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CRIMINAL CAREERS AND "CAREER CRIMINALS": CONFERENCE PROCEEDINGS

Christy A. Visher, Editor

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the Administration of Justice

Commission on Behavioral and Social Sciences and Education

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COMMITTEE ON RESEARCH ON LAW ENFORCEMENT AND THE ADMINISTRATION OF JUSTICE

1985-86

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Gaylene J. Dumouchel, Administrative Secretary

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## FOREWORD

On September 8-9, 1986, the Committee on Research on Law Enforcement and the Administration of Justice (CRLEAJ) held a conference at the National Academy of Sciences in Washington, D.C., to introduce the report of its Panel on Research on Criminal Careers, Criminal Careers and "Career Criminals", to the criminal justice practitioner community. The panel had been established at the request of the National Institute of Justice to review existing knowledge about criminal careers, to assess how this knowledge can be used effectively and justly in shaping criminal justice policy, and to construct an agenda for future research. (See Appendix A for the conference program, Appendix B for the conference attendance list, and Appendix C for a list of the panel members.)

The conference addressed the appropriate use of predictive information to structure criminal justice discretion, individual characteristics that have predictive content, the distinction between predictors of criminal behavior that are useful to criminal justice practitioners and those that are not, and important methodological and operational considerations related to the explicit use of prediction in criminal justice decision making. It provided practitioners an opportunity to compare their understandings about criminal behavior--grounded largely in experience and in aggregate crime and arrest statistics--against results of analyzing individual criminal careers. It also provided practitioners an opportunity to express their priorities for future criminal career research.

The speakers included scholars, state and local criminal justice practitioners, and federal officials. Consistent with the goals and objectives of the conference, the audience was drawn largely from the criminal justice

practitioner community and included police administrators, district attorneys, state criminal justice planning officials, judges, and state correctional officials. In addition, a small group of federal officials and congressional aides attended.

Although the panel report was the central focus of the conference, the program also included discussions of several closely related issues, such as practitioners' experiences with programs having a criminal career orientation. Such programs include risk assessments in pretrial release recommendations, prosecutors' career criminal units, repeat offender policing experiments, and the use of risk assessments in making parole recommendations and setting supervision conditions. Other discussions considered the identification and treatment of drug-using offenders, co-offending, and innovative programs for hard-core juvenile offenders.

The conference was planned and executed under the aegis of the committee with sponsorship by the National Institute of Justice and with considerable guidance from members of the panel; the steering group was composed of seven members of the committee and the panel: Alfred Blumstein, chair (panel chair); Allen Andrews (panel member); Richard Lempert (committee vice chair); Andrew Sonner (panel member); Norval Morris (committee chair and panel member); Patricia Wald (committee member); and Reggie Walton (panel member).

The steering group consulted with several scholars and practitioners who helped plan the conference and select participants, including Peter Hoffman, former research director of the U.S. Parole Commission, now senior research scientist of the U.S. Sentencing Commission, and Gwen Holden, executive vice president of the National Criminal Justice Association. The steering group was assisted in its work by committee staff members: Jeffrey Roth, staff officer; Christy Visher, research associate; and Gaylene Dumouchel, administrative secretary.

C O N F E R E N C E   P R O C E E D I N G S

DR. MORRIS: Welcome. I am Norval Morris. I am chairman of the Committee on Research on Law Enforcement and the Administration of Justice, which has had a convening role in relation to this report and to this conference.

It is good to see you here. I think it an important occasion. I believe the judgment of our committee and the appointment of the panel and in the selection of speakers for this conference will be vindicated, but I don't propose to take a lot of your time introducing this panel, which will happen sequentially.

What I now would like to do is to introduce Robert White, who is vice chairman of the National Research Council and president of the National Academy of Engineering, to welcome you here and to launch this conference.

Bob White.

DR. WHITE: Mr. Attorney General, Mr. Stewart, Mr. Morris, Mr. Blumstein, ladies and gentlemen, it is my pleasure as president of the National Academy of Engineering and as vice chairman of the National Research Council to welcome you here on behalf of the National Academy of Sciences and the other institutions that form this organization.

I would first like to thank the National Institute of Justice for its sponsorship of the study that underlies this conference and for sponsorship of this conference itself. The panel members have our deep appreciation also for the extensive work which they have undertaken to prepare the report.

As many of you may know, but some of you may not, the National Research Council, which is the operating arm of the two Academies and the Institute of Medicine, undertakes a wide range of studies and assessments

across all fields of science and technology, the social sciences, engineering and medicine. Few studies that come our way are easy. Most are controversial in one way or another; all are difficult to undertake.

In past months we have become engaged at the request of various agencies of the government in the review, for example, of the failure of the solid rocket booster of the Challenger. We have been asked to undertake a study of the safety of nuclear reactors of the Department of Energy. We are engaged in a major study on AIDS, but in this particular case we are dealing with a problem of such central importance to our society that it is important that it be given the kind of attention that this conference represents.

Of all of our studies, none, perhaps, is more central to the basic tenet of our Constitution to preserve, maintain the domestic tranquility and this project typifies the work of our organization.

It brings together experts from the sciences, with practitioners with a clear and ready knowledge of the problems to address a major public policy issues. Crime, of course, is a major and very visible public policy issues and a challenge, not only to social and behavioral scientists, but to all of us as citizens.

My task here is not to make a speech. It is to set this conference in motion and so I say let the conference begin. Thank you very much.

(Applause.)

DR. MORRIS: The work of the panel and this conference is a collaborative effort between the National Research Council and the National Institute of Justice and I now wish to introduce to you, though I suspect that most of you know him already, James K. Stewart, Chips Stewart, director of the National Institute of Justice.

Chips has, I think, displayed great sensitivity and skill in bringing together into a more fruitful relationship practitioners and those of us who try to be scholars in this field and I for one, and I think many others, are very grateful to him for that.

Chips, help launch us, please, and introduce the Attorney General to this audience.

(Applause.)

MR. STEWART: Thank you very much, Norval. I am delighted to be here. My congratulations to you. My congratulations to Robert White and also to Al Blumstein, the chairman of this panel, and John Kaplan.

The National Institute of Justice relationship with this National Academy of Sciences committee goes back a long way. We are pleased at the evolution of a relationship that I think has worked out extremely well for the scientists and for the policy makers.

The past panels on deterrence and on sentencing have served as a foundation for our efforts today on criminal careers. No more important policy issue confronts us than to look at how science and empirically-based information can be used to help inform our public policies.

It is with that theme in mind that I have the distinct honor and pleasure to introduce to you, ladies and gentlemen of the National Academy of Sciences and practitioners in the field, a man of prodigious intellect, whose education spans the institutions on both coasts, a person who has been training all his life for this particular job. He is a prosecutor of the highest order, the protector of rights in our society, and a fearless person, when it comes to confronting crime in our society.

Many of you may not be aware that the person I am about to introduce also founded a special policy institute on criminal justice administration and management policy at the University of San Diego. So, his commitment has been not only in the political arena, but also in the practical arena, to ensure that we make the most informed and best possible decisions.

Ladies and gentlemen, the 75th Attorney General of the United States of America, Edwin Meese.

(Applause.)

MR. MEESE: It is a great pleasure for me to be here this morning and to participate in the opening session of this conference.

From the looks of your agenda, you're going to have a few interesting and stimulating days ahead. Obviously, at this point in the program, it would be appropriate to thank the people who made this possible and who have put together the agenda.

I would like to thank Dr. Frank Press, the president of the National Academy of Sciences; Dr. Robert White, the president of the National Academy of Engineering; Chips Stewart, who, as you heard before, is one of the sponsors of this conference, both from a personal commitment, as well as from a financial standpoint, as the director of the National Institute of Justice; Jeff Roth of the National Research Council; Norval Morris, the dean of the University of Chicago Law School and chairman of the Committee on Research on Law Enforcement and the Administration of Justice; and Alfred Blumstein, the dean of the School of Urban and Public Affairs at Carnegie-Mellon University and chairman of this panel on

Research on Criminal Careers; and, of course, John Kaplan, professor of law at Stanford.

We appreciate the good work that all these folks, and the others who will be participating in the upcoming sessions, are putting into making this conference a success.

Let me also take this opportunity to welcome the state and local public officials, the criminal justice policymakers, and the administrators in law enforcement and criminal justice, who have joined us to consider how the findings of the newly-published panel report might be put into action.

As was pointed out by Dr. White, this conference is located at a very famous site. A number of applications of scientific thought and inquiry into the problems of society have come to fruition here at the National Academy of Sciences, and the results of that inquiry has been announced in this room. I believe it is very appropriate therefore, that on this particular social problem, we are using this site for the discussion, and the announcement of findings on the problems of crime.

Today's conference, and the work of the past three years by the Panel on Research on Criminal Careers, has an importance beyond the matter being discussed. It is another example of the application of scientific inquiry, and the dedication of expanded intellectual resources to one of the most serious and perplexing problems of our society, namely, the problem of crime.

It has been interesting over the past quarter century how the subject of crime invariably stays among the top four or five problems that the public perceives as the most important concerns that we have in our society.

The problem has obviously received a great deal of attention during the past two decades. There have been a number of milestones that we might point to in the national effort that has been made against crime. Just 20 years ago, President Johnson's Commission on Law Enforcement and the Administration of Justice was in the midst of preparing a report that made a number of significant recommendations, one of which was the importance of science and technology as a means of addressing crime control and crime prevention problems.

In 1968, the Omnibus Crime Control and Safe Streets Act was passed. In that same year the Law Enforcement Assistance Administration officially began its work. Some years later, in 1972 we had the standards and goals project. All of these things taken together set forth the federal government as a greater partner with the traditional resources of state and local government in addressing the problem of crime.

In 1981, under the direction of President Reagan, the leadership of my predecessor, William French Smith, and Bill Webster, the director of the FBI, and others, there was a reassessment of the role of the federal government in law enforcement and criminal justice.

For one thing, there was a better definition of the various responsibilities of different elements of government, including federal, state and local levels of government, in the obligations for the prevention and control of crime.



Second, there was a beginning in 1981 of increased funding for federal criminal justice activities, particularly directed at international and interstate criminal activities and criminal cartels.

There was also the development and refinement of the concepts of federal support and assistance for state and local law enforcement, particularly involving expanded training, specialized support and technical assistance.

The whole purpose was to try to focus the federal effort on the things that the federal government could do well, rather than on "scattering the shot", as too often had been the practice during preceding years.

Federal research and development activities were also redirected and given greater emphasis. And more attention was given to involving state and local law enforcement executives, as well as other policymakers and planners, in developing the areas in which the federal government should sponsor or conduct research.

Chips Stewart, having had his own experience for 16 years as a local law enforcement executive, along with a good deal of experience as a White House Fellow, was selected to head up the National Institute of Justice. I would like to echo Norval Morris in saying that Chips has done an outstanding job of melding the academic community, the policymaking community, and the practitioner community, so that we now have a better influence on the type of research and science and technological effort that is being expended, as well as improved dissemination of information as a result of those efforts.

The year 1984, with the passage of the Comprehensive Control Act, must be also be noted as a milestone in the past two decades of national effort against crime. This act is the legislative product of a great deal of the effort that had gone into the whole problem of addressing the needs of the criminal justice community.

In this Act, we have an updated legal framework for handling the problems of crime. We have an improved organizational structure within the Department of Justice. We have new and stronger criminal laws to deal with some of the modern criminal activities, including terrorism. We also have developed some new and more modern techniques against organized crime, including the forfeiture of assets as a means of taking the profit out of syndicated criminal activity.

During this 20-year period the academic community has also developed its resources in directing its energies to the problem of crime for the first time. This National Research Council is an excellent example of this development.

The work of the Rand Corporation; the work of numerous universities; the development of criminal justice research centers such as we had never had before -- all of these took into their activities to a much greater extent those who were involved in the practice of the criminal justice system. We commenced the scientific exploration of various facets of crime, of the problems of those involved in law enforcement, and in an exploration also of the deficiencies, needs, requirements, and the nature of the criminal justice system.

