaction with criminological theory may be an increased tendency to test theories by their ability to produce observable changes in behavior. The Federal funding of programs of crime prevention increasingly is requiring evaluations of an experimental nature.⁴ These experimental programs tend to use a classical research design that exposes one (experimental) group to the new program or treatment and selects a similar (control) group which is not exposed to the new program. The experimental and control groups are compared on outcome criteria that are predicted to change if the program is effective and the underlying theory correct. Some of the major administrative difficulties in the use of experimental designs arise from the procedures used in

establishing the similarity of the experimental and control groups. One of the best ways to insure comparability is the use of random assignment procedures. Other methods of determining that observed changes in outcome are in fact a result of the program itself include: (1) the time-series with a comparison group; (2) the multiply-interrupted time series; (3) the treatment group as its own control; and (4) statistical procedures of control.

A. Random Assignment

The value of random assignment may be illustrated by comparison with a commonly used but not always satisfactory matching procedure. In the latter, a group of probationers are selected by a special board for intensive job counseling to determine if this counseling will reduce the group's recidivism rate. After the members of the experimental group have been selected, a control group is constructed by selecting probationers who are similar to the members of the experimental group on characteristics such as employment history, age, and prior offense. After the experimental group has received the counseling for six months or a year, the recidivism rates of both groups are compared.

Although this matching procedure is surely better than no research design at all, there are several inherent

difficulties. One difficulty is that the characteristics used to determine the "similarity" of the two groups may not be those characteristics that are closely related to recidivism. Although the groups might have been similar in regard to characteristics such as employment history, age, and prior offense, they might not have been similar in regard to a very important characteristic (such as age at first offense) which may be closely associated with recidivism. If the experimental group had a lower average age of first offense (usually associated with chronic offending), and if the experimental program showed no reduction in recidivism as compared to the control group, this could be the result of poor matching. The program actually might have been effective but its impact obscured by comparing two groups that were not equivalent in terms of variables related to recidivism.

It could be argued that no administrator or researcher could possibly know all of the variables upon which to match the groups so that they are comparable. It is for this reason that subjects are randomly assigned to experimental and control groups. By random assignment, each member of a population has an equal chance of being in the experimental or control group. Members with distinguishing

characteristics such as poor employment history or lower age of first offense will, over the long run, be evenly distributed between the groups, thus insuring comparability.⁵

Random assignment frequently has been used in experimental studies within the criminal justice system. Subjects have been randomly selected for recommendation for bail;⁶ for institutional or community treatment;⁷ for group therapy;⁸ for psychiatric treatment;⁹ and for parole.¹⁰ Nearly the entire range of operation of the criminal justice system, excluding the initial arrest and referral to court, has been studied by this experimental procedure. Some administrative issues that may be raised by such assignment may be illustrated by the random selection of subjects for recommendation for bail.

In the Manhattan Bail Project, law students interviewed accused persons being detained prior to arraignment. Information from this interview plus other background information was converted into a point system. If a person scored well he was considered suitable for recommendation to the judge for release on his own recognizance. Those persons with suitable scores were then randomly assigned either to an experimental group, in which case the recommendation was given to the judge, or to a control group, in which case

the recommendation was withheld. The judge then made a decision for each individual regardless of the group in which he had been placed. The court was not obligated to follow the recommendation; yet pretrial parole was granted to 60 percent of those persons recommended and 14 percent of those persons not recommended for parole.¹¹

It may be noted that judicial intervention and discretion are permitted in this research design while still maintaining the integrity of the randomization procedure. A related but different design was used in the Provo Experiment.¹² Youths whom the judge had decided were suitable for commitment to an institution were randomly assigned to either the institution or a community treatment project, a form of probation.

Random assignment clearly may not be permissible in some situations (for example, randomly determined arrests of a specified group to determine the extent to which innocent persons are found guilty), although administrative decisions in some situations are in practice nearly random or are based upon widely fluctuating or indeterminable criteria. This arbitrariness may allow the random assignment of a subgroup of subjects to experimental and control groups. Campbell, in an excellent discussion of the design

of field experiments, provides an example of this procedure in giving fellowships to college students.¹³ This example is applicable to granting probation or parole.

This procedure, known as the regression discontinuity design, is best carried out if all potential candidates for the experimental program are individually scored by the committee making the decision. Those candidates who are the most eligible, for example, the top ten out of thirty candidates, are assigned to the experimental program. The ten least eligible candidates are excluded from the experimental program and are assigned to the regular program or control group. Those in the middle range of eligibility are the candidates about whom there will probably be the most debate and arbitrary action in the usual circumstances. As a tie-breaking procedure, these subjects can be randomly assigned so that half of them are placed in the experimental program and half are placed in the regular program. Neither program then will be unfairly biased.

Let us assume that the experimental program is intended to produce lower recidivism rates than the regular program. After the experimental treatment, if the recidivism scores are plotted on a graph for each selection score, those persons with the highest selection scores (those in the

experimental program) should show a much sharper drop in recidivism than those persons with the lowest scores. If the program had no effect, then the recidivism rates should decline gradually or stay the same as the selection scores increase.¹⁴ It may be possible to analyze in the standard manner only the data from the randomly assigned middle group of candidates, if this group is large enough. This would not provide any information about the effects of the experimental program on high scorers, for whom the program presumably was most suitable.

B. Time-Series with a Comparison Group

If matching or randomization procedures are not used to determine the members of the experimental and control groups, a non-equivalent group still might be of value in assessing treatment effects. Assume, for example, that a regular probation program is being expanded to include the use of local citizens as volunteers.¹⁵ Those probationers with short court records are selected for this experimental program because they present less "risk" than those probationers with long or average court records. The experimental group still might be reasonably compared with a control group of probationers with average or long court records, even though the measure of success is recidivism. Although

the probationers with short court records generally will have a lower recidivism rate than those probationers with long records, the experimental program should result in an even lower rate for the experimental group. This can be determined by recording the recidivism rates of both the experimental and the control group at monthly intervals for one year prior to the experimental program, during the program, and for one year following the program. The rate of recidivism for the experimental group throughout should remain lower than the recidivism rate of the control group and, following a successful program, it should become even lower.

The purpose of the control group is to provide information about potential factors extraneous to the experimental program that might influence the recidivism rate.¹⁶ For example, if the police make many more than the usual number of arrests following initiation of the program, and if the recidivism of only the experimental group is being measured, the results might show an increase in recidivism rather than a decrease, even if the program is successful. Assuming, however, that the police do not discriminate between experimental and control group probationers, the recidivism rate of the experimental group, though higher than when the

program began, would remain lower than the recidivism of the control group. The control group also helps to measure the effects produced by preliminary testing of the subjects or maturation of the subjects.

If it is not administratively feasible to withhold treatment or a new program from the control groups, two different treatment groups might be used. All subjects might be assigned on the basis of scores as described above (or by a randomization procedure) to either a volunteer program or an educational enrichment program. The effectiveness of these two programs could then be compared.¹⁷ Caution would be needed, however, in generalizing from this type of research design. Furthermore, it should not be assumed that some type of treatment necessarily is better than none. Occasionally, treatment may produce no change in recidivism or even an increase in recidivism.

C. Treatment Group as Its Own Control

The use of a treatment group as its own control is similar to the time-series procedure except that there is no comparison group. The recidivism rate of the treatment group prior to initiation of the experimental program is compared with the recidivism rate of this group following treatment. One advantage of this design is that there is

no question about the similarity of the treatment group and a control group. However, this design does not provide information that could rule out changes in the recidivism rate due to maturation of the subjects, the occurrence of unusual events, changes in record-keeping or observational procedures, or the repeated testing of the subjects.

Some of these extraneous influences can be ruled out as contributing factors by applying the treatment, withholding it for a period of time, and then reapplying it (a multiply-interrupted time series). If recidivism rates rapidly declined, for example, following the initial use of volunteers, increased rapidly when the volunteers went away for summer vacations, and again rapidly declined when volunteers returned in the fall, then the primary effects of the treatment could be separated from the primary effects of maturation. It should be remembered that, as indicated by the Uniform Crime Reports, many indices of crime vary widely without any clear explanation from month to month or from year to year. When the multiply-interrupted time series is used, the effects of a new program can be determined more reliably by examining the data over fairly long periods of observation.

D. Additional Strategies

The central purpose of the research designs described above is to reduce the ambiguity of inferences concerning the effectiveness of correctional programs by helping to rule out factors such as maturation, extraneous events, and the instability of outcome criteria as possible or plausible explanations for program results. Designs may be selected or sometimes combined to rule out the most plausible of these rival explanations.

If staff turnover is a rival explanation for the failure of an experimental program, a control group supervised by the same staff could be used to test this possibility. The influence of staff enthusiasm about the new program might be tested by initiating two new programs with similar subjects, each based on logical but competing explanatory theories. Alternatively, a multiply-interrupted time series extended over a considerable period of time without feedback of positive results to staff might control for the effects of staff enthusiasm.

E. Statistical Procedures of Control

Statistical procedures not only help the administrator to determine the extent to which observed changes may be due to chance,¹⁸ but may also be used to help determine the

extent to which factors other than the treatment may contribute to the observed changes.¹⁹ Also, with well designed experiments, a large number of subjects may not be needed. Recently there has been a growing interest in the experimental and statistical study of carefully observed individual subjects or very small groups.²⁰ At the same time, considerable innovation has been shown in the design of computer-based data retrieval systems that can be used not only to inform a probation department about recidivism rates but also to help the probation officer make decisions about individual probationers through the use of probability tables within the computer.²¹

In an excellent review and discussion of the use of evaluation procedures in social action programs, Suchman comments, "...One of the key elements in evaluative research is a productive compromise between methodological requirements and administrative limitations. In the case of early evaluation guides perhaps too great an emphasis was placed upon administrative as compared to scientific considerations."²² With several suitable research designs available for use, the administrator may be able to evaluate the effectiveness of his programs without serious disruption of the programs. Often, it is a matter of utilizing data

already available or data that could be collected by a more careful observation of the program.²³ Sometimes, however, programs must be specially designed to accommodate research requirements and it is then that difficult policy considerations may arise.

Policy Considerations

The social values of and the need for social experimentation are widely recognized.²⁴ The primary concern is to avoid unnecessary harm to the participants while using research procedures that minimize the ambiguity of inferences from the study. Some safeguards for subjects are provided in the ethical codes of many professional groups. For example, several codes, such as the Nuremburg Code or the Declaration of Helsinki, indicate that experimental intervention requires the voluntary consent of the subject²⁵ or that the subject should have the right to withdraw from the experiment.²⁶ In situations where subtle or persistent pressures may compel a person to participate in an experiment, additional safeguards may be advisable. Morris²⁷ has suggested the use of a principle of "less severity" in experimentation within the correctional setting. This principle states that the experimental treatment should be regarded by the community at large as less severe than the

treatment or condition against which it is being compared. Thus, prison inmates may be experimentally placed on parole but parolees may not be experimentally placed in prison. In practice, this principle generally is followed.

The social policy implications of the random assignment of subjects to experimental intervention are complex even with the principle of "less severity." The person not selected for the less severe intervention may feel deprived, although as Zeisel²⁸ has pointed out, before the lot is drawn all have an equal chance of being selected and there can be no prejudice or subtle bias at work. To this, Lefstein²⁹ has added, "Consequently, random assignment is less arbitrary, therefore presumably fairer, than any other conceivable dividing line. Theoretically this appears to be unassailable. But is the proposition necessarily true in practice for all experiments?"

Lefstein describes a hypothetical situation, earlier suggested by Morris,³⁰ in which an inmate's chance of obtaining early release to an experimental program, if based upon his prior prison record, would be excellent - perhaps 80 or 90 percent. The experimental program can accommodate only 20 subjects. Because of the experimental design, this highly eligible inmate is pooled with 39 other eligible

inmates, some of whom are only marginally eligible. If one-half of these eligible inmates are randomly selected for early release his chances have been reduced to 50 percent. At first this seems unfair, but if it is assumed that the inmate would have had no chance whatever for early release in the absence of the experiment, then in fact the experiment has markedly enhanced the possibility of his early release.

If, as in the hypothetical case described by Morris, the early release program for 20 inmates would have been instituted without the experiment, then any criterion for selecting inmates for early release, even if not random assignment, would necessarily work to the disadvantage of twenty of the inmates. As in every administrative decision that makes distinctions among persons for the allocation of limited resources, the selection of any given criterion works to the disadvantage of some. The problems inherent in the use of random selection do not differ markedly from those problems necessarily and unfortunately resulting from the use of other criteria for making distinctions. Traditionally, a sense of fairness has been maintained by avoiding the arbitrary or capricious selection of a criterion or by requiring that its selection have a rational basis.

These same safeguards of fairness should be applied to the use of random selection.³¹

Even if random assignment is not used, the administrator of a new program still may face some difficult policy problems, particularly if he has had difficulty convincing the legislature or community that the program is worthwhile. Typically, the community wants to be guaranteed results before funding a new program, but the research designs suggested above can be used to demonstrate that the program was ineffective. In a sense, the administrator might be in a less tenuous position politically if he did not carefully evaluate the program but rather relied on opinion or selected testimonials to demonstrate its assumed success. To avoid this situation, the administrator might try to obtain support for the program as a pilot project or as one of several alternative programs. If the first program shows indications of failure, an alternative program or alternative procedures within the same program could be tried. This is done in medical and space research in which there is a very heavy commitment to present programs but an even greater commitment to the accomplishment of stated, measurable objectives. The task of the administrator is not so much to achieve complete success with a single program but

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to design a series of programs that move toward the objective.

Humane Innovation

There would be little need for the evaluation of correctional programs if the programs were uniformly ineffective. Evaluation is most useful when the programs are innovative and offer the possibility of great advancements in the rehabilitation of offenders.

However, several well-known studies have found no greater reduction of behavior problems in experimental groups receiving psychotherapy than in the untreated control groups.³² A recent study has found no clear improvement in the behavior of potentially delinquent girls following social work intervention.³³ Failures in reducing male delinquency have been noted for prison treatment,³⁴ short-term residential treatment,³⁵ parole,³⁶ group work,³⁷ and counseling.³⁸ In some studies, the treatment group has even shown more maladaptive behavior,³⁹ psychoneurotic symptoms,⁴⁰ or recidivism⁴¹ than the untreated group. In a review of one hundred outcome reports on correction, Bailey⁴² reported that those studies based upon rigorous research designs generally showed statistically non-significant improvement, no change, or a worsening in regard to the outcome measures

used by the study.

A broader, bolder vision of correctional programs is needed. The courts generally have favored fair, humane experimentation. In an often-quoted dissent, Justice Brandeis commented:

To stay experimentation in things social and economic is a grave responsibility. Denial of the right to experiment may be fraught with serious consequences to the Nation. . . . We may strike down the statute which embodies it [an experiment] on the ground that, in our opinion, the measure is arbitrary, capricious or unreasonable. We have power to do this, because the due process clause has been held by the Court applicable to matters of procedure. But in the exercise of this high power, we must be ever on our guard, lest we erect our prejudices into legal principles. If we would guide by the light of reason, we must let our minds be bold.⁴³

Much is now being done in laboratory settings and in pilot projects outside of the area of corrections which may be applicable to correctional programs. Procedures such as operant or classical conditioning, sleep learning, systematic desensitization, modeling, self-suggestion, perceptual restructuring, and electronic monitoring or prompting are being studied. Because the correctional

system involves the use of legal constraints and force, special care must be taken to preserve the personal integrity, respect, and privacy of the individual. This orientation is not, however, inconsistent with all new procedures.

Even if correctional administrators cannot approve of initial experimentation with some procedures such as electronic monitoring, they probably will be faced with making a decision about their use in the future as other disciplines develop and promote them. It appears that administrative policy in this respect should be based upon social and ethical goals that are achieved through programs that are empirically studied rather than speculatively justified. In this way, experimentation may serve to safeguard important social and personal values.

Footnotes

1. See: President's Commission on Law Enforcement and Administration of Justice. Criminal victimization in the United States, by P. Ennis. (Field Surveys II). Washington, D.C., 1967.
2. See: President's Commission on Law Enforcement and Administration of Justice. Studies in crime and law enforcement in major metropolitan areas, by A. Reiss, Jr. (Field Surveys III). Washington, D.C., 1967.
3. T. Hirschi and H. Selvin. Delinquency research: an appraisal of analytic methods. New York, Free Press, 1967. p. 21.
4. For example, section 404(a) of the Juvenile Delinquency Prevention and Control Act of 1968 requires evaluation, including "...comparisons with proper control groups composed of persons who have not participated in programs under this Act."
5. In general, the larger the experimental and control groups, the more likely they will be made similar by randomization. See: F. Kerlinger. Foundations of behavioral research: educational and psychological inquiry. New York, Holt, Rinehart and Winston, 1964. pp. 61-63.
6. Vera Foundation. Toward justice for the poor. New York, 1964.
7. L. Empey and J. Rabow. "The Provo experiment in delinquency rehabilitation." American Sociological Review, (26):679-695, 1961; Juvenile Delinquency and Youth Development Office. Alternatives to incarceration, by LaMar Empey. Washington, D.C., 1967.
8. D. Ward.¹ "Evaluation of correctional treatment: some implications of negative findings." In: Yefsky, S., ed. Law enforcement science and technology. London, Academic Press, 1967. pp. 201-208.
9. California Youth Authority. Effects of short-term psychiatric treatment on boys in two California Youth Authority institutions, by E. Guttman. (Research Report No. 36). Sacramento, 1963.

10. Institute for the Study of Crime and Delinquency. East Los Angeles halfway house for narcotics addicts, by G. Geis. Sacramento, 1966.
11. Op. cit. supra note 6.
12. Op. cit. supra note 7.
13. D. Campbell. "Reforms as experiments." American Psychologist, (24):409-429, 1969.
14. For a more detailed analysis of the interpretation of results using this procedure, see: Id., pp. 420-425.
15. A useful summary of ideas on the use of volunteers in probation programs with juvenile and young adult misdemeanants may be found in: Juvenile Delinquency and Youth Development Office. The Boulder conference of volunteer courts. Edited by U. Davis, I. Scheier, and L. Pinto. Washington, D.C., 1968.
16. For a discussion of the advantages and disadvantages of this procedure, see: op. cit. supra note 13, pp. 417-419.
17. A discussion of the advantages and disadvantages of this type of design and examples can be found in: H. Hyman, C. Wright, and T. Hopkins. Applications of methods of evaluation: four studies of the encampment for citizenship. Berkeley, California, University of California, 1967. pp. 21, 41n.
18. A brief and insightful discussion of the use of statistical tests of significance has been provided by T. Hirschi and H. Selvin, op. cit. supra note 3, pp. 216-234.
19. A discussion of these statistical procedures may be found in most standard statistical texts such as: A. Edwards. Statistical methods for the behavioral sciences. New York, Holt, Rinehart and Winston, 1966; J. Guilford. Fundamental statistics in psychology and education. New York, McGraw-Hill, 1965; S. Siegal. Nonparameters statistics for the behavior sciences. New York, McGraw-Hill, 1956.
20. For example, see: W. Holtzman. "Statistical models for the study of change in the single case." In: C. Harris, ed. Problems in measuring change. Madison, Wisconsin, University of Wisconsin, 1967. For an excellent presentation of procedures for individual and group analyses, see: J. Chassan. Research design in clinical psychology and psychiatry. New York, Appleton-Century-Crofts, 1967.

21. A. McEachern, E. Taylor, J. Newman, and A. Ashford. "The juvenile probation system: simulation for research and decision-making." American Behavioral Scientist, (11):1, 1968. The entire issue is devoted to this topic.
22. E. Suchman. Evaluative research: principles and practice in public service and social action programs. New York, Russell Sage Foundation, 1967. p. 16.
23. Some useful, general discussions of research methodology in social settings may be found in: G. Fairweather. Methods for experimental social innovation. New York, Wiley, 1967; U.S. Health, Education, and Welfare Department. Children's Bureau. Some guide lines for evaluative research, by E. Herzog. Washington, D.C., 1960; F. Kerlinger. Foundations of behavioral research. New York, Holt, Rinehart and Winston, 1964; C. Selltitz, M. Jahoda, M. Deutsch, and S. Cook. Research methods in social relations. New York, Holt, Rinehart and Winston, 1964.
24. For example, see: President's Commission on Law Enforcement and Administration of Justice. Task Force report: corrections. Washington, D.C., 1967. pp. 13-15. Also see: A. Dyke and H. Richardson. The moral justification for research using human subjects. Washington, D.C., National Academy of Sciences, 1967. This paper was reprinted separately from the proceedings of a conference, Use of Human Subjects in Safety Evaluations of Food Chemicals, sponsored by the National Academy of Sciences in 1967.
25. This principle may also be found in the codes of the Academie Nationale de Medecin, American Sociological Association, American Medical Association, World Medical Association, The Catholic Hospital Association of the United States and Canada, and the American Psychological Association.
26. Most of these commonly cited principles are based upon a medical rather than a behavioral science model of research. The inappropriateness of the medical model is discussed in detail elsewhere. R. Schwitzgebel. "Ethical problems in experimentation with offenders." American Journal of Ortho-psychiatry, (38):738-748, 1968. Related comments may be found in: American Academy of Arts and Sciences. Proceedings of the Conference on the Ethical Aspects of Experimentation on Human Subjects. Boston, Mass., House of the Academy, 1968; and R. Bryner and B. Farris. "Ethical and political dilemmas in the investigation of deviance: a study of juvenile delinquency." In: G. Sjoberg, ed. Ethics, politics, and social research. Cambridge, Mass., Schenkman, 1967.

27. N. Morris. "Impediments to penal reform." University of Chicago Law Review, (33):627-656, 1966.
28. H. Zeisel. "The New York Expert Testimony Project: some reflections on legal experiments." Stanford Law Review, (8):744-745, 1956. See also: H. Zeisel, H. Kalven, Jr., and B. Buckholz. Delay in the court. Boston, Little, Brown, 1959. pp. 241, 245.
29. N. Lefstein. "Experimental research in the law: ethical and practical considerations." Paper presented at the meetings of the American Sociological Association. San Francisco, 1967. p. 9.
30. Op. cit. supra note 27, p. 649.
31. Morris comments: "My final reason for not being persuaded by the furious burglar [the inmate complaining about unfair treatment by random selection], even in his precise situation is this: the whole system of sanctions, from suspicion to arrest to trial to sentence, punishment, and release is now as full of irrational and unfair disparities that marginal arguments of the type the furious burglar produces are to me lost in the sea of injustice from which in the long run we can be saved only by these means. Yet I remain on his side to the extent that I abhor experimental design which is not anxiously perceptive of these ethical problems and does not do its utmost to minimize them." Op. cit. supra note 27, p. 653.
32. H. Eysenck. The effects of psychotherapy. New York, International Science Press, 1966; A Bergin. "Some implications of psychotherapy research for therapeutic practice." Journal of Abnormal Psychology, (71):235-246, 1966.
33. H. Meyer, E. Bargatta, and W. Jones. Girls at Vocational High: an experiment in social work intervention. New York, Russell Sage Foundation, 1965.
34. Op. cit. supra note 8.
35. California Youth Authority. The Fricot Ranch study: outcome with small versus large living groups in the rehabilitation of delinquents, by C. Jesness. (Research Report No. 47). Sacramento, 1965; California Youth Authority. The Fremont experiment: assessment of residential treatment at a Youth Authority Reception Center, by J. Seckel. (Research Report No. 50). Sacramento, 1967.
36. R. Schwitzgebel and D. Baer. "Intensive supervision by parole officers as a factor in recidivism reduction of male delinquents." Journal of Psychology, (67):75-82, 1967.
37. University of California. Survey Research Center. A new approach to juvenile delinquency: a study of the Youth for Service Program in San Francisco, by L. Ephron and I. Piliavin. Berkeley, 1961; W. Miller. "The impact of a 'total community' delinquency control project." Social Problems, (10):168-191, 1962; N. Caplan. "Treatment intervention and reciprocal interaction effects." Social Issues, (24):63-88, 1968.
38. W. McCord, J. McCord, and I. Zola. Origins of crime: a new evaluation of the Cambridge-Somerville Youth Study. New York, Columbia University, 1959; N. Teuber and E. Powers. Evaluating therapy in a delinquency prevention program. Proceedings of the Association for Research in Nervous and Mental Disease, 1953. p. 138; W. Lenz. "Delinquency as a stable role." Social Work, (11):66-70, 1966; Institute for the Study of Crime and Delinquency, op. cit. supra note 10.
39. A. Cohen. "A dissonance analysis of the boomerang effect." Journal of Personality, (30):75-88, 1962.
40. C. Shoere, P. Lowinger, T. Sullivan, and G. Hartlaub. "Improvement without treatment." Diseases of the Nervous System, (29):100-104, 1968.
41. Catholic University of America. Final Report IV: Experimental and demonstrative manpower program for training and placement of youthful inmates of the Youth Center, Lorton, Virginia.
42. University of California. School of Social Welfare. Correctional outcome: an evaluation of 100 reports, by W. Bailey. Los Angeles, 1961.
43. New State Ice Company v. Liebman, 285 U.S. 262, 311(1931). Additional references to experimentation, though the word is used with varying meanings, may be found in WMCA v. Lomongo, 377 U.S. 633 (1963); Griswold v. Connecticut, 381 U.S. 479 (1965); and State v. Sheffner, 143 N.W. 2nd 458 (1966). Additional limitations on experimentation might be found in the equal protection clause and in the guarantee against cruel or unusual punishment.

84899

THE THRICE JUDGED AND THE POWERLESS:
IMPLICATIONS FOR RESEARCH

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Decision-making is to an organization what gasoline is to a motor vehicle: it makes it operate. The decision-making process in probation systems, as in all organizations, goes on at every level, from that of the probation officer up through the ranks to the Commissioner or the Chief Probation Officer.¹ We know from the volume of empirical work that has been done on the decision-making process that there are many factors to be taken into account in explaining how a particular decision was made or in explaining how to go about the business of arriving at the correct decision.²

Some preliminary reflections are offered here on a seldom considered factor affecting the decision-making process on one hierarchical level of a probation agency, that of the probation officer. As a result of the recent surge of interest in labeling theory, we have finally arrived at the point where we now consider both the criminally defined and those defining him in the criminal

role as significant objects of study for the criminologist.³ The question thus arises: what is the implication for probation officer decision-making of the fact that the person regarding whom his decision is made has already been given the official criminal label on two previous occasions?

It may seem obvious, but the fact is that we behave differently vis a vis a person whom we can securely locate in our world of socially constructed knowledge from the way we behave with one whom we can locate in no previously constructed social framework, or who does not have for us a clearly defined role. For such a person we have no clearly defined set of expectations. In the former case, our behavior, whether it be decision-making or simple emotional reaction, is preconditioned by our knowledge of his socially defined role.

The criminal justice system has been depicted as a funnel;⁴ that is, a refining and narrowing process composed of several stages, each of which is conditioned by what has gone before. At each stage a new label ("suspect," "criminal," "convict," "parolee," etc.) is affixed to the unfortunate individual who happens to be caught up in its machinery.

The probation officer comes in contact with the

offender at a rather late stage in this series of decision-making points. Thus, in his role of official agent of the state he is called upon not to decide whether to confer a group status upon a person, but to decide, in the course of his contact with the person, to which group the person is to be assigned--that of probationer, prisoner, or ex-probationer. The offender has already been assigned by the system to a minority group status twice before, first by an agent of the law enforcement system and second by an agent of the judicial system. What affect do these prior labels, in themselves, have upon the probation officer's perception of his "client"? In the very least, it is clear that the "client" comes into the role relationship with a deviant label already attached to him. What impact does this have upon the probation officer's decision-making?

In order to more clearly conceptualize this problem, consider an officer's perception and judgment of his next-door neighbor, whom he has often observed returning home late at night in a state of intoxication. Contrast his perception of and reaction to this person's behavior with his perception of and reaction to knowledge of similar behavior on the part of someone on his caseload. It requires no specialized knowledge of the social

sciences to conclude that the officer's judgment is very likely to be quite different in these two circumstances. Similar reasoning occurs when one buys a second-hand car. He is already suspicious, for the natural question is, "why did the original owner get rid of it in the first place?" The used car, in other words, comes to us with a label attached.

The population assigned to the probation agency and to the probation officers comes to them neatly categorized and packaged by other systems operating in an earlier order of social, chronological, and perhaps, logical, priority. This fact must be taken into account when trying to isolate and measure factors in the decision-making of probation officers. One may do well to study the characteristics of the "stimulus" in such cases (offender characteristics and history, including age, sex, offense, prior record); or the multiple "background" characteristics of probation officers or the structural and ideological characteristics of the agency and the differential impacts of these factors upon decision-making performance on a series of case histories, real or simulated.⁵

But unless such studies locate both the definer and the defined within the proper role relationship, they will

be limited and possibly misleading. "Proper role relationship" refers specifically to the fact that the probation officer is functioning within a socially pre-defined framework. He is, as a result of the structure of the social situation, making judgments and decisions regarding the behavior of one whom he already has been told is an officially defined deviant.

Leaving aside for the moment all other factors--really subsequent factors--we can inquire about the importance of the probation officer's own understanding of and reaction to deviance itself. One of the most crucial factors in the probation officer's decision-making would appear to be present at the very outset. Regardless of and prior to the operation of personal, organizational, and offender characteristics, the influence of the probation officer's reaction to the deviant label itself is of critical import to his subsequent decisions regarding the behavior of his client.

The thrice-labeled nature of the client population is the fundamental and primal factor to be given attention in research concerned with probation officers' decision-making, because the deviant labels that the probationer brings with him to the situation are bound to affect the officer's reaction to him.

