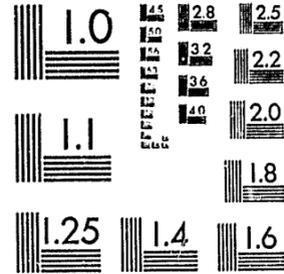


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Federal Probation

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JUNE 1983

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Federal Probation

A JOURNAL OF CORRECTIONAL PHILOSOPHY AND PRACTICE

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This Issue in Brief

The "Effectiveness" Issue Today: An Overview.—An unsettled atmosphere exists regarding the effectiveness of rehabilitation or habilitation, asserts California researcher Ted Palmer. Neither the global optimism of the 1960's nor the extreme pessimism of the middle and later 1970's seem justified, and neither view in fact prevails. The author describes two slightly more moderate "camps" which have replaced them, and underscores the substantial but far from complete disagreement which exists between these two.

Targeting Federal Resources on Recidivists: An Empirical View.—INSLAW researchers report results of a study of recidivism among Federal offenders and Federal policy for dealing with repeat offenders. The central question examined is whether Federal prison populations or crime rates, or both, can be reduced through the use of a strategy of increased focus by U.S. attorneys on cases involving recidivists. Analysis of Federal recidivism patterns indicates substantial opportunity to identify dangerous, repeat offenders prospectively using a simple statistical assessment procedure; analysis of survey data on current Federal prosecution policy reveals an absence of any explicit prosecutorial guidelines that attempt to do so.

A Radical/Marxist Interpretation of Juvenile Justice in the United States.—This article by Catherine M. Sinclair reflects the history and development of the juvenile justice system tracing the growth, nature, and perspective of radical/Marxist criminology. According to the views of the radical/Marxist criminologists, although youthful misconduct is extremely widespread throughout society, a vast amount of behavior that is defined as delinquent is strictly the result of social labeling—differentially applied to those youths from the lowest socio-economic classes who are caught and formally processed through the juvenile justice system.

The Emergence of Determinate Sentencing.—Besides exploring some of the prominent

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All phases of preventive and correctional activities in delinquency and crime come within the fields of interest of FEDERAL PROBATION. The Quarterly wishes to share with its readers all constructively worthwhile points of view and welcomes the contributions of those engaged in the study of juvenile and adult offenders. Federal, state, and local organizations, institutions, and agencies—both public and private—are invited to submit any significant experience and findings related to the prevention and control of delinquency and crime.

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FEDERAL PROBATION QUARTERLY

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reasons for the trend toward determinate sentencing in the United States, this article examines some of the differences and similarities of various determinate sentencing schemes. Although many guidelines are still in their infancy, authors Griswold and Wiatrowski believe it is likely that the determinate sentencing trend will continue in the future.

Criminal Justice Decisionmaking: Discretion Vs. Equity.—The administration of criminal justice involves consideration of a complex array of offense characteristics and offender personalities. Thus, in theory, discretionary decisionmaking offers a valuable tool of adapting sentencing decisions to particular case factors. Psychologist James D. Stanfiel states that, while the theoretical ideal may be approached within a portion of the judicial system, serious sentencing inequities have been persistent and perhaps prevalent in actual practice. There is no simple answer to the sentencing dilemma, he concludes, but development of a rational and coherent sentencing policy is a vital social goal.

Screening Ex-Offenders for Employment Services: A Preliminary Assessment.—Assessment of ex-offender employment programs has been hindered by the practice of screening prospective clients at entry, reports Dr. Charles A. Lindquist of the University of Alabama in Birmingham. Based on a sample of 296 black male ex-felons, characteristics of clients entering Birmingham's Community Acceptance Program (CAP) were compared with those of persons screened from entry. After analyzing the performance of program clients, the author found that program failures possessed characteristics more closely resembling those of persons screened from entry. He concludes that screening probably accounted for some degree of CAP's success and poses some issues re: program screening for consideration.

Community Service: A Development Concept.—Authors Brennan and Mason describe the organization of a community service program which provides clarification on several issues that seemed

to remain unclear from the information available: authorization of participation, criteria of eligibility, number of hours assigned, and liability. Besides presenting these program dimensions which offer additional clarification of the issues, this article presents the program objectives, other program dimensions, and the program's status after 11 months.

Using Volunteers in Adult Probation.—Authors Shields, Chapman, and Wingard examine the feasibility of using volunteers in adult probation. Field research methodology was used in reviewing the use of volunteers by 10 adult probation departments in Texas. Interviews were conducted with department directors and designated volunteer coordinators in an attempt to identify significant pitfalls, as well as potential beneficial uses, for volunteers in probation administration.

Preventing Inmate Suicides: A Case Study.—Inmate suicides, attempts, and self-destructive behavior are analyzed at a Federal correctional facility for short-term offenders. It is found that relatively simple prevention measures may have averted a number of the self-mutilations, reports Dr. Jay S. Albanese of Niagara University. He provides suggestions for a management approach based on a comprehensive understanding of the nature and extent of the problem, alteration of practices that contribute to known causal factors, and elimination of opportunities for the depressed or suicidal inmate.

"The Desperate Alternative."—In the field of narcotic addiction treatment, the professional world remains divided in its preference toward drug abstinence or chemotherapy. U.S. Probation Officer John A. Moccia believes a basic foundation in the nature and economics of heroin addiction versus methadone maintenance is essential to an educated judgment in this controversy. It is his position that methadone maintenance should not be favored over drug abstinence therapy but should be used in the event of its failure.