Well, what have we learned from these 20 years of experience? I would suggest that we have learned many things. Some of them you might say are a negative result, but not really a negative result because it also showed us where not to look or what not to look for in the future.

We have learned that there are no real panaceas when it comes to trying to predict, or to alter, human behavior. We have also learned that you don't stop crime merely by throwing money at it.

This is something that the federal government is gradually learning, although we still have a long ways to go.

We also learned that because of the vagaries of human nature and the fact that you don't really get a true laboratory setting, there are a lot of difficulties when dealing with the crime problem which is not as susceptible to scientific inquiry.

We have also learned that the concept of individual responsibility and accountability is important in a rational society.

We have learned increasingly that punishment does have a place in the criminal justice system, and we have learned that public involvement is important, at least in measures to help prevent crime.

One other thing that has happened during these past 20 years -- perhaps one of the most significant results of the criminal justice activity -- has been the discovery of victims of crime as an important status within the criminal justice system.

I mentioned a while ago that LEAA has been much praised and also much criticized. There is a conventional wisdom, in some quarters, that LEAA was, to some extent, a waste of money. I dispute and disagree with that conventional wisdom. I believe that LEAA has given us a very important background which forms the basis for many of the things that will be discussed at this conference.

For one thing, LEAA brought together, for the first time in a concentrated and systematic way, the various elements in the criminal justice process.

In many communities, in many states, and, certainly, on the national level, we have had more instances, and in some cases the first instances, of policymakers, city managers, county supervisors, and legislators, talking with policemen; policemen talking with prosecutors; prosecutors and defense attorneys looking at the system together; and judges being involved with the other elements of the criminal justice process.

It was the first time where, systematically, we brought all of the participants together in various forums, in which they looked at what they were doing, and looked at the interrelationship of the elements of the system.

This has brought an increased understanding of the fact that an action in one part of the system had implications and effects that were felt elsewhere.

We are learning much. As we have an increase in the various federal, state, and local agency arrests for certain types of crimes, we are

learning that we cannot really process these individuals who are arrested unless we have adequate prosecutors and adequate judges to handle the adjudication phase.

We have efforts being made throughout the country to send more people to jail for longer periods of time, and we're seeing now the implications that this has upon our correctional system.

This fact of the interrelationship between the various elements of the system is an important element that you will be discussing as you look at the handling of career criminals, because we have to measure what happens in terms of all of the various places throughout the system that are affected by the policy decisions that are being recommended here.

An additional benefit of LEAA was a tremendous improvement in the technological resources and equipment accessible to people in the criminal justice system. While it is not directly related to your topic here, one of the resounding and reoccurring themes during the last 20 years has been the need to personalize the law enforcement officer, and to bring him, or her, in touch with the community.

I would suggest that more than anything else, this has occurred due to one development that came out of LEAA, and that was providing the personal radio to the individual police officer. This meant that he was no longer relying upon the communication system in his car. With the use of the hand-held radio, he would no longer lose touch with his support systems and with his command and control elements when he was away from his auto.

Also in the last 20 years, and with the assistance of LEAA, we have had a tremendous expansion in the literature in the field of criminal

justice. In the realm of police administration, for example, you could count on the fingers of both hands the number of volumes on management and police administration that were available in the 1960s.

Today, libraries are replete with the works of scholars from both the academic community and from management consulting firms, who have received their funding for their work as a result of LEAA.

Education for participants in the criminal justice system, particularly police agencies, has been vastly improved under the Law Enforcement Education Program. And last, but by no means least, the value of applying science and technology was realized by the fact that many of the LEAA grants did go towards stimulating the efforts of social scientists, as well as physical scientists, into deploying their skills on behalf of the practitioners of law enforcement and criminal justice.

Perhaps one of the most significant areas of learning over the past 20 years, though, has been the one that you are addressing at this conference.

It is a new way of looking at the criminal. The application of statistical studies, the application of longitudinal studies, the application of research with criminals in prison, as well as the application of interviews and discussions with law enforcement practitioners, to the question of, "Who is committing the most crimes and how can we segment the criminal population?" so that we can focus the tremendous resources of the system -- albeit limited in terms of the number of people involved -- and get the most for our investment of taxpayers' dollars.

Like laymen and criminal justice practitioners, social scientists have long been involved with and interested in the subjects of crime and its consequences for an orderly society.

For example, some 60 years ago, E. W. Burgess was first attempting to use statistics to identify repeat offenders among prison inmates.

Also, one of our greatest gains, perhaps, has been the recognition that there is no "silver bullet" with which the crime "dragon" can be slain. There are no utopian solutions. And, yet, over the years, through rigorous and scholarly studies, we have advanced our understanding of crime and particularly of career criminals.

High-quality research has played a powerful role in shaping public policy. For example, an evaluation conducted by Lipton, Martinson and Wilks of over 200 correctional rehabilitation studies found scant evidence that rehabilitation programs worked effectively, and which, incidentally, was affirmed later by a panel of the National Academy of Sciences. As a result, many state legislatures have abandoned indeterminate sentencing, which depended on the prediction of an inmate's chances of reform.

Now I want to hasten to add that I am not one of those who believes that all efforts at rehabilitation and reform should be excluded from our correctional systems. Indeed, I think that there is, just by a study of human nature, the possibility that some percentage -- and we don't know exactly what that is -- of those people in prison can be rehabilitated.

Part of the focus of your studies here -- the other side of the coin, in effect -- is to say "What resources should be devoted towards certain types of treatment of career criminals?" And the other side of that

coin, perhaps, under study by other panels and by other resources is, "What can we do to identify that group that can be rehabilitated, and then focus different resources and different methods upon them?"

I believe we need to work both ways. We cannot afford to have the pendulum -- for so long favoring the medical model and rehabilitation -- swing back so far in the opposite direction of punishment and retribution. We must not ignore the practical benefits to be gained from both.

Another example of effective research shaping criminal justice policy is the work of Marvin Wolfgang and his colleagues at the University of Pennsylvania. Their research has shown that certain groups of offenders are committing a disproportionate share of crime. That finding has helped policymakers and practitioners at every level focus their energies, laws, and resources available in law enforcement.

In other words, the role that social science should play in public policy is to test and re-test assumptions. Professor James Q. Wilson made this point eloquently in a 1981 article in The Public Interest, entitled "Policy, Intellectuals, and Public Policy." Prof. Wilson noted, and I quote, "that the quality of an intellectual argument about the likely effects of a policy is highest when there have been many cases studied by many different investigators using different sources of data. If they agree, it does not necessarily prove they are right but it does increase the odds that they are right."

This is where the National Research Council and its panels on crime and justice come in. Your role as researchers has been to examine the multitude of studies on deterrence, on incapacitation, on



rehabilitation or on career criminals and identify the repeated findings in which we can have the most confidence.

I want to assure you that the Department of Justice believes that your work is of the utmost importance to criminal justice policy.

I also want to assure you that the federal government will continue to play a major role in criminal justice research through its own agencies and also through the funding of projects and reports, such as the one you will be discussing here today.

No question, that at this time of fiscal stringency and limited resources, one question being asked by taxpayers and policymakers alike is how much research and how much scientific inquiry we can afford. I believe it is a fair question. It's a question that must be addressed head on. I believe that the commitment of taxpayer dollars to the level of criminal justice research, which we have had over the past five years, is justified and is a good investment.

I also believe, however, that we have to recognize there are certain criteria that we have to apply to this investment. We have to be sure that the work that we are funding at the national level is, in fact, national in scope and that we are not merely substituting federal dollars for dollars that should also be provided at the state and local level for those problems which are regional or local in nature.

Second, we have to be sure that the scientific effort and research is cost-effective, that it does have payoffs, now, or in the future, in terms of crime control or the reduction of crime fighting costs. At the same time we must recognize that certain basic research, even though it

doesn't have an immediate benefit, is valuable in setting the basis for applied research that may have a payoff down the road.

Finally, I believe we must be confident that the kind of research which we are supporting is capable of application to real problems, and has a usefulness to the practitioners in the criminal justice field.

For these reasons, I am announcing today that we are enhancing the research and development capabilities of the Department of Justice by the creation of a new planning board within our organizational structure.

The Criminal Justice Research and Development Board, which will encompass the practitioners and the research elements within the Department of Justice is being formed to perform three functions.

First of all, to better focus, coordinate, and direct the criminal justice research and development activities within the Department of Justice, as well as to make sure that we are taking account of the other activities that are going on in comparable agencies of the federal government.

Second, this board will assure that we have an improved liaison with the outside research and academic community. This will allow us to remain aware of what is going on in other research elements in the private sector and the various academic communities.

Finally, this board will provide me and the other leaders in the Department of Justice with an ongoing assessment of what is taking place, and also what the needs are for additional areas of research and inquiry. This will allow us to be up to date with adapting the various law enforcement programs throughout government. It will allow us to request, provide projects, and extend grants for the research that is going to have

particular impact by addressing, not only existing problems, but the problems of the future.

A great deal of research is currently taking place in the scientific community, and I am convinced that it can be adapted to the day-to-day problems of law enforcement, problems, for example as better non-lethal weapons for the use of police officers in the apprehending of suspects.

I think that we need to tap the resources of the scientific community in terms of better protection against terrorism, utilizing the latest in technological devices that are out there, that even now are not necessarily being applied to these areas of security.

We are also exploring as a part of this effort to enhance the scientific and technological capabilities of the criminal justice system, the reestablishment of an advisory board which will bring together academics, policymakers, and practitioners on a regular basis to provide outside advice to the Department of Justice on our research and development activities.

All of these institutional changes are simply to say that despite fiscal stringency, we do not intend to neglect the very important place that science and technology must have in the activities of our department, of the national government, and of the criminal justice community in general, if we are going to successfully address the kinds of problems that the citizens of this country say are their number one concern.

The report that is being discussed today -- I received my copy of it as I came in this morning -- is a very important addition to the

literature in this field. A great deal of effort has gone into pulling together the many studies on career criminals that have taken place and to provide some sound and comprehensive approaches that policymakers may implement.

I want to emphasize that the purpose of the conference today is to get a variety of inputs into this process, and to come up with suggestions and ideas that people can take away with them. It is certainly not to dictate policy to state and local decisionmakers. Policymaking will always require public officials to exercise their judgment as to the best course of action.

But it is also very important to recognize that panels such as the National Academy of Sciences, National Research Council Panel on Research on Criminal Careers can provide policy research to inform your judgments and, at times, to suggest options that might otherwise not have been considered. But the decision, ultimately, will rest with you, the policymakers and the practitioners, and with the public to whom you ultimately answer.

I would suggest that the work of the conference here -- while it represents the culmination of activity in the preparation of this report -- is just a start. It is a commencement point from which we can go forward to do a better job of directing the limited resources of the criminal justice system on those persons who have identified themselves by their conduct and their criminal histories as career criminals. This is a start to see how we can do a better job of using our limited resources to provide better protection to the public that we all serve.

I look forward to the opportunity where we in the federal government can work together with you, from other levels of government, from the private sector, from the academic community, so that together we can do a better job of increasing the public protection that is due to all our citizens.

I thank you for your participation in this conference and I wish you good luck in your discussions.

(Applause.)

DR. MORRIS: Mr. Attorney General, from the applause you recognize that this audience is appreciative of a ranging, and if I may say so, generous and graceful statement. We could not have been better launched.

The Attorney General, you will not be surprised to hear, has to return to do some work. We will excuse him with great gratitude for his attendance. Chips will accompany him and Chips will return and see that we behave ourselves.

Thank you, sir.

(Applause.)

My task now is to introduce Al Blumstein from the School of Urban and Public Affairs of Carnegie-Mellon University. Al Blumstein has been the chairman of the Panel on Research on Criminal Careers. If any of you know how these panels work, you will understand that the laboring awe for the whole work of the panel, for the report and for drawing ideas together has fallen to, as it does always to chairmen of panels when they do their work, to Al Blumstein. His work has been the central coordinating focus of this whole effort.