The first question must be, "how does the individual probation officer perceive deviance?" What does it mean to him? What is his socially constructed "knowledge" of deviance itself? These considerations, along with all the other extra-legal considerations, must be examined in any effort to identify factors in the decision-making process of probation officers.

Above and beyond this fact of prior definition is the fact that the (statistical) average probationer is not an occupant of an impressive social status or power position in society. This calls for no further elaboration. What does call for further elaboration is the effect of the probationer's relatively powerless position in the social structure upon the decision-making process of the probation officer. Most studies in this area simply assume the powerlessness of the probationer and proceed from there. This is acceptable if one's frame of reference is limited to these boundaries, but to conduct the process of inquiry under these limits is to miss an extremely important aspect of the role relationship--an aspect that further influences the decision-making process. We may, to pick up on a former analogy, indeed be involved in the used car business, but if at the same time we are under the impression that we are dealing in new cars, we

are not likely to make many sales.

The variable suggested here does not lend itself to ready measurement. It is the variable of "threat" and the concomitant influence of the probationer's lack of access to social power upon the degree of threat that he presents to the probation officer. More specifically, how weighty is the probationer's powerlessness in the decision-making scale of his official caretaker? Does his lack of social power or influence, because it poses no threat to the probation officer's interests, affect the decision-making process of the officer in any way?⁶

The option of granting or denying, revoking or continuing probation very often lies with the officer, or at least he is an influential figure in these decisions. These decisions are made regarding a person who, as a member of a minority group, i.e., the deviant, possesses little social power. Persons lacking the ability to have their interests backed by power normally pose no great threat to those with contrary interests. Consequently, this factor must also be seen by the social investigator as critical in the decision-making process.

After all, as we react differently to the deviant and the non-deviant, so too we react differently to the powerful and the non-powerful. Towards one who is not

likely to threaten my interests, (career, income, organizational position, future, etc.) I react and make decisions in one way, whereas with regard to one in a position of power I am likely to make an entirely different set of decisions. At the very least, these will have some impact on my decisions regarding him, his behavior, and his future.

Thus, at the very outset and base of the decision-generating process is the question of the degree of potential threat that the object of the decision poses to the decision-maker. This is a structural part of the role relationship itself, and it must be taken into account by the researcher interested in explaining the decision-making process. As with the deviant/non-deviant distinction, we are starting out from two entirely different points, or "decision launching pads": one for the influential and powerful and another for the non-influential and non-powerful.

Factors in decision-making are manifold. No two people will necessarily arrive at the same decision on the basis of identical facts and data. This may be attributed to that vague and diaphanous phrase, "the essential nature of man", and it is indeed problematic for the social sciences. But if the social sciences are

to hope to come to any reliable and representative conclusions, they must consider all the forces operating in social situations. The argument here is very simple: in order to assess the factors in decision-making of probation officers, we must take into account two important and as yet unexplored variables: the variable of prior labels and the variable of threat to the decision-maker.

Footnotes

1. Regarding the literature on decision-making, see: P. Wasserman. Decision-making: an annotated bibliography. Ithaca, New York, Cornell University Graduate School of Business Administration, 1958. Also see: Alvin Cohn, Emilio Viano, and John Wildeman. Management of probation services: a bibliography. New York, National Council on Crime and Delinquency, 1968.
2. See John P. Reed and Charles E. King. "Factors in the decision-making of North Carolina probation officers". Journal of Research in Crime and Delinquency, 3(2):120-128, 1966.
3. For a seminal statement on the orientation of labeling theory, see: Howard S. Becker. Outsiders: studies in the sociology of deviance. New York, Free Press, 1967.
4. See the "systems approach" presented in: President's Commission on Law Enforcement and the Administration of Justice. The challenge of crime in a free society. Washington, D.C., 1967. pp. 262-263.
5. See, for example: Robert M. Carter and Leslie T. Wilkins. "Some factors in sentencing policy". Journal of Criminal Law, Criminology and Police Science, 58(December):503-514, 1967.
6. For the most comprehensive theoretical statement of the processes involved in the exercise of power in the criminal justice system and their relations with interests, see: Richard Quinney. Crime and justice in society. Boston, Little, Brown, 1969. pp. 20-30. The theory presented by Quinney provides a framework within which both the variables suggested in this paper may be logically incorporated.

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CORRECTIONAL MANAGEMENT AND
THE CHANGING GOALS OF CORRECTIONS

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The delineation and clarification of goals in a public agency is at best a difficult task. Goals are dynamic, changing as the goals of society change and as conflicting political and social pressures and influences are exerted on the agency. Goals also change as people in the agencies interact with one another and with the environment.

In early 1961 Etzioni suggested that the analysis of goals in organizations had come full cycle from considering goals as ends to viewing them as means employed by organizations to improve their position in the social environment.¹ Throughout the history of organization theory, organizational analysis has focused on the study of goals. Classically, organizations were conceived of as structured human relationships which gain their meaning and direction from their functions. In traditional

analysis organizational goals were viewed as constant and were thought to be set by senior executives, by the board of directors, by enabling legislation, and to some extent by the inputs of the rank and file. This view essentially defined the goal-setting process within a "closed system."

In the late 1950's, however, with the development of the open-system view of organizations, goal-setting came to be seen as a continuous process. Goals, in open-system theory analysis, became dynamic variables. The study of goals began to be viewed as a problem of understanding and determining the relationship of the organization to the larger society, "a question of what the society (or elements within it) wants done or can be persuaded to support."²

According to open-system theory the organization is in constant interaction with its environment, taking in materials, people, energy, and information and transforming these into products or services to be exported to the environment. Each organization develops subsystems to perform these functions which interact with one another and are mutually interdependent. The organization is seen as having multiple goals growing out of the functions of each subsystem, the needs of the individuals



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who work in the organization, and the multiple links between the organization and its environment. Although the environment places demands and constraints on the organization, this control is not viewed as a one-way process, nor as absolute, but as a negotiated relationship which develops from the interactions of organizational members, primarily the leadership, with the social and organizational environment.

In open-system theory, however, the emphasis on the interdependence of the organization and its environment and the recognition that each organization has multiple goals have tended to diminish attention to the larger policy goals of organizations and to the role which administrators play in influencing or changing them. There has been little specific research in this area in recent years, although cybernetic theory is beginning to restore to problems of purpose their full share of attention.

There has been a great deal of discussion of various aspects of the goal problem. Goal displacement is one problem--the substitution of the legitimate goal by some other goal for which the organization was not created, for which resources were not allocated, and which it is not known to serve. Displacement usually comes about by substituting means for ends, by neglecting major goals in

favor of goals associated with building or maintaining the organization. This phenomenon has been noted particularly in bureaucracies, both private and public.³ Other problems have been described as goal multiplication and expansion (the development of multi-purposes leading to incompatible demands on organizational resources) and goal succession (finding new goals when old ones have been realized or when they cannot or have not been attained).⁴

In any discussion of goals it is helpful to recognize the difference between the real goals of the organization, those future states toward which a majority of the organization's means and the major commitment of the participants are directed, and the stated goals, or those that are officially proclaimed but command few resources.⁵

Throughout its history, the correctional field has been confronted with the full range of goal problems. Correctional agencies, like other people-centered organizations, also experience the special problem of goal intangibility⁶--the difficulty of translating "treatment," "rehabilitation," and "reintegration" into operational goals through the interpolation of subgoals.

Goals of Corrections

A nationwide study of correctional administrators⁷

recently completed at the University of Southern California presents research findings which may shed some light on goal problems in corrections and particularly on the role of the administrator in moving toward new goals and intensifying the commitment of organization members.

This study investigated the present correctional goal emphases as perceived by first and second level administrators; the degree of goal consensus in and among the various settings; perceptions of organizational problems related to the goals; the "force fields" of correctional settings, in which goals are formulated and operationalized; and the attitudes of administrators toward the newly emerging goals of corrections as well as their activities attempting to achieve or to modify them.

Within the conceptual framework of this research, the goals of corrections were placed in historical perspective and the present stage of corrections was viewed as one of transition from an accumulation of past goals, superimposed one upon another, to a now emerging overarching goal.

Daniel Glaser has summarized the history of corrections by suggesting that we have passed through three stages, each characterized by a particular emphasis in the handling of offenders: first, revenge; second, restraint;

and finally reformation.⁸ He suggests that a fourth goal of corrections is now emerging--that of reintegrating the offender in the community. Each new emphasis has been superimposed upon the earlier ones so that the present network of goals and services is a potpourri in which all appear in various and often bewildering combinations in different correctional organizations and subsystems.

LaMar Empey has suggested that the succession of goals, often translated into conflicting and irrationally joined practices, has contributed to the cynicism, rather than the reformation, of correctional inmates.⁹

In this confusing environment, correctional decision-making is particularly difficult. Goals of the past, such as custody, had a concrete quality when compared to the more recent goals of "helping each individual to the extent that he is able to help himself," or "individualizing treatment according to the needs and problems of each inmate."¹⁰

The University of Southern California study suggests that correctional administrators, finding it difficult to harmonize treatment and custody goals in statements of policy and procedure, have tended to generalize policy to such an extent that subordinate staff are relatively free to decide about many significant questions of action and

procedure. The more nebulous criteria of "treatment" and "reintegration" often are pushed aside in the daily operations of the correctional agency.

As each new goal is superimposed, changed structural arrangements gradually evolve. For example, as the goal of treatment has slowly permeated the field and combined with the previous goal of restraint, the offender has come to be viewed as a defective individual--morally, psychologically, physically, educationally, or otherwise. Gradually the goal has generated a focusing of organizational energy upon the individual offender. The offender population has been divided into "caseloads" for the purposes of treatment and supervision. Various specialists (therapists, vocational instructors, disciplinarians), who tend to operate independently of each other, have been recruited.

The institutionalization of each new goal is a difficult and lengthy process faced with the prospect of dissipation and delay at the operating levels. Entrenched personnel arrangements, security institutions, and other facilities developed to serve earlier goals, joined to patterns of thought within corrections and the wider society, become obstacles to the introduction and implementation of each newer goal. The newer goal of community

reintegration is introduced into a setting which lacks institutionalized efforts to work cooperatively with community subsystems such as the schools, employment services, neighborhoods, the police, or families. As Richard Cloward points out:

"In order to ease the process of reintegration in the community, we shall have to give much greater attention than we do now to our aftercare programs. Since the real struggle between conformity and deviance takes place back in the community, the aftercare program is strategic. Yet aftercare tends to be the weakest program in most correctional systems. Somehow correctional administrators are reluctant to allocate funds for aftercare if that means reducing the scope of prestigious clinical activities within the institution itself. Professional personnel, in turn, tend often to shun aftercare work. Somehow the thought of spending one's time working with families, teachers and employers in the interests of mobilizing social opportunities for a returning boy seems distasteful; such activities do not carry the same prestige as therapeutic activities. But whatever the reasons, aftercare programs seem to get short shrift in the

allocation of personnel and money."¹¹

In addition, what is usually viewed as "corrections" is only one part of the larger correctional system which also includes the law, the police, the courts and, increasingly, society as a whole. Before each goal can be successfully operationalized, it must be accepted in all parts of the system from pretrial to post-incarceration stages and must exert influence at each point of decision-making along the correctional continuum.¹²

Today, the correctional system is being pressured to change as never before. On any given day, corrections in the United States is responsible for approximately 1.3 million offenders.¹³ The monetary, physical, and mental costs of crime to society expand exponentially. Crime and delinquency increasingly are viewed as symptoms of the failures of the community as well as of the individual offender.¹⁴ Social science knowledge and research reveal that delinquency and crime and reactions to them result from societal processes and are defined by the norms and laws of the society. The public's view of "the criminal" also appears to be changing and society is demanding a more "effective" and "enlightened" correctional system. Correctional managers are in a position to stimulate and channel social demands and to translate them into operational goals.

The University of Southern California research was designed to investigate how correctional administrators are playing the role of innovator and managing the continuous process of goal-setting.

The Design of the Research

In early 1966, the Joint Commission on Correctional Manpower and Training asked the University of Southern California to design and conduct a special study of correctional administrators.¹⁵ This study was undertaken to clarify the role of the administrator, the problems he encounters, and the nature of the knowledge and skill required for successful performance of administrative duties. Prior to this study there had been little systematic inquiry into the management process in the correctional field.

The study was based on three sets of assumptions: 1) that the correctional field must undergo fundamental change as the goal of reintegration is established, and that correctional administrators are strategically located to serve as leaders of this change; 2) that the administrator occupies a focal position within a complex field of forces and interacts with individuals within his organization and related systems and with the broader

society; and 3) that the correctional manager functions as a skilled strategist.

Responses to a questionnaire were received from a sample of 393 administrators in 14 types of organizational setting , including male, female, adult and juvenile institutions; probation and parole agencies, large and small, separate and mixed; and state headquarters organizations. These administrators were either 1) the head of the organization or 2) in the second echelon, reporting to the head and/or in charge of major programs. The regional staffs of the National Council on Crime and Delinquency nominated organizations within their geographic areas in each of the fourteen categories on the basis of "typicality" for the region with respect to program development and philosophy. In addition to the questionnaire sample, a subsample of 64 administrators was selected for in-depth interviewing. A final small subsample of six correctional administrators with reputations as innovators were interviewed.¹⁶ For the purposes of analysis, the data were collapsed into four settings: 1) adult and 2) juvenile institution administrators; 3) probation and parole administrators; and 4) headquarters administrators; and into top and middle level managers within each setting.

The Findings on Attitudes Toward Goals

The administrator works amidst conflicting goals, involved both in goal-setting and in determining the means by which goals will be reached. He works along the boundary which delineates his organization from related agencies and functions as an intermediary between his organization and the often conflicting pressures generated by highly varied segments of public opinion.

The administrators were asked to identify the present goals of their organization as they see them and to indicate which goals they thought should be more emphasized. They were asked the degree to which restraint, treatment, and reintegration are now emphasized and should be emphasized. Restraint was defined as the application of custodial control, containment, or surveillance over offenders. Treatment was defined as the effort to change offenders into law-abiding persons by correcting individual defects or supplying needed skills and personal resources. Integration was defined as the effort to influence the policies and practices of community institutions (e.g., employment, schools, recreation) to make their resources more available to offenders.

In general, the findings indicated that throughout corrections as a whole the greatest emphasis is now

placed on treatment, followed by reintegration and restraint, in that order. Over 70 percent of the administrators indicated that greater emphasis was placed on treatment than restraint, and over 80 percent felt that treatment was more emphasized than reintegration. Two settings differed from the general findings. Nearly 70 percent of the adult institution administrators and just over one-half of the headquarters executives perceived a greater emphasis on restraint than on reintegration. In adult institutions and in probation and parole, the top and second level managers agreed as to their perceptions of the emphasis, but in both juvenile institutions and in headquarters the second level administrators thought that reintegration was stressed less than did their superiors.

Most of the administrators thought that restraint should be fairly strongly emphasized, but slightly less than it is; and most thought that both treatment and reintegration should be stressed much more than they are.

Overall, the second level administrators appeared to feel slightly more disparity between what is and what should be. They generally rated their organizations' performances toward the newer goals of treatment and integration as lower than did their superiors, giving some weight to the theory that intangible goals tend to dissipate

as they are "operationalized" down the line.

The findings of this study of emphases in today's correctional settings were confirmed by research on correctional workers conducted last year by Louis Harris and Associates for the Joint Commission.¹⁷ That research investigated, by personal interview, a sample of over 550 top and middle administrators, as well as nearly 700 functional specialists, 450 first-line supervisors, and 200 line workers. The Harris study obtained the same ranking of goal emphases as did the University of Southern California study, by setting as well as overall. One of the most significant findings of the Harris study was that in no setting did more than one in twenty correctional workers feel that reintegration, (in their wording "changing community attitudes and conditions") was currently the main goal.

Additional data of interest from the Harris study revealed a mutual skepticism regarding the efforts and goals of other correctional agencies. In cross ratings, a higher proportion of individuals within a given agency, compared to those in other related agencies, felt that rehabilitation (treatment) was the prime goal of that agency.

In both studies the findings reveal greater disparity between the degree to which reintegration is now emphasized and the degree to which it should be emphasized than was found for either of the older goals -- restraint or treatment. Both studies showed that juvenile institution personnel were more strongly in favor of reintegration as a goal. As might be expected, those who work with juveniles are concerned with returning their charges to productive community life.

An additional finding on goal emphasis from the University of Southern California study concerned the degree of goal consensus or dissonance within selected settings. Cross-perception data were collected by interview from 48 administrators in eight different settings. In five of the eight settings the top administrator and the rest of the management team agreed on their rankings of goal emphasis. In the three settings in which top managers' evaluations diverged from those of the rest of the management team the disagreement concerned the extent to which the newer goals of treatment and reintegration were emphasized. In all three settings the leaders saw the newer goals emphasized more than did the rest of the team. In most of the settings the top administrator perceived the management team as more in agreement on goals than did the others in the team.

Apparently, many of the top administrators needed to feel that their viewpoint prevailed. Barriers to accurate upward feedback also were apparent. The greatest consensus concerned the treatment goal; the most dissonance was found for the reintegration goal.

Obviously, the ability to handle the strains imposed by dissonant goals and exacerbated by dissonance among those who implement the goals must be very high on the list of skills required of correctional administrators. Most administrators were not content with the present "mix" and most wished to accelerate movement toward the reintegration goal. Many indicated that they were already significantly involved in addressing that goal, although administrators in neighboring systems expressed some skepticism. That there is some movement toward reintegration is certain. How fast and how thoroughly new functions and new institutional arrangements will be developed to operationalize the new goal remains to be seen. Administrators themselves clearly must play a leading role in the change.

A general disparity between desired and actual goals as perceived by administrators suggested that a majority might have developed a strong commitment to change. The data supported this proposition. Administrators were

asked to indicate the degree of responsibility they felt they had for changing and for conserving their organizations. Although all indicated at least a moderately strong responsibility for system maintenance, nearly one-half indicated a strong or very strong commitment to change. Nearly 70 percent said they placed greater emphasis on change than on conservation. As might be expected, the men at the top of the corrections field, the headquarters executives, stressed change the most. Probation and parole executives stressed change the least. These field personnel, closest to the community and therefore perhaps the most realistic about change possibilities, perceived themselves as the least responsible for change.

Profile of the Correctional Administrator

The administrators were persons of mature years; 75 percent of the top administrators and 55 percent of the middle administrators were over 45 years of age. About one-third of all combined were over 55. Juvenile institution administrators were the youngest, but even there nearly 50 percent were over 45 years of age.

The maturity of the administrators is easily understood. The correctional field is closely tied to the civil service system in which advancement tends to come

with seniority and is characterized by a slow progression up the ladder. Lateral entry is the exception rather than the rule. Nearly two-thirds of the top administrators and half of the middle administrators had been in corrections for over ten years, and 40 percent and 15 percent respectively had been in the field for over fifteen years. Both age and years in corrections were greater in the probation and parole settings than in the institutions. Nearly all of the time spent by the administrators in corrections had been spent in administrative jobs.

Virtually all of the administrators had completed high school; less than 20 percent held no higher formal degrees. More than three-fourths had college degrees, a third had masters degrees, and nearly ten percent held degrees beyond the masters level.

Social work was the most common field of study among top administrators; education and sociology ranked a close second and third, followed by psychology. Among the middle managers most degrees were in sociology, followed by psychology, education, and social work. There were only five degrees in public administration in the entire sample.

Over 60 percent of the administrators reported some course work in administration (in most cases only one or

two courses), but less than half of these had taken a course within the last six years. These courses primarily had stressed the relatively mechanical, task-oriented aspects of management; almost none dealt with the subtleties of administrative leadership or the characteristics of organizations as complex and interdependent social systems.

Data on the organizations to which the administrators belonged and the journals which they regularly read were also obtained, since these two dimensions appear to be sensitive indicators of the administrator's social and intellectual connections. In the last ten years many researchers in administration have emphasized the discovery of two polar syndromes that may be used to describe organizational personnel. Administrators have been classified either as 1) local (whose primary loyalty is to the organization for which he works, who seeks advancement in the managerial hierarchy, who identifies with organizational goals and values, and who seeks recognition primarily from his organizational associates) or 2) cosmopolitan or professional (who is more oriented toward seeking status within his professional group, has a deep commitment to his speciality, is more strongly committed to his distinctive professional ideology, and seeks the approval and

recognition of peers outside the organization).¹⁸

Many researchers have suggested that where hierarchical organization is stressed parochialism results. Conversely, where extra-organization association of professionals or specialists is encouraged the result is a more cosmopolitan outlook and a broader perception of reality and goals.¹⁹ It has also been posited that a cosmopolitan atmosphere is essential to organizational change, particularly to changes in goals.

It was clear from the data that correctional administrators are for the most part representative of the "locals" in organization life. The majority faced inward, toward the organization, responding to the norms and loyalties which it imposes as a system; they were very little in touch with developments in the "outside world." Very few of the administrators belonged to any organizations outside of the correctional field and nearly 90 percent read no journals other than those published by correctional organizations.

These findings indicated that if the new goals of the field are to be understood and pursued and if the changes in the agency programs requisite to the new goals are to be implemented, correctional administrators must be helped to become more "cosmopolitan" in their

understanding of management precepts, relevant social science theory and methodology, and the distribution of power and resources in American society. Ways must be found to supply the time, opportunity, and motivation to bring administrators into contact with the literature and ideas which relate to their work.

A source of motivation toward this end is suggested by one set of findings of the Harris Study.²⁰ In their interview of correctional personnel they found a strong current of dissatisfaction with the accomplishments of the criminal justice system in general and with correctional agencies in particular. Only among the line workers did more than one in ten feel that the criminal justice system is very effective; among the administrators, first-line supervisors, and functional specialists more than one in five believed that the system is hardly effective at all. Correctional agencies received an even more negative rating. No setting received a positive rating from a majority of correctional personnel.

These findings, coupled with the negative findings of a previous Harris survey of the public's view of corrections,²¹ suggest high agreement among the public and correctional workers themselves about the low level of correctional accomplishments, and seem to indicate the

existence of motivations for change.

It is important to note that the goals of corrections, as identified by the public and by correctional workers themselves, and against which they measure "effectiveness", may be unrealistic. As Yuchtman and Seashore point out in a recent article, "goals as ideal states do not offer the possibility of realistic assessment, and goals as cultural entities arise outside of the organization as a social system and cannot arbitrarily be attributed as properties of the organization itself."²²

The criteria of effectiveness, as seen by the public and by correctional workers, are various and contradictory. However, there is general agreement that corrections is far from achieving its potential and that new goals and activities are needed.

The U.S.C. research did not attempt explicitly to address the questions of goal displacement and the discrepancy between "stated" and "real" goals usually attributed to a strongly bureaucratized organizational setting. However, two parts of the data lend themselves to some interesting observations concerning these concepts.

Time Use by the Administrators

A detailed time analysis form covering a seven-day period was provided each of 42 selected administrators

in the four settings. Each executive was asked to record his time for the week by indicating the type of activity, who initiated it, with whom he talked or conferred, and the substance or objective of the activity. At the conclusion of the week he was asked to indicate whether or not he felt that he had substantial control over the distribution of his time among the activities and, if not, what factors tended to limit his control. He was also asked what he felt to be the most significant and the least significant activities. Finally, he was asked what changes he would like to make in the ways he allocated his time.

The proportion of time devoted to routine-programmed activity in relation to the proportion used for innovative-creative activity confirmed the findings of a number of other time-use studies in bureaucracies.²³ According to Gresham's law, programmed activity drives out non-programmed activities. As an executive remains in one organization or one job, he gradually accumulates a variety of routine "maintenance" activities. He must take steps periodically to free his time from "these growing barnacles of programmed activity."²⁴

In the California study several of the administrators spent as little as ten percent of their time on what

appeared to be non-programmed or innovative activity. The most time spent in these activities by any executive was 30 percent. This ratio, coupled with the finding that most of the executives spent less than 25 percent of their time in individual reflection and planning, seems to indicate rather clearly that most time is spent on activities associated with maintaining the organization.

Most administrators emphasized the conflict between routine system maintenance activities and the probing, developing, planning activities. Almost all deplored the lack of time for planning, for study of trends in corrections and management theory and of happenings in the wider society, and for time alone to think. They indicated severe conflict between doing the things they considered insignificant and those they considered significant. Yet, in almost every case they continued to do what they considered insignificant. The subtle but relentless "system pulls" required it.

The proportion of time spent in the world outside the organization has important implications for a reorientation in corrections toward greater emphasis on offender reintegration. The findings concerning the relationship of time spent within the organization to time spent in the external environment were even more

discouraging in terms of a possible change emphasis. Institutional executives spent the least time on external contact; the juvenile institution executives spent slightly more time in the external environment; and probation and parole administrators spent slightly more, but still a surprisingly small amount--in most cases under 15 percent. The headquarters executives spent the most time with individuals and groups outside of their organizations, primarily with legislators and governmental officials or as speakers and resource leaders at meetings of outside organizations.

If the organization is to adapt to environmental imperatives for change by rethinking its goals, it seems essential that the executives spend more time searching the environment and working out new approaches, planning and organizing with the wider community.

The Field of Significant Relationships

A map of what the administrators deemed to be their "significant relationships" provided another view of their perceptions of their daily responsibilities. In the correctional field the top executives, in varying degrees and depending on their settings, must work with certain outside groups such as the courts, legislators, or commission members, service and control agencies, the police,

and parole boards. They may also work to some extent as they choose with the mass media, academic institutions, special interest groups, and related public and private agencies. These outside relationships exist in addition to the primary relationships which would be expected to include subordinates, superiors, peers, and offenders.

The administrators indicated their most significant relationships and ranked the first five in order of importance to them. The results formed a clear pattern. Internal relationships were heavily weighted in all of the settings. Relationships with subordinates, superiors, peers, and offenders were ranked, in that order, as most significant. Only probation and parole administrators deviated from the overall pattern, choosing the relationship with offenders as only seventh in importance. Among these administrators, relationships with the judiciary, parole boards, and related public and private agencies were considered more important than the offender relationship, but all relationships other than the "internal" three were given very little weight.

The extent to which each of the correctional settings is an inwardly oriented, closed system is clear from the patterns depicted. If corrections is thought to be moving from a series of custody and treatment settings to a

network of community-oriented programs designed to aid the offender and the community in reintegration, this trend is not confirmed by the findings. The patterns of time use and the weightings of significant relationships strongly suggest an entirely different orientation.

Especially revealing were the data on probation and parole administrators--those persons most responsible for the reintegration effort. This group of administrators were the oldest; they had been in corrections the longest; they stressed change the least; they spent very little time with the environment external to their organizations; and they gave very little weight to relationships other than those with their subordinates, peers, and superiors within their organizations. Clearly, the majority were not involved in community-oriented programs.

The findings suggest a re-examination of the distinction between the real goals of the organization, those future states toward which the major commitments of the participants are directed, and stated goals, which in practice command few resources. The conflict between what is and what might be is brought sharply into focus by the findings of the Harris study,²⁵ especially when the above data are considered. In the study by Louis Harris

and Associates, administrators were asked: "If you could make any changes you wanted to improve correctional programs in your agency, what would you change first? What new programs would you want to set up?" Major suggestions in all of the correctional settings called for an increase in community-oriented programs.

Administrators' Perceptions of Correctional Problems

The University of California study obtained data on administrators' perceptions of the problems in their settings by asking each administrator to rank-order 33 listed problems. Although responses were significantly different on many of the problem areas,²⁶ administrators in all settings agreed on four which should be included among the most important problems. Three of these pertained to research.

The problem believed to be most serious was "obtaining evaluative research on effectiveness of programs." Two others ranked among the four most important were "acquiring feedback information on the performance of offenders leaving the system" (ranked third) and "adequacy of methods and procedures for collecting evaluative data" (ranked fourth). The problem which was ranked second in extent of seriousness was "difficulties in recruiting qualified personnel." The operational problems of relating

costs to effectiveness and obtaining sufficient data on operations effectiveness also were ranked in the top third of all problems, indicating concern and frustration over the efficacy of correctional methods and goals.

It has been suggested that new directions for corrections are not entirely clear. LaMar Empey has explained that "if the range of alternatives for solving the correctional problem were narrow, well organized, and familiar, then the best approach might be a strategy of activity. However, the range of solutions is not narrow, but broad, uncertain, and disorganized."²⁷ He suggests that the most promising goal strategy might be a strategy of search for solutions which are consonant with the difficult problems involved. He urges that research in itself be accepted as a central goal.

Conclusion

Both the wider society and workers in the field are dissatisfied with the effectiveness of corrections. Correctional systems are attempting to function under successively imposed and often conflicting goals. The goals developed through the interaction of correctional administrators with the wider environment are of necessity intangible. Because of their amorphous quality they express intended states that cannot adequately describe

the specific activities that might result in their achievement.

Corrections exists, not only as a part of the wider society, but as one of many interdependent parts of the criminal justice system, most closely related to law officials and the judiciary. It has been suggested that corrections is derivative of the legal system, that it derives its legitimacy from the criminal justice process, and that it must be dependent on the purposes of the law for its missions. The law, reflecting conflicting societal norms, does not clearly indicate whether offenders should be viewed as sick, rebellious, sinful, or victimized. The resultant goal conflict has a paralyzing effect on correctional subsystems.

The reported studies of correctional administrators do indicate a kind of immobilization. Many of the managers are indeed paralyzed by conflicting pressures. The emergence of reintegration as an overarching goal is increasingly recognized, yet day-to-day efforts in pursuit of this goal clearly are minimal. Although change is the stated goal of most of the administrators, system maintenance, with emphasis on the older goals of custody and treatment, is the major preoccupation.

The administrative predicament undoubtedly results

from both internal and external forces--partly from inherent problems of bureaucracy with its traditional proclivity for goal displacement, partly from the difficulties inherent in operationalizing intangible goals in people-changing organizations, and partly from the partial immobilization induced by conflicting goals of related and controlling systems.