All the articles appearing in this magazine are regarded as appropriate expressions of ideas worthy of thought but their publication is not to be taken as an endorsement by the editors or the Federal probation office of the views set forth. The editors may or may not agree with the articles appearing in the magazine, but believe them in any case to be deserving of consideration.

The "Effectiveness" Issue Today: An Overview

BY TED PALMER, PH.D.

Senior Researcher, California Youth Authority, Sacramento

IN 1974, a wide-ranging debate regarding the effectiveness of rehabilitation was launched by Robert Martinson's assertion that nothing or almost nothing works. [18] Since then, rebuttals and counter-rebuttals have been exchanged and, in the process, some light has been shed though considerable heat and haze remain. This process has been difficult but necessary; and, though "sides" are still sharply drawn, the justice system may soon reap some benefits from the exchange. What, then, is the current status of this debate, and what are its emerging trends?

The overview that follows derives primarily from several major works conducted during 1966-1980. Chief among these are reviews and evaluations by: Adams; Bailey; Empey; Gendreau and Ross; Greenberg; Lipton, Martinson, and Wilks (LMW); Martinson; the National Academy of Sciences Panel; Palmer; Romig; Wilson; Wright and Dixon. [1; 3; 6; 7; 10; 14; 18; 20; 21; 23; 24; 26; 27] These efforts focused on experimental studies of juvenile and adult offenders in institutional as well as community settings. Each such category of offender and setting was well-represented in the studies reviewed, as were the major, traditional, rehabilitation methods (individual and group counseling; vocational and educational training; etc.); other, less common interventions were also included. Most such methods were implemented under non-voluntary conditions and—in the case of institutional programs—in an indeterminate-sentence context. Though the studies which were reviewed related to minor as well as serious or multiple offenders, the present overview will emphasize the implications of those reviews for the latter individuals. Throughout, the central question will be: Does rehabilitation work?

To address this question we will focus on programs that were judged successful or unsuccessful because—whatever else they did or did not accomplish with their target group—they either did or did not reduce recidivism. Use of recidivism is consistent with our view that the ultimate goal of rehabilitation is increased public protection. Clearly, rehabilitation efforts may also produce successful or desirable outcomes with respect to attitude-change, skill develop-

ment, and various aspects of community adjustment, and these as well as other outcomes often do—but often do not—relate to recidivism. Nevertheless, for present purposes, the central criterion of success or effectiveness will be the reduction of illegal behavior—arrests, convictions, and related actions. This criterion was also used in the reviews mentioned above.

As discussed in this overview, rehabilitation or habilitation includes a wide range of interventions whose principal as well as ultimate goal is the increased protection of society. This, the *socially centered* goal of rehabilitation, is achieved when the offender's behavior is modified so that it conforms to the law. It is promoted but not in itself achieved by modifying given attitudes, by strengthening the offender as an individual, by reducing various external pressures and increasing given supports or opportunities, and/or by helping him or her become more satisfied and self-fulfilled within the context of society's values. Attitude-change, increased coping ability, etc., comprise the secondary or *offender-centered* goal of rehabilitation. Though this goal has absolute value in itself, it is—from the perspective of the overall justice system and this system's function in society—chiefly a "means" to the socially centered "end" of public protection. [20]

Before proceeding, let us briefly indicate what we mean by the phrase "rehabilitation program or approach." The following is not a formal, exhaustive identification of rehabilitation or habilitation; however, for present purposes, it will suffice.

The primary and secondary goals of rehabilitation are achieved by focusing on such factors and conditions as the offender's present adjustment techniques, his interests and skills, his limitations, and/or his life-circumstances, in ways that affect his future behavior and adjustment. Rehabilitation efforts are thus focused on particular factors or conditions and are directed toward particular future events. Insofar as they involve specific components or inputs (e.g., counseling or skill-development) that are organized, interrelated, and otherwise planned so as to generate changes in those factors and conditions (e.g., skills or life-circumstances) that may *in turn* help generate the

desired future events, those efforts can be called rehabilitation programs or approaches. Such efforts—"interventions"—may involve what has been called treatment, external control, or both. Under some conditions, what has been called punishment may be considered an adjunct approach to rehabilitation.¹ However, methods such as electroshock treatment, psycho-surgery, etc., are not included under rehabilitation despite the factors or conditions on which they may focus and despite the specific effects—e.g., reduced illegal behavior—they may produce or be designed to produce.²

We now turn to the overview of "effectiveness."

Current Status of "Effectiveness"

Martinson's conclusion that "nothing works," which was widely accepted during the middle and later 1970's, is increasingly seen as a faulty synthesis of the findings from 138 recidivism studies previously described by Lipton, Martinson, and Wilks. [14; 18] Palmer's critique of Martinson's method of synthesizing those findings showed that the latter's conclusion was valid only in the following sense: No single, broadly categorized treatment method, e.g., group counseling or vocational training (each of which, of course, has many variations³), is guaranteed to reduce the recidivism of its target group. [21] The critique ("Martinson Revisited") showed that several group counseling programs (in effect, variations or types of group counseling) did reduce recidivism either for the target group as a whole or for various subgroups within the total target group. This was observed in high-quality and acceptable-quality research studies alike. Because of this and subsequent critiques, Martinson, in 1978 and 1979, explicitly repudiated his highly pessimistic conclusion that nothing or almost nothing works. Instead, he recognized the difference between evaluative statements concerning individual programs and those relating to groups of pro-

¹Through punishment—temporary confinement, withdrawal of privileges, added restrictions, etc.—may well affect future behavior and adjustment, it is not part of a rehabilitation effort if used as an end in itself or as a means to such ends as revenge. However, if used in the context of focused, directed, and organized activities such as the above, e.g., if occasionally used to bolster given components by gaining the individual's attention, it may be considered part of rehabilitation. Nevertheless, the distinguishing features of most rehabilitation programs are those which have been designed to (1) change/modify the offender mainly through positive incentives and rewards, subtle and otherwise, or to (2) change/modify his life-circumstances and social opportunities by various pragmatic means.