(Applause.)

DR. BLUMSTEIN: I am just going to introduce the final phase of these opening comments. I think the Attorney General's comments were particularly stimulating. His review of the last 20 years since the President's Crime

Commission was important to me because that is when I got involved with the criminal justice system, as the Chairman of the Task Force on Science and Technology of that commission.

I have seen the evolution of research over that period, and it has, indeed, been impressive to see the accumulation of research in so difficult a problem area. It is difficult because measurement is so hard. We have addressed that problem by finding multiple sources of observation, and more often finding that the multiple sources confirm what the earlier, presumably suspect measures were telling us -- although not always.

The problems are also difficult because the complexity of the research requires that one accept any single research finding with considerable suspicion. There is always the further concern that ideological interests might be distorting any such finding. That makes it all the more important to have multiple studies reviewed from multiple perspectives in order to develop the necessary accumulation.

This relates in an important way to the role of the Academy in this field. Its panels represent a diversity of theoretical perspectives and diversity of disciplines; inevitably, they also contain a diversity of ideological perspectives. That process assures that any conclusion a panel reaches in this very opinion-driven field is supported by adequate research.

Our plan now is to move into discussion of the research on criminal careers and the ways in which that research can contribute to improved policy. We are going to be using the report of the Panel on Research on Criminal Careers as a departure point for that discussion, but by no means is that report the only material we will be dealing with. In the session this morning, we will address the highlights of the report, and then we plan to call on the experience and the perspectives of those who have been dealing professionally with

criminal-career and career-criminal problems. We then plan to explore prospects for improving both research and practice in the future.

The Panel on Research on Criminal Careers was relatively narrowly focused on individual criminal careers and on identifying the career criminals through that means. To step back a bit and provide a perspective for that discussion, we have asked John Kaplan, professor of law at Stanford University, to discuss the role of crime control through the criminal law, with a particular focus on the issue of criminal careers. Following his presentation, we will present some of the highlights of the report of the Panel on Research on Criminal Careers.

John.

(Applause.)

DR. KAPLAN: When we start looking at the problem of crime in America, there are three questions that are uppermost in our minds. The first will be illustrated by the first chart, (labeled Table #1).

The first question, as you can see, is "What is there about the United States that causes this?" These figures are based on 1975 reported crime rates. You notice that the United States leads. We are not only number one, but out of proportion even to most other social indicators that we use in other contexts -- such as number of telephones per capita, wealth, or infant mortality. Homicides in the United States are four or five times what they are in Japan; rape, seven times; theft, three and a half times. But, the category that is really out of proportion, and, indeed, the crime I will be talking about is "the American crime," robbery.

Let me give you another indication of the dramatic difference. In 1975, Tokyo had 416 robberies; London had 4,400 and New York City had 85,000. It obviously causes one to ask "why is this country different"? Let us move on, however, to the second question.

RATES OF MAJOR CRIMES  
 KNOWN TO THE POLICE PER  
 100,000 POPULATION

CRIMES

COUNTRIES	HOMICIDE	ROBBERY	RAPE	THEFT
UNITED STATES	9.6	218.2	24.3	3,274.2
WEST GERMANY	4.8	33.4	11.1	3,088.1
ENGLAND	2.3	23.0	2.1	2,483.0
JAPAN	1.9	2.1	3.3	927.3

Table 1



The second chart (Figure 1) shows what has happened to us since 1960 (with ten on the graph representing the number of robberies nationally in 1960). Note the enormous rise in the number of crimes to today's high level. But this graph does not tell the whole story. In the following graphs we are going to try to explain some of the reasons for this dramatic increase.

Figure 2 shows the first and most obvious reason -- the number of robberies has increased as the population has gone up. So, of course, the robbery rate per thousand population is more meaningful than the number of robberies. Note that the curve becomes somewhat less steep -- but nevertheless still steep.

Let's digress from this for a moment and look at Figure 3 which, in a way, is the most important graph we will be looking at. This is the age distribution of robbery arrests. We all know that this distribution of robbery arrests is skewed, and that robbery is predominantly a young person's crime. Nonetheless, we have to remember just how much it is skewed and, to my mind, it is skewed to a dramatic extent. At this point we will put this graph aside to come back to later.

Now, we should ask the question about how robberies have risen, compared to the population of those who commit most robberies -- those of ages 15 to 24, a population which grew especially rapidly over most of the period. Notice that when you divide the number of robberies by the population 15 to 24, the graph (Figure 4) showing an astronomical increase becomes somewhat less impressive, since the slope slackens a little -- but it still remains very impressive.

Now, I want to point out another major factor that must be considered. When we break down the robbery rate into rural, suburban, and city rates, we see a number of things (Figures 5 and 6). We see that the rural rate has grown much less than that in the city. Remember the graphs show the rates as ten, starting