However, the University of California study, only a small part of which could be reported here, has led to the recognition of some leverage points. It would appear obvious that one key to the successful development of new goals, to greater goal attainment, and to less goal displacement is found in the administrative position. Underlying all activity and all change, of course, are the normative foundations of society. Adjustments in one functional component (such as corrections) of a social system, do not necessarily result in comparable changes in its normative foundations. If the norms of the wider social system remain fundamentally inconsistent with visualized goal changes, tinkering with the component will not produce the desired change. Yet, throughout history, some administrators have functioned as especially effective agents of change. These exceptional men have played the dual role of instituting change in one subsystem and

concomitantly leading the public to adopt new norms. In such cases, the organization remains a servant of societal needs while helping society to define and re-define those needs.

Administrators who are especially effective in inducing change are found in corrections, too. Many were identified during the depth interviews. From them, data were obtained which describe sets of factors which appear to affect the readiness of an administrator to bring about change, as well as factors associated with his ability to implement change. From these a change-readiness profile and an implementation profile were developed, and tentative recommendations for achieving change capability were suggested. Programs and activities can be directed to the individual administrator to enlarge his outlook and experience and to supply or improve needed skills. These programs, accompanied by supportive system changes, can promote and sustain new kinds of managerial behavior as a strategic beginning to the development and implementation of new correctional goals.

Footnotes

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3. See particularly, studies by Robert Merton on bureaucracy in Social theory and social structure. Glencoe, Ill., Free Press, 1957; and more recently: Anthony Downs. Inside bureaucracy. Boston, Little, Brown, 1967.
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8. Daniel Glaser. "The prospect for corrections." Paper prepared for the Arden House Conference on Manpower Needs in Corrections, 1964. (mimeo) p. 203; see also: Clarence Schrag. "Contemporary corrections: an analytic model." Paper prepared for the President's Commission on Law Enforcement and the Administration of Justice. Washington, D.C., 1966. (mimeo).
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12. For a fuller discussion of alternatives, see: op. cit. supra note 9.
13. U.S. President's Commission on Law Enforcement and Administration of Justice. The challenge of crime in a free society. Washington, D.C., U.S. Government Printing Office, 1967. p. 159.
14. U.S. President's Commission on Law Enforcement and Administration of Justice. Task Force report: corrections. Washington, D.C., U.S. Government Printing Office, 1967. p. 7.
15. The following sections are drawn in part from the study to be published in summer 1969.
16. For details on the sample and methodology of the study and a more thorough discussion of the findings, see: op. cit. supra note 7.
17. Louis Harris and Associates. Correctional personnel look at corrections. Report of a study conducted for the Joint Commission on Correctional Manpower and Training, June 1968. pp. 28-33.
18. Alvin W. Gouldner. "Cosmopolitans and locals." Administrative Science Quarterly, 2(3):281-306, 1957; Harold L. Wilensky. Intellectuals in labor unions. Glencoe, Ill., Free Press, 1956; Everett C. Hughes. Men and their work. Glencoe, Ill., Free Press, 1958; William I. Goode. "Community within a community: the professions." American Sociological Review, 22:191-200, 1957; Robert K. Merton. Social theory and social structure. Glencoe, Ill., Free Press, 1957.
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20. Op. cit. supra note 17, pp. 18-27.
21. Louis Harris and Associates. The public looks at crime and corrections. Report of a study for the Joint Commission on Correctional Manpower and Training, November 1967.
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23. For example, see: Herbert Simon. The new science of management decision. New York, Harper and Row, 1960. pp. 5-6; and J. G. March. "Business decision-making." In: Harold J. Leavitt and Louis R. Pondy, eds. Readings in managerial psychology. Chicago, 1964. pp. 447-456.
24. Simon, op. cit. supra note 23.
25. Op. cit. supra note 17, pp. 69-71.
26. These responses are discussed in detail in the full report of the study.
27. Op. cit. supra note 9, p. 8.

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GOALS OF COMMUNITY CORRECTION: A REDEFINITION

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The traditional organizational arrangement for the provision of community correction services is an agent assigned a number of offenders referred to as a caseload. The agent periodically contacts the individual for whom he is responsible, conducts interviews, and determines how well the offender is maintaining a law-abiding adjustment. He may talk with employers, members of the family, and personnel of other service agencies. These activities occur within a framework of law, administrative directives and guidelines, and a variety of forms, and specified procedures for discharge, revocation, transfer, and other decisions requiring official ratification.

Supervision of agents is provided, usually by someone who has been promoted from the ranks and assigned administrative responsibility for five or six agents. Supervision appears to be primarily a function of auditing case records, insuring that records are dictated at proper intervals and that appropriate forms are completed for specific case management decisions.

Presumably, the supervising agent has some responsibility for assessing the quality of the agent's casework, but precisely how this evaluation is made is unclear. An

agent can conform to all agency regulations regarding the managing of case records, and presumably, be considered efficient in providing services to offenders, even if his contacts are perfunctory and superficial and his "hours in the field" are exaggerated to include a substantial portion of leisure time activity.

Administrators are not unaware of this problem. In-service training often is designed to stimulate agent interest in the personalities of his caseload. The up-grading of minimum qualifications for entry position is another way administrators have attempted to improve the quality of community correction services. Higher salaries and the appointment, where appropriate, of new employees three or four steps above the entry salary have also been used by administrators to attract better educated men to the field. With more personnel, caseload size has been reduced.¹

Assessing Services of Community Corrections Agents

Assessment of the effectiveness of probation and parole services is not a new problem, but perhaps there are new directions in which to seek answers. Three issues are especially pertinent: conflict in goals, professionalization, and the inadequacy of relying solely on individual treatment.

1. Conflicts in Concepts and Practice

The objectives of community correction services, as reflected in the literature, are confused and conflicts are apparent. Punishment, rehabilitation, and protection of the community usually are mentioned as goals. Rehabilitation is described in many different ways and treatment techniques include clinical services, training, casework, group counseling, and surveillance. The different techniques of rehabilitation conflict in practice, imply different objectives for correctional activities, and result in a lack of lucid criteria for measuring the success or failure of community correction services.² The goal of punishment is blamed for interfering with effective rehabilitation.

Criteria for assessing the quality of correctional services are ambiguous.³ Even with regard to the proper role and functions of the community corrections worker there is little agreement. Should he be tough, threatening, and hardnosed, or supportive, accepting, and a good listener? Should he be diagnostic, analytical, alert to patterns and omissions in verbal exchanges? There appear to be no guidelines, although the personality of an agent clearly predisposes him to play a particular role more naturally.

Conflicts - both philosophic and bureaucratic - are

indigenous to correction, both within the correctional field and with regard to its place in the criminal justice system. Each part of the justice system has an organizational style, a way of perceiving problems, and strategies to solve these problems. Different objectives are evident in the rationale underlying decision-making in any of the subsystems of the justice system--police, prosecution, defense, court, probation, institution, and parole.

This lack of clarity of correctional goals impedes the adaptation of research methodology and computer technology to the assessment of goal achievement. Without a conceptual framework from which to deduce socially sanctioned, operationally defined objectives, the techniques of assessment are worthless.

2. Professionalization of Casework Services

Professionalization, so ardently sought for many years by correctional experts, is progressing in probation and parole. However, the intended results are not occurring. The contribution of corrections to the furtherance of criminal careers, which frequently has been observed by untrained line-staff in the institution as well as by academicians, was for years thought to result from the lack of professionalization in correction services. This explanation now appears inadequate. Where professionalization has been achieved, recidivism and revocation rates have

not been significantly altered.

As deduced from comparisons between crime rates in industrialized and underdeveloped countries and from the theory that an increase in crime rates is a by-product of "progress", one might expect that the more "advanced" states in this country (i.e., higher per capita income, greater urbanization, more industrial resources, higher personal and property tax rates) would have higher crime rates, as reflected in official counts, while the more "backward" states would reveal lower rates of officially known crime.

However, one would also expect a greater variety and availability of community programs, resources, and services as well as a greater degree of professionalization of correctional services in "advanced" than in "backward" states⁴ and, consequently, that with more effective treatment, recidivism rates would be lower. Statistics presented in the annual reports of states with professionally developed services and states with services of a very primitive nature reveal that recidivism is about the same.

Three observations concerning the results of the professionalization of community correctional services are relevant: (1) professionalization occurs in relation to growth in size and complexity of the agency; (2) professionalization results in resistance to change by the

correction agency from forces in society outside the correction system; (3) the recipients of corrections services tend to become dependent upon the "professional" definition of their problems and the resultant intervention activities.

First, as an organization increases its personnel requirements, personnel are likely to be more successful in their demands for higher salaries and better working conditions. Administration more easily secures approval to raise minimum qualifications for hiring new staff. These two factors cause the agency to become more competitive in bidding for scarce professional skills; the agency becomes attractive to professionals as more professionals are employed. In this way, increase in size and complexity of the organization itself contributes to the process of professionalization. The problem, of course, is that professionalization is associated not with a reduction in the total number of offenders, or in greater protection to the community, but with an increase in the total number of offenders entering the correction system, if not actually higher rates of crime. The attainment of adequate budgets to support the increased costs of a professionalized service may be achieved by demonstrating the increasing dimensions of the problem of crime. The natural desire of staff to feel successful tends to cause the professional organization to reach further into the community to help people with

problems of a personal-social nature.⁵ Also, professional staff tend to perceive a greater variety of behavior as pathological, which results in more offenders in correction institutions and increased problems of re-entry. Finally, with professionalization inevitably comes some increase in the number of offenders served because of the greater efficiency of services. Fewer persons are lost in the files and more are served who previously were overlooked by human error and the apathy and fatalism characteristic of primitive correctional systems.

Ultimately, the justice system is asked to justify existing practices in terms of reductions in subsequent law violation by persons brought into the system. When professionally trained correction staff assert their goals of rehabilitation and defend their activities as effective, they are confronted with the challenge to "prove it." Although there is a widely held belief that they should be able to prove it, in fact recidivism statistics are not suitable for comparative purposes and seldom reflect the efficacy of any given practice. Without adequate statistical data, professionals have tended to resort to rationalizations, humanitarian appeals, and building organizational support for defense against outside attacks. Seldom have they turned to designing adequate data collection systems or developing an empirical base for their activities.

Effective resistance to imposition of goals from outside the organization is greater following the professionalization of the organization. Goals increasingly are produced and redefined from within the organization. New goals result from new knowledge, new fads of thought by professional leaders, or from internal dysfunction or dissonance requiring a new organizational equilibrium. Since a professionalized system tends to develop "experts" within the system, expertise outside the system is suspect. Dissent within the system is tolerated only in certain accepted forms of expression and sanctions may be brought to bear on dissent that does not conform to professional protocol.

Successful "treatment" is dependent largely upon acceptance by the client of the professional definition of the problem. The professional - because of knowledge and skill - is successful in developing credence in the definition. This is true of doctor/patient, lawyer/client, welfare worker/client and other professional relationships. However, in contrast to other service-delivery systems (with the exception of public welfare), the power granted by law to a correction agency is largely unique to correction. The powerlessness of clients is greater among offenders than other categories of service recipients. Some control over the input of offenders, guarantee of the

rights of offenders within the system, and regulation of the time-span for the provision of services appear to be indicated. These controls should be spelled out in the law and supervised by the court. They cannot be expected to be either provided or reviewed by correction personnel.⁶

Professionalization, then, is not clearly the solution to problems of reducing recidivism in community corrections. While there is much to be said for upgrading the quality of correctional services and staff, the explanation for and solution to the problem of aggravating criminality through exposure to the justice system must be sought elsewhere.

The stigmatization process in correctional services has been offered as one reason for the unintended contribution of the correctional system to further criminality. The acculturation of the inmate to the penal subculture, characterized by the gulf between "keepers" and "kept", is another explanation frequently heard. Both probably play a part.

In juvenile systems, the stigmatization process is the factor most in need of clarification for the unresolved policy issues regarding the treatment of delinquents. The operation of the juvenile court as a social agency, the provision of services to a broad category of children with unmet needs and emotional problems, and the acceptance of this function as appropriate by the community, unquestionably diminishes, perhaps to insignificance, the stigma associated with court services. This is particularly true to the extent that the court provides services to middle and upper-middle

class families. To elicit recognition of professional status, staff in some communities have tended to demonstrate their skills to the public by serving middle-class youngsters with emotional problems. However, the juvenile hearing as an adversary proceeding and the process of determining innocence or guilt limited by principles of due process, tends to stigmatize the youth over whom the court establishes jurisdiction. When the juvenile court is the only means of establishing eligibility for services of the correctional system, stigma cannot be avoided.

Correctional systems provide services largely to the poorest and the most disadvantaged groups in our society, and this situation is unlikely to change in the future. The middle-class youngster will continue to be best equipped for defense against entry and the poor will continue to contribute disproportionately to the populations of committed juvenile and sentenced adult offenders.

The obligation of society to provide services of a professional caliber to people with troubles has been repeatedly affirmed. These services increasingly are being provided through public funds and public agencies. Correctional organizations, however, are not an appropriate structure for the provision of services to the poor.

3. Redefining Individual Treatment

Correctional casework traditionally has focused on

the individual through the relationship between the worker and the offender. In recent years some significant work has been done in developing more sophisticated strategies and techniques and these efforts hold promise for the future.⁷ Nevertheless, an impressive body of knowledge has been developed which illustrates the ineffectiveness and inappropriateness of traditional one-to-one casework activities with deviants.⁸ Thus, a new goal has been posited for correction which has been described as the reintegration of the community and the offender.⁹ Such a goal necessitates concern for both the offender and the community. Illegal behavior occurs in a social context; the behavior of others in defining an act as unlawful is a necessary ingredient of law violation. Both psychological and sociological explanations of law-violating behavior stress the importance of the individual-community mesh, even though quite disparate implications for social policy can be drawn.

The goal of community reintegration necessitates a concern with change in social institutions as well as behavioral change of offenders, since both are necessary for the establishment of an equilibrium between the offender and the community. However, the problems attendant on broadening service objectives to include the community are probably greater than those associated with individual treatment, primarily achieved through the relationship

of the correction agent and the offender. First, community reintegration is not easily operationalized. Second, such broad concerns do not define the organizational boundaries of correctional services and enormous possibilities exist for change and growth of the system. Finally, community resistance is likely, since if community reintegration is the target, then change strategies must be geared to the community as well as to the individual. Services to the community are likely to be as stigmatizing as services to the individual.

If change strategies are both behavioral and institutional, the argument that recidivism is a failure of the community rather than the correctional system is logical and coherent, and the strategy is stigma-producing for the "guilty" community or neighborhood. Recidivism rates can be computed for cities or geographic areas within the city, and compared with similar areas. The explanation for the discrepancy in rates will suggest the adequacy of the functioning of social and economic institutions. In a democratic society with multiple power centers influencing political processes, the power structure will not long permit this type of stigma-producing activity by a correctional system.

Because of community opposition, the objectives of a correction system must be modest, especially since if the

correctional system is permitted access to the "real" problems in the community-offender matrix, logical organizational boundaries cannot be drawn.

Realistic System Objectives

Change strategies for community reintegration of offenders should be the responsibility of the community, not of the correctional system. Change - individual or organizational - can be consummated only by the individual or the community, not by the correctional system.

Community integration as a "fait accompli" cannot be operationalized as a criterion for success, since a correction agency cannot control the many relevant variables. Thus, the objectives of correction should be much more modest, permitting organizational boundaries to be delineated.

Because stigma-producing services complicate the achievement of offender reintegration, intervention activities should be undertaken by community institutions and agencies outside the correctional system. Treatment activities are greatly enhanced in their potential effectiveness if they are performed by agencies which do not stigmatize the individual. These agencies may be community mental health clinics, public family service agencies, voluntary social agencies, and more traditional social institutions such as the schools, the churches, vocational training programs, and the labor market.

More appropriate for the correctional system is the modest role of preparing clients for treatment, not performing treatment. Organizational boundaries then are clarified and it becomes possible to assess the effectiveness of correction services.

Effectiveness

Criteria of effectiveness may consist of several factors around which instruments can be devised to measure progress. The elements of an appropriate role for correction might include:

(1) Helping the individual offender to define his reality situation. The definition of the problem is only partially imposed by the system and the offender is free to redefine or contribute to the definition.

(2) Helping the individual to develop the capacity to seek or demand help in terms of the problem(s) as defined. This reflects on the ability of correction to motivate the individual to change or to seek change. Motivation is the key assessment factor, not actual change. Criteria would need to reflect behavioral actions, not verbalizations.

(3) Making connections between the individual and community services or organizations relevant to the problem as defined and to the desire for help as expressed by the offender. Once the connections are made (assuming the accuracy of the problem definition, the existence of moti-

vation, and the relevance of the connections consummated within the community), the "treatment" task of the community correction agent is completed. If the desired change leading to community integration is not effected and recidivism occurs, it is a reflection not on the effectiveness of the correctional system, but on the community.

The goal of the system is not community integration, but enhancement of the ability of relevant community services to achieve community integration and law-abiding adjustment. Correctional activities can be geared to increasing the capacity of offenders to confront their problems, to either accept the need for personal help or articulate their needs to the community, and to connect the offender with community programs appropriately geared to resolving the problems.

The correctional system must develop relationships with relevant community services and institutions, since it is in a strategic position to interpret offender problems and the need for greater responsiveness of community agencies and institutions. Corrections can assist in community problem-solving efforts by instituting continuing arrangements for consultation with appropriate community agencies, institutions, and planning organizations, and particularly with those community services of major importance to the reintegration of offenders. It should be noted that, in assessing these functions, the criteria of effectiveness

should be the clarity and adequacy of interpretation, rather than how the information is used by community organizations.

Conceptualizing the role of community correction in terms of preparing the offender and the community for reintegration, rather than achieving it, has implications for the role of criminal law in a democratic society. Such a correctional system clearly would be more functional for the police and courts than the uncontrolled and incoherent growth and professionalization of a "change" system with unlimited concerns. The criminal justice system develops new dimensions if such objectives supplant both the traditional punitive concerns and the current global concerns of treatment. Criteria of assessment could be operationalized, and differential strategies to achieve these objectives with specified types of offenders would be possible. Supervisors could do more than audit case records in assessing the quality of service provided by the community correctional agent. Further, practice may reveal that probation and parole workers with only high school diplomas may perform many of the tasks as adequately as college graduates. Finally, such a redefinition may be found to conform to the view held by most correction workers concerning their function.¹⁰

Summary

While community correction services provided within a clinical model of "treating" the individual offender have not been justified by practice or research, the new emphasis on the social context of illegal behavior and the development of community organization techniques for use by agencies and basic social institutions is even less likely to succeed. Redefinition of the nature of services that workers should provide to offenders appears to be indicated. Far more modest goals should be established, and these should be practical and amenable to objective assessment. Among the many results of redefining objectives would be changes in manpower needs and entry-level qualifications for personnel providing direct services. Educational qualifications conceivably could be lowered substantially without affecting the quality of services aimed at achieving goals more modest than "treatment of the offender" or "reintegration" but no less effective in protecting the community.

Footnotes

1. The increased frequency of face-to-face contacts between agents and offenders has been viewed as one variable associated with improving the quality and effectiveness of probation and parole services. See Los Angeles (County). Probation Department. "An analysis of intensive probation supervision - Phase II," by Ray Kawaguchi and Leon Siff. (Research Report No. 29). Los Angeles, 1967. Other research, however, questions prior assumptions regarding the efficacy of caseload size, frequency of contacts, and quality of supervision. (See University of California. School of Criminology. San Francisco Project. Research Reports. Berkeley, 1965-1968).
2. For description of administrative versus professional conflicts, see: Robert M. Carter and Paul T. Takagi. "Persistent problems and challenges in correctional supervision." Criminologica, (November):40, 1967.
3. For a candid discussion of this problem see: Ragnar Hauge. "Institutional dilemmas in probation and parole." Scandinavian Studies in Criminology (Vol. 2). London, Tavistock, 1968. p. 4.
4. In fact, the disparity between states in the amount and quality of community services has resulted in value judgments at the national level of the "backwardness" of some states.
5. The wisdom of this course of action is questionable. It would make more sense to divert potential offenders to service-delivery systems outside the criminal justice system than to expand to include persons with minor personal or social difficulties.
6. Fred Cohen. "Sentencing, probation and the rehabilitative ideal: the view from Mempa v. Rhay." Texas Law Review, 47(1):1968. See also: Fred Cohen. The legal challenge to corrections. Washington, D.C., Joint Commission on Correctional Manpower and Training, 1969.
7. See particularly the literature of the California Youth Authority Community Treatment Project and the Guided Group Interaction literature. Bibliographies are available from NCCD's Information Center, 44 East 23rd Street, New York, N.Y. 10010.
8. Melvin Allerhand, Ruth Weber, and Marie Haig. Adaptation and adaptability. New York, Child Welfare League of America, 1966; Maude Craig and Phillip Furst. "What happens after treatment: a study of potentially delinquent boys." Social Service Review, 39(2):165-171, 1965; Jackson Toby. "An evaluation of early identification and intensive treatment programs for delinquents." Social Problems, (Fall):160-75, 1965; Henry J. Meyer, Edgar F. Borgatta and Wyatt C. Jones. Girls at vocational high. New York, Russell Sage Foundation, 1965; California Youth Authority Department. Division of Research. "Effects of short term psychiatric treatment," by Evelyn S. Guttman. (Research Report No. 36). Sacramento, 1963; H. Gottesfeld. "Professionals and delinquents evaluate pro-methods with delinquents." Social Problems, 13(1): 45-59, 1965.
9. U.S. Health, Education and Welfare Department. Studies in delinquency: alternatives to incarceration, by Lamar T. Empey. Washington, D.C., U.S. Government Printing Office, 1967.
10. Dale E. Van Laningham, Merlin Taber, and Ruth Dimants. "How adult probation officers view their job responsibilities." Crime and Delinquency, (April):97-108, 1966.

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DECISION-MAKING IN PROBATION: TWO DIMENSIONS

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Of the many dimensions of decision-making within the probation organization, two have been selected here as particularly relevant to the professionalization of probation staff and services. One is concerned with the formal structure of the probation agency as a social system; the other concerns the different kinds of decisions and their relation to agency structure and function.

The Social Structure

Certain characteristics common to all formal organizations can be isolated and used to provide a general description of the system. The two models most prevalent in current literature are the "professional" organization and the "bureaucratic" organization.

Blau and Scott, in their book Formal Organizations, describe the professional system in terms of six characteristics.¹ First, decisions and actions are based on

certain objective criteria which are independent of the particular case under consideration. The second characteristic is specificity of expertness. Third, relations with clients are characterized by effective neutrality. Fourth, status is achieved through individual performance. Fifth, professional decisions are oriented toward serving the interest of the client, rather than the practitioner's self-interest. The sixth represents the essential difference between professionals and bureaucrats. According to Blau and Scott, "professionals typically organize themselves into voluntary associations for the purpose of self-control" whereas in bureaucratic organizations control is achieved through the hierarchy of authority.²

Kornhauser³ identifies four characteristics of professionalism:

- (1) Specialized competence with considerable intellectual content;
- (2) Extensive autonomy in exercising special competence;
- (3) Strong commitment to a career based on that competence;
- (4) Influence and responsibility in the use of special competence.

Kornhauser also indicates that control in the professions is exercised by the colleague group, whereas "bureaucratic organizations tend to be structured hierarchically such that control over work is lodged in the 'line'."⁴

The characteristics of the bureaucratic system were first identified by Max Weber and his descriptions are still most often quoted.⁵ The essential characteristics are:

1. Organization tasks are distributed among various positions as official duties. There is a clear-cut division of labor which makes possible a high degree of specialization. Specialization promotes expertness among staff and enables the organization to hire employees on the basis of their technical qualifications.
2. Positions are organized into a hierarchical authority structure. Each official is responsible for his subordinate's decisions and actions as well as being responsible for his own to the superior above him. The scope of authority of superiors over subordinates is clearly circumscribed.

3. Rules and regulations, formally set down, govern official decisions and actions. In principle, these regulations insure the uniformity of operations (involving the application of the general regulations to particular cases); they also provide for continuity in operations regardless of changes in personnel.

4. Officials are expected to assume an impersonal manner in their contacts with clients and with other officials. This detachment is designed to prevent the personal feelings of officials from distorting their rational judgment in carrying out their duties.

5. Employment by the organization constitutes a career for officials. Employment is based on technical qualifications of the candidate rather than political, family, or other connections and career advancements are according to seniority, achievement, or both.

Probation: Bureaucratic or Professional?

Examination of probation as a social system indicates that the probation officer functions in a bureaucratic structure. The officer is accountable to his superior for

his performance and he is dependent upon his superiors, rather than his colleagues, for rewards and approval. Data on probation staff suggest that most officers are not professionally trained. Although recommended standards call for graduate training in social work, less than ten percent of all persons in the field of probation have such education.⁶

However, there has been an increasing emphasis on graduate education and efforts are being made to "professionalize" the probation staff. In this context it should be recognized that, given the bureaucratic structure of the probation organization, graduate level education and training of staff will not alone result in professionalization of probation services. Unless the autonomy of the officer in decision-making is expanded in appropriate areas, and unless the officer can turn to his colleagues in the field for judgment on his performance, a professional orientation will not develop. Under existing arrangements, the professionally trained officer in a bureaucratically organized agency is likely to encounter conflicts between professional and bureaucratic expectations. This might explain some of the difficulty experienced by the "professional" in a probation agency.

Decision-Making in a Probation System

Three types of decisions within a probation system can be distinguished: 1) case decisions; 2) policy decisions; and 3) operational decisions. Case decisions involve the probationer, for whom probation programs are designed. Policy decisions are concerned with broad issues that guide the operations of the agency. Operational decisions affect the implementation of policy decisions.

Case Decisions

In a professional system, the probation officer would have full charge of a case and be accountable only to his colleagues in the field of probation for his decision. In practice, however, the officer does not have full autonomy because he can always be held accountable by the probation system and/or the court on any single decision in a given case. The worker with professional education in social work, who theoretically is trained to be judged by his colleagues, finds himself in conflict with the probation agency because the organization itself controls the rewards and punishments for job performance.

Probation officers have considerable independence on many case decisions. However, these decisions have a high degree of visibility. Many case decisions are

scrutinized by various groups--the police, district attorneys, complainants, the offender's family, defense counsel, and judges. Visibility is particularly great when the probation officer prepares a report (presentence investigation, violation, or discharge) for the judge.

Autonomy would appear to be greater in the many on-the-spot case decisions the officer must make about an individual on probation, but even these decisions are reviewable if they come to the attention of the probation system. Confusion, frustration, even hostility may result if staff fail to recognize the accountability factor implicit in their position.

In probation agencies with five to ten probation officers, the officer may have more autonomy in case decisions, with fewer limitations imposed by organizational standards, since in the smaller organization communication regarding policies and procedures is more direct and adjustments can be made informally when conflict does develop. On the other hand, the individual worker actually may have less autonomy in a smaller agency because the judge knows the individual workers and is able to place informal constraints on them more readily.

As probation systems grow in size, rules and regulations are developed to define expectations regarding job

role, job performance, and procedures. While usually these rules and regulations place limitations on the autonomy of the individual worker, they can be written to define and protect the degree of autonomy granted to the worker. In the latter case, rules are written not as proscriptions but as prescriptions for action.

The New York City Office of Probation, one of the larger probation systems in the country, has found it necessary to establish written rules and regulations. One area in which written guidelines have been set down is juvenile intake. By statute, the probation staff can make informal adjustments of cases brought to Family Court without referring the matter to court. The written guidelines set forth criteria for differentiating cases that can be adjusted informally and those in which petitions should be filed. Because a conscious effort was made to provide autonomy in case decision-making, the guidelines are broadly conceived.

Two researchers, in studying the variety of decisions of intake workers, have identified six criteria used by workers in deciding whether or not a petition should be filed.⁷ Petitions are filed when: 1) the complainant insists; 2) there is a substantive denial of the charges by the child; 3) the offense is serious; 4) the impact on

the community is great; 5) the child has a delinquency record; or 6) some individual, especially a parent, indicates the child is beyond control or a problem in school. The first four criteria are contained in the written guidelines of the New York City Office of Probation.

The researchers observed that these criteria are applied quite subjectively by the worker.

"The basis for deciding that a case is to go to court seems to be the six criteria, as these are interpreted by an intake worker and applied to a given youth. On the one hand, their application would seem to depend upon the personality and professional training of the worker; on the other, they would appear to depend upon the compatibility of the worker's status affiliations, especially his social class, race, religion, and ethnic ties with those of the child."⁸

Since intake is a key decision-making point, either more formal and rigid criteria should be established for intake decision-making or the staff should be more experienced and better trained. The bureaucratic structure would depend upon rules and regulations whereas the professional model would emphasize training. If administrators are interested in developing a more professional orientation

in probation, staff should be provided the opportunity to obtain more expertise and training.

Attention to case decision-making generally has been limited to questions involving the presentence report, violation reports, and recommendations to the courts. In these areas restrictions often are placed on the probation officer by requiring that his recommendation to the court be approved by his supervisor. This tendency to limit the officer's autonomy probably developed from the viewpoint that the probation agency itself has the responsibility for the report to the court.

Instead of increasing control over the actions of the officers, criteria should be developed to define and circumscribe the autonomy of the officer in situations encountered daily in supervising a probationer. For example, can a probation officer decide how often the probationer should report? Can he tell the probationer to ignore the question of conviction in applying for a job? It is in these areas where on-the-spot decisions are made, many of which may never come to the official attention of the agency but for all of which the probation officer can be held accountable.