²Perhaps arbitrarily, we are including only those methods whose "humaneness" is not open to serious, certainly widespread, question. At any rate, we are focusing on methods that basically utilize, develop, or redirect the powers and mechanisms of the individual's mind, not reduce, physically traumatize, disorganize, or devastate them, whether or not by mechanical means; the former may be called positive treatment programs (PTP's), the latter, drastic or traumatic rehabilitation approaches (DRA's). We are also excluding various methods—not infrequently used in other times and/or places—such as: mutilation or dismemberment; sterilization or castration; physical stigmatization (e.g., branding); public humiliation (e.g., via stock and pillory).

³That is, each individual program which is categorized as, say, a "group counseling" method represents a variation within the method.

grams, i.e., broadly categorized methods. [2; 8; 17; 20]

Though extreme pessimism no longer prevails regarding the effectiveness of rehabilitation or habilitation programs, the pendulum is by no means swinging rapidly toward the opposite extreme. Nor is it even approaching the rather optimistic position that most treatment efforts (broadly categorized or not) have substantially reduced recidivism with many or perhaps most offenders, even in certain settings only (e.g., institutions). Moreover, what might be considered today's officially sanctioned position—that taken by the National Academy of Sciences in 1979—is very guarded: No single correctional program (and, therefore, no broadly categorized method) has been unequivocally proven to reduce the recidivism of its target group; that is, using very strict standards of evidence, none has been shown to work beyond almost all doubt. At any rate, none can be guaranteed to work. [24]

Despite its extreme scientific caution and stringent methodological standards, the NAS Panel indicated the following (these views were based on what it acknowledged as the "suggestions . . . concerning successful rehabilitative efforts" that were reported by LMW, and partly on the above and subsequent critiques):

- (1) A few approaches may perhaps be working for some subgroups within the total target group; however, the quality and especially quantity of evidence do not allow for definite conclusions regarding the subgroup-success of these approaches.
- (2) Though no specific approaches have been proven to work, neither have they been disproven; instead, it is simply unclear which approaches have and have not been "given a fair trial." [24]
- (3) Many programs might have proven effective if they had been better implemented, if they had operated more intensively (i.e., had more treatment-input per client), etc.

In sum, the NAS Panel's position was very guarded and carefully qualified, but contained some glimmers of hope. In 1981, the Panel reaffirmed its position and further discussed these glimmers. [15]

The Panel's marked caution seemed to closely parallel the position taken by Empey in 1978, both as to the "inconclusive" nature of most research studies and the extreme difficulty of scientifically sorting-out precisely what works. [6] (That is, sorting-out is difficult even when good-quality research designs exist and certainly when program operations are only sketchily described.) Yet Empey was less restrictive than the Panel in one respect. He apparently did not believe that the results from all research studies which, methodologically, had been somewhat less than flawless but which were still relatively strong, should be discounted as a basis for correctional policy recommendations. Rather than in-

sist that the results from any given study be demonstrated with almost absolute certainty, e.g., beyond the shadow of a doubt, he seemed to accept what amounted to a preponderance-of-evidence standard in this regard. As a result, he believed that some programs, though probably not many, had been adequately shown to be successful with serious offenders; at least, they seemed promising enough to have positive policy implications. Beyond this, Empey—like the NAS Panel after him—believed that some programs might have produced better results if they had been directed, not at the full range of offenders, but at certain subgroups only. This view reflected the already existing "differential intervention" position, summarized below.

Several researchers and scholars—chiefly Palmer and Warren; Romig; Gendreau and Ross—have expressed a more sanguine view than that offered by the NAS Panel, by Greenberg, and, more recently, by Conrad. [4; 7; 10; 20; 23; 24; 25] To be sure, these individuals, like the Panel and Conrad, believe that much criminal justice research has been mediocre and that most rehabilitation efforts have probably been unsuccessful thus far, relative to their overall target group. Nevertheless, they believe that many programs, often well-researched programs by LMW's detailed standards and those of others, have been shown to work with specified offenders (subgroups) under specific conditions. Their view—with the partial exception of Romig's—is generally known as the differential intervention (DI) position.^{4,5} This view, which mainly grew from the early efforts of Warren, et al., in California's Community Treatment Project [25] goes beyond another well-known view—that which focuses on "amenability" alone:

In contrast to DI (see below), what might be termed the basic treatment-amenability (BTA) position only minimally distinguishes among types of offenders. The BTA position generally asserts that (1) certain offenders (e.g. the "bright, verbal, and anxious") will respond to many treatment approaches, presumably under most conditions or settings, and (2) most remaining offenders will respond to few if any ap-

proaches, again, regardless of conditions or settings. In contrast, the differential intervention view suggests that some offenders (BTA's amenable included) will respond positively to given approaches under very similar conditions; other combinations of offender, approach, setting—and resulting outcome—are also implied. Finally, DI also suggests that many offenders who in the BTA view are generally described as nonamenables may in fact respond positively to certain approaches under particular conditions, e.g., close structuring within institutional settings. [7; 20; 25]

In short, overly simplified, DI asserts that certain categories of offenders (e.g., the Conflicted) but not others (e.g., the Power Oriented) will respond positively to certain approaches only, at least under specified conditions—and that the opposite likely occur in response to other approaches or conditions. There are no all-around amenable and nonamenables, even though some individuals do usually perform better than others.