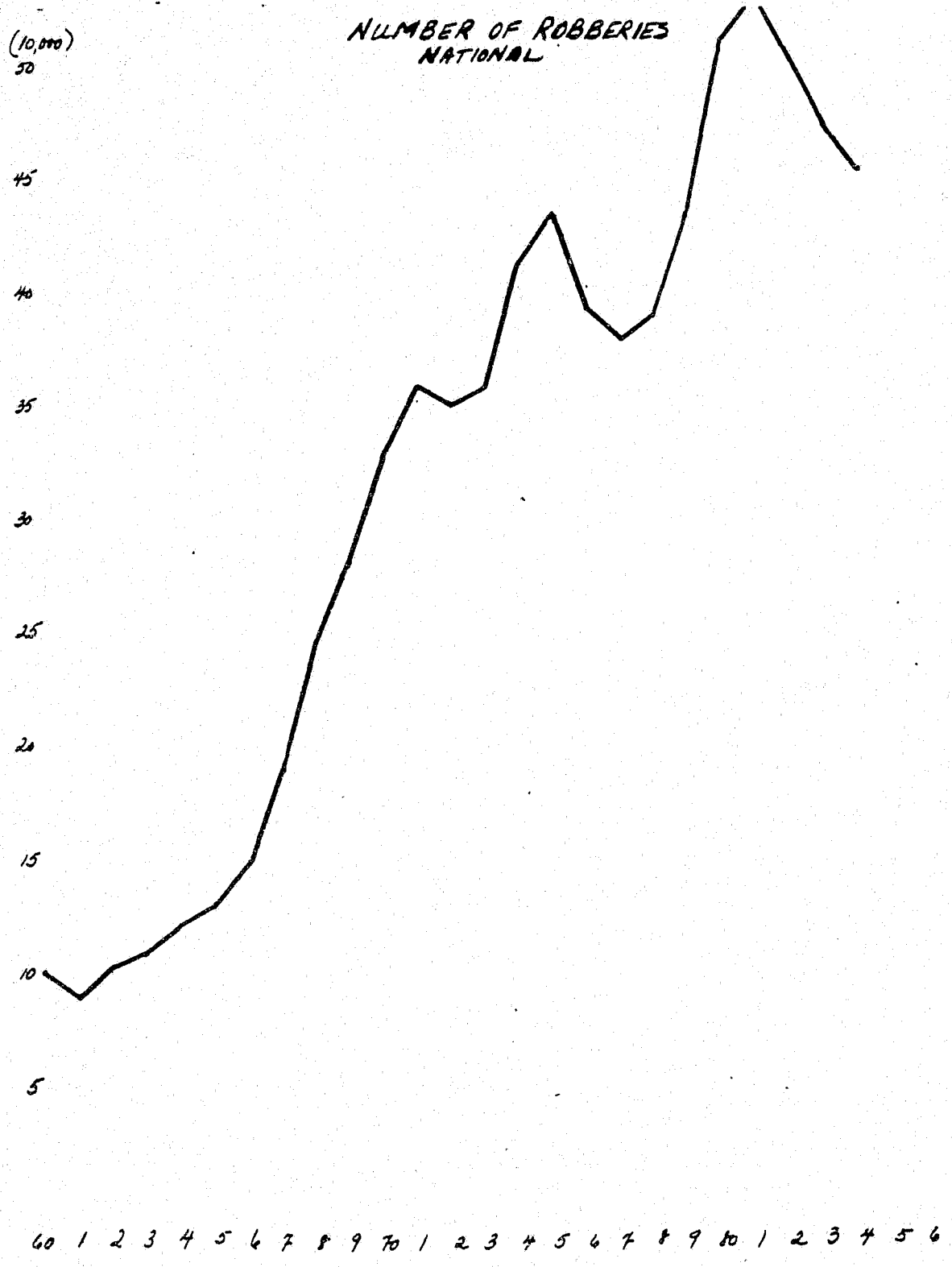


Figure 1

RATE OF ROBBERY  
NATIONAL

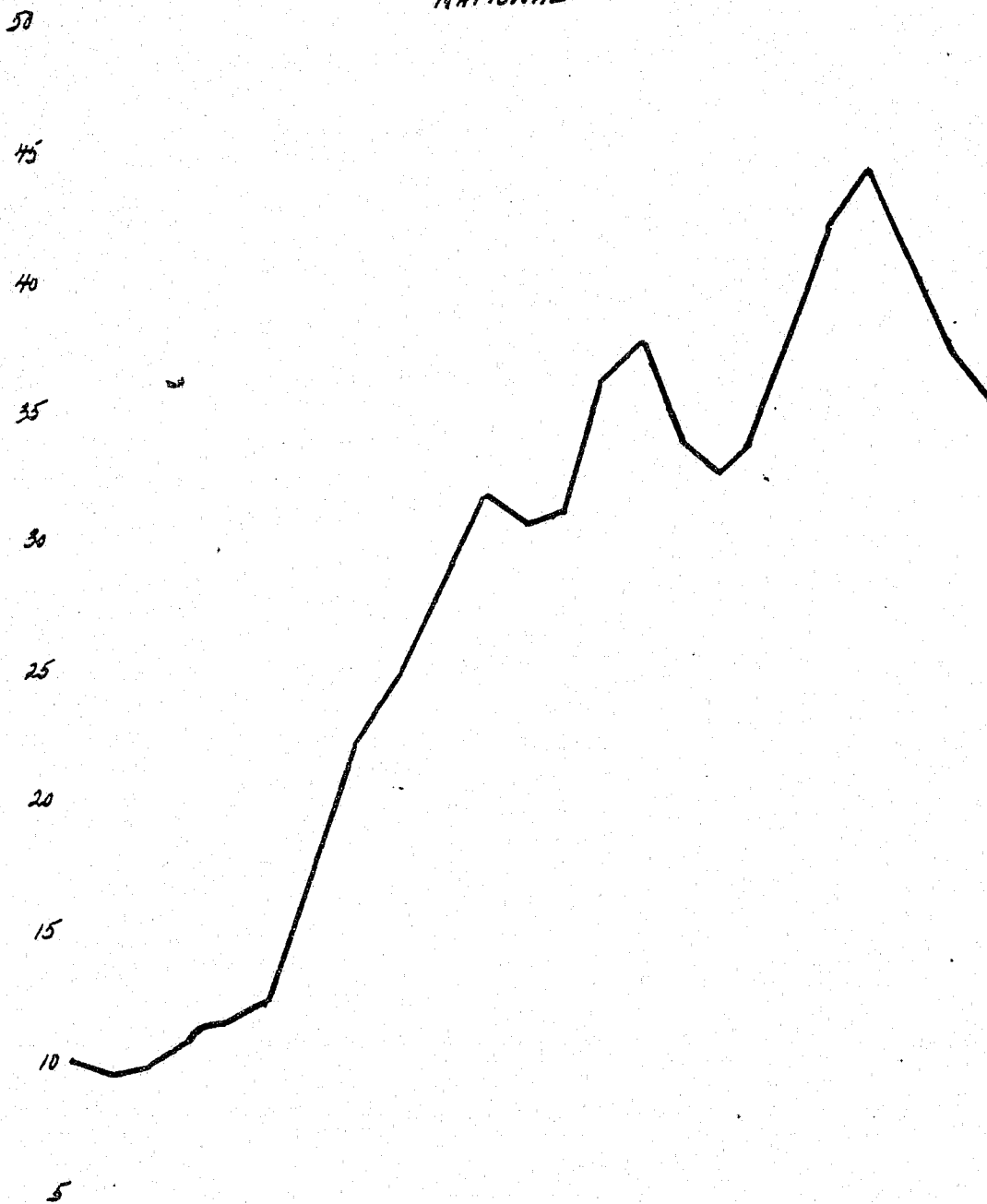


Figure 2

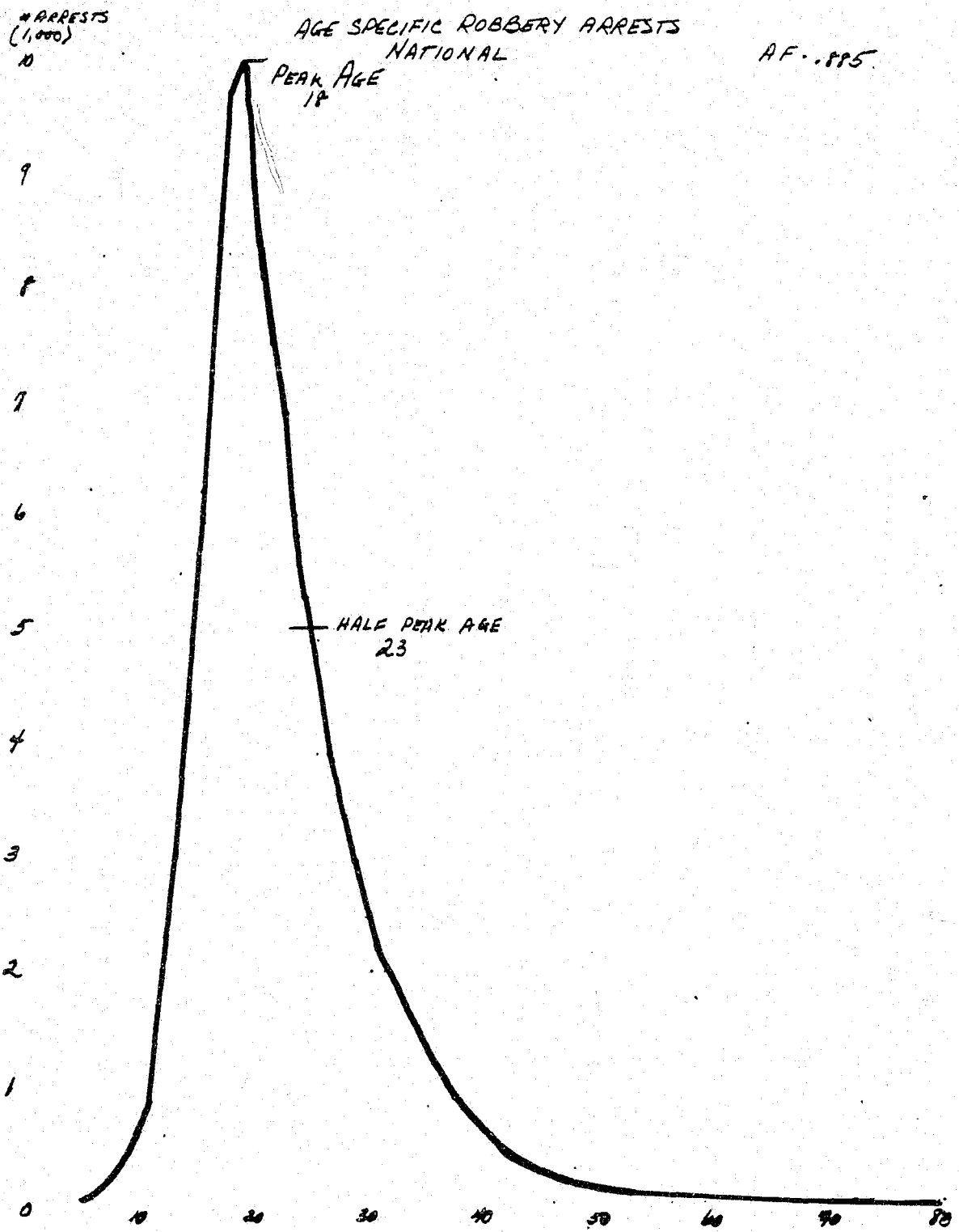


Figure 3

NUMBER OF ROBBERIES ÷ POPULATION 15-24  
 NATIONAL ADJUSTMENT FACTOR - 72.9

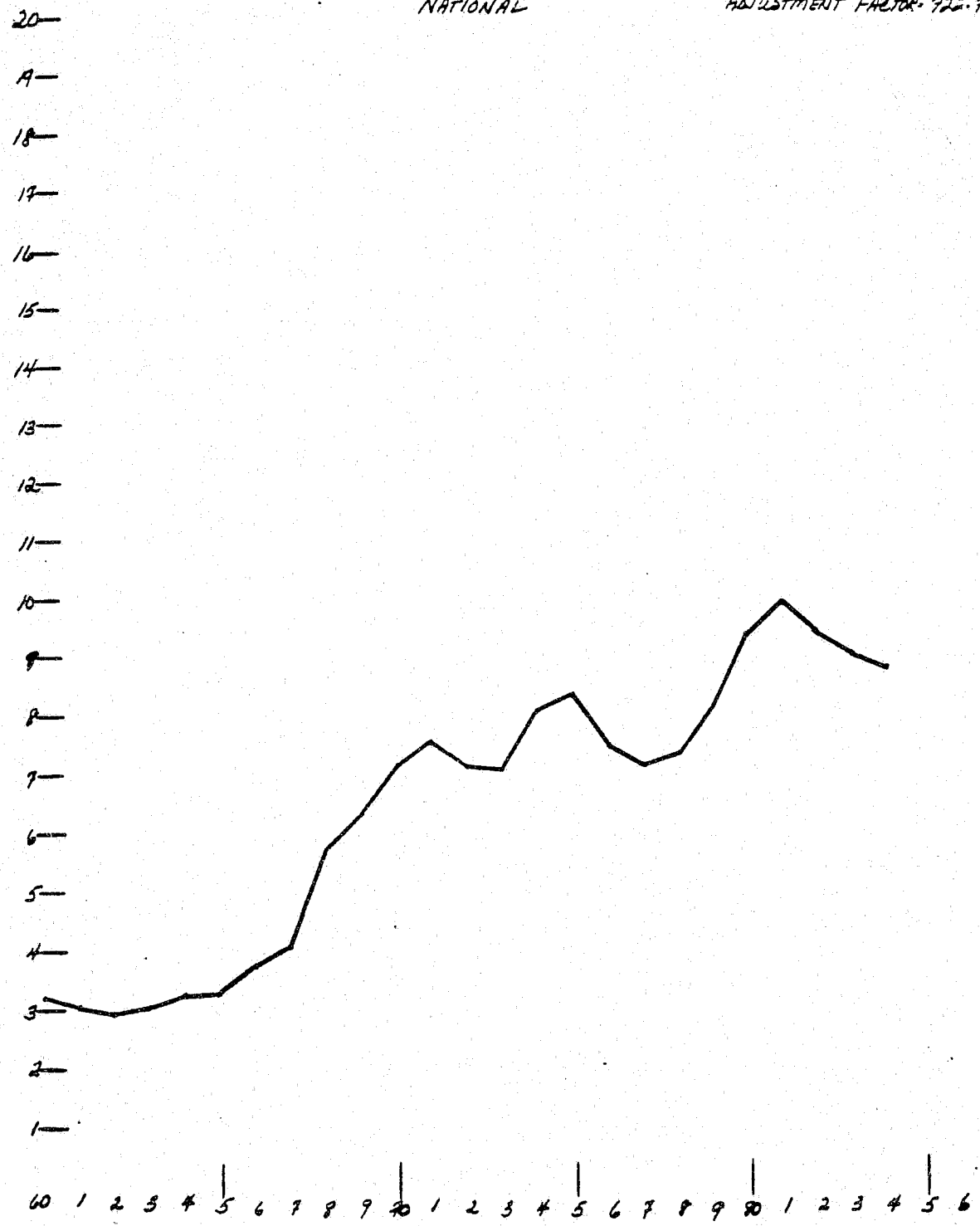


Figure 4

in 1960. In addition, the difference in the magnitudes of the rates is also quite impressive. The crime rate is one-sixth as high outside of standard metropolitan statistical areas as it is within them.

So, not only was crime higher in the cities but it has increased most dramatically there. Moreover, more people moved from low crime rural areas to the high-crime city than vice versa. We would expect that fact alone to explain some rise in crime -- assuming that people tend to share the crime rate of their new homes. In other words, we could perform various statistical manipulations on the continued urbanization of America and get that national graph slope down somewhat further. The national crime rate, by the way, looks remarkably like that of the suburban one. If I superimposed the national robbery rate graph on the suburban one, it would be almost a perfect fit. That is almost a coincidence because the robberies are still mostly in the cities, but it will give you a feeling for the way they have increased.

Although I certainly haven't answered the first two questions, "What is so strange about us?" and "What happened to us after 1960?" I will move to the last important question, "What do we do about it?"

The knowledge that the criminal careers report has given to the community is, in a sense, a follow-up on the discovery by Marvin Wolfgang and his associates of the skewed nature of the curve for criminal violence -- the fact that a small percentage of offenders commit a large percentage of the total damage done to society.

I might add that that kind of distribution is well known in other areas. When you ask, for instance, about the distribution of alcohol consumption, it looks quite a bit like that for crime -- in other words, the top ten percent of alcohol consumers consume 90 percent of alcohol. And this is a common pattern in many areas of social life.