Policy Decisions

Peter Drucker has correctly stated that "what is our business" is a difficult question "which can be answered only after hard thinking and studying and the right answer is usually anything but obvious."⁹

Many administrators of probation systems would answer that our business is investigation and supervision. This answer has sufficed in the past, but what would be the business of probation if we were to meet the challenge of the President's Crime Commission? That report suggests that one of the emphases of the future will be "community based programs".¹⁰ Although these programs are not described in detail, the implication is that community-based programs will be run by probation, but with a different orientation than is now found in probation agencies.

We have accepted as dogma that our business is investigation and supervision. Closer examination suggests that investigation and supervision are essentially the means by which we do the job, rather than the central focus itself. We also believe that our purpose is to protect the community and rehabilitate offenders. However, these generalities ignore the fact that probation is a subsystem within a larger system--the administration of justice--and that the "business" of that system should be

considered in defining our own.

What is the business of the administration of justice? Man has attempted to regulate conduct in society by establishing laws or a body of law. These laws are changed as social values and beliefs change. The task of interpreting the law is assigned to the agencies involved in the administration of justice. These agencies are charged with interpreting the laws in such a way that they maintain social order in society while enabling social change to occur in an orderly fashion. Each subsystem of the administration of justice has the responsibility to contribute to that task.

If we accept this definition of our business, other policy decisions must be faced, including whether probation has a role to play in advocating and implementing changes in social policy. If the probation agency is viewed as an agent of change, the administrator's role would be altered. He would have to be aware of and concerned with issues usually considered outside the realm of probation; he would also have to develop a viewpoint on these issues and communicate this viewpoint to others. In this role, the probation agency might come into conflict with others, including other subsystems in the justice administration, which might see little or no need for changes in social

policy.

The role of the probation officer also would change. While currently he is oriented toward a one-to-one relationship with the probationer with emphasis on adjustment of the offender in the community, if he were to be a community change agent his training would have to equip him with new skills. This policy question--whether advocating change in social policy and advocating for the probationer are important tasks for probation--is still unanswered. Social work also is attempting to resolve the question of advocacy, particularly on behalf of the client.

Operational Decisions

Operational decisions deal with the implementation of policy decisions. A crucial issue in a probation agency is the level at which operational decisions should be made. Too many of these decisions now are made at the top. The rationale for this is not clear but it appears to be a reflection of the bureaucratic structure in which the senior official is responsible for the decisions and actions of his subordinates. The lack of clear delineation between a policy decision and related operational decisions makes it difficult to determine by whom a decision should be made.

Can a probation officer write to another probation agency, using his department's letterhead and signing his own name and title, asking for information about the other agency's procedure and practices? Probably not. Such a letter probably would be written by the head of the probation agency or his designee. Does it then follow that the chief probation officer should sign a letter of inquiry to another probation agency asking about a defendant or probationer? Not necessarily. Although many agencies require that a letter of inquiry on a specific case be written by the worker but signed by the department head, such a letter could be written and signed by the worker himself. In a truly professional agency, stated policy probably would be that letters involving specific cases assigned to a staff member shall be initiated, written, and signed by that staff member.

A basic principle of good administration is to place decision-making at the lowest level possible and appropriate for the decision. Three steps are involved in the development of basic guidelines for operational decision-making: 1) identification of the types of operational decisions that must be made; 2) identification of the most appropriate level at which the decision should be made; and 3) training of staff and their involvement

at various levels in the decision-making process.

The development of guidelines not only prevents upper-level staff from imposing decisions upon their subordinates but provides, at the same time, a means of involving lower-echelon personnel in making decisions that are their rightful responsibility.

Summary

Probation has long sought professionalization. To achieve this, probation staff will have to begin to look to colleagues in the field but outside their own agency for judgment on competence. However, professional staff still will be working in a bureaucratic structure and subject to organizational controls.

William Kornhauser has aptly described the conflict which may develop:

"The fact that he is a member of a profession constrains him to act according to the standards set by the profession rather than by the work establishment. He has obligations to the profession to maintain these standards in the face of conflicting demands the establishment may make on him . . . In short, professions limit organizations. The converse is, of course, also true; organizations limit professions."¹¹

An awareness of this conflict is not enough. A set of strategies is required to minimize the impact. One strategy is to identify and differentiate decisions according to type and develop a framework for autonomy in decision-making by professionals at all levels.

Footnotes

1. Peter M. Blau and W. Richard Scott. Formal organizations: a comparative approach. San Francisco, Chandler Publishing, 1962. pp. 60-62.
2. Id., pp. 62-63.
3. William Kornhauser. Scientists in industry: conflict and accommodation. Berkeley, University of California, 1962. p. 11.
4. Id., p. 13.
5. H. H. Gerth and C. Wright Mills (trans. and eds.), from Max Weber. Essays in sociology. New York, Oxford University, 1946. pp. 196-204.
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9. Peter F. Drucker. The practice of management. New York, Harper and Row, 1954. p. 49.
10. U.S. President's Commission on Law Enforcement and Administration of Justice. The challenge of crime in a free society. Washington, D.C., U.S. Government Printing Office, 1967. pp. 165-171.
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84923

PROBATION AND PAROLE

SUPERVISION

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An examination of probation and parole supervision reveals that it is considerably complex and that it is comprised of and affected by a number of variables. Although major attention traditionally has been focused upon caseload size as being of major import, other components of supervision have at least equal significance. These other variables include "types" of probation and parole officers, offenders, and treatments; social systems within correctional agencies, and their varying administrative styles; judicial and correctional decision-makers and their decisions, which determine input and output in corrections; the administrative organization of caseloads; the impact of the community; and cost and political considerations. The influence of these factors, and others still unrecognized, is subtle and as yet not fully known.

Until recently, emphasis has been placed upon the determination of appropriate caseload size and the establishment of a proper numerical relationship or ratio between

presentence investigation services and supervision efforts. Although necessary for the preparation of agency budgets, the provision of testimony to legislative bodies, the conduct of probation and parole field operations, and for planning and other administrative purposes, emphasis on size and ratio frequently has meant that little attention is focused upon other variables.

Caseload Size

In the United States, concern with optimal caseload size, traditionally set at 50 units (with one presentence investigation equated to five cases under supervision), dates back to the second decade of this century when Charles L. Chute of the National Probation Association observed that "fifty cases is as many as any probation officer ought to carry". The fifty-unit concept was reinforced by concurring statements of such prestigious academicians of the mid-1930's as Sutherland and Tannenbaum who suggested that fifty cases "is generally regarded as the maximum number", and "the best practice would limit the caseload of a probation officer to 50 cases". With these and other academicians supporting Chute's original prescription, professional organizations such as the American Prison Association came to recognize in the mid-1940's that an officer "should not have more than

50 cases under continuous supervision." The 1949 and 1954 editions of the Manual of correctional standards unequivocally supported the fifty-unit concept; and it was not until 1966 that the American Correctional Association qualified their recommendation of a fifty-unit caseload by stating that "where methods of classification for caseloads have been developed through research, varying standards of workloads may prevail."

In short, the fifty-unit caseload concept dates back many years and is based upon a belief which was not empirically derived. Thirty-five is now being advocated as the appropriate target for caseload size; but since this number also is without empirical basis and generally does not take into account other variables in supervision, immediate resolution of problems is unlikely to be achieved solely by reducing caseloads.

Treatment

Treatment in probation and parole is seldom defined and only slightly more often is it provided according to some predetermined plan. So elusive is the concept of "treatment" that almost everything which transpires between officer and offender during the period of supervision has been, at one time or another, labeled treatment. Indeed, treatment may be operationally defined as anything which

is done to, for, or with the offender. The treatment component of supervision has on occasion been portrayed as a continuum, with surveillance (protection of society) at one end and casework or therapy (rehabilitation of the offender) at the other.

Whatever problems are encountered in defining and identifying treatment, there appears to be little difficulty in keeping treatment records. Probation and parole officers maintain documents which reveal the number of treatments (direct and collateral contacts with the offender), the location of treatment (office, field, etc.) and, in narrative form, the nature of treatment. This compilation of data usually is summarized at the end of the supervision period, and/or at other selected intervals.

The results of treatment normally are recorded in terms of success and failure, in part because success and failure are defined in terms of response to treatment rather than innumerable other factors related to the offender. The probation and parole officer exerts significant impact upon success and failure in that definitions of success and failure in terms of behavior frequently are provided by the probation and parole officer as decision-maker. Further, the definitions themselves are sufficiently flexible to permit an individual offender and his behavior

to be counted in either (or some other) category.

The treatment phenomenon is further complicated by the belief that the successful offender is one who responded to an appropriate treatment while the offender who failed did not so respond. There is a tendency to assume responsibility for the application of an appropriate treatment and its resultant success and to dismiss failure as a function of the offender himself.

There are other factors which suggest that "treatment" is, in the main, an unknown. There is, for example, no method to determine whether a given treatment is appropriate at the time it is administered. Further, those actions and behaviors on the part of the probation and parole officer which are described as essential elements of a "helping relationship" may not be viewed as such by the offender. Shared understandings about helping relationships may not be common, particularly when the relationship exists in an authoritarian setting -- a setting in which proscriptions are detailed to the offender in a long series of terms and conditions of the conditional freedom, many of which place more stringent requirements on behavior than are expected from the non-offender citizen.

Additionally, there is the matter of time available

for treatment. If the probationer or parolee is awake 16 hours a day, a once-a-month treatment of 30 minutes duration represents about one-tenth of one percent of his total waking hours. While this small amount of time may be appropriate for some medical treatments, it is probably of less significance in the complex social life of the offender, 99.9 percent of which is spent under the influence of many "significant others."

Treatment is ill-defined, its explicit nature is unknown, and operationally it includes an enormous variety of interactions between officer and offender. At a minimum, it appears certain that the needs of various types of offenders must be related both to caseload size and to caseload organization as well as to types of officers best able to provide appropriate treatment/supervision.

Caseload Organization

The inexactness which marks the treatment component of the supervision process is not found in the organization of caseloads. Across the nation, two basic types of caseloads are encountered. The most common is the conventional balanced caseload with some weight given to geographic considerations. A second type is the single-factor specialized caseload.

The conventional method of assigning offenders to caseloads is motivated in part by administrative desires to maintain "balanced" caseloads. As a result, Case I is assigned to Officer A, Case II to Officer B, III to C, and so on. Since there is variation among offenders--whether the characteristic examined is height or weight, education, or prior criminal record--a caseload distribution of offenders may be seen as taking the statistical form of a curve. For illustrative purposes, the offender population may be envisioned as a normal curve. Each officer assigned a "balanced" caseload on a "take-turn" input basis is supervising an offender population which is a miniature of the total offender curve, whatever its real shape. This conventional supervision model is shown in Figure 1.

The conventional illustrated model is not found, of course, in most field operations, for probation and parole agencies normally consider the extent of the geographical area to be covered by their officers. In general terms, caseloads are equated with geography. The principle applied is that as the supervision area increases, caseload size decreases. Thus, the probation or parole officer working in a densely populated metropolitan area has a smaller geographic area and a larger number of cases than his rural or suburban counterpart who has a greater area

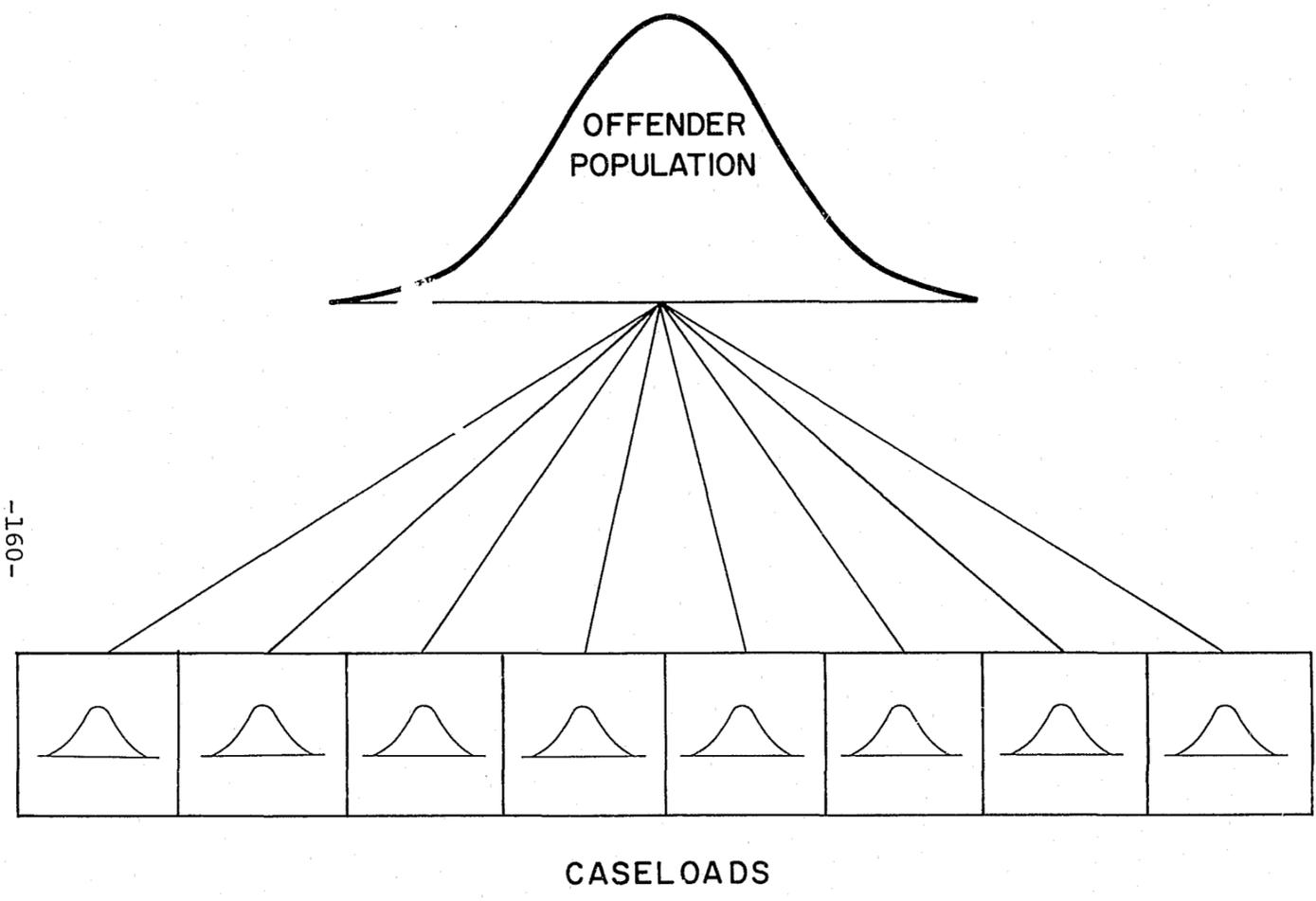
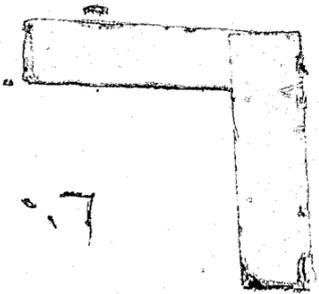


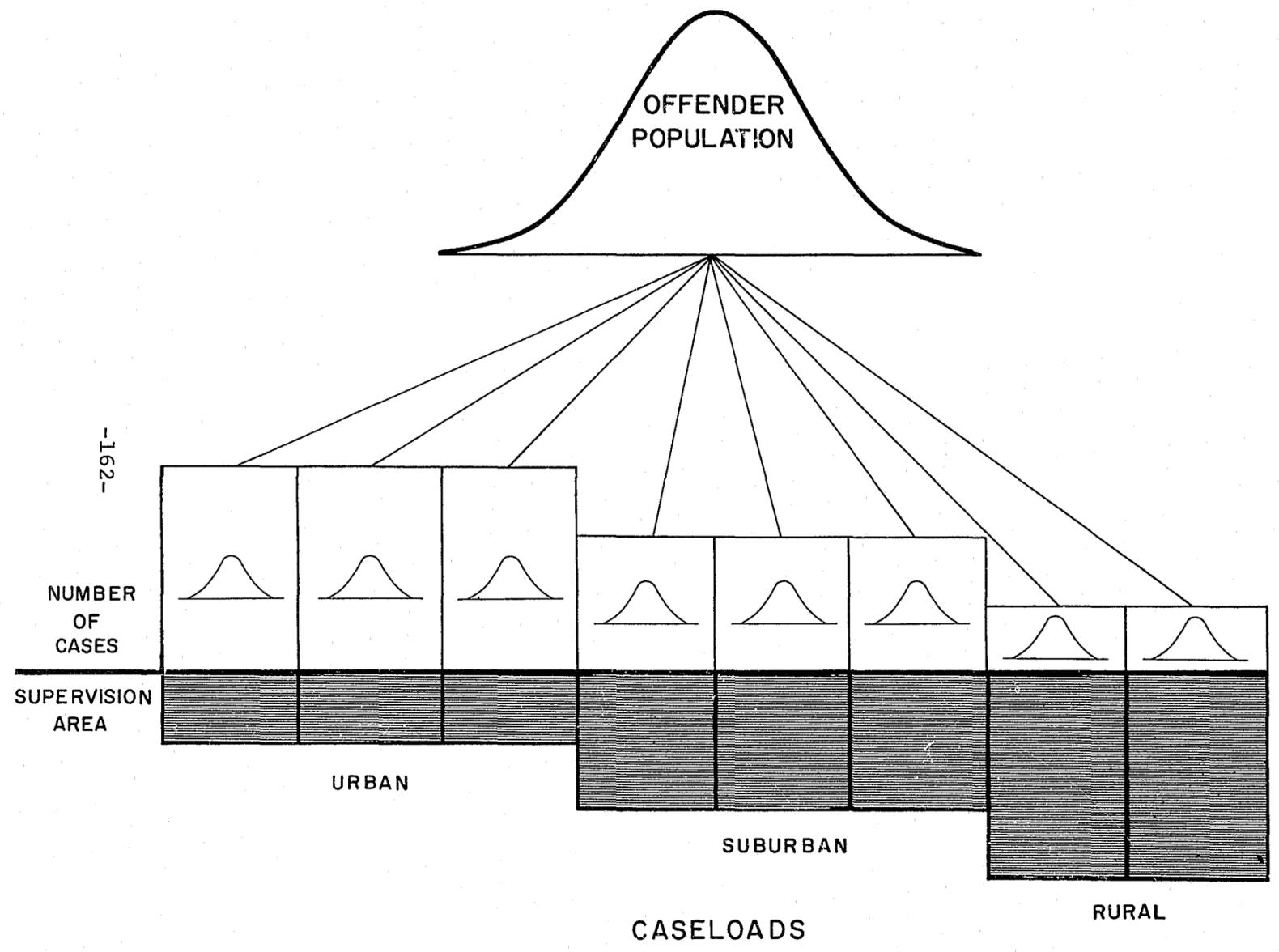
FIGURE 1
CONVENTIONAL SUPERVISION MODEL

to cover but fewer cases. Figure 2 illustrates the first of the two basic models utilized in the United States. In this model, the supervising officers again receive offenders who comprise a miniature reproduction of the total offender curve. It is possible, of course, that significant differences exist--or that separate curves exist--for urban, suburban, and rural offenders.

The second model commonly encountered in probation and parole supervision is the single-factor specialized caseload. Based upon a single factor or characteristic such as sex, age, violence potential, or drug use, certain offenders are removed from the general population for placement in specialized caseloads. For example, female offenders or drug addicts are grouped into single caseloads for supervision purposes. On occasion, a distinct treatment or approach is utilized for these caseloads. Generally, however, it appears that some caseloads simply are organized around a single characteristic. The single-factor specialized caseloads are illustrated in Figure 3.

It is important to note that the removal of a group of offenders from the general offender population on the basis of a single factor does not actually remove a specific and precise portion of the curve. Rather, there is





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NUMBER OF CASES

SUPERVISION AREA

URBAN

SUBURBAN

RURAL

CASELOADS

CONVENTIONAL SUPERVISION MODEL WITH GEOGRAPHIC CONSIDERATIONS

FIGURE 2

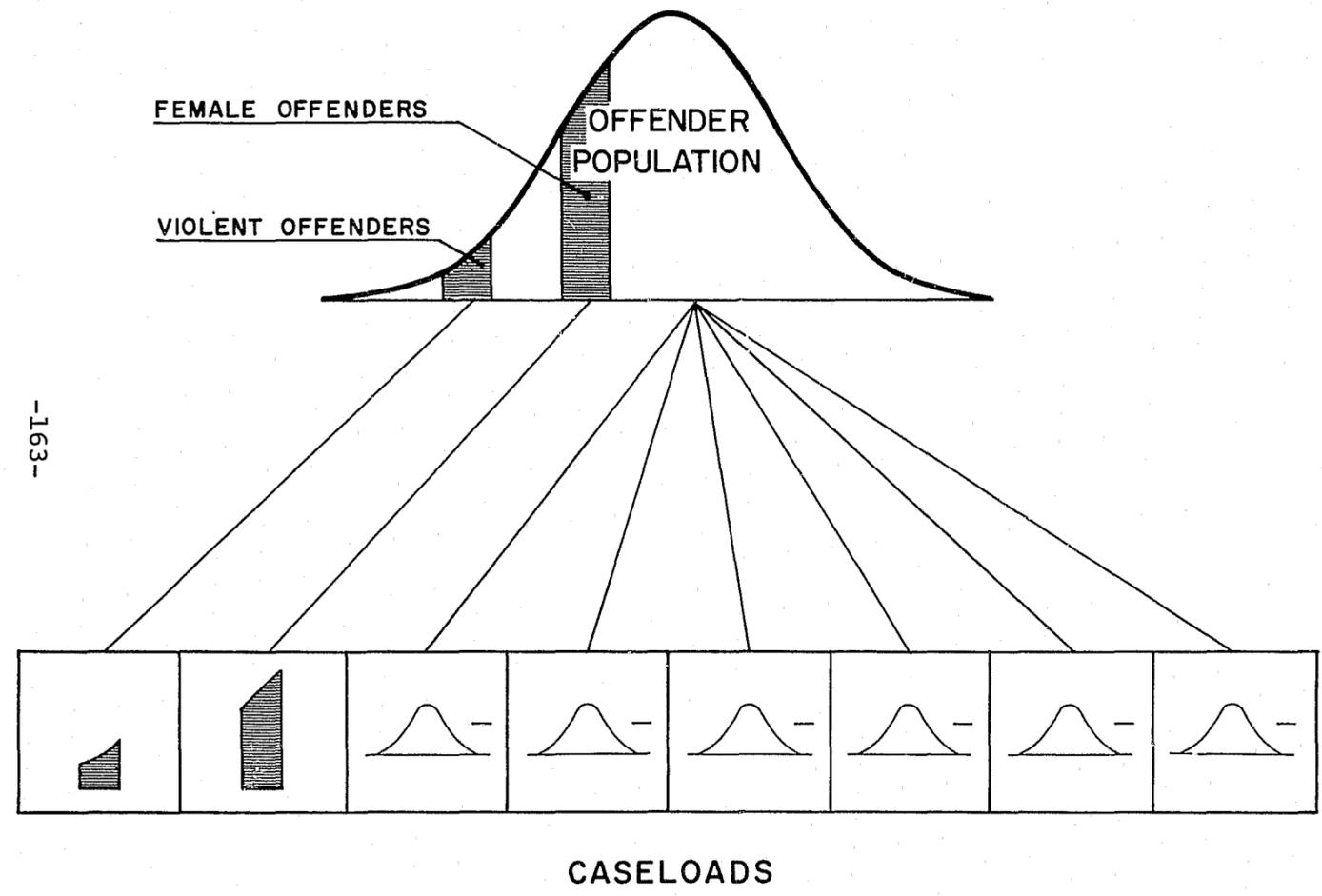


FIGURE 3
 SINGLE-FACTOR
 SPECIALIZED CASELOADS

an isolation of a grouping of offenders, who themselves constitute a separate curve, probably skewed right or left, depending upon the characteristic measured. Female offenders, for example, are not a distinct and separate portion of the total offender curve, but rather comprise a cross-section of the total curve. One of the dilemmas for treatment posed by these single-factor classification caseloads is that the caseloads are not made homogeneous simply because all offenders assigned to them share a single characteristic such as history of drug use.

In terms of the overall supervision process, traditional methods of caseload organization exclude from consideration most of the important variables which comprise supervision except administrative convenience. The single-factor caseload, whatever its deficiencies, generally is concerned with one type of offender and, at least in theory, allows for matching of treatment and officer and appropriate caseload size.

Offenders and Officers

In recent years increasing attention has been devoted to offender classification systems. As an operational matter a series of prediction or base expectancy devices recently has been produced by correctional researchers.

Not unlike the actuarial tables utilized by insurance companies, these instruments involve a number of factors, a substantial improvement over single-factor classification systems. These devices have been geared toward prediction of offender success on probation or parole, rather than determination of treatment needs. Such efforts, however, represent a considerably more sophisticated view of the offender than simply "drug addict" or "sex offender", and recognize that offenders are varied and diverse.

Although offenders may be classified according to type and likelihood of success, the probation and parole officer normally operates as a general practitioner. The GP model erroneously assumes that all officers, despite variations in background, training, and personality, can with equal ease and skill meet the varying treatment needs of many different types of offenders. Attempts to classify officers have been limited in number and success, partly because of a general resistance on the part of officers to be categorized as external-internal; punitive-protective-welfare-opportunist; or welfare-paternal-passive-punitive. The resistance of "professional" staff to categorization is understandable but unfortunate. The variations among officers in terms of capabilities and

skills are seen by officers as deficiencies, when in fact they are not. Particular attributes of staff might well be utilized to match types of officers with types of offenders and types of treatment programs. The variables of officer and offender must be considered as significant segments of the supervision process, even if this produces conflict between the generalist and the specialist view and casts doubt upon the validity of the "all-purpose" probation and parole officer.

The Community

Of the many variables which affect supervision, none can be considered more significant than the community in which probation and parole supervision occur. And yet, it seems that only in the past few years has the importance of the community been widely recognized. The test of relevance for probation and parole services is, of course, the community in which the offender lives. The question, "how relevant is the community?", may be answered with another question: can a probation and parole agency with its personnel and other resources compensate for the problems of the offender who suffers from the disadvantages associated with minority group status; subsistence at the poverty level; inadequate educational or vocational skills and competences; residence in the

ghetto with its feeling of hopelessness, boredom, repression and hostility; delinquent peers, associates, and neighborhoods; the broken-home syndrome and the welfare cycle; and the complexities of living with a set of values different from those upon which the law is based? These and other conditions, singly or in combination, are evident in many communities, suggesting that the standard "fifty-minute hour" approach to supervision is irrelevant in the world in which some offenders live.

In other kinds of communities, it is still important to determine whether probation and parole encourage offender dependence upon the agency or reintegration into the community. As a catalyst between the offender and the community, the probation and parole agency can work to encourage the community to use its resources to reabsorb the offender. Rather than finding employment for him, the agent could direct the offender into normal channels of job-seeking in the community. Offenders with residential, marital, or financial problems may best be assisted by insuring that they engage those community resources which deal with these problem areas. This implies more than a mere extension of the use of community resources. Identifying an offender as an offender and referring him as an offender to community agencies, which in turn provide

services because he is an offender, does little to destroy the stigma of a criminal record. Indeed, such usage of community resources serves only to perpetuate the criminal identity and to maintain the link with the probation and parole agency. In short, serious attention must be given to the community context in which probation and parole services are provided, as well as to determining whether current and expanding usage of community resources encourages integration into the community or dependence upon the probation and parole agency. The full significance of community variables for supervision is as yet unknown and examination has barely begun.

Decision-making and Decision-makers

Two variables with significant impact upon probation and parole supervision are the decision-making process and the decision-makers. Here too, there are substantial shortages in information about these complex factors. Although the system of justice and corrections provides considerable data on some kinds of decisions, these data are concerned primarily with numbers of, for example, prosecutions initiated in a jurisdiction (district attorney decision); offenders placed on probation (judicial decision); and parole revocations for violation (paroling

authority decision). While extremely important, these and related statistics reveal only one aspect of judicial and correctional decision-making.

A listing of correctional decisions about a given offender processed through the correctional system would reveal innumerable decisions and comprise one or more volumes. Many times, for example, a probation and parole officer decides, upon review of an offender's behavior, not to take action, or to delay action, or to avoid action, or to take some action which does not lead to an official recording of the decision. The majority of correctional decisions are unrecorded; indeed, most of these normally are not even thought of as decisions. Further, these decisions are not simply a function of an offender's behavior, but reflect the interrelationship of a multitude of factors, some of which are fairly explicit (such as office "SOP's"--usually subject to interpretation, itself a decision) and some considerably more subtle (including characteristics of the officer and the sociopolitical system in which he operates). Additionally, and more obviously, decisions made at one point in the system of justice and corrections affect what happens elsewhere in the system. Decisions of the judicial and paroling authority, for example, largely determine the nature and

size of probation and parole caseloads. Actions outside of the system, such as legislative decisions concerning new laws and sanctions, or modifications or deletions of established law, also affect judicial and correctional decision-making.

Knowledge of the correctional decision-making process is seriously inadequate. A complete inventory of the nature or number of correctional decisions or decision-makers is lacking; the information needs of the various decision-makers are in question and the relevance of much of the information now considered basic to current and proposed information or data systems has not been established. Techniques for the suitable measurement of the short and long range effects of decisions have not been refined; and the mutual influences of the decision-making variable and other variables in the supervision process are still unclear. Although the entire system of justice and corrections depends upon a variety of decisions by many decision-makers, our current knowledge of the process is quite deficient.

Some Other Variables

Other factors which affect the operation of probation and parole include cost and politics, administrative styles of leadership in the various agencies and the social

systems within those agencies. The impact of these and other variables is difficult to assess.