Thus, compared with BTA, the DI view is both more and less "optimistic" about so-called amenable; it is more optimistic about offenders who are often considered non-amenable, as well.

The "basic treatment amenability" and "differential intervention" positions have both been supported by Glaser, Adams, and others. [1; 8] The amenability view has, in addition, recently been supported by Wilson, a long-time critic of rehabilitation who also accepts the NAS Panel's overall caution regarding the validity of research findings to date. [26] All in all, there is increasing agreement among researchers, academicians, and practitioners as to which offenders are most likely to respond positively to standard—and, to a lesser extent, more specialized—rehabilitation approaches. DI has further been supported by Jesness, Hunt, Quay and Parsons, Megargee, et al., Wright and Dixon, and others. [11; 12; 13; 19; 22; 27] By 1979, Martinson himself was essentially supporting differential intervention:

. . . no treatment program now used in criminal justice is inherently either substantially helpful or harmful. The critical fact seems to be the conditions under which the program is delivered. For example, our results indicate that a widely-used program, such as formal education, is detrimental when given to juvenile sentenced offenders in a group home, but is beneficial (decreases reprocessing rates) when given to juveniles in juvenile prisons. Such startling results are found again and again in our [recent] study, for treatment programs as diverse as individual psychotherapy, group counseling, intensive supervision, and what we have called 'individual/help' (aid, advice, counseling). [17]

Finally, as indicated, both Empey and the Panel believe there may be something to this view.

In sum, both the BTA and DI positions have received moderate but clearly growing support within the justice system community; quantitatively, this ap-

⁴These individuals believe that the conclusions which were drawn from several hundred studies conducted during 1945-1978 (mainly 1960-1975) were justified either in terms of a preponderance-of-evidence standard or, somewhat more strongly, beyond a reasonable doubt, at least, thus applied to the conclusions from numerous studies that yielded positive results. In any event, they regard the latter conclusions as scientifically supportable even though the individual study designs were indeed far from flawless and the conclusions were therefore not justified with almost absolute certainty (as the NAS Panel would have preferred), i.e., virtually beyond the shadow of a doubt. Moreover, they believe it would be inappropriate and certainly peculiar to dismiss the similar or converging evidence regarding given program approaches and program components that was observed across many such positive outcome studies—studies which they feel had defensible research designs and that involved at least adequate program implementation.

⁵Romig, while accepting this view, believes one should go beyond it to "truly individualized treatment." [23] Thus, he supports but does not identify with DI per se (it might be noted that individualization is a relative term.)

plies to their empirical support as well. Nevertheless, as the Panel indicated, this evidence—while suggestive—is neither overwhelming nor entirely consistent.⁶ [9; 24]

Whether *many* programs or only a *small percentage* of programs have reduced recidivism is unclear. (Here, it makes little difference whether numbers or percentages are considered. However, by "many" we mean at least 302 of the sample-of-programs reviewed by such authors as LMW, Bailey, and Adams, respectively—recognizing that many programs were included in more than one such sample.) The many-programs position is found not just among differential intervention proponents but among reviewers who have questioned the effectiveness of rehabilitation efforts. The small-percentage view—with no specific percentage or percentage-range having been stated—is that implied by the Panel, by Empey, and by Greenberg.⁷ Though the truth (objective reality) may well lie between these positions, the available evidence favors the former—assuming that "small" means less than 15 percent. More specifically, direct counts (Bailey's included, e.g., for "experimental studies") suggest that—conservatively—at least 20-25 percent of all experimental programs reviewed have reduced recidivism for their total target groups, while at least an additional 10-15 percent have done so for one or more subgroups only. [1; 3; 20; 21] However, the exact percentages may not be too important. What may matter in the long-run is whether knowledge has been and can be gathered regarding the nature of (1) those programs which work and (2) offenders whom those programs apparently serve best. Such information could make it possible to reproduce, improve, and more efficiently utilize those and similar programs, and to discard whatever approaches seem to accomplish little for the preponderance of their clients. In this way, the percentage of successful programs

could increase—whether from today's small or more substantial level.

Long-range considerations aside, percentages—or at least terms such as "most," "many," and "few"—have nevertheless played a large and often confounding role in the effectiveness literature. For instance, DI proponents believe that many individuals who consider rehabilitation programs ineffective consistently overlook or ignore a basic fact, whether or not recidivism is involved as the sole outcome-measure: Although *most* programs have probably not worked well and *most* research was probably not done well, this still leaves numerous programs—i.e., from among the several hundred that were experimentally studied—that did work well or moderately well, that were researched satisfactorily, or both. Moreover, even if only 10 percent of those several hundred were found to work, this would still leave "many."

In short, proponents feel that, by overlooking this fact, these effectiveness-critics erroneously conclude or at least imply that since most programs—literally hundreds of programs—have not done well, rehabilitation efforts are obviously a failure and claims of effectiveness can be dismissed. Yet, in context, most is far from *all*.