ROBBERY RATES - CITY, SUB & RURAL  
NATIONAL

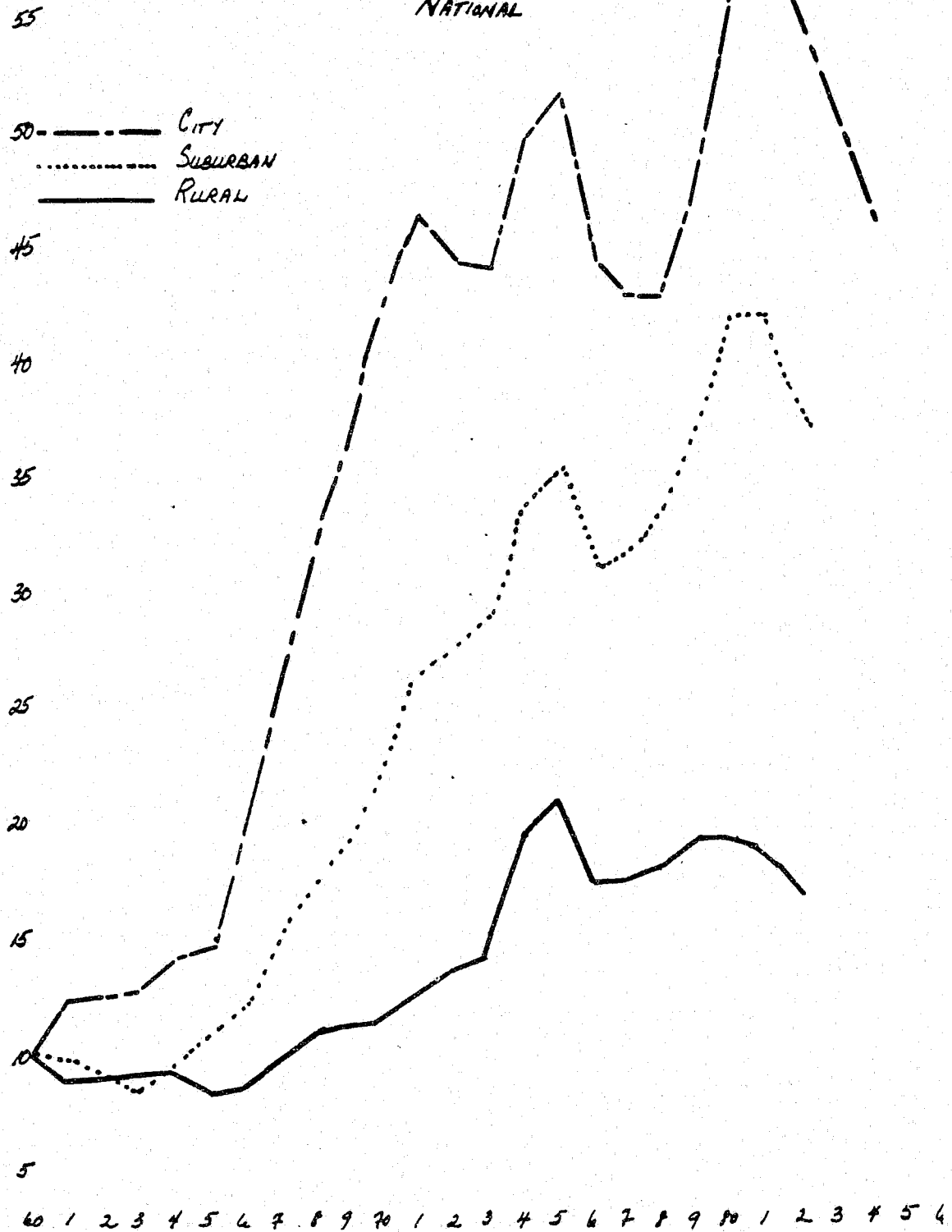


Figure 5

(14)  
50

### RATES OF ROBBERY - SMSA, CITY, RURAL CALIFORNIA

45 ——— SMSA'S  
——— OTHER CITIES  
..... RURAL

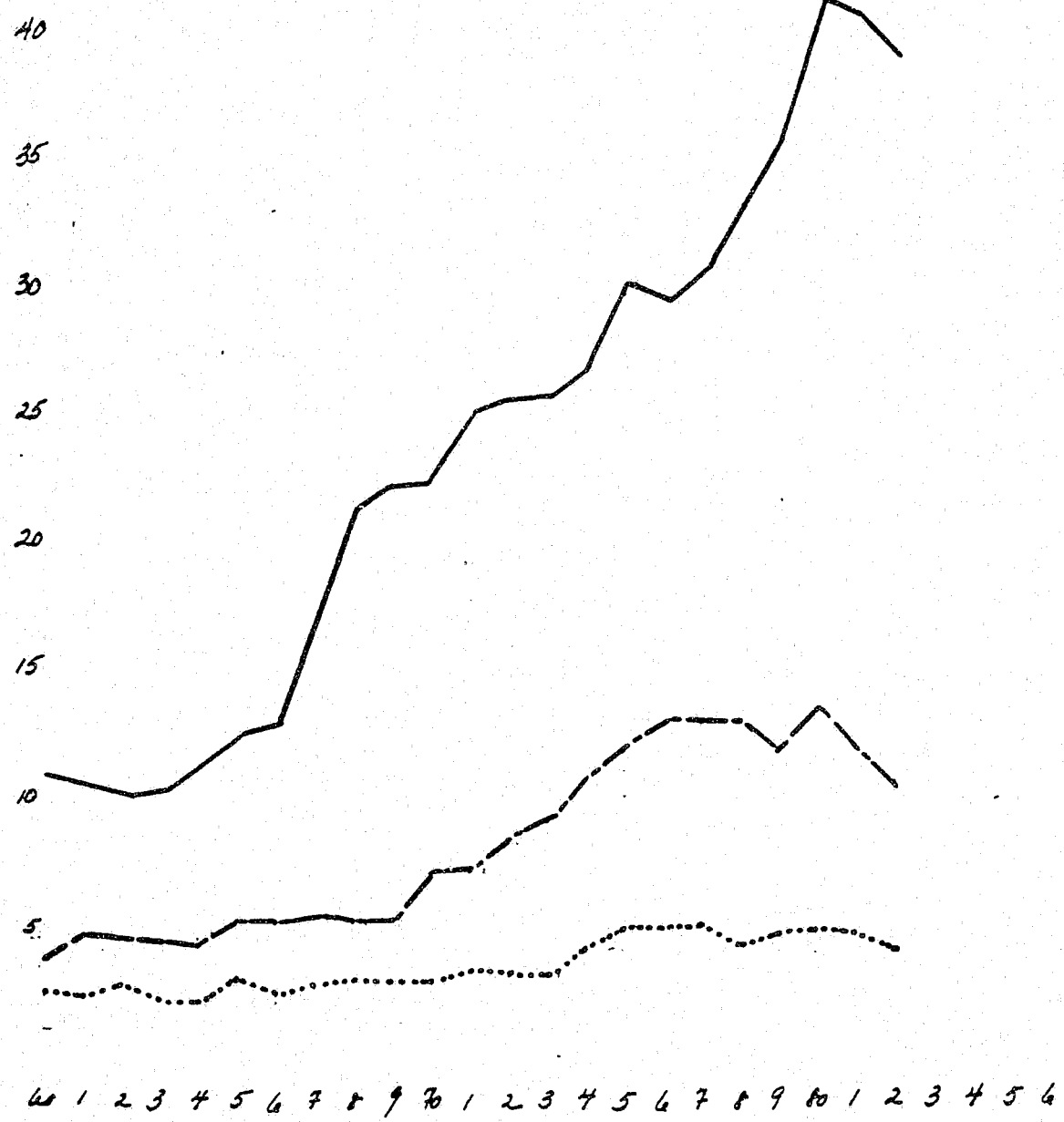


Figure 6



In any event, when the question comes up about what to do about it, people often examine the problem from an ideological perspective.

Traditionally, the liberals and the conservatives have differed on the particular issues of what is causing crimes and what to do about it.

The liberals have tended to place the causes of crime outside the individual, i.e., in social processes and environment. One can find many kinds of evidence to support this. The fact that America is so different from other countries indicates that there is something social going on. The coincidence of having an especially depraved population is quite unlikely, as is the idea that we suddenly grew much more depraved after 1964 without any outside reason. It has followed, for some, from this view of crime as a mere effect, that nothing much should be directed against crime itself. Perhaps this causes large elements of liberal thought to take crime less seriously and deprives them of an emotional righteousness and indignation. In any event, for reasons not obvious, liberals greatly underestimated the seriousness of crime and they have paid dearly for this at the polls.

Conservatives on the other hand have tended to place the causes of crime within the individual and they were not restrained in their indignation. Indeed, one of the relatively few areas where conservatives placed causes of crime outside the individual was in the failure of the criminal justice system to do anything about the problem.

If you now look at this graph (Figure 7), you can see what we have done about it. This is a graph of the prison population and one can see that the total number of prisoners has more than doubled from a low point in 1973. This is a very impressive figure. We now have about 300 people per hundred thousand population in jail or prison today. In the Netherlands the figure is 21 -- not 21 percent -- 21 per 100,000, less than one-tenth the percentage of the

SENTENCED STATE & FEDERAL PRISONERS AT YEAR END  
1961-1985

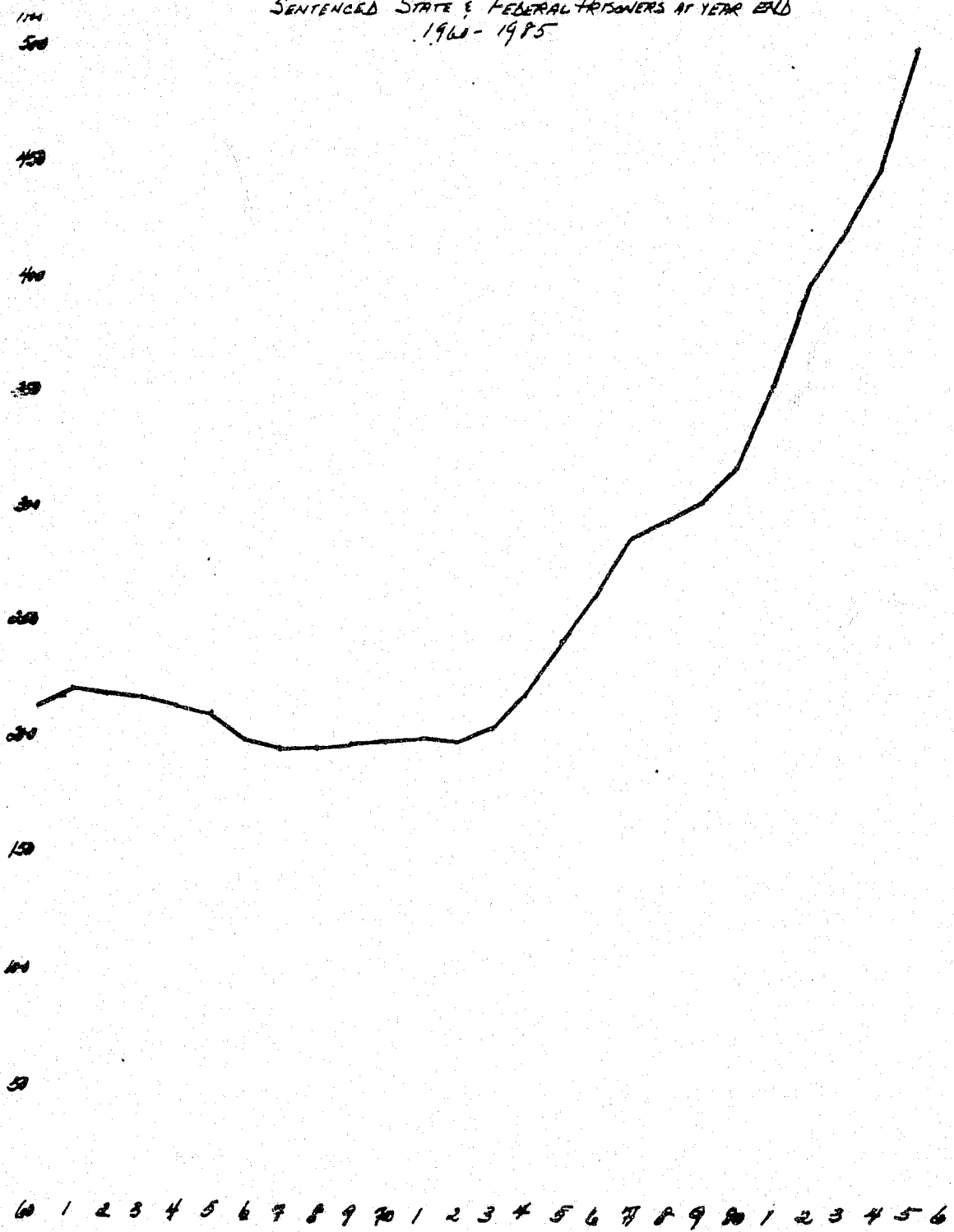


Figure 7

population incarcerated that we have. The figure is only 55 per hundred thousand in Sweden, West Germany, and France. Indeed, only South Africa and the Soviet Union and its satellites, as developed societies, have anything resembling our percentage of people in prison today. This is something that one should wish to explain and attempt to grapple with.

In any event, the question, "What do we do about crime through the criminal justice system?" has boiled down often to three effects of punishment. One is, as the Attorney General has already mentioned, rehabilitation. As he has astutely pointed out, rehabilitation was the application of the medical model to crime. It is now out of favor. Our efforts to measure its effects have indicated that they are unimpressive. I would argue that, in one area, the application of the medical model is not inappropriate -- the area of drug use. In other words, the medical model looks best when you examine it with reference to the area of criminal activity that is closest to a medical problem. This coincidence should not fall upon deaf ears. Apart from that, rehabilitation has failed because, among other reasons, for the most part we don't know how to achieve it and we wouldn't know how to measure whether we had accomplished it, even if we had succeeded by accident.