Social and technological changes also affect probation and parole. Gentle or violent mood shifts of the American people and their perspectives on crime and its correction may be reflected in our political structures and translated into legislation and budgets; these translations, whether accurate or not, directly affect program, policy, and personnel and may modify agency philosophy. Thus, if the general perspective on crime is that it must be "stamped out", legislative funding will be "hardware-oriented" and dominated by law enforcement.

Expenditures on corrections, although seen by many as inadequate, are nevertheless of sufficient magnitude to warrant a demand for cost-effectiveness studies. Such cost studies will place additional data requirements upon correctional agencies. Of greater consequence, however, may be the development of a new perspective of the role of corrections. Corrections has become big business; business and management principles will undoubtedly follow, including evaluations of programs and policies in terms of "pay-off". In the traditional correctional system such accountings are not required, except in the most general of terms.

Social systems and administrative styles are even more difficult to assess. Even with the limited data available, it is certain that the administrative environment influences probation and parole agency functions. An authoritarian leadership structure with its resultant hierarchy, principles, and policies will have one effect; a flexible and tolerant administrative setting will have another. It has been demonstrated that probation and parole performance--of officers and offenders alike--is affected by the administrative directives of top and middle management. Obviously, administrative orders that "violation rates will be reduced" (frequently because of bed-space considerations or following negative comments by politicians about probation and parole performance) result in changes in agency evaluation of offender behavior. Research data have suggested that violation rates are highly correlated with middle-management expectations, explicit or not, of line probation and parole officers. To illustrate, assume two field offices: Office "A" with a 40 percent violation rate and "B" with a 60 percent violation rate. A transfer of administrators from office "A" to "B" and from "B" to "A" would be likely to result, within a relatively short period of time, in office "A" moving toward a 60 percent violation rate and "B" drifting

toward 40 percent. Related data have shown constellations of agreement and influence extending beyond the correctional agency. The very high relationship observed between probation officer recommendations regarding the granting of probation and the selection of sentencing alternatives by the court persists whether there is high, moderate, or low use of probation in that court structure.

Social systems and administrative styles also are likely to be affected by the increasing bureaucratization of correctional agencies. Agencies are expanding in size and in the number of middle-management positions. It is not uncommon to find civil service probation and parole officer positions at the line level (Probation and Parole Officer, grades I, II, etc.). New positions are being developed, such as Supervising Probation and Parole Officer, Field Office Supervisor, District Office Supervisor, and Regional Office Supervisor, as well as a number of more technical positions, including Training Officer, Research Supervisor, and a variety of supervisors or coordinators of special programs. Research data have already demonstrated conclusively that the "official" values of a correctional agency may not be shared by staff. Additional levels of staff will complicate not only the transmittal of such values, but also field and administrative operations.

Summary

Probation and parole supervision is a complex process which does not lend itself to simplistic evaluation. There are many dimensions to supervision. Some of these, such as caseload size, traditionally have been of concern, while others, such as the community concept, agency social systems, and decision-making, have recently emerged with the development of new knowledge in the social and behavioral sciences. Even with this new knowledge, there are serious gaps in information about these variables and their interrelationships. The need to maximize supervision efforts by imaginative and creative experimentation is evident. In terms of the manpower, fiscal, and other resources now available and the nature of the crime and correctional problem confronting the nation, corrections must initiate an exhaustive and sophisticated examination of the complex phenomenon now labeled simply "supervision."

84904

PROBATION SERVICES AND THE VIOLENT OFFENDER¹

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Americans evidence more concern about those offenders perceived as violent or potentially violent than about the vastly larger number of nonviolent criminals. Violent crimes generally stay on the front page longest and elicit the most letters to officials. Let the headlines announce "ex-offender arrested in assault" or "violence on increase" and officials will respond by tightening whatever controls are available. Violent crimes shock the public and no criminal justice agency can long ignore its special concern in these cases.

Correction is held responsible, along with the police and courts, for curtailing the occurrence of violent crimes, yet it is the violent offender for whom correctional programs seem to be at best only partially relevant. It is the purpose of this paper to examine some aspects of this relationship between violent behavior and correction and to suggest specific implications for probation programs.

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CONTINUED

2 OF 4

Extent of Correctional Jurisdiction

Among the best available statistics on crime and offenders are those compiled during 1966 by the President's Commission on Law Enforcement and the Administration of Justice. At the outset these data underscore the tenuous connection between corrections and violent crime. Police reports covering 70 percent of the country showed that about 5,000,000 arrests were made during 1965, almost half of which were for drunk or disorderly charges.² This total is much smaller than the volume of crimes, including violent ones, actually committed in that year, since a significant number of offenses are never reported to the police.

To determine the rate of reporting, a carefully selected sample of persons were asked the number of times they or members of their households had been victims of criminal acts during the previous year. Comparisons of the rates developed by the Crime Commission survey and those published in official reports of offenses known to the police are shown in Table I for four selected major offense categories. Only about half of these serious offenses against persons were made known to police agencies, and the Crime Commission believed this to be a conservative estimate of the level of non-reporting for these kinds of offenses.

TABLE I:
Comparison of Rates for Selected Major Crimes
According to Uniform Crime Reports
and Crime Commission Study *
(per 100,000 population)

Selected Offenses	Uniform Crime Report Rate	Crime Comm. Study Rate	Estimate Percent Reported to Police
Willful Homicide	5.1	3.0	100%
Forcible Rape	11.6	42.5	27
Robbery	61.4	94.0	63
Aggravated Assault	<u>106.6</u>	<u>218.3</u>	<u>48</u>
Total	184.7	357.8	51%

* Adapted from: U.S. President's Commission on Law Enforcement and Administration of Justice. The challenge of crime in a free society. Washington, D.C., 1967. p. 21.

Other studies indicate that even when offenses are reported to police, a substantial number never result in apprehension. F.B.I. data reveal that only about half of the crimes against persons shown in Table I subsequently were cleared by arrest.³ Among those arrested, a large number were never prosecuted, were dismissed, or were released on a suspended sentence or after paying a fine.⁴

Most of those sentenced on charges of offenses against persons were given quite limited terms. The Crime Commission found that among the 1,000,000 persons sentenced to jail in 1965, an estimated two-thirds stayed less than six months in jail and over one-third stayed less than four weeks.⁵ Many of these were persons convicted of offenses ranging from disorderly conduct to assault. A distinct minority of the total who committed crimes, including violent ones, were subjected to correctional programs in 1965. Among those who were, relatively few were subjected to a term of more than a year. Those committing violent offenses were rarely in extensive contact with correctional agencies.

The Incidence of Subsequent Violent Behavior

The characteristics of those violent offenders selected for commitment to correctional agencies may indicate the specific likelihood of their subsequent violent behavior. Because of the lack of systematic information on misdemeanants, juvenile offenders, and persons on probation, data on adult felons sentenced to prison terms are used.

A statement by the Director of Research for the Department of Corrections in a large state, describes the situation typical in most jurisdictions:

"In 1964, of a population of about 17,500 on parole, 12 adult parolees committed homicide. In the Youth Authority Parole Division, 26 boys were guilty of homicide in 1964, out of a population of about 13,000. The ratio is thus about one out of a thousand. An average parole agent will have a 20 to 1 chance of not having a homicide case in any given year, and probably a better than even chance of never handling such a case throughout his entire career. Another way of looking at it is thus: In 1964, in the Parole and Community Services Division, 185 parolees were returned to prisons with new commitments of violent offenses, including 125 armed robberies. Of these, 78 had previously been guilty of violent offenses. As you can see, it is a statistically trivial problem."⁶

Of course, as the Director of Research pointed out, while the problem may be of minor importance in the context of overall statistics, it is not trivial to the victim, to the police, or to the community.

A question raised by the assertion that the incidence of subsequent violence among total correctional populations is relatively small, is whether the rate of subsequent

violent acts is high specifically for those who have been convicted of crimes involving violence. The answer to this question is similarly negative.

The Federal Bureau of Prisons reported that in 1964 approximately 68,000 persons were released from state prisons. Slightly more than ten percent had been convicted of robbery. Another 15 percent had been convicted of homicide, sex offenses, or assault; each represented approximately five percent of the total. The remaining 75 percent of those released had been convicted of such offenses as burglary, forgery, larceny, and narcotic violations.⁷ The subsequent behavior of those convicted of violent offenses as compared to those convicted of non-violent crimes is illustrated in Table II below. These carefully developed data report the one-year parole performance of over 8,000 parolees from 22 state parole agencies.

Table II indicates that those convicted of such offenses as homicide, assault, and sex crimes generally have the highest rates of favorable outcome of any category. By far the most favorable rate is found among those who commit homicide. Armed robbery is in the middle range of outcomes, which may be partially explained by the variety of behavior embraced by this definition. This offense often involves only the threat of violence and is most often employed as a means to an economic rather than a violent end.

TABLE II:

Type of Offense and Favorable Parole Performance
Based on One Year Follow-up of Men and Women Paroled
from 22 Agencies, January through December, 1965 *

TYPE OF OFFENSE	PAROLE PERFORMANCE			TOTAL NUMBER
	Number Favorable (No Major Difficulty)	Number Unfavorable (Major Difficulty)	Rank and Percent Favorable	
Willful Homicide	539	54	(1) 90.89	593
Negligent Manslaughter	72	12	(2) 85.71	84
Other Sex Offenses Against Juveniles	129	24	(3) 84.31	153
Aggravated Assault	309	62	(4) 83.29	371
Rape, Forcible	135	33	(5) 80.36	168
Alcohol Violations	36	9	(6) 80.00	45
Other Fraud	48	12	(7) 80.00	60
Rape, Statutory	87	25	(8) 77.68	112
Other Sex Offenses Not Against Juveniles	50	15	(9) 76.92	65
Armed Robbery	813	256	(10) 76.05	1069
Unarmed Robbery	287	109	(11) 72.47	396
Prostitution and Pandering	8	3	(12) 72.73	11
Narcotics Violations	256	105	(13) 70.91	361
Theft or Larceny	504	212	(14) 70.39	716
Burglary	1576	796	(15) 66.44	2372
All Others	267	135	(16) 66.41	402
Forgery and Checks	435	317	(17) 57.85	752
Vehicle Theft	219	162	(18) 57.48	381
TOTAL	5770	2341	71.14	8111

* Source: National Council on Crime and Delinquency. National Parole Institute. "Uniform parole reporting: one year experience." New York, 1968. p. 24.

The violation rates shown in Table II measure favorable or unfavorable outcomes by such criteria as failure to observe parole rules, the commission of petty offenses, or the commission of any new major crime. However, violations of parole rules or property offenses are of less concern here than the risk of further violent acts. The State of Pennsylvania completed a comprehensive study which bears directly on this question.

Table III, derived from that study, shows the percentage of offenders who committed new crimes while on parole by various offense types and indicates how many repeated the crime for which they were imprisoned. The overall rate for new crimes was 18.4 percent with 6.8 percent of the parolees committing crimes similar to those for which they were originally imprisoned. Again, robbery is in the middle range. Sex offenders, those convicted of assault, and those convicted of homicide were lowest in the commission of new crimes--8.8 percent, 12.3 percent and 5.7 percent, respectively. They were also the least likely to repeat the offense for which they were convicted. Less than one-half of one percent, for example, of those convicted of homicide killed again after they were released on parole.

TABLE III:

Percentage of parolees committing new crimes and repeating crimes for which they were originally imprisoned, by selected offenses. *

All Parolees, 1946-1961		
Offense for Which Imprisoned	Percent Committing New Crimes on Parole	Percent Repeating on Parole the Crime for Which Imprisoned
Larceny	22.5%	6.4%
Burglary	23.4%	11.1%
Forgery	22.3%	10.2%
Robbery	19.5%	5.1%
Narcotics	15.9%	10.1%
Sex Offenders	8.8%	2.9%
Assault & Battery	12.3%	3.6%
Homicide	5.7%	0.4%
Other Offenses	10.2%	3.1%
Rates for All Cases	18.4%	6.8%
Number of Cases	29,346	29,346

* Source: Pennsylvania Board of Parole. "A comparison of releases and recidivists from June 1, 1946 to May 31, 1961." Harrisburg, 1961.

In summary, the incidence of subsequent violent crime among all correctional releasees is relatively small, and it is only slightly more likely to occur among offenders convicted of violent crimes than among those convicted of non-violent offenses.⁸ These findings do not imply that it is futile to try to control violent behavior among those in correctional settings, or that reducing violence is not a correctional responsibility. They do suggest that the possibilities of success are limited and emphasize 1) the difficulties which must be overcome in reducing violence; and 2) the tentative nature of suggestions regarding correctional intervention. Most of all, when the large number of violent offenders who are never committed to a correctional program is considered, these findings emphasize the limited role that corrections plays in society's response to violent crime.

The Problem of Classification

Any improvement in the ability of corrections to reduce violence must depend upon its capacity to identify those who are likely to be violent and to develop a system of alternative treatments for the offenders so identified. Our ability to classify offenders, especially those who are prone to violence, is at best imprecise.

The Commission on Violence sent letters to correctional administrators across the United States to determine their views of classifying and dealing with violent offenders. One of the most revealing responses came from the head of the California Youth Authority, an agency which has perhaps one of the most sophisticated correctional research programs in the United States.

"Our research staff has undertaken to devise statistical analysis of the background characteristics of youths committed for violent offenses. While they were able to establish some differences between this special population as compared to our general population, the differences are so small as to make risky any attempt to predict future violence on the basis of those findings.

Our experience to date adds up to very little in the way of contributing to our ability to identify people who will commit future violent offenses."⁹

In classic prediction theory, this is referred to as the "base rate" problem. The more infrequently an event such as violence occurs in a population, the more difficult is the task of identifying characteristics which will help predict who is likely to commit that act.¹⁰ Until more

research is available we must depend almost exclusively on the simple presence of violent behavior in the history of offenders as an indication that a case deserves special attention. Because this is a very imprecise predictor of future violence, there is great danger that we will brand many individuals as potentially violent when they are not.¹¹

To lessen this possibility, one approach emphasizes individual observation and prediction unique to the individual offender, rather than classifying an offender with respect to other offenders.¹² However, resources are limited and it is costly to obtain sufficient information for individual prediction. Classification schemes must be designed, based on the best available information, which will provide at least a rough index for resource allocation. Such classifications are also needed to chart directions for research, the facilities and skills required for screening offenders, and the character of correctional programs needed to treat them.¹³

Essentially, the task is to develop categories, based on a combination of theory and research data, by which violent behavior of offenders may be typed, analyzed, and ultimately better controlled. There is no preferred system; the test is one of utility.

"Ideally, a typology of crime should be constructed on the basis of a general, underlying theory of crime. No matter how implicit, some assumptions are always present concerning the nature and etiology of crime. In addition, the particular selection of characteristics and variables which ultimately determine the types in the system is guided by the interests of the criminologist. In other words, the purpose at hand determines how the typology is to be constructed."¹⁴

In the present context, violent behavior as such is of less concern than those actions which are both violent and designated illegal by society. Of more relevance, therefore, are typological systems designed to deal with criminal behavior, as these relate to the specific component of violence.

A Suggested Typology

The Crime Commission, in its report on Corrections, described the results of a conference on criminal typologies which was sponsored by the National Institute of Mental Health in 1966.¹⁵ At this meeting, a cross-tabulation of a number of systems for classifying offenders was attempted. Building directly on the work of this meeting and other sources,¹⁶ it is possible to suggest a typological

system which applies more directly to the violent offender. For this purpose, four types of violent offender may be distinguished. Although impressionistic, these categories roughly suggest the kind of correctional program required by several important types of violent offenders and indicate some of the screening resources particularly useful for identification.

I. The Psychotic Violent Offender

These offenders have been described as committing offenses with a "certain exaggeration and a bizarre that is diagnostic." They are relatively few in number and generally law-abiding. Among the psychotic violent offenders are the paranoids who seek a spectacular "execution" with enough of an audience to gratify their vanity.¹⁷ They may go on a murder spree, as if they are trying to revenge themselves against the universe. The prognosis for these offenders is guarded. Some workers have reported gains in intensive psychotherapy, but the sample of those treated is still fairly small.¹⁸

It is clear that the identification of such offenders requires sophisticated psychiatric assistance. Such assistance is most useful where the offense involved does not seem to be an expression of the subculture of violence.

The trained clinician can help to decide whether a crime of violence was expressive of persistent emotional disturbances likely to be manifested in further violence and to determine the emotional state of this person at the time of release. The treatment of these offenders requires a psychiatric orientation of a level not usually found in correctional settings. Long-term intensive work by skilled, clinically trained practitioners is necessary.

II. The Pro-Social Violent Offender

Basically, offenders of this type are viewed as "normal" individuals who identify with the values and norms of society and reject those of a criminal subculture. Their offenses usually grow out of extraordinary pressures or situations.¹⁹

Of any type of violent offender the "situational offender" is the lowest in multiple violent arrests or prior prison commitments, and he has a very high probability of succeeding on parole.²⁰ Offenders in this group are fairly skilled, have a generally higher educational level than most other offenders, and tend to be older.²¹

In classifying the pro-social violent offender, clinical help is needed to differentiate him from the psychotic violent offender. The evidence generally suggests a relatively short period of incarceration at most for this kind

of offender. His self-image is non-criminal and he will most often agree that his behavior was unlawful and should be punished. Correctional institutions appear to have little effect upon such individuals.²²

III. The Anti-Social Violent Offender

This offender typically identifies with a delinquent subculture or exhibits a general delinquent orientation by rejecting conventional norms and values. There appear to be two subtypes in this offender category.

A. The Culturally Violent

The largest number of offenders convicted of violent offenses are most likely in this category. Generally, they have grown up in a subculture where violence is an accepted way of life, and in which "a male is usually expected to defend the name and honor of his mother...and to accept no derogation about his...masculinity. Quick resort to physical combat...appears to be a cultural expression."²³ These offenders are often the least skilled, have the highest unemployment level, and are the most poorly educated.²⁴

It has been objected that psychologists or psychiatrists tend too often to brand these types of offenders as psychopaths, when actually they are

not so deviant within their own milieu. The best treatment for the culturally violent offender has been described as enlarging cultural horizons and redefining contacts with peers.²⁵ Kept away from alcohol and threats to their self-esteem, offenders in this group often are frightened enough of their own anger after one violent assault to be very careful thereafter. Probability of nonrecidivism is highest when they can be induced to accept more of the values of lower middle class citizens or when situations likely to trigger their assaultiveness are controlled.

B. The Criminally Violent

This offender uses violence as an instrument for the attainment of other goals, usually economic, rarely as an end in itself. Generally these offenders are fairly intelligent. Their offenses usually involve detailed planning and force is employed in a limited fashion. In one study this individual was described as a better risk than the culturally violent but substantially less than the prosocial offender.²⁶ This may be explained in part by the fact that many such offenders have skills enough to minimize their chances of apprehension.²⁷

Clinical services are useful, but persons familiar with the offender's cultural milieu can be especially helpful in adding to classification knowledge. These offenders typically see themselves as criminals and interact extensively with other offenders. Recommendations for treating them are varied, depending upon the intensity of criminal identification, but usually include group counseling, appropriate vocational training, and close supervision.

IV. Asocial Violent Offender

This offender acts upon his primitive impulses, is hostile, and demands immediate gratification. His violent acts seem clearly out of proportion to the demands of the situation.²⁸ He is different from the antisocial individual who, although committed to delinquent values, is capable of identifying with others. The asocial offender apparently lacks elementary training in human relations. A number of these individuals have a history of brain damage. They have been shown also to possess a typically higher intelligence than many offenders but they may be poorly educated.²⁹

Clinical resources are useful in diagnosis, and typically the pattern is clear. The distinguishing mark of their criminal career is the vigorous response to stress

situations.³⁰ Extensive work is needed with these individuals before they can be released to the community with any hope that they will be able to control their impulses. Authorities recommend programs in a simple social setting with only minimal demands on their extremely limited skill and adaptability. As the offender learns that human interaction is a two-way process, he will probably be more ready for conventional therapy in group and individual settings.

Some Implications for Probation Programs

The four categories outlined roughly suggest the kinds of screening and treatment resources needed to identify and to cope with most violent offenders. The scheme is not meant to be a precise system for classification and treatment, nor is it by any means exhaustive. It is suggested chiefly to indicate the direction of needed research and to illuminate several important correctional issues. Much more information is needed on specific kinds of intervention which might be successfully employed in treating the violent offender. Meanwhile, the limited knowledge already available should be applied.³¹

Toch describes a number of strategies useful in handling offenders with violent backgrounds.³² Among the treatment efforts he suggests are those which stress the teaching of new styles of adaptation. Since many violent

offenders feel obliged to fight or test the system as the only way of proving themselves, Toch recommends the development of non-violent games such as negotiation, which provide non-violent solutions to problems. He argues that it is important that violent offenders be given the opportunity to work in a culture in which non-violent alternatives are constantly available to them. For some, social service work or philanthropic activity is the best kind of re-learning that could be undertaken.

Secondly, Toch suggests that violent offenders be given an opportunity for training with nonviolent persons. This means that their re-education must involve not only activities such as group discussion and psychodrama; standard partners in violent-prone interaction--peers, love partners, and authorities--must be part of the treatment process. The clear implication of this line of reasoning is that many offenders convicted of violent offenses would be best handled in the community under supervision. Experimentation of the kind described below supports this view as does the evidence of the generally low risk involved with this kind of case.

As the above typology and available research suggest, the key to a successful program of community-based correction lies in providing specific treatment for different

types of offenders.³³ Unfortunately, while this strategy is generally applauded, it is not widely implemented. In the last few decades, much of the effort of probation administrators has been directed toward the reduction of probation officer caseloads to a standard level, usually 50 cases per officer. For purposes of performing tasks such as contacting probationers, meeting with officials, or report writing, these caseload levels are quite realistic. But, in terms of reducing recidivism, the evidence is dismal.

Simply adding officers to provide a uniform service does not improve probation services. Some of the most disappointing experiments in this regard were carried out in California several years ago.³⁴ Caseloads were cut to as low as 15 offenders per officer but little change in revocation rates resulted. Having more time to provide basically the same services to offenders resulted in only slight improvement.

Quite different outcomes occurred in another experiment in which treatment was tailored for the individual offender. Youths were assigned to caseloads in which an officer was responsible for no more than 12 offenders and in which a distinctive kind of treatment was provided.³⁵ After five years of study, it was found that those treated in differential treatment caseloads of small size had a

revocation rate of 28 percent. A comparable, randomly assigned group who went through a standard institutional program followed by supervision in the community in conventional, undifferentiated caseloads had a revocation rate of 52 percent.

In addition to the employment of a classification system and small caseloads, an important part of this program was the use of a program center which served as a recreational and counseling facility. The use of centers of this kind in which offenders continue to live at home while receiving treatment during the day has been shown to have considerable promise in several other studies.³⁶ Used in conjunction with a well-designed probation program, these alternatives to institutions seem to be appropriate for the treatment of many violent-prone offenders because of their accessibility to the community under controlled conditions.

The Role of Correction in Intake

Differential treatment programs will require probation agencies to change radically their present practices of supervision. However, these changes may seem mild compared to those which will be required if probation agencies, particularly those dealing with adult offenders, respond to suggestions that their services are needed not only in the

traditional areas of providing information to sentencing judges and supervising offenders but also in the sorting and labelling process which determines which offender appears before a judge for sentencing and the conditions under which that appearance is made.

Dispositions for the majority of cases are selected during the administrative rather than the adjudicative phases of the criminal justice process, between the point of arrest and trial. The central question is how well this vital part of the justice system operates. Beyond basic considerations of guilt or innocence and fairness, this system must also be measured by considerations such as the extent to which seriously violent offenders are screened from among the millions of persons going through the system and how well the factors which precipitated those violent offenses were identified and modified.

Recent emphasis on these processes of criminal justice has developed not only because of their importance in shaping the ultimate disposition of a large number of cases but also because of the growing recognition that the use of criminal sanctions for many offenders may do more harm than good.³⁷ There is an increasing awareness that the levying of a legal penalty, particularly for a violent offense, engenders disabilities long after the term of

imprisonment or supervision. For as the courts label the guilty, society at large imposes a variety of informal penalties in the nature of foreclosed opportunities, particularly in the job market, and generally in the kind of human association that is available to the labeled offender. The informal sanctions frequently persist much longer than the official penalty and indeed may last a lifetime.

The stigma, particularly if applied more than once, may convince the offender that he is what official society labels him--a deviant, to whom the pursuits of the law-abiding are unavailable; and thus is laid the basis for the offender's self-identification as a criminal. In this way, the labeling process itself may tend to reinforce rather than eliminate further criminality.

This does not mean that the criminal process should be discarded. It does suggest that the criminal sanction is sufficiently severe to warrant reserving it for serious offenders and for cases in which other alternatives have been tried without success.

The Screening Process

Identification of the potentially dangerous among those entering the criminal justice system is a task which is shared collectively by police, prosecutors, and judges. How well they carry out this task is open to question but

it is a responsibility they are expected to assume. On the other hand, the role assigned to correctional personnel is varied, ranging from considerable responsibility in some jurisdictions for certain types of offenders to others in which they bear little or no responsibility. A major determinant of the kind of services available is whether the offenders are juveniles or adults.

In 1965, approximately 700,000 youngsters were referred to juvenile agencies.³⁸ In the best of these agencies, trained staffs, available on a 24-hour basis, interviewed the youths shortly after arrest and obtained from police and other sources data on background characteristics and the situation which led to referral. Under policies worked out jointly with the juvenile court judge, police department, and probation department, the staff decided quickly whether the court had jurisdiction in the case; whether the youngster could be best handled by brief contact with him and his parents or by referral to a community agency; and whether he was one of the minority who was a potential danger to himself or others and required further study before final disposition.

Fully staffed intake programs of the type described, with well-developed procedures and sufficient resources, are the exception rather than the rule. Many juvenile

programs have no intake workers at all and most are defective in other ways.³⁹ Children are needlessly taken into the correctional system and substantial numbers are held in detention unnecessarily. Despite these shortcomings, the correctional role in intake is much more defined for juveniles than for adults and many more resources are available.

For adults charged with a crime, the intake mechanism in most parts of the United States is the lower court system. Crime Commission consultants surveyed a number of jurisdictions and found:

"The criminal justice system has a heavy responsibility, particularly in cities where so many men are so nearly anonymous and where the density of population and the aggravation of social problems produce so much crime of all kinds, to seek to distinguish between those offenders who are dangerous or potentially dangerous and those who are not. It has an additional responsibility to prevent minor offenders from developing into dangerous criminals. It is a responsibility that the system is in some ways badly equipped to fulfill.

The Commission has been shocked by what it has seen in some lower courts. It has seen cramped and noisy

courtrooms, undignified and perfunctory procedures, and badly trained personnel. It has seen dedicated people who are frustrated by huge caseloads, by the lack of opportunity to examine cases carefully, and by the impossibility of devising constructive solutions to the problems of the offenders. It has seen assembly line justice."⁴⁰

The lower courts represent a totally inadequate system which handles over four million offenders each year with little effective discrimination among the kinds of people moving through it. It is a system in which the violent offender is not likely to be accorded special attention. Considerably more correctional resources are needed in the lower courts.

The intake process for criminal offenders, of course, extends beyond the lower court. The prosecutor plays a key role in the sorting process at all levels. He must make a number of decisions and recommendations before trial. Important decisions are taken as a result of the discussion between the prosecutor and the accused, or more often his counsel, to determine whether an agreement can be reached about a satisfactory disposition for a plea of guilty.⁴¹ Very often a prosecutor must determine whether to recommend dismissal when the interests of the public

and the accused are best served by such action. Unfortunately, few prosecutors have available the kinds of facts or resources needed to discriminate among offenders on even the crudest basis.

Informational Resources

The essence of any effective system of offender classification is the information available to criminal justice decision-makers in the early phases of intake. It is critical that intake be handled much more efficiently than is presently the case. The most commonly expressed criticism of our system of administration of justice, particularly for adults, is its fragmentation. A defendant, who may pose a serious risk to himself and the public, moves through a series of bureaucratic structures--police, jail, prosecutor, probation office, and court--each viewing its own function from its own perspective. At each stage in the process, information believed essential to that stage is collected with relatively little awareness of the information needs of the entire process. Too often, vital information about the offender is lost in the movement from one bureaucracy to another or simply is not gathered by trained personnel and made available when needed.

What is needed is a unified method of data collection whereby basic and relevant information about the personal

and social characteristics of the offender can be supplemented as he moves from initial screening further into the criminal justice system. This core information should be available to the decision-makers at each critical point, such as in deciding between diverting an individual to community agencies or retaining him for further study. Unless a coherent system for gathering and maintaining basic and relevant information is devised, rational decisions relating to charge, diversion, detention, prosecution, and sentence can not be made. As a result, both society and the offender suffer. Dangerous offenders return to the community prematurely while others, who do not require extensive controls, are held for excessive periods of time.

It is possible to conceive of a 24-hour intake control service in most large jurisdictions. Staffed by skilled personnel trained in correctional techniques, this agency would operate within policies laid down by the court. Through interviews with the accused, members of his family, employers and officials, staff would be responsible for developing information for decision-makers at various points in the administration of justice. The possibility of early diversion from the system for non-serious offenders would be greatly enhanced. The prototype of this kind of program is already developing in several jurisdictions.

Certainly, the rights of the accused in any data-gathering process would have to be protected. Experimentation is needed to develop methods by which information can be elicited without prejudice to the defendant. Experiences in bail programs already indicate some of these methods. Some models which may be relevant to the adult field also are suggested in the Model Rules for Juvenile Courts recently published by the National Council on Crime and Delinquency.⁴² Concrete standards are provided which carefully distinguish the uses for information gathered in the intake process.