DI proponents also believe that the dozens of programs mentioned above have, collectively, provided not only very strong evidence that *something*, in fact several things, work, but substantial converging evidence as to *what* works for many offenders. Thus, given these numerous positive-outcome programs, they consider it immaterial that the *general* quality of research-to-date, and even program-implementation-to-date, may have been far from satisfactory, or perhaps even lamentable. Meanwhile, however, effectiveness-critics suggest that DI and perhaps BTA proponents greatly exaggerate the importance or implications of what they, the critics, consider the *few* programs that may possibly have worked. In any event, effectiveness critics usually emphasize the atypical—and, by implication, the probably-difficult-to-replicate—nature of these few. [4]

Apart from *how many* programs reduce recidivism, there is the question of how sizable that reduction is. LMW indicated that although some programs did indeed work, "corrections has not yet found satisfactory ways to reduce recidivism by significant amounts." [14] They neither defined significant nor presented a percentage-reduction figure. In addition, Martinson, in 1976, suggested that the reduction in question was probably trivial—meaning, 5-to-15 percent. [16] (In 1979, however, he stated: "...contrary to my previous position, some treatments *do* have appreciable effect on recidivism." [17] The NAS Panel was silent on this point, and, at present, only one

⁶Regarding the question of (1) which offenders are usually more amenable than others? and (2) which approaches seem to work for whom? BTA and/or DI proponents and supporters generally believe that results from various studies, i.e., across studies, are more consistent than inconsistent and show greater convergence than scatter. At any rate, they believe the consistency and convergence in substantial and revealing, and that it—in some respects, an expression of partial replication—partly compensates for less than flawless research designs. On this latter point, "the importance of scientific replication does not negate that of unusually impressive (e.g., virtually flawless) individual studies. However, the latter value can hardly substitute for the former." Thus, for example, one unusually impressive study which, say, "focused on particular treatment inputs and involved specific operating conditions" would not necessarily be seen, by most DI proponents, as outweighing "several acceptable (or perhaps high quality) studies which, collectively, may have covered a wider range of treatment inputs and operating conditions." [20]

⁷The reason for substantially differing estimates is somewhat unclear. At any rate, the many-programs estimates generally range from 30% to 55% and were obtained not just from reviews which did, but from others which did not, include the following among their sample of programs: those for which positive results were reported either for the total target group or only for a major subgroup within the total group. When the latter were included, estimates were only slightly higher than when they were not. An explanation for the differing estimates may partly lie in the fact that the various reviewers seldom focused on an identical or even nearly identical set of programs. Beyond that, they used somewhat different definitions of success.

percentage-reduction figure seems to exist: Focusing on all programs reported in LMW which reduced recidivism by at least 10 percent.⁸ Palmer found an average reduction of 32 percent, the mean followup being 19 months; from a public-protection as well as cost perspective, even half this figure might often be considered important. [20] At any rate, since this is the only available figure, it is perhaps best to conclude that little is presently known regarding the average recidivism-reduction of positive-outcome studies—i.e., of *all* such studies (not just LMW's), and using varying definitions of success. Nevertheless, we suspect that the average reduction is substantial, e.g., over 20 percent. (The problem of defining successful programs is independent of the fact that LMW and Martinson may have made their estimates by combining successful and unsuccessful programs. At any rate, much depends on how success is operationally defined.)

The following question is closely related to the issue of percentage reduction in recidivism. For what percentage of the total target group, i.e., all offenders combined, have programs been "appropriate"? That is—in terms of the presently considered criterion—how often have they reduced recidivism? Here, no specific answer is known, and no average figure exists. Despite this absence of information, certain principles and related implications can be stated: Clearly, if a program and all its offender-subgroups are matched, the percentage reduction that may result will be larger than if unmatched, in this case "inappropriate," subgroups are included. To date, few programs or even major program components have been designed for defined offender subgroups only—more specifically, for only those individuals who would presumably or theoretically be matched to those particular approaches. However, where program/offender matching *has* been used—as in California Youth Authority institutions during the 1960's—it has shown considerable promise. [12] Of course, the ideal program would perhaps be one that is flexible enough or contains enough relevant components to successfully work with *all* major subgroups, even though that program might not quite maximize the percentage reduction in recidivism for all its offenders combined.

⁸Included, here, was 42% of LMW's pool of positive- and negative-outcome studies combined. These 42% comprised four-fifths of all programs which—based on a behavioral, not just a policy-related index such as revocation or discharge—had reduced recidivism by any amount, i.e., by 1% or more. (Again, programs that reduced recidivism by less than 10%—viz., by 1-9%—were *not* considered positive-outcome studies in this as well as in most reviews and evaluations; if these programs had been included in the present analysis, the 32% recidivism-reduction figure would have dropped to 26%.) Most of the 42% showed a statistically significant difference (0.5 level) between the total target group and its control or comparison group. LMW had categorized many studies from within this 42% group as high-quality, not just adequate-quality. [14; 20]

Such programs—in effect, near-panaceas—are nowhere on today's horizon; in fact, as indicated, the NAS Panel believes that no approach has been decisively shown to work even for *specific subgroups*. To be sure, the Panel's view with respect to demonstrated subgroup success is shared by neither differential intervention nor treatment-amenability proponents. Yet, despite this disagreement, both sets of individuals agree as to the existence of two major preconditions to effective rehabilitation or habilitation:

- (1) Single-modality approaches may be too narrowly focused to deal with the complex or multiple problems of most serious offenders. Instead, combinations-of-methods, e.g., vocational training and individual counseling, may be required.
- (2) Program input may have to be considerably greater ("more intense") than it has typically been—that is, if, as in (1) above, one wishes to generate lasting behavioral or other forms of change in most serious offenders.