The next means by which the criminal justice system is expected to reduce crime is that of isolation or incapacitation. This is the area that the Report on Criminal Careers is most directed toward. The theory is very simple: that if you catch somebody and lock him up, he can't victimize society anymore -- at least while he is locked up.

There are problems with this. I want to go back to the graph that we put aside -- the age distribution of robbers -- because when you get down to it, this is the basic problem of incapacitation (Figure 3). If you catch many robbers when they are 17 and hold them for seven years, by the time they get

out, on the average, their robbery rate, even if nothing else happened, will be well under half of the peak age.

The problem is that we don't know who are going to continue as robbers, if they are not imprisoned. Moreover, these graphs of age distribution show the behavior of very different kinds of people. Some people start early and end early. Other people start early and end late. Of the people who start early and end late, some are high producers and very serious threats to society. We should get these people off the streets, even at considerable cost. Other people are threats -- but lesser threats. We have to worry about finding more cost-effective ways than prison to handle these criminals.

One problem we have is in telling which convicted criminal is in the high producer category and which is not. Moreover, we must also ask where in their criminal career they are. If we do not know this, we may catch robbers and decide they are in the most dangerous category at a time when their criminal careers are near an end. As a result, if we hold them for a long prison term, we may find that we have done, per year of extra imprisonment, much less good to society than would have been the case if we caught them earlier and could identify them as high producers who go on for long periods.

One of the questions we have to ask is how much crime reduction do we get out of this incapacitation and that issue is enormously affected by the location of the incarceration. If you are incarcerating offenders in a state which already sends a large percentage of its criminals to prison for long periods, extra incapacitation does less good. In other words, you get much more bang from the buck in New York than you do in Texas, because Texas is already imprisoning its most dangerous robbers -- and, of course, others -- for long periods.

The question is then, "Can you be more effective just by looking carefully and trying to pick out the high crime producers?" That is the issue of selective incapacitation. As we will see, it has numerous problems. It is difficult to predict criminal behavior, especially with the materials that we have at our disposal in the criminal justice system. One of the predictors is drug use, but people are notoriously unforthcoming about their drug use patterns unless they are guaranteed that it won't be used in sentencing. If the information is to be used in deciding how long people will have to serve, you can bet that the number of avowed drug virgins we get in our prison system will go up very sharply. Of course, urinalysis is almost a deus ex machina in terms of finding out about the drug use component of very high crime producers. However, there are problems here also because of the difficulty of telling the one time user (which is what the defendant will claim) from the long term abuser. This turns out to be a very important distinction.

There are other problems with incapacitation, other than the problem of picking out those we wish to perform it upon and the problem of holding people so long that it ceases to be cost effective. Often we manage to displace a good deal of crime from the streets into our prisons. That may be good for us who are out of prison, but it is very bad in terms of trying to run a penal system. Indeed, what goes on in our prisons, over and above the number of people we have there, I think, could only be called a national disgrace.

In addition, we have the problem of the replacement effect and we know very little about this. We do know something, however, and my favorite illustration is the class where the teacher says to the principal, "There is this wonderful fifth grade class I have. They are just terrific except there is one kid who disrupts it all the time. If only we could get rid of that kid, it would be a perfect class." An inexperienced assistant principal transfers the

child out and one month later the teacher is saying, "You know, I have this terrific class. They are all wonderful, except this one kid (of course a different child), who disrupts..." This example points up the complex group processes where children encourage one of their number to act crazy. Each class feels need of one lunatic to disturb things, or else it will get too boring. If there is a second that tries to be disruptive, the children repress him, because they recognize they have to get something done.

This is dramatically illustrated with respect to drug rings. When Mr. Big gets caught, Mr. Assistant Big steps in, and with very little change. Now, how much of this applies to robbers? We don't know. Strangely enough, I think there is more than we think because in some areas the number of robberies is determined more by the available victims than by the people who are likely to go out and do it. That, of course, is a commentary on American society.

In any event, the problem of incapacitation is an enormous one. Even though this Panel's report has shed a great deal of light on the problem, there is much more we have to learn.

The third way the criminal justice system is supposed to reduce crime is by means of deterrence. When we look at it carefully, we see that deterrence is most unlike incapacitation. There we can really tell you how much good we are doing -- I can make a fairly good guess that if every robber were released from prison tomorrow, provided we made it clear that this is a one time event and the criminals really believed us, the robbery rate would go up by about 40 percent -- 20 to 50 percent would be a better figure. Trying to figure the effect of deterrence, in the words of Franklin Zimring, who has coined most of the good lines in this area, "is like dancing with a cloud."

A number of things are quite clear. One is that if everyone who committed a crime got caught, we would have considerably less crime. And, similarly, if we just made a policy that nobody who committed a crime would be caught, my guess is we would have a massive increase in the amount of robbery, at least over time.

The problem is that, between the two extremes, we get trouble and I cannot possibly convince you of this in the short time I have, and, indeed, perhaps I couldn't convince you of this no matter how much time I had. But, I would like to make plausible to you that we can do much less through the deterrence of robbery than one would think. Not that deterrence doesn't work, but, rather that it doesn't work nearly as well as rational people would assume.

There are all kinds of reasons for this. One is that when you ask what we mean by punishment, we must note that there are a great many punishments we apply to people when they are caught for robbery; in fact, some are even applied before they are caught. Punishments are applied to robbery in some cases by a community -- a loss of reputation caused by knowledge of the behavior or the loss of a job for the same reason. Arrest, when the community or society finally intervenes, is an unpleasant experience. Going through criminal processing is even worse; often, it requires money for a lawyer; other times it merely is a painful and unpleasant process.

In fact, a famous book in this area tells you almost all it has to say in its title. It is called, "The Process is the Punishment" and that turns out to be true of a large range of minor crimes. Then, of course, there is the conviction, the stigma that arises because of it, and the uncertainty of going to jail or prison.

There are a number of consequences to this. Since imprisonment is only one of the deterrents in the process, increasing that part of the deterrent will have less effect than if it were the only threat we use. Moreover, it turns out that these deterrent effects vary enormously among people. When we apply them to ourselves, they make great sense. They look frightening to us; but a robber may find that these deterrent measures mean a great deal less. He is not concerned about the loss of a job if he doesn't have a job. His status in the community may be already sufficiently low that he does not care about it because his friends think highly of him. Even going to jail or prison is not that big a deal to him because he has lots of friends there. In addition, one of the things he can do in prison is exploit the people who are not part of groups such as his.

Not only do our measures frighten him less, but there are other considerations. Robbers as a class are not very forward looking and one major reason for this, I think, is simply their age distribution. In a book on steroids in athletics, I discovered two remarkable studies. One involved a sample of runners and the other of weight-lifters. In both cases investigators asked them, "If you could take a steroid that would guarantee you an Olympic medal, but would kill you within a year, would you take it?" Over fifty percent said yes. Now, I dare say we wouldn't get any takers in this audience. Indeed, that is one of the reasons why we, who are so easily deterred, cannot conceive that there are people who just don't look that far forward.

Not only this, but there is also the factor of time discount. We have a low time discount. We are willing to wait. We have gone to school. We have studied. Education is, of course, the classic example of time discount, where the pains come now and the rewards come later. The people who get involved in robberies are exactly the people who tend to have the highest time discount,



and, of course, people using drugs are even more dramatically living in the present and they are even harder to deter.

In other words, we could deter middle class robbers quite well. That is the problem. To me, the interesting thing is why we have believed in the efficacy of deterrence as long as we have. The first reason is, of course, there is some truth to it. The economic model, that if we raise the cost of crime, we will get less of it is certainly true. The problem is nobody has looked at the elasticities -- how much you have to raise the chance of getting caught or increase the punishments to lower crime by a particular amount. Nor have they considered how much you have to increase the speed of punishment to make a difference. As Wilson and Herrnstein have pointed out very persuasively, the rewards of crime come now in terms of fun and money. The punishments come later.

So, the issue is not whether the criminal law deters, but how much does it deter. Not generally -- it does fine on me and you, I suspect. The very different question, however, is how much will an increase in deterrence deter the people who are actually committing the robberies. Now, note, if you are talking about tax evasion or other kinds of white collar crimes, the kind of discussion will be very, very different. That is one reason why the doubts about deterrence are most dramatic in the area of robbery.

There are numerous other things one could say about deterrence. There are some statistical artifacts that give the impression that deterrence of robbery really is a matter of great importance. Let us just whiz through a couple of graphs.

This graph is based on data from the Uniform Crime Reports (Figure 8). It shows the chances of getting arrested for a robbery. It shows, for each

NUMBER OF ROBBERY ARRESTS PER 100 ROBBERIES  
NATIONAL

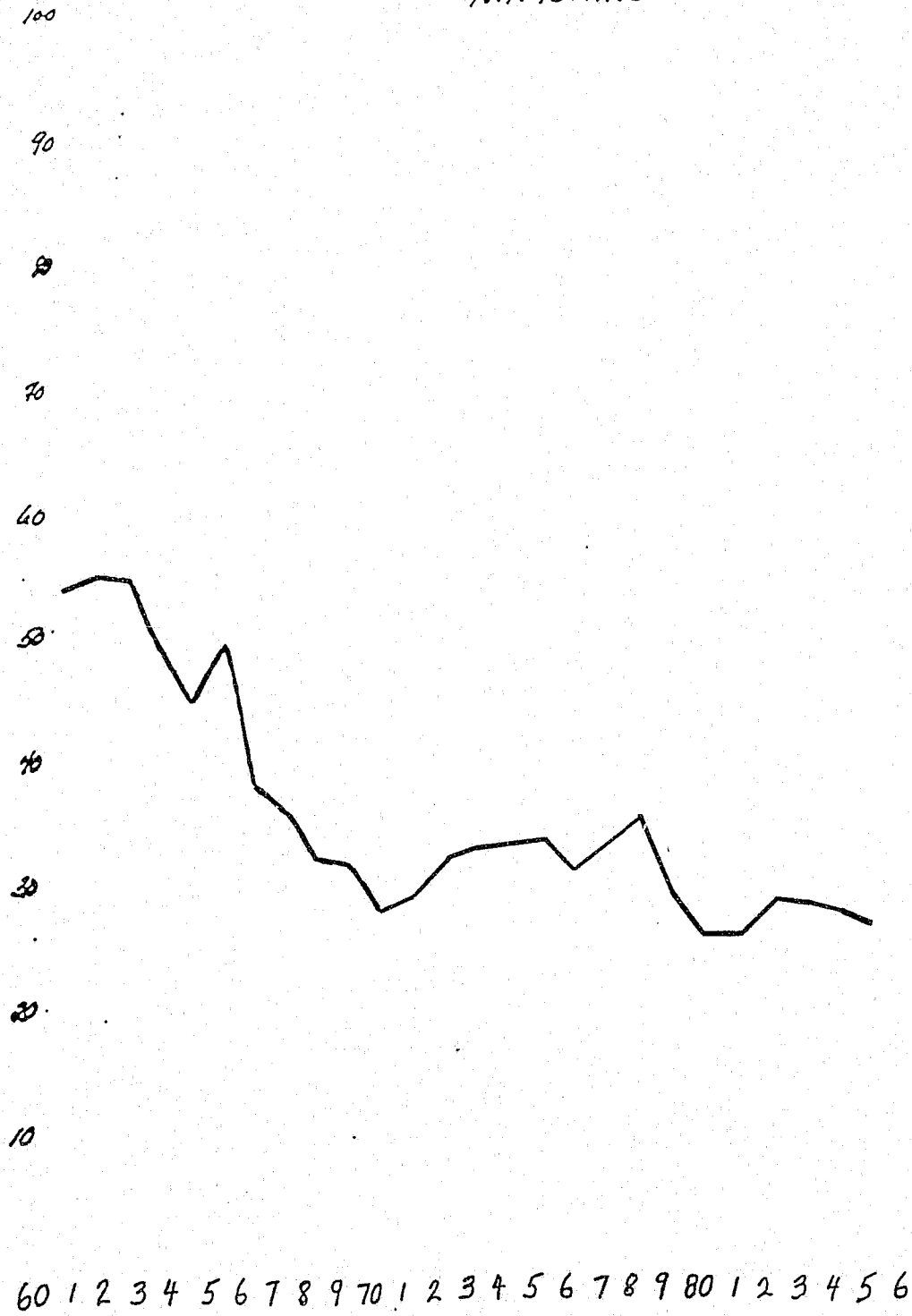


Figure 8

year, the number of robbery arrests divided by the number of robberies, and it shows that this ratio has declined over the years.