The need for systematic development of information on offenders before trial is evident. With better data, it is possible to determine more accurately those who can be safely diverted from the criminal justice system and those who can be appropriately sentenced with a minimum of delay. Another vital decision occurs at the time of sentencing, after a finding or plea of guilty. Here the presentence investigation provides the judge with data to enable him to decide wisely.⁴³ Because of the important role of this presentence report, correctional authorities have long contended that one should be available for every defendant at the time of sentencing.

The National Survey of Corrections revealed that

in 1965 presentence investigation reports were available only in approximately 61 percent of the cases of juveniles who were placed on probation or sent to juvenile institutions. Among adult felony offenders the proportion was 66 percent, while for misdemeanants sentenced to jails or placed on probation, presentence investigation data were available in less than 20 percent of the cases.⁴⁴ In too many cases, judges are asked to make the critical decision between incarceration or probation with little or no information.

The lack is qualitative as well as quantitative. In sentencing a defendant who may be prone to violence, the judge requires more information than he does when sentencing a lesser offender whose crime and history do not suggest future violence. Judges and probation officers also need training to recognize some of the traits which might be observed in identifying defendants who need closer study before a decision is made.⁴⁵ They need screening resources, particularly psychological and psychiatric services, to which offenders may be referred. Such resources are in scarce supply for too many courts.

One solution to this scarcity is the growing use of community clinical facilities by correctional services. Another is a state-sponsored program such as that provided

to courts by the Division of Legal Medicine of the State of Massachusetts. Reception and classification centers operated by correctional agencies are yet another resource developed to improve decision-making. Referral of offenders to such reception and classification programs for study prior to final disposition seems to be of considerable value. In the federal system, a sentencing judge is empowered to determine disposition after committing an offender to the Bureau of Prisons for a period of study and diagnosis. The State of Kansas also provides such services. The California Youth Authority has provided diagnostic facilities to the courts in that state for some time.

Not to be overlooked are the significant contributions which para-professionals (most often persons with a relatively low level of formal education who are drawn from neighborhoods from which offenders come) can make to the screening process.⁴⁶ The typology of violent offenders suggested above indicated several types of offenders for whom it was exceedingly important to assess their actions in terms of expected behavior in their cultural milieu. The perceptions of those drawn from a similar setting can be very helpful in judging the meaning of behavior for a given individual in that setting. Projects in New York City,

Austin, Texas, and Seattle, Washington, to name but a few, have already demonstrated practical roles which the para-professional can fill in augmenting information-gathering functions.

Administrative Responsibility

One of the major recommendations of the Crime Commission in regard to correction was that "screening and diagnostic resources should be strengthened, with Federal support, at every point of significant decision."⁴⁷ This recommendation was one of the most important made by the Commission in regard to the classification and control of the violent offender. How such services might be operationalized was not suggested. This question cannot be answered for violent offenders alone, since it involves the entire place of correctional services in the intake process.

There seems to be little dispute that for juveniles the probation agency appropriately should assume responsibility for the intake function and for providing information to the court. For adults, the situation is less defined. Adult probation services perform virtually all presentence investigations for sentencing purposes. Release on recognizance programs are much more dispersed administratively; although some are supervised by probation departments,

a number are under other auspices.

Only in a few places have probation departments provided data on adults charged with crimes prior to a finding of guilt. Because correctional personnel have been used so sparingly in criminal intake processes, methods of using correctional screening resources prior to trial have not been developed.

Some experimentation is underway, but much more is needed. The National Council on Crime and Delinquency indicated that in Detroit the Adjustment Division, a special unit of the Recorders' Court Probation Department, handles persons with complaints of non-support and other domestic problems. The service handles between 4,000 and 5,000 persons a month, with warrants of arrest being issued in only about three percent of the complaints filed. In Chicago, the police department refers many cases to the Municipal Court's Social Service Department. In Minneapolis, the Probation Office performs a screening service in conjunction with the prosecutor's office.⁴⁸

In several jurisdictions there is a move to consolidate all intake services of a correctional nature in a single agency. The New York City Office of Probation is an example. Here the entire range of services from intake and screening in certain types of cases to bail investigation

and probation are handled by a single department. This model appears sound for several reasons.

First, throughout the intake process there is a critical need for accessibility to a wide range of community resources. A prosecutor, for example, when deciding whether to dismiss a case, needs to know whether the defendant could be expected to do well if he were given an opportunity to obtain more education or if he would benefit by referral to a vocational rehabilitation agency. He needs information about the availability of agencies in the community which could give a defendant those skills and an estimate of the probability that the program would be completed.

The development of such resources requires that staff constantly negotiate with employers, vocational teachers, mental health clinics, and family counseling services to maintain ready resources in the community. The efficacy of community resources must be constantly monitored by obtaining current data on what actually happens when various cases are referred to a community agency or resource.⁴⁹

Secondly, in both criminal and delinquency intake processes there are many points where case management skills are required. A number of cases can be handled relatively quickly by a skillful intake officer. Other

actions may require the skills of a case manager for longer periods of time. For example, the extension of supervision to persons released on recognizance programs instead of bail, as in St. Louis, is a point where case management skills have been required.

The necessary skills are very similar to those of a probation officer. They include the ability to relate successfully with persons, many of whom are antagonistic to authority or come from social backgrounds which make communication with an officer difficult. Especially necessary is the ability to accurately assess the significant forces at work in a case situation and to be able to interview constructively. This usually means the officer must be able to deal simultaneously with the offender and his employer, family, and peers.

Finally, the consolidation of these resources in a single agency would have the great advantage of developing career lines for a variety of persons. Whether a worker was concerned with initial screening or probation supervision he would have the opportunity for advancement and growth. This is particularly important for para-professionals who can easily be shut off from substantial career opportunities by their permanent employment in isolated programs.

As the Crime Commission pointed out:

Formidable obstacles must be overcome if new approaches to the use of non-professionals are to be utilized fully. One of the most fundamental is the restructuring of corrections to create defined and satisfying career lines for the nontraditionally trained. It is possible, for example, to employ aides to help probation and parole officers, but such persons need to have widely accepted roles and channels for promotion within correctional organizations. Without these, the aide position would be quite vulnerable because of lack of support within the correctional system, and would almost inevitably breed job dissatisfaction among those nonprofessionals seeking advancement.⁵⁰

With regard to the violent offender, consolidation offers the additional advantage of fostering the development of a body of knowledge from the experiences of a group of workers at many points in the criminal justice process, as well as facilitating the dissemination of that information among those workers.

Although a specific local situation might require that some part of the intake process be carried out by an

agency other than the probation office, it seems preferable to have all correctional intake services within an agency which is also responsible for probation services. Under these circumstances, an information system could be developed to maintain uniformity throughout the system; community resources, constantly developed and monitored, could be optimally utilized under centralized planning and coordination; and the case management skills inherent in a probation system could be sustained, developed, and made widely available.

It should be stressed that placing the responsibility for intake processing with a probation agency should not imply that there should not be considerable use of facilities and services outside the agency. That would be self-defeating. The aim would be to provide centralized coordination and administration, not isolation.

Footnotes

1. Portions of this paper were developed for the National Commission on the Causes and Prevention of Violence for which the writer served as a consultant.
2. Federal Bureau of Investigation. Uniform crime reports. Washington, D.C., 1965. pp. 108-109.
3. Cited in: U.S. President's Commission on Law Enforcement and Administration of Justice. The challenge of crime in a free society. Washington, D.C., 1967. p. 265.
4. Id., p. 263.
5. U.S. President's Commission on Law Enforcement and Administration of Justice. Task Force report: corrections. Washington, D.C., 1967. pp. 77 and 202.
6. California. Department of Corrections. "The nature and treatment of the violent offender," by John Conrad. Sacramento, 1963. (Mimeo).
7. U.S. Prisons Bureau. National Prisoner Statistics. State prisoners: admissions and releases, 1964. Washington, D.C., 1965. p. 46.
8. California. Youth Authority Department. Prediction of future assaultive behavior among youthful offenders, by Martin Molof. (Research Report No. 41) Sacramento, 1965. p. 38.
9. Letter from Allen Breed, Director, California Youth Authority.
10. See: P. E. Mechl and A. Rosen. "Antecedent probability and the efficiency of psychometric signs, patterns or cutting scores." Psychological Bulletin, (1955):194-215.
11. For a discussion of this problem see: Marvin E. Wolfgang. "Corrections and the violent offender." Annals of the American Academy of Political and Social Sciences, (January):119-124, 1969; and Daniel Glaser, Donald Kenefick, and Vincent O'Leary. "The violent offender." Washington, D.C., Office of Juvenile Delinquency, 1965. pp. 35-37.

12. For a discussion of the use of statistical and clinical predictions and how they may supplement each other, see: Don Gottfredson. "Assessment and prediction methods in crime and delinquency." In: U.S. President's Commission on Law Enforcement and Administration of Justice. Task Force report: juvenile delinquency and youth crime. Washington, D.C., 1967. pp. 180-181.
13. For a discussion of the distinction between typologies and predictions, see: Leslie T. Wilkins. Evaluation of penal measures. New York, Random House, 1969. pp. 90-94.
14. Marshall Clinard and Richard Quinney. Criminal behavior systems: a typology. New York, Holt, Rinehart and Winston, 1967. p. 12.
15. U.S. President's Commission, op. cit. supra note 5, pp. 20-21. See also: Marguerite Warren. Classification of offenders as an aid to efficient management and effective treatment. Consultant's Paper for the Crime Commission. Washington, D.C., 1967. Many of the basic ideas in this section are drawn from that work.
16. California. Corrections Department. "A typology of violent offenders," by Carol Spencer. (Research Report No. 23) Sacramento, 1966; Glaser, Kenefick, and O'Leary, op. cit. supra note 11; and Don C. Gibbons. Changing the lawbreaker. Englewood Cliffs, N.J., Prentice-Hall, 1965. For a typology of violent behavior which emphasizes the transactions between the individual and his environment, see: Hans Toch. Violent men. Chicago, Aldine Press, 1969.
17. See: D. A. Rothstein. "Presidential assassination syndrome." Archives of General Psychiatry, (11):245-254, 1964.
18. Glaser, op. cit. supra note 11, pp. 28-31.
19. Op. cit. supra note 16, p. 136. Toch describes some of these kinds of violent prone "catharting." Their number is apparently relatively small.
20. Wisconsin State Department of Public Welfare. Bureau of Research. "Wisconsin base expectancies for adult male parolees," by John Mannering and Dean Babst. (Progress Report No. 4), Madison, 1963.
21. Spencer, op. cit. supra note 16, p. 20.

22. Gibbons, op. cit. supra note 16, p. 117.
23. Marvin E. Wolfgang. Patterns in criminal homicide. Philadelphia, University of Pennsylvania, 1958. pp. 188-189.
24. Spencer, op. cit. supra note 16, p. 9.
25. Glaser, et al., op. cit. supra note 11, p. 24.
26. Spencer, op. cit. supra note 16, p. 14.
27. Gibbons, op. cit. supra note 16, p. 104.
28. Id., p. 117.
29. Spencer, op. cit. supra note 16, p. 18.
30. Glaser, op. cit. supra note 11, pp. 26-27.
31. For example, see: Richard H. Walters. "Implications of laboratory studies of aggression for the control and regulation of violence." Annals of the American Academy of Political and Social Science, (March):60-72, 1966.
32. Toch, op. cit. supra note 16, pp. 225-240.
33. For example, see: California. Youth Authority. "Effectiveness of interview therapy with older Youth Authority wards: an interim evaluation of the PICO Project," by Stuart Adams. (Research Report No. 20) Sacramento, 1961.
34. California. Corrections Department. Special Intensive Parole Unit. Fifteen-man caseload study. Sacramento, 1956; and California. Corrections Department. Special Intensive Parole Unit. Twenty-man caseload study. Sacramento, 1958.
35. See: California. Youth Authority Department. Community Treatment Project: fifth progress report, by Marguerite Q. Warren, et al. Sacramento, 1966.
36. Juvenile Delinquency and Youth Development Office. Alternatives to incarceration. Washington, D.C., 1967. pp. 37-40.

37. For example, see: Howard Becker. Outsiders. New York, Free Press, 1963. Arguments also are made that excessive reliance on the criminal law has served to diminish its claim to legitimacy and has diverted substantial law enforcement resources from serious criminal matters. See: Sanford H. Kadish. "The crisis of overcriminalization." Annals of the American Academy of Political and Social Science, (November):157-170, 1967.
38. Op. cit. supra note 5, p. 97.
39. Only about half the juvenile probation departments in the United States have intake workers. Id., p. 139.
40. Op. cit. supra note 3, p. 128.
41. For a complete analysis of these processes, see: Donald J. Newman. "Conviction": the determination of guilt or innocence without trial. Boston, Little, Brown, 1966.
42. National Council on Crime and Delinquency. Council of Judges. Model rules for juvenile courts. New York, 1969.
43. Several sentencing proposals have sought to make the issue of dangerousness a criterion to be used by the sentencing judge in fixing sentence. The most prominent of these has been the Model Sentencing Act of NCCD. See also the Model Penal Code of the American Law Institute. Each of these proposals places great emphasis on the presentence investigation at the time of sentencing.
44. "Correction in the United States." Crime and Delinquency, 13(1):1-283, 1967.
45. See: National Council on Crime and Delinquency. Council of Judges. Guides to sentencing the dangerous offender. New York, 1968.
46. National Committee on the Employment of Youth. "Pro and con": new roles for non-professionals in corrections, by Judith Benjamin, Marcia Freedman, and Edith Lynton. New York, 1965.
47. Op. cit. supra note 3, p. 180.
48. Op. cit. supra note 44, p. 130-131.

49. The Vera Institute for the Administration of Justice in New York City is pioneering in the use of this type of information in an early diversion program. The Manhattan Court Employment Project is a pilot project which depends heavily on the use of para-professionals. This program is an excellent example of a demonstration project, developed outside a program agency, which when operationalized should become part of the routine program of a consolidated probation service.
50. Op. cit. supra note 5, p. 103.

OLD AND NEW LEGAL ISSUES IN PROBATION

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The evolution of due process of law involves change on many levels. At least until the Supreme Court of the United States has required a standard procedure in all state and federal courts, there will be, on any issue, courts (or legislatures) in advance while others lag behind.

Legal issues in probation which have been discussed and litigated for a considerable period of time include: access by the defense to presentence investigation reports; probation conditions; and probation revocation procedure. The first issue is still confused by the 1949 Supreme Court case of Williams v. New York, which has been misinterpreted as holding that a defendant does not have a right to see a presentence investigation report. Probation conditions have been the subject of state court decisions, which have often ruled on such things as the limits of restitution and banishment. As for revocation procedure, it has generally been held that a hearing is required, the Supreme Court finally declaring (in Mempa v. Rhay in 1967) that a probationer is entitled to counsel on a revocation hearing, and if indigent he is entitled to have counsel assigned.

Little progress has been made in probation law since a generation ago, except for the decisions narrowing probation conditions, and the requirement of counsel (which had been granted by some state courts before the Supreme Court decision). But new issues already exist, and still others will arise. This paper deals with these new issues. The factors leading to the emergence of new issues are the fairly recent scholarly attention to sentencing and correction, the recent increase in post-conviction proceedings, particularly review by federal courts, and the widespread increase of available counsel for the indigent.

The Presentence Investigation

The Ninth Circuit Court of Appeals in Verdugo v. United States¹ (1968) rendered a decision that opens new horizons on probation issues and it appears that the evolution of law on those issues must result in an accord with the spirit of that case. Verdugo was sentenced to a term of 15 years imprisonment for unlawful sale of narcotics. The presentence investigation report recited that a large quantity of heroin and a substantial sum of money were seized in Verdugo's residence, and that the money included official advance funds paid to five different defendants who were alleged to be trafficking in heroin for Verdugo. Prior to the trial the heroin was suppressed

as evidence and the money order returned to Verdugo, because they had been seized unlawfully by the police, who violated his rights under the Fourth Amendment. The police entered Verdugo's home without a warrant and refused to let his wife leave or use the phone. When Verdugo arrived he was handcuffed to a chair while for five hours the police searched the home, overturning furniture, removing covers from all of the light switches, punching holes in the wallboard.

The sentence was reversed on the ground that the presentence report included, and the judge considered, information obtained by unconstitutional means. To this writer's knowledge, this is the first time that lawless police action has served to bar information from the presentence investigation.

The Court declared: "The primary and least rigid basis for the exclusionary rule is that exclusion is required to deter the police from illegal searches and seizures. . . . It cannot be supposed, for example, that the court could properly consider evidence illegally seized after conviction from the accused's home by narcotics agents or by the probation officer in a zealous but misguided effort to furnish the court with full information on sentencing. Moreover, whenever it is held that the deterrent value of the exclusionary rule justifies the release of a guilty man, courts necessarily also surrender the opportunity

to impose sentence upon him--the loss of this opportunity is not regarded as too great a price for insuring the observance of Fourth Amendment restraints by law enforcement officers.

"The incentive for illegal searches which would be created if use of illegally seized evidence were permitted in the circumstances of this case is all too clear. . . . When the decision to search Verdugo's home was made, the agents already had in their possession sufficient evidence to convict Verdugo of the July 28 transaction. They were not seeking additional evidence for that purpose. . . . The range of possible penalty was wide--five to twenty years. The length of Verdugo's sentence would be quite different if it could be shown that Verdugo was involved in the narcotics traffic on a large scale rather than merely as the seller in a single small transaction. . . . Verdugo must therefore be resentenced without consideration of such evidence."

This is by no means the first time that a court has declared evidence inadmissible on the presentence investigation. For example, the Supreme Court of the United States has reversed a sentence where the investigation included an erroneous conviction record and a California court has ruled that material that is "far afield" may not be included in the presentence investigation. But the Verdugo case is the first time that evidence obtained by

illegal police action has been scrutinized and barred.

The court cited a dictum in a 1958 case in the Fourth Circuit: "In Armstrong v. United States,² a government witness at presentence hearing testified that after his arrest Armstrong had made a statement admitting guilt. The statement was obtained during period of detention violative of Rule 5 (a), Federal Rules of Criminal Procedure, and therefore would have been inadmissible on the issue of guilt. . . . Judge Sobeloff, speaking for the court, made it unmistakably clear that if prejudice appeared resentencing would be required." The Fourth Circuit Court had said it would not condone the use of evidence obtained in breach of law, "even for the limited purpose of determining the sentence" (but it affirmed on the ground that the admission of statement did not prejudice the defendant).

The decision is sensible and should be extended. An account of the offense is an integral part of the presentence investigation. In most cases such an account is not drawn from the trial evidence but is based upon police reports, often hearsay, typically a version that would exclude implications of police misbehavior. The quality of that evidence is before the court and, since the account of the crime is a police version, evaluation of police action should be included.

If a trial court does not accord the presentence investigation this kind of examination, the appellate Court should point out that it is the duty of the sentencing court to pursue this line of inquiry. In a Pennsylvania case³ three youths, ages 18 to 20, were sentenced to death for first degree murder. On appeal the Pennsylvania Supreme Court affirmed the death sentence on the defendant who fired the shot, but vacated the other two sentences and remitted the records to the lower court for resentencing. This was accomplished by reviewing the account of the offense and the participation of each defendant in it.

In brief, the importance of protecting the quality of evidence on the sentence is equal to the importance of protecting it on the trial.

Defense Access to the Presentence Report

In Verdugo, the defendant also raised as an issue on the appeal the fact that the presentence investigation report had not been available to him and to his counsel before sentence was imposed. It should be notorious that some federal courts have misinterpreted the decision of the Supreme Court in 1949 in Williams v. New York, erroneously declaring that it rejects the defendant's

right to see the presentence investigation report. This appears to be the first time a federal court has exposed these erroneous interpretations of the Williams case. The court in Verdugo stated:

"He contends that his right 'to make a statement on his own behalf and to present any information of punishment' (Rule 32(a), Fed. R. Crim. P.) was of little value without knowledge of the allegations in the presentence report; and that his right to the effective aid of counsel at sentencing was equally empty since counsel's ignorance of these allegations precluded him from dealing with them directly and specifically. He argues that it is impossible to defend the fairness of a sentencing procedure in which allegations of the determinative facts were immunized from explanation, correction, or refutation by deliberate nondisclosure. . . .

"The appellant's argument has force; and the authorities provide no ready answer. However, since the entire presentence report is now part of the record and, for reasons which follow we have concluded that Verdugo must be resentenced, we need not decide whether in the circumstances of this case the critical factual allegations of the presentence report should have been disclosed to Verdugo or his counsel before sentence was imposed."

However, Judge Browning, who wrote the opinion of

the court, proceeded to write a separate concurring opinion on this point. He said: "Due process may require some form of disclosure of the presentence report Since counsel is powerless to correct errors of which he is unaware, nondisclosure would appear to be equivalent, in practical effect, to lack of counsel. It would seem anomalous to hold that although a sentence based upon erroneous information which counsel could correct violates due process, counsel need not be given access to that information."

Judge Browning then cites the fact that the trial court in Williams v. New York had disclosed the facts upon which the sentence was based. Citing two writers, he continues: "As the two author articles note, several opinions have misread the Williams opinion on this subject." And citing Kent v. United States⁴, the juvenile court case holding that on a proceeding to transfer to criminal court the juvenile is entitled to see the social investigation report, Judge Browning adds, "No less is a defendant at sentencing entitled to the assistance of counsel, and no less should that assistance be provided in a context where it can be effective. Sentencing on the basis of undisclosed factual information is inconsistent with this objective."

The argument is also supported with non-judicial authorities, including a survey, cited in Verdugo, that disclosed that serious mistakes often appear in these reports.

Some recent state cases must also be taken into account. One state court also repudiated the erroneous interpretation of the Williams case, pointing out that "In the Williams case the accuracy of the hearsay statements was not disputed, as the court pointed out."⁵

Under the Montana statute the trial court is charged with hearing evidence in mitigation or aggravation of the sentence, and such evidence must be presented by the testimony of witnesses examined in open court. The statute continues: "No affidavit or testimony, or representation of any kind, verbal or written, can be offered to or received by the court, or a judge thereof, in aggravation or mitigation of punishment, except as provided in this and the preceding section." Other states have such provisions in their statutes.

The Montana Supreme Court, in a 1961 case, noted that neither the defendant nor his counsel was permitted to inspect any of the written exhibits prior to the sentence. It declared that "the naked unsworn representations and recommendations set forth in the investigator's unsigned

report privately offered and privately received and adopted do not measure up to the requirements of section 94-7814."⁶

A later case decided by the Idaho Supreme Court extends the doctrine. The Court said: "An accused must be afforded full opportunity to present in his behalf in mitigation of circumstances or toward those circumstances which may afford an opportunity for rehabilitation. When a trial court receives information from an investigation report, the accused must have a reasonable opportunity to examine such report so that, should he desire, he may explain and defend adverse matters therein. Otherwise the opportunity to present evidence would be meaningless."⁷

Since the right to submit a statement in mitigation, provided for in these statutes, is presumably a universal common law right, the rule of these cases must be the universal rule, and it must be so recognized.

Nor should the subterfuge of privately giving the judge information be countenanced. In another federal case, information was given by the prosecutor to the judge prior to the sentencing and in the absence of the defendant or his counsel. This procedure served as the cause of sustaining a writ of habeas corpus. The Court of Appeals said, "The Maine courts, in condemning the

prosecutor's conduct yet finding no prejudice, applied an insufficient test. It was not enough that the sentencing judge 'could ascribe no significance' to the prosecutor's disclosure. The inadequacy of such a disclaimer is made even clearer if one reads the judge's exact answer to the question whether his sentence was affected 'I can't say whether it was or not. I am unable to say.' Having in mind the burden of excluding prejudice that is on the state, such testimony fell far short."

It continued: "Not only is it a gross breach of the appearance of justice when the defendant's principal adversary is given private access to the ear of the court, it is a dangerous procedure Having in mind that the prosecutor would later be permitted to make the same statement in open court, the presiding judge may well have regarded a premature disclosure as a pardonable informality. It is not. At a minimum, to permit only a tardy rebuttal of a prosecutor's statement, not accurately transcribed, is a substantial impairment of the right to the effective assistance of counsel to challenge the state's presentation Nothing herein is to be taken to suggest that it is proper for a prosecutor to communicate facts about the defendant to the judge ex parte so

long as they are true. This is not merely a matter of ethics; it is part of a defendant's right to due process and effective representation."⁸

Presumably this would mean that no person--including the probation officer--may have access to a private session with the judge.

A Right to Probation

One of the old clichés of probation is that its granting is a matter of privilege or grace; that the defendant never has a right to probation. The idea has been appropriately challenged; several cases have clearly suggested that perhaps there is a right to probation.

In a California case, the State Supreme Court reversed the life sentence on one defendant, Ella Mae Miller, whose co-defendant, Wade, was sentenced to death. Wade and Miss Miller had driven in Miss Miller's car to a liquor store, which Wade entered, leaving Miss Miller at the wheel. After some conversation, the proprietor started shooting; Wade, wounded, returned the fire and killed him.

Miss Miller had changed her plea of not guilty to guilty "on the condition that she be given life imprisonment." Imposing life imprisonment, the judge said: "The defendant, of course, fully realizing that there is no

possibility of probation I am very certain that she is not eligible." A presentence investigation was made. The trial judge denied a request for probation, saying, "Before I accepted her plea I very carefully made it clear to her, and she told me that she understood, what the course of law would be."

The Supreme Court of California said: "During the proceedings at which judgment was pronounced the court made it quite clear that her (the judge's) earlier perception had not, in fact, been changed despite reciting the formula of the statute that 'The Court has read and considered the report of the Probation Officer.'" The sentence was reversed because of the failure to comply with the statute, that is, failure to give consideration to the possibility of probation. Her sentence was remanded for consideration of the application for probation.⁹

In a federal case, four out of five co-defendants received prison sentences of one or two years. The fifth, Wiley, was given three years because he did not plead guilty. On appeal, the case was returned to the District Court on the ground that a longer term based upon insistence on a trial is improper. On the new sentence hearing, the district judge declared he was considering probation, but in the light of all the facts, he felt constrained to

impose the same sentence as before. Now when the appellate court received it again it said:

"The record abundantly shows that the court was fully informed as to the serious prior criminal records of conviction of all of Wiley's co-defendants The trial court's own remarks show that he considered Wiley a 'minor participant who stood trial' Where the facts appearing in the record point convincingly to the conclusion that the district court has, without any justification, arbitrarily singled out a minor defendant for the imposition of a more severe sentence than that imposed upon the co-defendants, this court will not hesitate to correct the disparity. In so doing it is exercising its supervisory control of the district court, in aid of its appellate jurisdiction." The court stated it was remanding "for a proper sentence not inconsistent with the views herein expressed"; and on the subsequent resentence, the execution of the three-year term was now suspended and the defendant placed on probation.¹⁰

Two more recent cases are similar in effect. A 1966 Delaware case held that a judge may not refuse to consider probation because he views certain crimes as especially heinous.¹¹ A Kentucky case in the same year returned for resentence a prison commitment where the judge had declared

he would not consider probation in an armed robbery case.¹² In both cases, resentence before another judge was ordered.

Certainly these cases mean that there is a right to be considered for probation; and that consideration must be objective and not biased against probation. Once the performance of the trial judge in these matters is made subject to appellate review, we come close to acceptance of probation as a right.

Conditions of Probation

Over the years, a number of courts have held certain conditions of probation to be improper.¹³ Recently, additional conditions have been coming under scrutiny and being barred.

In a California case the probationer, found guilty of second-degree robbery, had probation revoked because she became pregnant while not married, a violation of a condition of probation. At the time of sentence the defendant, twenty years old, had two illegitimate children and was at the time pregnant. On probation her progress was good. The Court of Appeals reversed the trial judge's order, declaring: "A condition of probation which (1) has no relationship to the crime of which the offender

was convicted, (2) relates to conduct which is not in itself criminal, and (3) requires or forbids conduct which is not reasonably related to future criminality, does not serve the statutory ends of probation and is invalid." The court pointed out that the condition in question violated all of these criteria. It also held that the defendant, by accepting probation, did not waive the right to challenge the condition.¹⁴

In discussing conditions of probation, some of which have been upheld and others of which have been held invalid, the court cited the 1936 California case which upheld sterilization as a condition of probation, saying that the authority of the case is dubious today. To this writer's knowledge, this condition has been imposed only in California and is still being used only there, imposing a punishment that many states do not authorize as a sentence. California does authorize sterilization during the prison term of certain recidivists, and as a sentence for the crime of carnal abuse of a female under ten.

A defendant in Idaho, convicted of driving a motor vehicle while under the influence of alcohol, was placed on probation subject to the condition that he refrain from the use of alcoholic beverages for one year. When

he was again arrested and charged with driving a motor vehicle while intoxicated, probation was revoked. The defendant objected that, since he could not control his drinking, he could not possibly comply with the condition. The Supreme Court of Idaho held that imposition of a probation condition that is impossible of fulfillment would be improper, since it would not be reasonably related to the purpose of probation--rehabilitation; and that a probationer does not waive his right to object to the condition by his acceptance of probation.¹⁵

It is said that probation conditions that are illegal, immoral, or impossible of fulfillment transgress the requirement of fairness and are invalid.¹⁶ These decisions may also imply that, as has been elsewhere suggested, "a condition of probation (should) be essential to a rehabilitative plan or to protection against repetition of the crime A condition that does not possess this quality is a burden and an impediment to rehabilitation."¹⁷

Other Issues

There are many issues involved in the supervision process. A central problem is whether the probationer loses certain rights of privacy as a result of being on probation, particularly since a usual condition of probation includes the right of the probation officer to

visit him. Many questions are unresolved, but it is likely to be held that a probationer has as much protection against unreasonable searches as a person not on probation.¹⁸

Similarly, does a probationer have a right to warnings of constitutional rights to remain silent and to an attorney, when he is suspected of having violated his probation? This may be the implication of such a case as Mathis v. United States (1968), in which the United States Supreme Court decided that the fact that a man is in prison does not negate his right to be warned regarding his privileges against self-incrimination and his right to an attorney. In Mathis, Internal Revenue agents had visited the prisoner and questioned him about tax frauds they were investigating, without giving these warnings (as required by Miranda v. State of Arizona). His federal conviction, based on information thus obtained, was reversed.¹⁹ It may well be that the same requirement is applicable to probationers who are being investigated for a violation of probation. Certainly a warning is required if a probationer is being charged with a violation based upon a new crime.