These preconditions would apply regardless of the program components or specific input involved, provided, of course, that the latter do bear on the particular offenders' problems. As indicated, the Panel believed that—with improved research designs—many approaches might have been shown to work if they had met preconditions such as these.

This agreement among otherwise differing observers is important, particularly in light of their further agreement regarding the value (or, in the case of the Panel, the directly implied value) of matching offenders with programs. Together, these preconditions/principles suggest that concentrated efforts, and perhaps greater individualization than in the past, are needed in order to affect substantial change in serious offenders. These suggestions may comprise some of the more constructive or at least potentially constructive products of the effectiveness-debate thus far. At any rate, they would have policy implications regardless of *how many* programs have been successful, and exactly *how* successful they have been.

Finally, it should be added that differential intervention proponents largely agree among themselves on two additional points (here, the Panel took no public stand):

- (1) Some offenders probably require, not so much the standard rehabilitation inputs such as counseling, vocational training, etc. They may require—primarily, or perhaps on an equal footing—external controls, heavy structuring, and, with respect to community programs, considerable surveillance.
- (2) Staff characteristics and staff/offender matching are probably major factors in successfully implementing given approaches, at least for many offenders.

Though the evidence for these points is neither overwhelming (quantitatively) nor entirely consistent, it is by no means insubstantial and has grown con-

siderably in the past several years. At any rate, the present author would add a different and perhaps broader point, one that focuses on likely preconditions to effective rehabilitation and applies across the board:

- (3) Fairness or fair treatment by the justice system, and humane interactions overall, can help create a tolerable, believable, sometimes supportive atmosphere for involvement and decision-making by offenders, especially but not exclusively in institutions.

Yet the following might be kept in mind. Fair treatment, etc., like just deserts and standardized dispositions by themselves, do not supply the direction, do not arouse the motivation, and do not provide the feedback or personal reward that probably must exist before realistic, satisfying decisions are generated and maintained by those individuals. That is, unlike many rehabilitation efforts, they do not address the specifics of the offenders' future—their concrete needs and opportunities within an often demanding environment. Nor do they address the often complex task of motivating or realistically helping them come to grips with that environment and, in many cases, with themselves. Thus, for many offenders, fairness and humane interactions without programmed assistance can be empty, in a sense blind, and programs without fairness can be futile, even pathetic. [20]

Review and Conclusion

An unsettled atmosphere exists regarding the effectiveness of rehabilitation or habilitation. Neither the global optimism of the 1960's nor the extreme pessimism of the middle and later 1970's seem justified, and neither view in fact prevails. Two slightly more moderate "camps" have replaced them, and a sizable but not entirely unbridged gap exists between these two.

Within the "skeptical" camp, some individuals believe it is clear—based on what they consider enough adequately conducted research—that relatively few rehabilitation programs work; moreover, those which work probably reduce recidivism by fairly small amounts. These individuals feel that rehabilitation, while not a total loss, therefore holds little promise and should be given a minor role. The remaining individuals within this group believe that *very little* is clear: Because of (1) minor or major research flaws in almost all studies, (2) poorly im-

plemented programs, or (3) both, we don't really know whether given approaches do or do not—can or cannot—work, for their target groups as a whole. In this respect, rehabilitation has not been "given a fair trial." Though some approaches may possibly have worked for at least some offenders, the picture is again unclear because the findings are neither iron-clad for any one study nor entirely consistent across various studies. These individuals believe that rehabilitation may well have promise—and a major role—but that no specific approaches can be recommended right now, at least not widely.

The more "sanguine" camp agrees that most programs have not been particularly effective thus far, certainly with their overall target groups. However, it believes that many programs and approaches have been shown—with reasonable scientific assurance—to work for specified portions of their target group. Some such proponents believe that certain offenders ("amenables") will respond positively to many approaches under a wide range of conditions and that many or most remaining offenders will probably respond to very few. Other proponents partly accept this view but believe that almost all offenders will respond positively, neutrally, or negatively depending on the *specific* approach and the external conditions or setting. The objective evidence, while neither vast in quantity nor flawless in quality, tends to support the latter's position while not negating the former's. Both groups believe that successful programs often reduce recidivism by substantial amounts; they also feel that various approaches can be recommended right now for some offender-groups, even though these recommendations would reflect knowledge that is still largely "atheoretical" or at least not systematically and explicitly linked to a carefully defined set of underlying mechanisms and principles which have themselves been largely validated or seem quite plausible. Moreover, whether few or many programs have worked thus far (however those terms are defined), those and similar programs can perhaps be built upon and the remaining programs or approaches can eventually be discarded. In addition, whether recidivism reductions are considered moderately large or relatively small within typical programs to date, those reductions—like the percentage of successful programs itself—can probably be increased through program/offender matching, in future rehabilitation efforts.