The next graph shows the California figures which look very similar to the national figures (Figure 9). Well, did the sharply declining ratio of arrests to robberies help cause the increase in robbery? In other words, to what extent did the tremendously greater chance of getting away with a robbery without being arrested cause the increase in robbery? Strangely enough, I think it is more the other way around: as the number of robberies rose, they overwhelmed the criminal justice system and, therefore, the chances of getting arrested fell -- but I can't prove it.

The next graph (Figure 10) shows the fraction of robbers getting committed to prison. Well, you can see basically the same sort of thing and then the ratio of robberies to prison population starts going up around 1971 or 72. Again, I think what we had was an overwhelming of the criminal justice system.

Another reason why some people believe in very much more significant deterrent effects than I do is because they neglect a different statistical artifact that can be quite important. If we compare different jurisdictions in the ratio between their clearance rates and their robbery rates, generally we find that those with high clearance rates seem to have lower robbery rates -- and vice versa. The problem is that there is a statistical artifact which will convince us that as the ratio of arrests to robberies goes down, the number of robberies will go up, without any deterrent effect existing, simply because we have incomplete crime reporting.

NOTE SCALE

# ROBBERY ARRESTS PER 100 REPORTED ROBBERIES CALIFORNIA

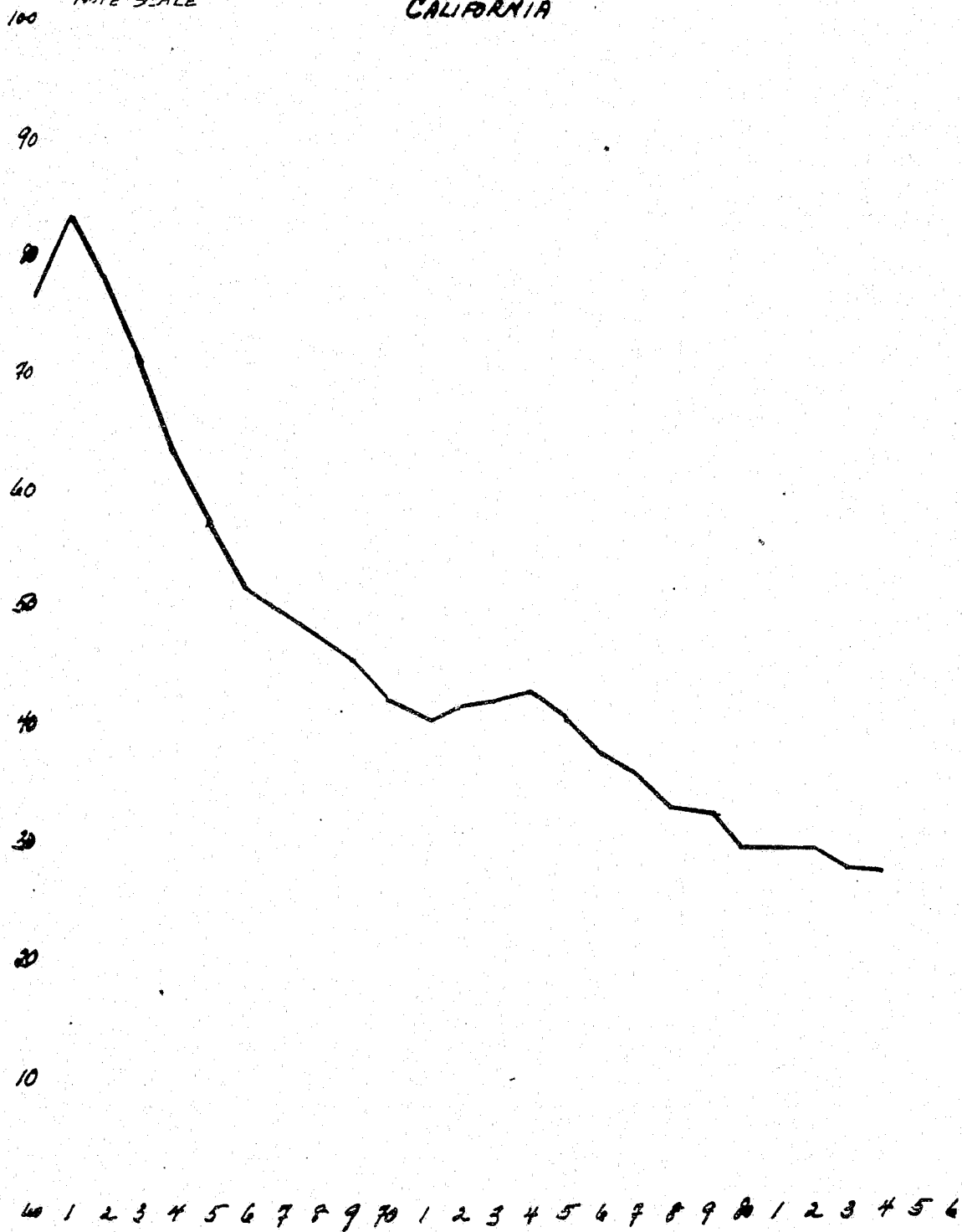


Figure 9

ROBBERS COMMITTED TO PRISON ÷ NUMBER OF ROBBERIES

CALIFORNIA



Figure 10

If the number in the denominator of the first fraction is too low because of measurement error, that fraction will be too high. Similarly, the very same error will make the number of robberies too low as well. So the greater the measurement error (remember, it is always an under-reporting), all other things equal, the greater the apparent effect of deterrence -- though the clearance rate goes up while the number of robberies goes down.

In short, though we can talk about incapacitation and produce a reasonably clear and definite result, this is not true about deterrence. Indeed, the effect of incapacitation may often be mistaken for deterrence because the more people we catch and incapacitate, the lower the crime rate will be, without any consideration of deterrence at all.

That is basically what I can tell you in a trip, on horseback as it were, through rehabilitation, incapacitation and deterrence.

On the other hand, we have to keep trying to learn. The result we get from any reduction in crime is not chopped liver. Each robbery, each homicide, each rape we avoid is a human being who is not being victimized, and this is a matter of enormous seriousness in this society where the crime problem is even worse than the number of people being victimized, because crime has so many other effects on the society.

There are other things we have to worry about, as well. Maybe we can't do anything about them, but we do have to worry about the fact that the illegitimacy rate in the United States is as far out of proportion to that of other societies as is our crime rate. The same is true of the number of children living in poverty as well. Is it possible perhaps that these different social indicators have some relation to each other? It seems to me that it is no mere coincidence. But figuring out what the relation is and what we can do about it is a very much more difficult matter.

It is clear, however, that though we have enormous tasks ahead of us as a society to do something on the crime rate, the criminal law can't do the job itself. Nobody, I guess, in recent years has thought it could, but it can help and it is the purpose of this conference to indicate in a major and carefully thought-out area how much we can do.

Thank you.

(Applause.)

DR. BLUMSTEIN: John, thank you very much.

That produced a useful perspective on some of the issues relating to the work of the Panel on Research on Criminal Careers, which is what we want to move into at this point.

Let me just give you a very brief overview of the material that we will try to cover within the next hour that tries to bring to you the highlights of the Panel's report you have received.

I would first like to introduce some basic constructs. Then, Jackie Cohen will present some measures of the various dimensions of a criminal career. Jeff Roth will talk about ways in which career information could be used and, in particular, will discuss the anticipated and observed incapacitation effects that John Kaplan referred to. Then I want to follow-up with some discussion about some of the policy implications, which will then lead us into some of the later sessions that we have over the next two days.

Let me just indicate the membership of that panel. We had, as I indicated earlier, a representation of virtually every academic discipline. In terms of practitioners, we had Al Andrews, the chief of police of Peoria, Illinois; Andy Sonner, the district attorney of Montgomery County, Maryland; and Reggie Walton a judge of the Superior Court of the District of Columbia.

Much of the work was the consequence of the work of the staff; Jeff Roth, Christy Visher and Jackie Cohen. We had close ties with NIJ, which supported the work of the Panel; NIJ was represented through the continuing involvement of Dick Linster of the staff of NIJ.

There were ten commissioned papers that are to be published in Volume II of the Panel's report. These papers cover a variety of areas. The list of papers is in the front of Volume I, and the titles indicate the scope of the issues that the Panel tried to address in pursuing its work.

Let me just present a bit of background. The National Research Council Panel on Deterrence and Incapacitation, which worked from 1976 to 1978, explored the issue of deterrence, and much of the material that John talked about was addressed by that panel. The panel was struck by the paucity of knowledge about individual criminal careers, and such knowledge is really necessary to get any assessment of incapacitation effects. Thus, the Panel highlighted the need for research on individual criminal careers and, in particular, it recommended research to estimate the criminal-career parameters, particularly the individual crime rate -- lambda -- and the career length or the duration of a criminal career. These are two issues in which there has, indeed, been considerable research since that panel's work. Much of that work has been centered in the crime control theory program at NIJ that has been directed by Dick Linster and Joel Garner.

That accumulation of research gave rise to the Panel on Research on Criminal Careers.

I would first like to introduce some of the basic constructs involved with criminal careers. The focus is on the individual offender, following him over time, and looking at two key events in that career, the point of initiation and the point of termination. In addition we want to look carefully at the



variety of crime events in between. We then want to link those characteristics to factors in the individual and in the environment that will affect initiation rates, rate of offending during the career, and termination rates.

The twist on the criminal career, the "career criminal," refers to those individuals with the worst criminal careers. The challenge, of course, is the necessity to identify them prospectively early in the career. In retrospect, one might note that someone was, indeed, a career criminal; but that may be too late to do anything about it. So, the real challenge is to be able to develop such information prospectively. To the extent that someone is identified as a career criminal -- an individual with a most serious criminal career -- he does become a prime candidate for incarceration for the purpose of incapacitation.

In pursuing its work, the panel identified some of the key dimensions that characterize the criminal career. The first is the participation rate, which addresses the question of who becomes an offender, as opposed to who does not. This participation rate functions as a filter drawing from the general population the relatively small subset who do engage in offending.

We are going to be interested in the current participation rate at any point in time. We will be using the letter "d," which comes from "doing," to measure the current participation rate, or the percent who are doing crime now.

We are also going to be very interested in the cumulative participation rate, and we represent that by the capital "D." This refers to the percent who ever did crime. We might talk about  $D_{18}$ , which is the percent who ever did crime by age 18. We are interested not only in who is doing crime at any time, but how many ever did it. Much of our information on participation derives not from knowing who committed crimes, but from information about the arrest process. In a sense, arrest is simply a sample from the crime process and so we

denote that by the capital letter "B." "D" relates to "doing;" "B" relates to "busted."

As we move past the participation filter, we are going to be focusing on those who are the active offenders. A number of key dimensions characterize their careers. The most important is the individual frequency, the rate at which an individual offender commits crimes while free. The Greek letter, lambda, has emerged as the symbol often used to characterize that rate. It is intended to differentiate this rate from an aggregate crime rate, which we all know numerically; the different symbol is intended here to call attention to the fact that we are now focusing on a rate of crimes per year per active offender.