The statutes provide that a parolee is deemed to be serving his prison term while on parole, and typically the prison time served plus the time on parole may not

exceed the term of commitment imposed by the court.

When probation is revoked, however, the time served prior to revocation is not credited on the term that has been or may then be imposed (whereas parole time is credited).

The distinction in crediting time is based on a fiction, that the parolee is in "constructive custody," hence serving his prison term while on parole. Is the fiction sufficient--or should it be sufficient--to sustain the difference in treatment under the statutes? The treatment should be the same for both. The concept of "constructive custody" has been criticized as unnecessary,²⁰ and some parole statutes do not use it, merely providing that parole time shall be credited. When the Supreme Court upheld the right of a parolee to a writ of habeas corpus, it relied not on the constructive custody concept, but on the fact that a parolee is subject, by the conditions of his parole, to restraints on his liberty.²¹ The restraints on a probationer are the same.

The probation statutes usually call for a probation term that bears only a limited relation to the prison term that might be imposed. Often a petty crime, punishable by not more than a few months in jail, provides for a probation term of several years. For felonies, the probation term is often limited, for example, to five

years, although the term of imprisonment that might be imposed could be longer.

Should a statute authorize a probation term longer than the term of incarceration authorized for the particular crime? The argument on behalf of a longer probation term is that the long term is needed for either treatment or deterrence. But the measure of the gravity of an offense is the penalty placed on it by the legislature, and that measure should govern the limits of the probation term also. As for treatment, it is unlikely that effective treatment could be provided in three years for an offense the outer limits of which are six months imprisonment.

This question arose in a case decided by the Supreme Court of the United States. The defendant had been placed on probation for five years for contempt of court, the maximum prison term for which is six months. The issue on which this case turned was whether a jury trial was required. The Court held that it was not, on the ground that the six-month prison penalty placed the case in the petty offense class. In doing so, it noted that both the federal and numerous state statutes authorized probation terms longer than the maximum authorized prison term for the offense. It holds that this governs the issue of jury trial.²²

While perhaps implicitly the Court has upheld this type of statute, it does not do so directly. A dissent by two justices is critical of this "open suggestion to courts to utilize oppressive practices for avoiding, in unsettled times such as these, issues that must be squarely faced and for denying our minorities their full rights under the First Amendment If, for instance, a large number of civil rights advocates, labor unionists, or student demonstrators are brought into court on minor trespass or disturbance charges, a jury will not be required even though the court proposes to control their lives for as long as five years. Without having to wait for a jury conviction, the trial judge would be free to impose, at will, such a lengthy probation sentence with onerous probation conditions--the effect of which could be oppressive."

The dissenters also point out the unfairness of not crediting probation time served before revocation: "The court's ability, further, to impose a six-month prison term for violation at any time during that period, even after four years and 11 months, leaves no room for doubt as to the power of the probation officer to enforce the restrictions most severely I would stand by this Court's decision in Cheff, supra, and say that six months is the maximum permissible non-jury sentence, whether

served on probation or in prison, or both. Thus, only a two month's jail term could be imposed in federal courts, for instance, if probation were revoked after four months."²³

A Sound Trend

What generalization might one make in evaluating the trend represented by these cases? As is true in other aspects of criminal procedure, the trend is one that enlarges due process of law or, preferably, one that refines constitutional rights and fair procedure.

If it may be assumed that probation is a preferred disposition where it can be used without danger to the public and that probation is a success where rehabilitation (successful adjustment, avoidance of violation) is the key, then these cases are supportive of such a goal, and serve to control biases and inaccuracies that would compromise the use and continuation of probation. To take just one illustration--the right to probation. With probation generally underused almost everywhere, would it not be well for the law to state that probation must be granted when the record before the sentencing court supports it?

Footnotes

1. 402 F. 2d 599.
2. 256 F. 2d 294 (4th Cir. 1958).
3. Com. v. Cater, 396 Pa. 172, 152 A. 2d 259 (1959).
4. 383 U.S. 541, 86 S. Ct. 1045 (1966).
5. State v. Scott, 390 P. 2d 328 (1964).
6. Kuhl v. District Court, 366 P. 2d 347 (1961).
7. State v. Grady, 404 P. 2d 347 (1965).
8. Haller v. Robbins F. 2d ... (1st Cir. April 23, 1969).
9. People v. Wade, 53 Cal. 2d 322, 1 Cal. Rptr. 683, 348 P. 2d 116 (1959). The defendant was again sentenced to prison, and appealed. Now the Supreme Court of California said, "Probation is not an absolute right to which a convicted person is entitled, but it is an act of grace and clemency on the part of the court"; and "there is no requirement that a judge explain the basis of discretionary action." People v. Miller, 8 Cal. Rptr. 578 (1960). It is submitted that the first opinion is sounder law, from which the California court felt impelled to retreat.
10. United States v. Wiley, 278 F. 2d 500 (7 Cir. 1960).
11. Osburn v. State, 224 A. 2d 52 (1966).
12. Wyatt v. Robke, 407 S.W. 2d 410 (1966).

Footnotes

(cont'd.)

13. Sol Rubin, et al. The law of criminal correction, St. Paul, Minn., West Publishing, 1963. Ch. 6, § 16.
14. People v. Dominguez, 64 Cal. App. 2d 290 (1967).
15. State v. Oyler, 436 P. 2d 709 (1968). But revocation for chronic alcoholism violating abstinence condition upheld, Sabota v. Williard, 427 P. 2d 758 (Ore. 1967).
16. See: "Probation for the alcoholic: the appropriateness of the abstinence condition," Rutgers Law Review, (22): 810, 1968.
17. Op. cit. supra note 14, p. 203.
18. However, see Martin v. United States, 183 F. 2d 436 (4th Cir. 1950).
19. 391 U.S. 1, 88 Sup. Ct. 1503 (1968).
20. Sol Rubin. "Due process is required in parole revocation proceedings." Federal Probation, (June): 1963; Umin. "Freedom and rehabilitation in parole revocation hearings." Yale Law Journal, 72 (Dec): 1962.
21. Jones v. Cunningham, 371 U.S. 236, 83 Sup. Ct. 373 (1963).
22. Frank v. United States, 89 S. Ct. 1503 (1969).
23. Also, raising refusal to credit time as a double jeopardy issue, see Case Note: Larry Peterson. "Ramifications of jail-based probation upon suspended imposition of sentence," Montana Law Review, (27):98, 1965.

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CORRECTIONS AND THE MINORITIES

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Probably at no time in American history have the social institutions that constitute the organizational core of our society been subject to the stresses and strains, the criticisms from within and without, and the intermittently violent frontal assaults, as those that occur today. Representatives from all segments of society are asking for adjustments in a network of social institutions that are seen as failing to meet their legitimate aspirations and needs.

The educational system, from the beleaguered "head-start" program to graduate level college training, probably has never had so many critics. Organized parents, organized teachers, organized taxpayers, organized students, and organized minority groups--all have prescribed changes ranging from the minor to the radical.

The huge enterprise of public welfare is under continuous fire from various groups, ranging from welfare

recipients who stage demonstrations to the most conservative elements who denounce it as an ambition-sapping dole. Both present and past national administrations have had radical changes under study.

The job training and placement institutions have been subject to major infusions of program strategies and monies in recent years, and still the organizational adjustments continue and client criticism persists.

The general inability of the criminal and juvenile justice processes to stem the increase in crime occasioned the creation of a Presidential Commission that produced some nine volumes of analyses and prescriptions for reform. An honest look at the limited hard data available concerning the effectiveness of correctional systems leaves no room for complacency.

One need not be of a radical persuasion to conclude that many of our major social institutions are failing to achieve the objectives for which they were created; to wonder if those same bureaucratic entities are not more self-serving than client-serving; and to be concerned whether they have the capacity to meet the needs of the times.

The criminal justice apparatus and its correctional component function at the vortex of this ferment and

agitation, since their subject populations are drawn largely from "society's activists"--the youthful, the poor, and the minorities. A substantial portion of the correctional population is composed of minority youths and young adults and the hostility and suspicion they feel is fed into the system, amplified perhaps by concerned staff members. The correctional apparatus is seen by the nonwhite offender as another part of an oppressive, white-dominated society. Conversely, any sympathy or empathy by staff with the plight of the minorities is viewed by others as disloyalty to kind and class. As conflict increases, the polarization process is accelerated. The advocates of "get tough" policies of repression speak more often and more stridently, as evidenced by demands for increased criminal penalties and proposals for reducing the upper juvenile court age limit. The militants point to gains that have followed riots in some areas and argue for increased militancy. Because the correctional agency staff probably represents a reasonable cross-section of the nation's population, the polarized extremes are represented in the agency and the struggle is moved into the system itself, threatening to further impair an already marginal operation.

Minorities as a Symbol

Although the frustrations of the poor, the alienation of the youthful, and the concerns surrounding minority needs are all relevant, it appears that for the correctional administrator, the minority problem in general and that of the Negro in particular is the core issue. The black offender is typically youthful, poor, and undereducated; and whether institutional failure is to be found in education, in welfare, in job training placement, or in the justice institutions, the minority client is in the forefront. Societal failures seem to converge and combine where he is concerned. The black ethnic issue is itself critical, but it is also broadly symbolic. It is a major, if not the major, administrative problem in the correctional field today.

There may be administrators in those areas of the country where minority groups are small who will disagree with this designation of priority, but in the urban centers where the crime rates are growing the fastest and minority populations are increasing steadily, the alienation-racial issues present--or will soon present--correctional administrators with their most serious dilemmas.

Is the Justice System Racist?¹

The broad and general charge of the President's Commission on Riots and Civil Disorders that ours is a racist society was shocking to many thoughtful people. For those of us who administer the justice system, this allegation warrants careful analysis. Although nationwide data are limited, available information would indicate rather clearly that the minorities are represented within the identified offender populations at two to three times their incidence in the general population. Particularly disturbing is the California data² that reveal the arrest rate of juvenile Negro offenders to be about 14 percent of the total (or roughly one and one-half times their incidence in the general population), while at the Youth Authority intake level, this percentage is 28 percent³, or about three times the general population incidence. To account for this disproportion, one can conclude that black youths commit more serious crimes or recidivate more frequently; that their social and financially impoverished family situations offer fewer alternative disposition possibilities to the court; or that the seemingly harsher treatment derives from a combination of these factors.

However, it does seem probable that in less overt

and often unconscious ways the justice system and its correctional component incorporate the prejudices of the larger society. For example:

- A. Few correctional systems employ minority staff members in proportion to their incidence in the general population. Certainly very few employ them in proportion to the incidence of minorities in the offender population.
- B. The under-representation of minority groups increases progressively in the higher job classifications.
- C. Certain judges, probation officers, parole board members, and correctional administrators feel the need to impose upon correctional clients the standards of dress and personal grooming that prevail in adult middle-class society. This practice is probably more prevalent in the institution than in field programs, but may be observed in both. Such petty tyranny creates needless irritation and agitation and can be readily exploited by the aggressive offender who seeks proof of the oppressions of the white adult world.

- D. A host of common attitudes of arrogance and superiority that frequently attend the superior-subordinate or the adult-youth relationship can easily be given a racial interpretation.
- E. The lack of attention to the cultural history of minority people and the indifference to their special dietary preferences or holiday rituals is a commonly justified complaint that could be corrected with minimal inconvenience and probably no expense.
- F. A particularly insidious practice within institutional settings and occasionally in community vocational training programs is that of limiting participation in preferred or skilled vocational training assignments to those who can pass a certain educational achievement level. The failure of the ghetto school system continues to affect the correctional client, even in a system that presumably is tailored to his specific needs. Other classification schemes sometimes result in groupings around cultural or ethnic characteristics which, though logically inspired, are subject to racial interpretations.

- G. Finally, there is that frequently aired but poorly defined question of the relevance in form and content of the correctional program to the world and circumstance of the minority client. Stated generally, it is this: How significant is the correctional program, based upon the Puritan ethic of the work-oriented white world and interpreted by an educated, tie-wearing, middle-class "Anglo", for the product of the disorganized "asphalt jungle" and the welfare-sustained, fatherless home? Can people of such vastly different status and with such different values communicate meaningfully? Is it realistic to expect the slum-dweller to see the goals of "whitey's" programs as accessible and within his capability? The question is debatable and disturbing.

It may be concluded that the justice system, including its correctional component, undoubtedly possesses racist qualities, as does the larger society it serves. Evidence can be found of racial prejudice and, perhaps worse, of indifference to the special needs of the minority client.

If the foregoing conclusion has any validity, the logical next question is: What should and what can

correctional administrators do about it? There are those highly motivated persons within our staffs who see the correctional responsibility as including the general reformation of the larger society, with the correctional agency as the tool for modifying the "establishment." Clearly such an alternative is neither part of the mandate, nor within the capability of the correctional agency. However, correctional administrators would seem to have major responsibility for the deficiencies of the correctional system, and hence for the need to change them.

What is the Correctional Role?

Sociologists Martin and Shattuck⁴ of Fordham University, in a paper of limited circulation submitted to the National Crime Commission, presented an interesting and helpful series of alternative roles for the correctional agency and, more specifically, for the staff worker. They describe American society as a large body of two distinct and unequal parts. The upper and ascendant portion is composed of that substantial majority of members who enjoy the benefits and privileges of a complacently affluent society. Beneath it is that portion of the population composed of the poor, the illiterate and semi-literate, the disabled and the ill, and the members of the ethnic minorities. It is in this group that the majority of the

correctional clientele are found. Between these two portions of the social body has been constructed a web of legal and social agencies. They have been assigned the chore of providing the minimally essential services for the "under class," and to see that this class does not disturb the established order of the affluent "over class." Assuming that corrections is a part of the containing and controlling web of service agencies, what then is the "role" of the correctional worker?

1. The Coordinator-caseworker. This is the traditional role of the social worker or community services organizer, who works to make existing resources available to meet the minimal needs of the under class. His own position and identification remain clearly with the majority and he is not involved in modifying systems or in addressing social problems on a comprehensive scale. On the contrary, his objective is to reduce frictions and minimize stress.
2. The Broker. This role calls for some negotiation between the classes. The broker might seek to move individuals from the lower to the upper group, or to secure special concessions or

assistance for identified groups of the under-privileged. Some priests and ministers, and occasionally settlement house workers, have played this role. Again, however, the broker's own identification remains with the majority group.

3. The Advocate. As the title suggests, the advocate has taken on, in a professional way, the cause of one or more members of the lower class. The traditional responsibility of the attorney, particularly the "poverty lawyer", would fit here. Society tolerates, even provides for his advocacy of the erring or the unpopular, so that he also is permitted to retain his majority group status. Since he may be seen as permanently sympathetic with those whose advocacy he advances, some segments of the majority group may become suspicious of him and his impact in the affairs of the majority may be minimized.

4. The Activist. This person has made the decision to join the under class, even though he may still maintain a middle-class style of life. He is outspoken in his criticism of the status quo and

is overtly committed to change. When he is employed by "establishment" agencies, he attempts to induce the agency's commitment to his own objectives. He is frequently, though not necessarily, a minority group member, and he is found increasingly in the larger agencies. He provides a useful "needling" role, but he also taxes the tolerance and threatens the personal security of the administrator.

Variations on or combinations of these formulations can be envisioned, but these offer some rational alternatives to the coordinator-caseworker role that the public agency traditionally has expected of its staff members. Some tenable middle ground must be found if the phenomenon of polarization in our society and agencies is to be neutralized. Staff members should be given some freedom to define the role in which they can comfortably operate. Administrators must recognize the legitimacy of alternatives to the conventional function and must actively analyze and define the kind of role variation that can be tolerated. Unfortunately, the administrative stance too often has been that of the "counter puncher" who awaits the adversary's move before determining his own, so that administrators, in this period of movement, stress, and

turmoil, appear to be constantly on the defensive.

In the face of many pressures, there is a tendency for administrative overreaction which may take one of two forms. The response to a crisis within a community or an institution may be a regressive stance and a reliance upon repressive measures or, alternatively, the administrator may conclude that he must seek through his agency program to atone for all the inequities of an imperfect society. Clearly preferable to either extreme is a middle ground which includes the following:

- A. Systematic and objective assessment of the program with particular reference to its adequacy for minority clientele;
- B. Staff and agency-wide efforts to define and develop specific program components as indicated by such assessment; and
- C. Step-by-step implementation of the plan developed. Such a plan, of course, must evaluate the social and political climate, the mood and temper of staff, and the urgency of any deficiencies discovered. While it will offer no assurance of eliminating crises, it should help. Additionally, it offers the administrator the advantage of defining issues and initiating solutions.

Some Specific Administrative Strategies

Certain specific administrative moves that appear justified by the present circumstances may be identified and analyzed.

1. Increasing the Number of Minority Staff Members

The charge that members of minority groups, while composing substantial portions (in California roughly half) of the correctional population, are under-represented within the correctional staff is a valid criticism. This can, of course, be rationalized as a product of the recruitment, examination, and selection processes in which the nonwhite potential candidate either is not reached to make application or, if reached, does not survive the competitive examination process. Assuming that the minority group member is not subject to outright discriminative rejection, there are ways to reach and hire these individuals. The following series of suggestions are offered.

- A. Recruitment. Civil service examination announcements generally are not publicized in the ghetto community. Ghetto residents are not accustomed to the civil service game, and some other means of reaching them is needed. This responsibility might be delegated to the minority members of the

staff, or to some indigenous group that has access to these potential candidates. Civil service or personnel staff might attempt more aggressively to attract the minority group applicants.

B. The examination process. Many legitimate questions have been raised concerning the validity of the typical civil service examination; its power to discriminate between qualified and unqualified candidates; the relevance of the written questions to actual job performance; and the relative weight to be given written examinations and other assessments of the candidate's qualifications. Clearly, the typical written examination places heavy reliance upon formal education, verbal facility, and familiarity with the "examination game." New procedures for staff selection should be tested and "unassembled" examinations that rely upon direct evaluation in oral examination plus an on-the-job test of ability might be substituted.

C. New careers strategies. One of the intriguing developments of recent years is the "new careers" strategy. This process identifies those components

of the institution or field job that require less technical or professional skill and assigns them to someone in a "paraprofessional" role, allowing the better trained worker to concentrate on more demanding aspects of the job. Experience has now fairly well established that the person indigenous to the poor neighborhood and familiar with the folkways of the ghetto, and who himself may have been an offender, brings to the job a variety of insights, empathy, and the ability to communicate meaningfully--attributes which are not obtained from professional schooling. A substantial body of social scientific theory and observation also attests to the reformative result of involving the offender in the task of helping others.⁵ Finally, the availability of federal funding to initiate and support this type of project makes feasible the experimental test of it without total funding from normal sources. However, the addition of new careers positions to regular staffing patterns is easier than substituting for conventional positions. Since few agencies have elected to convert funds for regular positions to this purpose, the fate of these experiments after federal funding

terminates is uncertain. It is essential that genuine career lines of opportunity be set up for this kind of portal job or the new careers program may become just another frustrating deadend experience for "second-class" citizens.

It may be concluded that through increased recruitment effort, less rigid examination and selection processes, and greater utilization of the "new careers" strategy, there exists substantial opportunity for increasing the numbers of minority group members within correctional staffs.

2. Staff Training

The further education and training of staff appears an obvious step to assure effective and equitable treatment of minority offenders in the justice process. The precise content of that training, however, is less obvious because the method and procedure to unlearn prejudiced feelings or attitudes are nowhere clearly delineated. The less than impressive success of corrections in changing attitudes would attest to the primitive state of this art. Furthermore, while the desire to learn is clearly prerequisite to successful learning, few persons feel the need to change their own attitudes.

In the hope that better understanding is conducive to

greater empathy, some exposition of the social and cultural history of minority peoples would seem a basic requirement.

Analysis of the social and economic factors operating within inner-city areas seems a logical step in developing effective treatment for those living in such areas.

Careful selection of instructors or leaders for this kind of training venture is necessary. If the objective is to bridge the polarized extremes of attitude or feeling, an adamant spokesman for the extreme position probably will engender negative if not hostile responses. A better choice of leadership might be the person who seems most like those whose attitudes we seek to change. People are most open to persuasion by those who seem to be of their own kind than by someone who is assertively and openly different. The leadership role would seem to call for "brokers" or "advocates" rather than "activists."

"Sensitivity training" would appear to be appropriate to further understanding of the dynamics of personal interaction. Indeed, genial relationships between the races are no more than a specialized kind of interpersonal relationship.

Finally, joint staff and client discussion of these kinds of issues in a group counseling setting could produce dividends for all participants.

3. A Strategy for the Ghetto

With substantial portions of the correctional population coming from the deteriorated city centers, where a unique set of circumstances prevails, it would appear logical for correctional agencies to design a special kind of program form and content for the ghetto area.

Such a program might diverge from the conventional casework model and focus attention on the social organization of the slum areas. The community, and the endemic organization and forces, may be an appropriate target. Attempts to change individual perceptions and behavior patterns while ignoring the tremendous impact of forces operating in the poor neighborhoods will almost surely fail.

Urban centers have witnessed the proliferation of a variety of indigenous, self-help organizations among the two major minority groups. Knowledgeable practitioners describe them as having significant impact on minority youth, including probationers and parolees. To date, the correctional establishment has developed no valid assessment of the operation of these indigenous groups and of their influence upon the correctional client.

To determine the usefulness of such groups in achieving correctional goals, certain areas in appropriate cities might be selected as targets for analysis and

proposal design projects. The undertaking should be sponsored by all the correctional agencies--city, county, and state, both adult and juvenile--operating there. The target population would include all offenders as well as youths thought to be delinquency-prone. An attempt would be made to analyze the social forces and organizations, public and private, formal and informal, impinging upon the correctional client. The spread and availability of formal resources would be assessed, with special attention to the activity, impact, and potential of indigenous groups. While program design and strategy would emerge only after analysis, three principal possibilities can now be identified.

- A. First, an attempt should be made to develop meaningful coordination and integration of existing public and private resources--especially job training, recreational, and educational facilities--to open them to correctional clients.

There is reason to believe that many of the manpower development and training programs have not been integrated effectively with the populations they were created to serve. There is also reason to believe that the coordinative mechanisms

between these programs and the correctional apparatus are only minimally organized. The large number and variety of special manpower programs seriously complicates the access and referral channels. A California official recently indicated that some 500 on-the-job training positions were going unfilled because agencies were unable to adequately engage the target groups.

In the earlier years of these programs there was some apparent reluctance on the part of the managers to admit the identified offender to trainee groups. More recently, the offender is becoming officially recognized as an appropriate subject for training and development enterprises. In California, the two state correctional agency populations are the recipients of vocational rehabilitation services exceeding a million dollars per year. No similar arrangements prevail for the probation agencies, although some are now being negotiated. Since the service-dispensing agency rarely will seek out the correctional agency, correctional staff must initiate the contact.

The first phase of the ghetto strategy should

include the systematic assessment of these kinds of potential resources and the development of an organizational scheme that will make them available to correctional clientele.

Similar recommendations are indicated concerning the established welfare and educational service institutions. Welfare and education persistently are challenged as inappropriate to the needs of the troubled and troublesome "under class" and it is in negotiation with these social institutions that the correctional worker might appropriately move beyond the case-service role to that of "broker" and "advocate." It is important that his approach be deliberate and rational and that his administrators be aware of and support his actions.

B. Second, because it is the nonwhite ghetto resident who is most unlike the white middle-class staff member, it is most appropriate that minority residents be involved in the planning and implementation of resource development efforts in the urban center. In correctional program development, this means the correctional clientele. It is in

this setting that the "new careers" strategy is most logically applied. It is important that the operation of social institutions be viewed from the perspective of those persons for whom the institutions were created.

- C. Third, the utility of indigenous group assistance should be tested. In recent months, many different minority group organizations have emerged in the major cities. These groups vary widely in organizational auspices, motivation, objective set, and method of achieving objectives. Some have acquired a kind of official legitimacy through federal funding. Regardless of the many variations in the organizational theme, these groups have in common the commitment to provide some form of self-help. Some have demonstrated considerable ability to influence the behavior of their members, and few countenance outright transgression of the law. Perhaps most important is their promise of providing a greater sense of self-worth and self-respect for those affiliated. Some sympathizers and supporters see these groups as having tremendous capacity to provide

constructive discipline and direction for their members. It is probably valid to generalize and state that most official agencies have viewed them with a wary, rather suspicious eye; few, indeed, have reached out to them as possible resources.

Some carefully developed and evaluated experiments should be launched to test the efficacy of utilizing appropriate indigenous groups in providing supplementary and supportive supervision and assistance for selected probationers and parolees.

4. Toward a Bias-Free Agency Climate

A major responsibility of administrators would seem to be the building of a bias-free climate within the agency in which the offender is made aware that it is his illegal activity, not his minority status, that accounts for his presence in the correctional population. The removal of prejudice from the functioning of a social institution cannot be accomplished by administrative edict alone, although it is important the administrative position be clear. The message must be evident in the daily activities of staff members, in the manner in which they interact with the client, and in the relationships between white and nonwhite staff members themselves.

Generating a bias-free staff culture within a society that is not free of bias is difficult and there are no simple prescriptions. It is clear only that the accomplishment of this objective must be shared with staff. Within most agencies there probably are people at all levels who are concerned about ethnic problems, and that concern should prove a valuable resource when teamed with a clear administrative intent. A combined staff-administrative effort might direct attention toward the following questions.

- A. In the daily operations of the agency, what actions could reasonably be interpreted as biased or prejudicial in the handling of clients, or in interactions among staff members?
- B. Do we invite any expression of opinion or reaction from minority group clientele?
- C. Do we see the problems faced by minorities in America as problems of our agency; or do we view them only as the problems of the larger society over which we have no authority or control?

Without systematic self-analysis, the manifestation of any problem tends to be seen as transitory or as an individual incident, and institutional routines and structure remain unchanged.

Summary and Conclusion

Some of the principal social institutions of our society appear to be failing to meet the needs for which they were created and criminal justice and correctional institutions may be guilty of similar failure. While institutional failures affect the poor, the youthful, and the minorities, collectively and separately, society's failure to meet the legitimate needs of ethnic minorities is both of central concern and symbolic of society's failure in general.

The correctional administrator has major responsibility for resolving racial problems within his agency and should initiate the aggressive development of means to cope with them.

Footnotes

1. Albert Overby, Jr.'s well documented study for the National Crime Commission, Discrimination against minority groups in the administration of justice (1967), identified specific acts of discrimination (primarily in the South) in all facets of the system.
2. California. Justice Department. Law Enforcement Division. Criminal Statistics Bureau. Crime and delinquency in California, 1967. Sacramento, 1968.
3. California. Youth Authority Department. Annual statistical report, 1967. Sacramento, 1968.
4. U.S. President's Commission on Law Enforcement and Administration of Justice. Community intervention and the correctional mandate, by John M. Martin and Gerald M. Shattuck. Washington, D.C., U.S. Government Printing Office, 1967.
5. Creasey, Donald R. "Social-psychological theory for using deviants to control deviation." In: California. Corrections Department. An experiment in culture expansion. (Sacramento), 1963.

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CONSOLIDATION IN CORRECTIONS:

SOME ECONOMIES OF SIZE

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It has been suggested that a multi-purpose agency with responsibility for the administration of probation services might be faced with administrative problems which would not confront a smaller, single-purpose agency. That premise is correct. There are problems associated with size in any large organization with which a small organization would not be confronted. Conversely, a small organization which must maintain close working relationships with other autonomous agencies will have problems (sometimes insurmountable) with which a large, multi-purpose agency would not have to contend. The advantages resulting from integration of the administration of all related correctional services in a single agency substantially outweigh any administrative problems involved. If correctional treatment is to be a continuum, the proper relationships among its components can be assured only by lodging administrative control in a single agency.

A well organized, effectively administered multi-purpose

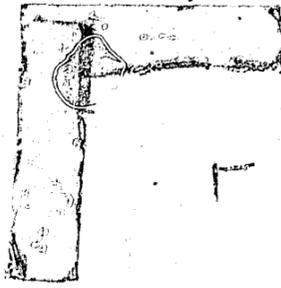
corrections agency will reflect, in its administrative organization, the need for specialization and the division of responsibility for the various program areas involved. For example, such an agency might be organized with an adult division responsible for adult institutions and a juvenile division responsible for institutions for delinquent children. The responsibility for community services, including parole or aftercare supervision might be delegated to the appropriate adult or juvenile division or might be placed in still another division of field or community services. In most organizations there will be a division concerned with fiscal and business management problems and another division responsible for program evaluation, planning, and research.

If an integrated state corrections agency is responsible for parole supervision as well as the provision of probation services to courts, these services probably would be administered by a single division. Caseloads in the large municipalities might be large enough to permit some specialization, while in rural areas and smaller municipalities caseloads almost certainly would be consolidated.