The differences between the more skeptical and more sanguine individuals are complex and can only partly be traced to technical factors such as differing units of analysis,⁹ differing standards of evidence, differing approaches to synthesizing as well as generalizing various findings from within and across studies,

⁹For example, an emphasis on either (1) broadly categorized treatment methods only (in effect, treatment-types or types of individual programs—as in Martinson, pre-1978), (2) overall programs, i.e., individual programs, viewed as undifferentiated entities, (3) program components within the overall program, or (4) similar program components or common factors that are found across numerous overall programs.

etc. They seem to be partly experiential and philosophical as well. For the most part, these differences—especially the latter two—will probably long remain, even though the former (the technically centered) will doubtlessly be narrowed quite a bit. Beyond this, disagreement exists as to when the results from a given study or *group* of studies should be used for various types and levels of policy recommendation, especially if those results are positive. At a more basic yet related level, disagreement has clearly emerged as to what constitutes an adequately or well-researched study, one whose findings—whether positive or negative—can be considered valid and somewhat generalizable.

Given such differences and disagreements, it is significant that certain areas of agreement nonetheless exist: Basically, many "skeptics" and "sanguines" seem to believe that, to be effective with serious or multiple offenders, rehabilitation programs must be broader-based and more intensive than in the past. That is, given the often complex and interrelated problems, limitations, and attitudes of most such offenders, future programs will often have to use "multiple modality" approaches, e.g., simultaneous or successive combinations of vocational training, individual counseling, and perhaps others. Moreover, to achieve substantial rather than minimal impact, such approaches will have to be provided on a more intensive basis. One final area of agreement exists or is at least implied: program/offender matching. Here, a program's resources—multiple or otherwise, intensively provided or not—are organized and distributed according to the needs, interests, and limitations of the offender subgroups that are present; they are not applied to the *total* offender group in an indiscriminate, across-the-board manner. Taken together, these areas of agreement suggest that future programs should be more carefully adapted to the life circumstances and personal/interpersonal characteristics of offenders. This view has policy implications regardless of the exact content of those as well as present programs.

The truth regarding "effectiveness" may lie between the skeptical and more sanguine views—in fact, it probably does. Yet however the effectiveness issue may finally devolve, the future of rehabilitation or habilitation programs will be neither dim nor dull; for one thing, not only direction but considerable room for improvement already exists. In any event, the above areas of agreement may reflect one important part of that truth, and future.

And regarding that future, three last points. First, rehabilitation need not be wedded to a medical model; it can proceed on the assumption that offenders, like nonoffenders, have positive potential which they can,

should, and usually wish to use. Offenders need not be viewed as defective; and, like most nonoffenders, the vast majority are quite capable of recognizing the potential relevance to their lives of various forms of assistance, e.g., vocational training. To assume that offenders lack this ability or can seldom exercise or sustain it is to consider them defective or highly indifferent indeed—no less so, perhaps, than in a "medical model" itself. Along a related line, the fact that some or perhaps many offenders often play "treatment games" within or outside institutions does not mean that the majority do so or that they do so most of the time. [20]

Secondly, rehabilitation need not be linked to indeterminate sentencing; it can be implemented for—and by—offenders under conditions of determinate sentencing, with or without written contracts.

Finally, rehabilitation or correctional intervention need not demean its participants or interfere with given reform movements. It can disassociate itself from the more questionable or undesirable practices of the past and can be integrated with numerous justice system concerns and legitimate strivings of the present and future. Correctional intervention can operate in a framework of humane interaction and exchange despite the unavoidable need, outside and inside the system, for some degree of social control. By building on its past *successes*, be these "many" or "few," it can eventually regain its place and recognition (this time on more solid grounds) as one more useful tool—another option for society and offenders alike. [5; 20]

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90378 Targeting Federal Resources on Recidivists: An Empirical View*

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I. Introduction

The concept of reserving prison and jail space for those offenders who, if released to society, would likely inflict the greatest harm has emerged as a dominant principle of criminal case selection, processing, and sentencing. While deterrence and rehabilitation have considerable theoretical appeal, they have not received systematic empirical support as effective principles on which to base the selection of criminal sanctions.¹ The effectiveness of a

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strategy of selective incapacitation, on the other hand, has both theoretical appeal and empirical validation.² The proliferation and continuance of "career criminal" programs in local jurisdictions throughout the country, even after a withdrawal of substantial Federal funding, reflects the broad appeal of this concept.

The career criminal concept is appealing at the Federal level as well. Recognizing this, the Office of Legal Policy of the Department of Justice contracted with INSLAW, Inc., in the summer of 1981, to examine the feasibility of instituting a career criminal-type program for Federal prosecutors. Motivated largely by previous findings that some classes of Federal offenders commit many more

¹ Alfred Blumstein, Jacqueline Cohen, and Daniel Nagin, editors, *Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates* (Washington, D.C.: National Academy of Sciences, 1978); Leo Sechrest, Susan O. White, and Elizabeth D. Brown, editors, *The Rehabilitation of Criminal Offenders: Problems and Prospects* (Washington, D.C.: National Academy of Sciences, 1979).

² Empirical support for a strategy of selective incapacitation is the subject of section 2 of this article.

serious crimes than others,³ the project was designed to examine the extent to which patterns of recidivism among Federal offenders are predictable, to assess the attitudes of investigators and prosecutors regarding the creation of a Federal program that would target on cases involving serious repeat offenders, and to develop a prototype system for identifying the most crime-prone offenders prior to their subsequent criminal acts. This article presents and discusses the major results of that project.

The next section reviews highlights of previous research on selective incapacitation that have relevance to the Federal justice system. We then discuss findings from surveys of agents of local career criminal programs, United States attorney offices, and Federal investigative agencies. Next, we present highlights of an analysis of the predictability of recidivism among Federal offenders and describe a tool designed to aid Federal justice officials to prospectively identify the most crime-prone offenders. We conclude with a set of recommendations for the Federal criminal justice system.

2. Previous Research Related to Selective Incapacitation

Common knowledge among police and prosecutors that a small group of offenders accounts for a

³ We have estimated that Federal offenders commit an average of 10 crimes per year free. INSLAW, *Federal Sentencing: Toward a More Explicit Policy of Criminal Sanctions* (Washington, D.C.: U.S. Department of Justice, 1981). Further analysis of the data collected in that sentencing study revealed that bank robbers commit an average of about 2½ times as many crimes while free as do other Federal offenders.

⁴ Marvin E. Wolfgang, Robert M. Figlio, and Thorsten Sellin, *Delinquency in a Birth Cohort* (Chicago: University of Chicago Press, 1972), p. 88.

⁵ These findings appeared in a 1976 working paper by Williams and in a finalized version in 1979, *The Scope and Prediction of Recidivism* (Washington, D.C.: Institute for Law and Social Research), pp. 5-6.

⁶ Peter W. Greenwood, "Crime Control: Explaining Our Ignorance," Rand Corporation working draft (no. WD-1050), May 1981, p. IV-8.

⁷ Joan Petersilia and Peter W. Greenwood, *Criminal Careers of Habitual Felons* (Washington, D.C.: U.S. Government Printing Office, 1978); Barbara Boland, *Incapacitation as Applied to Federal Offenders* (Washington, D.C.: INSLAW, 1980); Mark Peterson, Harriet Stambul, and Suzanne Polich, *Doing Crime: A Survey of California Prison Inmates* (Washington, D.C.: U.S. Department of Justice, 1980); Greenwood, *Selective Incapacitation* (Santa Monica: Rand, 1982); Jan M. Chaiken and Marcia R. Chaiken, *Varieties of Criminal Behavior* (Santa Monica: Rand, 1982).

⁸ Paul E. Meehl, *Clinical vs. Statistical Prediction* (Minneapolis: University of Minnesota Press, 1954); Jack Sawyer, "Measurement and Prediction, Clinical and Statistical," *Psychological Bulletin*, vol. 66 (1966); Henry J. Steadman and Joseph Cocozza, "Psychiatry, Dangerousness and the Repetitively Violent Offender," *Journal of Criminal Law and Criminology*, Vol. 69 (1978), pp. 226-31; John Monahan, *Predicting Violent Behavior: An Assessment of Clinical Techniques* (Beverly Hills: Sage, 1981); John S. Carroll, et al., "Evaluation, Diagnosis, and Prediction in Parole Decision Making," *Law and Society Review*, vol. 17 (1982).

⁹ Kristen M. Williams, op. cit. (note 5); Jeffrey A. Roth and Paul B. Wice, *Pretrial Release and Misconduct in the District of Columbia* (Washington, D.C.: Institute for Law and Social Research, 1980); Daryl R. Fischer, "Offender Risk Assessment: Implications for Sentencing and Parole Policy," unpublished paper, Iowa Statistical Analysis Center, April 1981; William M. Rhodes, et al., *Developing Criteria for Identifying Career Criminals* (Washington, D.C.: INSLAW, 1982); Greenwood, op. cit. (note 7); Chaiken and Chaiken, op. cit. (note 7).

¹⁰ Williams, *ibid.*, p. 27.

disproportionate number of crimes has received substantial empirical validation in recent years. In 1972, Marvin Wolfgang and his associates reported that 18 percent of a group of juvenile delinquents in Philadelphia accounted for 52 percent of all the offenses committed by the group.⁴ Then in 1976, Kristen Williams, analyzing PROMIS data from Washington, D.C., for 1971-75, found that 7 percent of the 46,000 different defendants arrested accounted for 24 percent of the 73,000 felony and serious misdemeanor cases handled by the prosecutor for that jurisdiction.⁵ These findings provided much of the stimulus for the institution of Federally sponsored career criminal programs in jurisdictions throughout the country.⁶ More recent findings derived from surveys of prison inmates have further validated the existence of substantial variation in the amount of criminal activity among different offenders.⁷

It is one thing, however, to identify crime-prone offenders retrospectively and another to identify them before they demonstrate their criminal proclivity. Obviously, if they cannot be identified for special case treatment prospectively, then there can be no opportunity to obtain the benefit of a strategy of reserving prison space for the most criminally active offenders.

The emerging evidence indicates that prospective identification of crime-prone offenders, while imperfect, can nonetheless be done with a moderate degree of accuracy in some settings and a high degree in others. More important, statistical prediction of criminal and deviant behavior has demonstrated itself with some consistency to surpass the accuracy of subjective prediction by clinicians and other experts.⁸ Recent studies have revealed a number of factors in particular to be consistent predictors of recidivism: recent prior criminal record, youthfulness, drug use, and charges of robbery or burglary.⁹

2.1 Predictive Accuracy.—The accuracy of these prediction models is not difficult to demonstrate. William's model of recidivism, for example, when used to predict the most recidivistic half of the 46,000 defendants in her study, correctly identified in that half 84 percent of the 478 offenders who revealed themselves retrospectively as the most recidivistic 10 percent of the cohort.¹⁰ (A random selection would have identified only 50 percent, on average.) The extent to which recidivism can be predicted among Federal offenders, it turns out, is even stronger, as will be described in section 4.

2.2 Existing Case Selection Strategies.—The available evidence on case selection and targeting

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