The correctional process has been likened to a manufacturing process--a highly coordinated, computerized

operation in which raw materials are subjected to various changes (treatment) which take place at appropriate, pre-determined times and places along a production line. In a production situation, all of the resources, processes, tools, and personnel are mobilized and coordinated to accomplish the desired results with the greatest speed and efficiency and with the least possible expense. In corrections, the offender is the raw material subjected to processing along a continuum by personnel in law enforcement, prosecution, the judiciary, probation services, highly diversified institutional programs, and parole supervision. The extent to which these services and programs are closely integrated, with the offender's rehabilitation as the acknowledged objective, most certainly must determine success or failure. It is preposterous to talk of coordinating and cooperation when it is possible to consolidate, integrate, or amalgamate.

Few will quarrel with the idea that there are definite relationships among the various treatments to which an offender is subjected at different stages of the criminal justice process. There can be no denying the fact that a copy of the presentence social history will be useful to the correctional institution in planning an individualized treatment program. Obviously, knowledge concerning the



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treatment given an offender in an institution, and the extent to which he participates in programs tailored to his needs and designed to improve his chances for success, is most important to the parole officer who will supervise the offender upon release. It is apparent that all of the activities and services concerned with an offender should be carefully planned and closely coordinated and that good lines of communication must be maintained to insure that all personnel participate in a consistent manner in dealing with him.

Correctional treatment, if it is to be effective, must be focused on the offender as an individual--a person with problems; a person who is maladjusted socially, emotionally, physically, or spiritually. Such treatment obviously must be individualized, for each offender differs from every other in terms of his aptitudes, emotional make-up, cultural and social background, and problems of the home and community from which he came and to which he will return. The treatment to which an offender is subjected can consist of varied exposures to unrelated, uncoordinated programs and to staff members with differing philosophies; or it can consist of a program designed to meet an offender's individual needs by a staff working in concert and dedicated to the proposition that offenders

can be helped to become productive, contributing members of society.

A parole board charged with the responsibility for deciding when an offender most appropriately might be released should have available all of the information contained in the presentence social history, as well as that concerned with the offender's institutional adjustment and progress he may have made educationally and vocationally. In short, all of the staff involved in the correctional process (beginning with apprehension and ending with discharge from supervision) must have access to all data on an offender, including whatever may have been done to, for, or with him by others. Obviously this demands the best possible lines of communication.

Perhaps reference to some of the elements or functions involved in the correctional process will illustrate the advantages of centralized administration. An efficient and well-planned correctional system will include:

1. An adequate framework of laws which will permit sound administration and insure maximum integration and coordination, preferably through single-agency administration.

2. The optimal and most effective use of probation.

Courts should have maximum discretion in deciding whether or not to use probation. All courts should be provided with adequate probation services, with standards which insure both the professional competence of personnel and caseloads low enough to permit the trained probation officer to fully utilize his skills.

3. The optimal and most effective use of parole.

Eligibility for parole should be at the discretion of the parole board rather than provided for by legislation establishing fixed (and often unrealistic) periods of time to be served before parole eligibility is attained. The selection of parole board members should be removed from politics and members should be selected on the basis of qualifications. Parole boards normally should be full-time to insure intelligent parole selection through the careful appraisal of all cases. As with probation, there must be realistic standards for personnel and caseloads.

4. Diversified institutions and facilities with

varied treatment and security provisions and effective use of classification procedures and treatment techniques to insure that an offender is assigned to the institution best equipped to meet his treatment and security needs.

5. Adequate psychiatric, psychological, medical, and social services in institutions and available to field staff concerned with probation and parole supervision.

6. An educational program in the institutions which will include both academic education and vocational and trades training commensurate with the individual capacities, needs, and aptitudes of the offenders. Classroom instruction should be provided by licensed, paid professional teachers rather than inmate "teachers."

7. A social education program, aimed at inculcating healthy attitudes and standards of behavior, which will seek to help in the substitution of pro-social for anti-social attitudes in the offender.

8. Sound personnel policies which will provide for

adequate salaries, tenure, and the selection of personnel through civil service.

9. A continuous program of in-service training to improve staff competence. Training can add to employee effectiveness, help insure teamwork, and further the career concept by preparing employees to take advantage of promotional opportunities.
10. Research which will make possible some measurement of the adequacy of existing programs and of changes in the characteristics of offenders under supervision, and which will serve as an aid in program planning and the evaluation of program effectiveness.

One other ingredient is necessary: the recognition that centralization of authority and responsibility for administration could result in the most effective delivery of service, the elimination of duplication, and the most efficient use of available resources. The trend in the direction of consolidation of correction services under single-agency administration will continue as the field of corrections becomes more professionalized. The chief obstacles to this end would seem to be public apathy and

attitudes of correctional personnel more interested in the maintenance of the status quo than in progress which might upset existing administrative or political arrangements. The administration of corrections can be as good as an informed public wants it to be or as poor as an uninformed community will tolerate.

The number of coordinated or multi-purpose agencies is increasing, and added impetus can be expected to result from the findings and recommendations of the President's Commission on Law Enforcement and Administration of Justice. States are discovering the advantages of merging separate agencies concerned with the rehabilitation of a convicted offender under single-agency direction. In some cases such reorganization has followed the recommendations of citizens committees or task forces; in others it has resulted from the recommendations of study commissions or analysts charged with the responsibility for determining the most effective, least expensive form of administration.

Of course, there are problems involved in the administration of a large multi-purpose corrections agency. Some will suggest that the problems associated with large size are insurmountable, yet the example of the business world suggests that the management problems of conglomerate or large industries can be overcome, and that the

efficiencies resulting from the amalgamation or integration of related activities substantially outweigh any disadvantages resulting from consolidation.

One of the problems facing a multi-purpose agency is the preparation of a budget request for presentation to fiscal planning and legislative bodies. Such a budget may appear excessive to those responsible for the review and provision of funds. The Planning, Programming, Budgeting System (PPBS), provides an excellent vehicle for the preparation and presentation of a large budget in understandable terms.

The objectives of the PPBS are to define objectives and goals, improve the quality of related resource allocation decisions, and to aid in later evaluation of the extent to which objectives and goals have been achieved. Such a system can insure that a budget will be meaningfully presented, that agency plans are clearly understood, and that the cost of the goals and objectives is readily identifiable. The opportunity is afforded to weigh alternatives and, through a cost-benefit analysis, to determine the most appropriate course of action. Further, such a system can help the agency's management personnel make appropriate decisions regarding the use of resources necessary to reach planned goals--a process referred to

as management of goals.

A budget prepared in this manner normally will be concerned with short-range program plans--usually a two-year period or fiscal biennium. The agency also should have medium-range program plans covering perhaps a six-year period and long-range plans for up to 15 years. Such plans should be based on people-oriented projections of the problems which the agency expects to meet within the period and include a statement of the goals to be accomplished. An analysis of planned major programs should be included, along with an indication of costs both for operations and for capital improvements.

One of the bothersome problems in modern correctional management is the proliferation of paper work. A multi-purpose agency serves many masters and, without stringent control and careful direction, it is possible to become inundated by reports, forms, and copies. The sheer volume of documents generated by the institutions, services, and program divisions may become expensive and meaningless. All data may be fed into central files while nothing can be retrieved. The agency may compile data in many different forms but have little meaningful information for its own planning purposes. A recent analysis of the forms of one correctional service indicated that certain

cards containing case data were being routinely prepared and filed although no one employed used the data. Despite this, no one had had the initiative to discontinue the collection of apparently useless information.

The solution to this problem would seem to be an integrated, carefully planned records management program with a central authority having strict control over the paper work of all subordinate units in order to eliminate duplication of effort and insure that forms and data are purposefully prepared or collected. With the development of computers and other sophisticated hardware, it is important that any agency evaluate its statistical reporting, administrative recording, and information retrieval systems. Such a study should be concerned with the type, quality, and timeliness of information collected; the extent of duplication; and, more importantly, what additional or different information may be needed for program planning, evaluation, and other management purposes. Changes in the work load and in the size and complexity of programs place added demands for paper-work and data collection on an agency which can be met only through an integrated information and records management system. Such a system can insure that information gathering, storing, processing, and retrieval will meet the needs of the agency for

management, planning, evaluation, and research.

Another problem in the large agency is that of identification for the large numbers of personnel employed from the varied disciplines. In a small agency it is relatively simple for personnel to identify with one another, with the program, and with the agency. In a large multi-purpose agency, where all personnel cannot possibly know one another and where they may be concerned with a single phase or specialized facet of the program, there is a need to insure, through communications and training, that all personnel are aware of the agency organization, its mission and philosophy, and of the interrelationships of the various program units. It is important that each employee understand the contribution that he can make to the treatment process as well as the relationship of his role and contribution to those of others in the organization. Good communications and a well-planned, continuing training program present readily available tools through which this particular problem can be approached.

Some years ago Austin MacCormick coined a phrase which was intended to suggest the importance of personnel in a corrections program: "You can run a good prison in an old red barn if you have competent, qualified, and dedicated personnel." The greatest strength of a good

corrections agency, large or small, lies in the quality or caliber of its personnel. The personnel practices of an agency warrant the most careful attention of the agency administrator. The establishment of personnel standards, in terms of numbers and qualifications and the policies with respect to selection, transfer, promotion, and retention, have an important bearing on the ability of an agency to attract and retain qualified personnel in adequate numbers.

It is important that there be career opportunities for all personnel and that employment with an agency offer each employee the opportunity to grow on the job and to work up to the limit of his potential. Training programs should be designed not only to secure on-the-job competence but also to increase job satisfaction through the development and utilization of the full potential of every employee. In the training program full use should be made of all available resources, including colleges and universities offering undergraduate or advanced degrees with relevance for the system. Stipend and work-study programs should be established to provide for the development of professional personnel.

A system of any size should consider the possibility of developing a training academy where the initial

orientation training of all new employees may be given and to which employees might return for refresher training at specified intervals. Such an academy should offer the opportunity for housing and food service in order that persons in attendance might be able to be away from their jobs during the training period. A training academy can be an important adjunct but will not substitute for training unique to a specific locale, institution, or employment situation.

In addition to a comprehensive staff training program, opportunity should be provided for personnel transfers as a further aid in staff development. The career-oriented employee with promotion potential should be afforded the chance to work in all relevant phases of an agency program, including probation and parole supervision and institutional treatment in both adult and juvenile fields. Rotation through such employment and "front office" experience will insure the presence of a cadre of well rounded, experienced personnel able to step into management and supervisory positions.

There are, to be sure, other problems with which the correctional administrator must deal, including public relations, legislation and legislative relationships, and the increase in legal problems resulting from recent court

decisions. Their solution will depend to a great degree on the foresight and resourcefulness of the administrator, the leadership he displays, and the extent to which the pattern of agency organization facilitates the use of sound management practices.

THE INFORMATION EXPLOSION AND SOCIAL CONTROL

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On my recent birthday my teenage daughter gave me a bumper sticker which read: "I'M FROM BERKELEY, BUT I'M NOT REVOLTING." Berkeley is not alone in the student protest movement; nor is the unrest a student monopoly. As there is variety in the organizations and groups involved, so there is variety in the nature of protest and the objects of protest.

Participation, free speech, the Vietnam war, representation for minorities, and many other causes have been associated with contemporary protests. Slogans and picket signs also have demonstrated some variety, including "Power to the People" and "Police off Campus." One of the picket signs which has most interested me is "DO NOT SPINDLE, BEND OR FOLD" - a protest against the depersonalization of computerized mass society.

The protest against computerized systems often has been expressed in far more sophisticated ways. In one case, a computer was held hostage (like a college president) in a demonstration. Objections to computerized

processing are based on a belief that, since a computer has no feelings, decisions arrived at through a computer are "heartless" and clearly to the disadvantage of the individual at the receiving end. The computer deals with people who have feelings, but without reference to feelings, and this (the protesters believe) is wrong. The assumption that it is better to be dealt with by someone who has feelings, however, has not been proven. The medical practitioner with the best bedside manner is not necessarily able either to make a better diagnosis or to provide better treatment, even though he may be better able to extract the proper information from the patient. Good information badly processed is no better than bad information. Why then are there emotional outbursts against information systems? In some cases a similar philosophy may be traced to that which motivated the Luddites who, in the earlier days of the industrial revolution, destroyed machinery which they believed would put them out of work. It seems that adaptation to change has always been resisted.

The Nature of Change

Today it appears that the rate of change is itself changing, and perhaps that this rate has so accelerated

that it is no longer possible to consider many changes as continuations of previous trends. Some recent developments are more appropriately considered discrete breaks with the past than mere "change." Examples of change in the past may clarify this distinction. The industrial revolution actually was not a "revolution"; it was the beginning of a gradual progression. It was a hundred years or so before the full impact was felt even in the more affluent Western societies. Before it had run its course in all sectors of the economy, a new revolution was underway--the age of automation. Automation had been in progress for no more than a few decades when the cybernetic revolution began. Although where this will lead is not yet clear, it is probable that current protests are linked with the pace and impact of this new development.

With each change, certain sectors of society are threatened because the skills they possess as marketable commodities are devalued. Those who were threatened by the industrial revolution were the unskilled and the partially skilled. Those threatened by automation were, primarily, those slightly more skilled; the craftsman, except as a precious item for almost ceremonial preservation, disappeared in this country. The present revolution

of cybernation threatens a different class of persons, namely, the lower level of management. Even higher management must adapt and learn new techniques, particularly with regard to the kinds of advice to seek and when to seek it, or they also will be threatened.

With rapid technological change in the affluent countries, the distance between the developing countries and the Western industrialized societies has increased. In terms of absolute (external) measures of deprivation there may have been little change, or even slight improvements, over the last hundred years in the developing countries; but the relative deprivation between rich and poor countries has increased at an extremely rapid rate.

This increase in relative deprivation has been accompanied by the development of the mass media. Today, not only does relative deprivation exist, but it is now also known to exist by most of the world's inhabitants. Waste in one country is known to those in need in other countries, and the need of the deprived is also known to the citizens of the wasteful country.

Not only has information regarding relative deprivation spread, but the pressure to consume has increased the intensity with which relative deprivation is felt. This is also the case within most countries. The press

used to provide a differentiated readership which could be used by advertisers to reach a selected target audience. If the product to be advertised was expensive or exotic, the periodical or newspaper selected was one which was read by the higher income groups, while larger readerships were sought for advertising the mass product of general sale. The price of the periodical was correlated with the income of the readership and further differentiation determined by the nature of the editorial matter. Television does not address a differentiated audience; indeed, its appeal is to a "mass" audience. The vendor of the higher priced car, refrigerator, or color television uses the mass media of television to press his product upon those who cannot, as well as upon those who can, afford it. This selling technique, while not necessarily in itself reprehensible, serves to increase the awareness of relative deprivation on the part of many more millions of persons than was the case when selective advertising was the general practice.

But what, it may be asked, has this to do with probation officers? In what ways do these changes help to explain the current "generation gap," the crime, the demonstrations, the discontent, the uncooperativeness of the young, and the revolts on campus? Do these changes

excuse behaviors which most people over thirty, and some below that age, regard as uncivilized, if not also un-American?

Youth and other "Disadvantaged Minorities"

The present world is of a different order from that which existed when the older generation was at the age of the current "younger generation." Thus, if the younger generation were to react to this world in the same ways as we did to the world of our time, then their behavior would be unadaptive. And, if man should prove to be unadaptive, then his survival is in grave doubt. Unless we can adapt to the increased rate of change, we have only one alternative: to slow down the rate of change to a level which can be accommodated. Since this alternative is not feasible, it appears that we must learn to adapt more rapidly. It is our generation which is responsible for the changes in society with which our younger generation is faced; thus, it is strange that we should object to their efforts to adapt.

The younger generation is, by various means, trying to say something to the older generation and those in power in our society. Their messages are coded in various ways, although some youths may not know the significance

of their own coding system. One element common to the various current sociological theories of crime is the belief that every delinquent act is a commentary upon society as much as upon the individual himself. We may not like the language of theft, "cop-out," or violence, but comment it nonetheless seems to be. Those who take part in socially acceptable programs, such as VISTA and the Peace Corps, also are commenting upon society by their participation in these organizations. Deeds as well as words convey information. Information about deeds is also information. What young persons say is seldom noted in the mass media, but what they do, particularly if it is regarded as unusual, bizarre, or wicked, is usually rated first-class copy.

If we are concerned about the state of our society we should listen to the messages of those we define as not, or as not yet, part of it. We talk of "teenagers" as though they were a different kind of animal, and we exclude certain other classes of persons from our concept of "society"--notably the insane, criminals, and to a lesser degree, aliens. But all these classes, including teenagers, are perceivers (receivers of input) and communicators (through reactions to this input). The teenager is not defined as "outside" the society, but he

is accorded a status very similar to that of a member of a minority group. Indeed, there are striking similarities between teenagers and underprivileged minorities. They cannot vote, but they may be drafted; they are unorganized and without power of lobbying; they are relatively poor; they cannot make contracts; and they find it impossible to obtain unbiased publicity.

It is interesting to note that it is only recently that persons passing through the "teenage" age bracket have been credited with a special identity as a group. It appears that the discovery of the "teenager" began, significantly, as the discovery of the teenage market. It was found that persons in the age range of 15-21 years had more money to spend than ever before. They also had latent spending habits which could be distinguished from those of other age groups and social classes and which might be developed as a "special market".

As with other market systems, this discovery and its consequences possessed the qualities of the Keynesian multiplier--a feed-back amplification system. A mass market with known factors and characteristics could be described and exploited. Out of this commercial exploitation, with the concomitant usage of the mass media, has developed the basis for our concept of "youth" today. It

is not without significance that certain individuals and groups of young persons have sought to avoid being caught up in this system, and have complained of the exploitation of their interests, personal attitudes, and even their philosophies by the mass media. Other groups have, of course, jumped on the bandwagon and reaped a golden harvest, and these, although small in number, are the more highly visible. These forces and others have tended towards the specific isolation of a "minority group," which is defined and identified wholly or primarily by age.

Although there are some interesting and perhaps important similarities between the teenager, in image and actuality, and the ethnic minority group, there are also important differences. For example, when an ethnic minority group is the object of attack, the target is easily identified. In contrast, young people share with the minority group labeled "intellectuals" an uncertainty of definition. Few "intellectuals" would identify themselves as such, and who is perceived by whom as being within the category is subject to wide variation. To some extent the minority group labeled "Communists" has this same uncertainty of definition, although this group, as opposed to "teenagers" and "intellectuals," is

characterized by organization and structure.

Where a conjunction of stereotype and minority group identification occurs, there exists a basis for emotional appeals to prejudice which present less danger to the user of the appeal than in almost any other case imaginable. A scapegoat which is perceived differently by different observers can be utilized with little fear of retaliation. To put it another way, where the message encoded by the transmitter differs from that which is decoded by the receiver, the transmitter can always retreat from his position, claiming that it was not his "message" which was to blame, but the "decoded" form of it. The purpose of a scapegoat image is not, of course, to identify the scapegoat or to convey information but rather to create an emotional state. While "young persons", "students", or "intellectuals" may not be used as scapegoats at the present time, as categories they easily could be used as such. The potential exists now for the development of a new form of scapegoat, tailored to the "mass media age."

Accessibility and the "Generation Gap"

The development of the mass media cannot be seen as an evolving continuum since it has demonstrated a discrete change in the potential of some to influence others. For

hundreds of thousands of years the communication of any one person was limited and always held the possibility of being a two-way process. When the monarch spoke to his people, in theory at least they were able to shout back their support or dissent. When an emissary read the letters of St. Paul to the early church (an organization, interestingly enough, having all the qualities of an underground resistance movement) he could note the responses of the audience and their conditions of living, and report this information to his master. Any one such feedback loop would take considerable time, and delay in feedback was a function of geographical distance.

The invention of the printing press preceded its mass utilization by many decades; its impact upon society was gradual and was differentiated according to social status and educational background. The press increased the amount of communication, but only in one direction: from the influencer to the influenced. The press did not increase to any significant degree either the potential of communication by the masses or the feedback which the communicator received from his audience. This trend has developed even further today, in that there may be hundreds of millions of information receivers for only one transmitter. The ratio of transmitting persons

to receivers is related to the status, power, or money available to the influencer or transmitter of information. Another aspect of this ratio is the instantaneous nature of the impact.

A majority of the changes in mass communication have taken place since most probation officers were born; many have occurred within the last decade. We of the older generation still hold beliefs relevant to our experiences with earlier communication systems and power structures. Usually we cannot help drawing on these beliefs to assess present systems and to attempt to regulate behavior. When we were young, any politician or authority who wished to influence us had few options; he had to come to our town and speak at street corners and in public buildings. We could ask questions, shout approval, "barrack", or otherwise provide feedback. We saw the politician as a person, not as an image on television. The important thing was that we perceived the man in authority as being accessible. Even God was accessible through our prayers.

In his recent book, Containment and change, Carl Oglesby discusses the phenomenology of revolution. According to his view, an individual goes through several phases before he adopts a revolutionary position. An early stage is that of "prayer and petition," or appeal

to a higher person in authority who knows what is right and who would support the individual in distress "if only he knew". In modern terms, if the local sheriff is preventing expression of guaranteed freedoms, then there is a senator to whom one can appeal to set things right. Underlying this approach is an implicit belief that there exists in the social system a repository of justice which is real and open to petition by all who feel oppressed. The similarity of this belief structure with that of religious beliefs is evident. God is loving and just and supremely powerful, and His representatives are found in Christian American society.

However, if God is not on the side of America, or if there is no God, the situation begins to look rather different. The approach from prayer, incantation, and appeal then seems invalid. This view is now held by many of our young people. "The sad fact," wrote one of my students recently in a paper, "is that we...are beginning to come to grips with the realities of American life; the incantatory petition to authority...will not change anything. The reason, stated too simply, is that there is no just king. One cannot appeal to a higher justice that does not exist. The incantation of protest must become resistance, if we are to avoid the co-option, invisibility,

and sheer impotence that have been our experience." In a more optimistic vein, this student continued: "There is, however, one potential source of justice and that is 'the people'." Unfortunately, he sees no way for young people to tap this source of justice which would be acceptable to "the system."

The older generation, meanwhile, still believes in the accessibility of authority. The politician on television is still believed to be approachable: one can still petition, complain, or express support. The "mental set" of our generation suggests that the television image is speaking to us, or perhaps to a small group. Our minds do not comprehend the millions in the audience viewing exactly the same images and hearing the same words. The younger generation approaches the medium of television with a different mental set. We cannot detach ourselves from our own set, but if we can understand the nature of the differences between the generations in these terms we may more clearly understand the problems some of our young people have with politics, with matters of public policy and public order, with the image projected by authority figures and the "system", and with matters of power--both black and white.

Within this framework the relationship between

"acting out" and social action also is clarified. Behavior classified as "acting out" in fact may be displaced "social action." This frustrated social action potential might be compared with the "double bind" associated with certain schizophrenic conditions. This situation on the social system level, however, may be more dangerous to the structure of our society than individual disorientation which leads to unacceptable behavior.

But is this explanation significantly different from the emotive, simplistic, unscientific conclusions about youth expressed by politicians and the mass media? A more satisfactory explanation may be found in some of the results of modern psycholinguistic research, as these relate to informational concepts.

Psycholinguistics and the Generation Gap

We are all now familiar with the four-dimensional concepts of space and time, but perhaps we are not equally at home in handling our experiences of the physical world in these terms. For us to explain a concept--say, of traffic separation--to someone who is not yet able to conceptualize three dimensions would be impossible. We cannot explain in terms of two-dimensional space something that we perceive in terms of three-dimensional space.

Further, it is not possible for us even to think how we ourselves thought before we attained our present level of sophistication of thought processes. When one is faced with a new problem, one cannot inhibit in the solution of that problem all information gained, for example, in the last twelve months. In solving a problem, one uses the total resources of thought he possesses and draws analogies from any relevant experience.

The use of the analogue is a factor of considerable importance in problem solving,¹ and the availability of material for use in analogous thinking clearly is a function of personal experience. The experience an individual may draw upon is not limited to disciplines in which he is trained; rather it is completely general to his experience. Two persons, with different experiences, may decode the same word or phrase in completely different ways.

In these terms, it is the experiential set of young persons which technological change has altered - and is continually altering - while the value set propounded by society (the power structure and the older generation) is a carry-over from the past. Since in problem solving the individual cannot separate the two sets in terms of "old" and "new" concepts, the technological experiential set of the young and the philosophical and "value" set exist

side-by-side.

Values and philosophy have always been related to the language of analogy available at the time. Early nineteenth century science tended to present a picture of the universe as relatively simple. Cause and effect (deterministic) models proved quite effective in dealing with the problems of that period. Related to this relatively simple scientific model was a language of philosophy which made it possible to talk about "truth" as contrasted with "falsity", and of "known" as contrasted with "unknown," and so on. The language was basically one of two-value logic, and it was possible to view persons as either "responsible" or "not responsible", to find offenders either "guilty" or "not guilty", and to perceive things as either "right" or "wrong". The system of language which sufficed for scientific inquiry and technology also served adequately for the discussion of values, social concepts, and personality description.

Today, when young people hear this dichotomous language, for example, in church or in court, they are unable to relate it to their experience in other areas. Therefore, they cannot find appropriate analogies to facilitate assimilation of the ideas of values and ethics. Now, even the junior high school student knows that science is

concerned with uncertainty, probability, and degrees of belief. As one of the popular song writers has put it:

When I was a lad,
Simple notions I had;
There was wrong, here was right,
It was plain black and white.
Ah, but now that I'm grown in a world on my own,
The scenes I survey show nothing but gray.

.....

Where is wrong, where is right,
I'm confused and unable to say,
How does a man find his way
In a world full of grey?

(From a record of songs
by Oscar Brown, Jr.)

We have one language (a new one) for the field of knowledge, and another (an older one) for the conceptualization of values. This duality causes considerable conflict and forces those affected to attempt to accommodate in various ways--some of which society considers to be anti-social, irresponsible, or incomprehensible.

To resolve the conflict between experiential and culturally imposed "sets", it might be suggested that one form of language be used for one set of concepts and another for

the discussion of values and morals. However, if this were possible, then religion and science could ignore each other. Science then could be "value free" and take no responsibility for the consequences of research. This solution, in various forms, has often been proposed, but it is difficult to accept on moral or ethical grounds.

Even if this solution were feasible for other sciences, it is clearly unacceptable for the behavioral sciences. Jurists, criminologists, psychiatrists, and professionals of similar disciplines cannot ignore moral issues. The law, for example, cannot avoid association with moral concepts even if concepts of right and wrong or responsibility and irresponsibility are modified. If a system of two unrelated languages is not feasible, then perhaps a form of translation might be designed. In this case, however, the boundary conditions between the two "sets" would have to be specified quite precisely - an extremely difficult and probably impossible task.

While we have not been able to delineate the boundaries of the two systems, we have developed ways of avoiding recognition of the double referent. In contrast to the younger generation, we have a basis of earlier experience to which we may implicitly refer, and often we may move from one form to another without being aware of

the transition. The "double standard" maintained, as some youth claim, by the older generation, may be a logical consequence of the difference in standards of coding and decoding different types of experience and concepts.

Both young and old have reacted in a variety of ways to this conflict. Some try to use the "old" system to accommodate modern scientific concepts and their consequences; when this is impossible they are forced to reject the evidence. Some strict religious forms, particularly fundamentalism, follow this approach. The young persons who are most disturbed by this dilemma may "cop-out," "act-out," or become militant revolutionaries. Still others may seek to avoid the issue by entering professions in which they feel they can ignore values and moral issues, leaving these matters to "experts" such as politicians, priests, or mystics of one type or another. Such limitation of the boundaries of individual responsibility seems likely to have serious consequences for developed societies. Other solutions, which also attempt to simplify the issues, are the acceptance of pre-packaged moral concepts peddled by vendors of some cheap philosophy, or the purchase of answers, similarly pre-packaged, in the form of pills or "pot". Some of these simplistic solutions appeal more to the young, others to

the elderly, but all mix well with the mass media.

The need for rational decision-making under conditions of uncertainty does not package well, so we tend to behave as though there were no uncertainty. This is, of course, totally dishonest. There is no way to eliminate uncertainty. It is possible only to assess and at times to measure it. Uncertainty must be accommodated within all models we use for conceptualizing the physical world, and it cannot be avoided in ethical questions.

Social Control and Social Change

A social system which has the means to adapt must accommodate variation and deviance. Variance generates information, and information can provide the means for prediction and control in a probabilistic system. In "moral" language terms this means that for a social system to be viable under conditions of rapid change (i.e., to be adaptive) it must tolerate a certain level of deviance. Control should not attempt to reduce valuable variety. Indeed, in a viable system undergoing change, variety cannot be eliminated through control measures. The law can specify functional boundaries, but it cannot regulate the finer details. Attempts to enforce too closely that which is seen as "good conformist behavior"

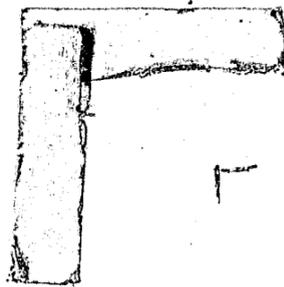
can only be self-defeating, since problems which it is hoped will be solved by such methods may be exacerbated.²

Social systems and sub-systems must be arranged so that "power" is perceived as "accessible" and capable of being influenced to change. A viable democracy would seem to require that the "power structure" be accessible to the people (who are thus able to provide information and the means for modification of the influence of power) and that the system adapt in this way to the changing conditions at various levels of society.

A language of communication adequate to the adaptation process can be devised only out of the conditions which facilitate its development. The present situation is highly dangerous. Daring innovation and experimentation are essential.

Footnotes

1. Donald A. Schon. Displacement of concepts. London, Tavistock Publications, 1963.
2. Consider as examples the efforts to prohibit consumption of alcoholic beverages and, more recently, drug abuse.



END