We are also interested in the duration of the criminal career, how long it takes from initiation to termination. We are especially going to be interested in the residual career length, how many years remain in the career after any observation point, say, at sentencing. That measure obviously relates to issues associated with how long an individual could profitably be kept in prison for reasons of incapacitation. There are no incapacitative effects after the career is terminated.

It is important to link these criminal-career constructs to traditional constructs like recidivism that we are all familiar with. Recidivism can fail to occur if the career terminates, if lambda is low, if the observation period is short, or some combination of these. If an individual was committing crime at an average rate of two crimes a year, then there is a reasonable chance that even though he was active, he might not be observed in a one-year observation period.

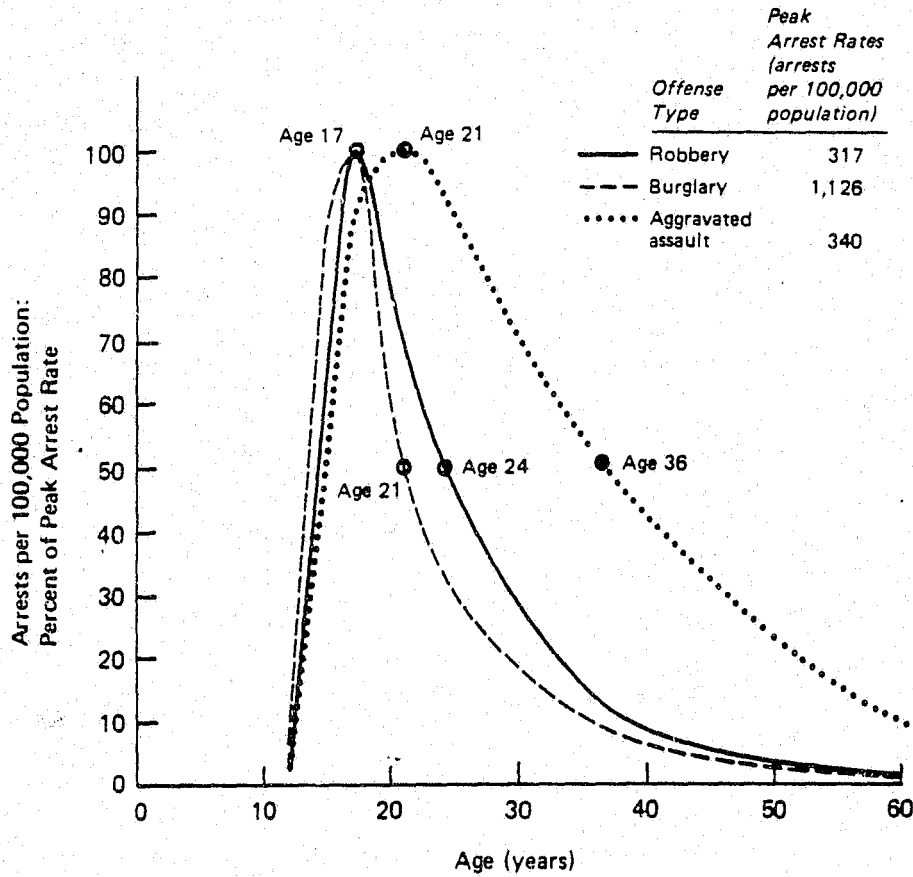
There is one simple equation linking these constructs that I want to present because it is central to much of our discussion. The equation is  $C=d\lambda$  where C is the traditional aggregate crime rate (crimes per capita per year), d

is the current participation rate (active criminals per capita), and  $\lambda$  is the individual crime frequency (crimes per year for active offenders). As an illustration, if we have ten million crimes and there are one million criminals, then the individual crime frequency ( $\lambda$ ) must average ten crimes per year.

The reason for emphasizing the distinction between participation and frequency is primarily to recognize the possibility that the factors that affect participation can be different from the factors that affect career parameters like lambda. Since this participation rate acts as a filter, we want to separate out the factors that influence who gets through the filter from the factors that distinguish among the criminal justice clients who appear after the filter. Much of our knowledge about offenders, and much of our intuition about criminals is based on research on the correlates of crime rate,  $C$ . These correlates, however, could be correlates of participation - which would make them of relatively less interest to the criminal justice system - or of lambda - which would make them of considerably more direct interest to the criminal justice system. Thus, the separation of participation from frequency allows us to make those distinctions.

I would like to briefly illustrate this issue by presenting Figure 1-2 of the Panel's report, which shows the relationship between age and crime. Here, for example, the age-specific robbery rate - the solid line - peaks at age 17, and then falls to half of that peak by age 23. By age 30, then, there are not very many robbers around.

In contrast to this sharp peak in the late teens, we tend to find that lambda, the individual crime frequency tends to be relatively constant with age. It may not be quite constant, since it tends to decline somewhat, but compared to the very sharp peakedness of the figure, it is relatively constant over age for those who stay active.



**FIGURE 1-2** 1983 U.S. age-specific arrest rates (arrests per 100,000 population of each age). The curve for each offense type is displayed as a percentage of the peak arrest rate. The curves show the age at which the peak occurs (at 100 percent) and the age at which the rate falls to 50 percent of the peak rate. Source: Federal Bureau of Investigation (1984).

This argues, then, that the rapid decline after the peak is not attributable to a slowing down of the active offenders, but rather primarily a change in participation as a result of termination of careers during that period. This suggests that the low aggregate crime rate after age 30 results predominantly from a diminution in the number of active offenders rather than from a slowing down of all those who were active at 25.

This contrasts with the widely held presumption that, since there are so few offenders at age 30, the termination rate at 30 must be very high. The previous discussion should make it clear that determining whether that is the case or not requires that we look at the criminal-career characteristics of those offenders who are still active at age 30. You will hear more about this issue when we discuss some of the results.

I want to briefly connect some of these criminal-career issues together, and also to some policy issues. The simplest way in which we could represent a criminal career is in terms of Figure 1-1 of the Panel report. An individual can go along with no active crime rate until some point at which he initiates the career. His crime frequency starts at the rate  $\lambda$ . He continues for some period of time -- the career length -- and then he finally terminates the career and the frequency drops to zero again. This is obviously an idealized picture. There could be fluctuation in  $\lambda$  during the career. There could be interruptions when  $\lambda$  goes to zero, and then starts up again. Frequency could climb more slowly from zero and it could fall more slowly to zero. The figure, however, represents the simplest version in which one can represent the principal constructs.

This framework also, provides a basis for discussing incapacitation. If the criminal were to be removed from the street during this active career,

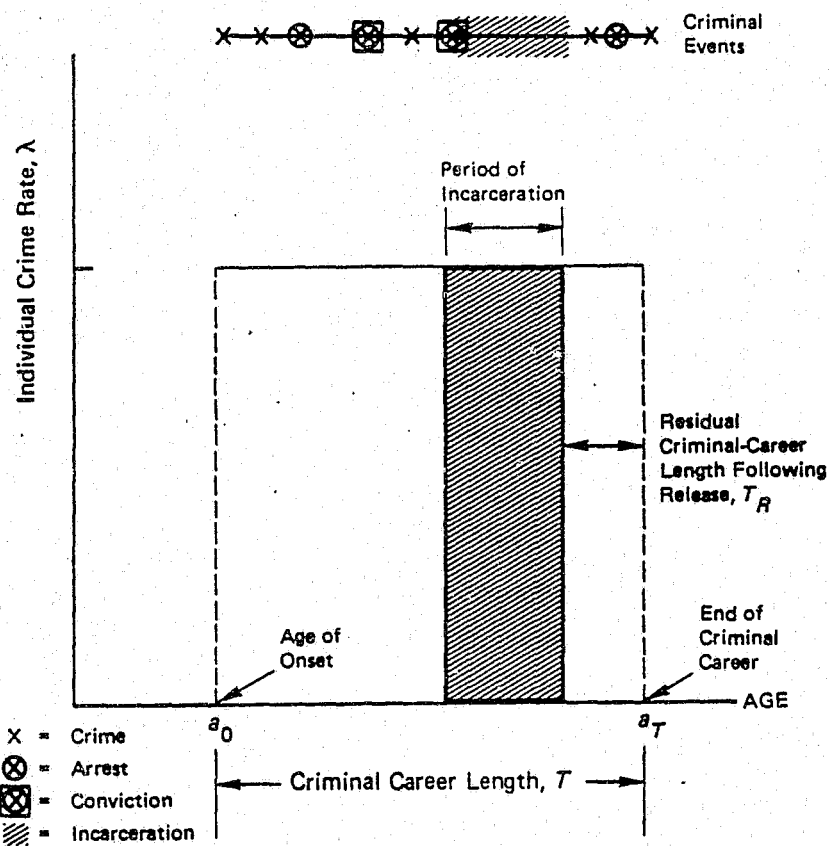
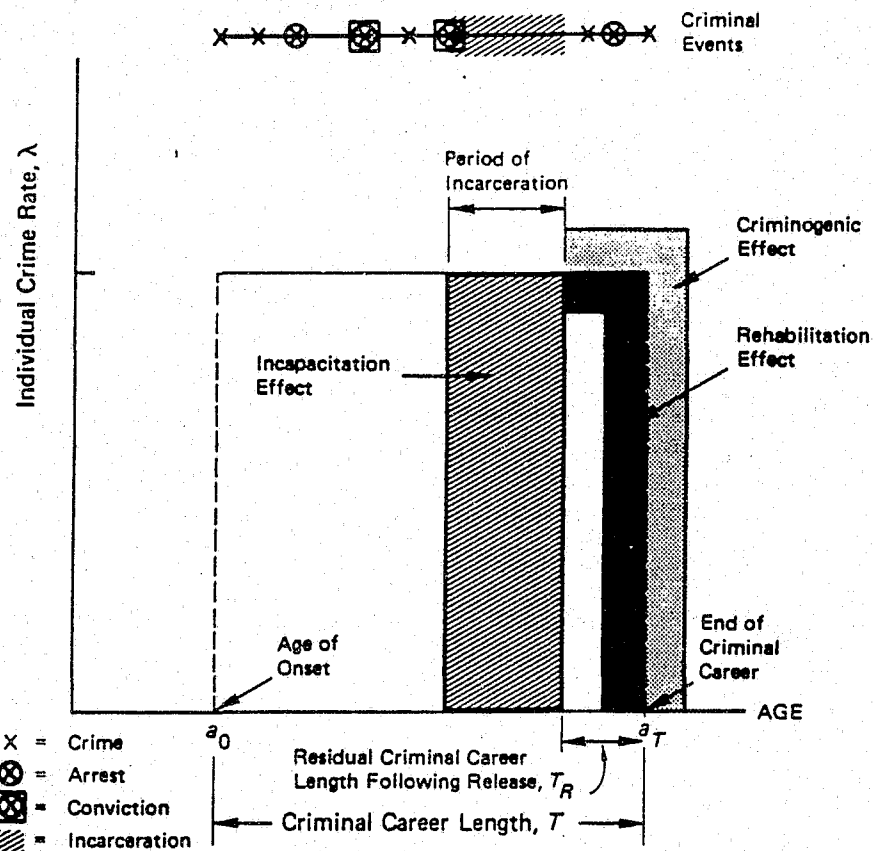


FIGURE 1-1 An individual criminal career.

for "S" years, then one can anticipate an incapacitation effect of a reduction lambda times "S" crimes. For example, if lambda is ten crimes a year, and the sentence "S" is two years, then that sentence might avert 20 crimes. That requires, however, that the offender takes those crimes off the street with him. If the crimes were to stay on the street - as they probably would, for example, if they were drug transactions -- then there is no such incapacitation effect. That calculation also ignores -- or, at least, discounts -- the crimes that may go on in prison.

We can also talk about rehabilitation effects in prison in the context of this career structure. If the prison experience has a rehabilitation effect, it will show itself either in a shortening of the career or in a diminution of the rate lambda. This is reflected in Figure 1-3 of the Panel report. There might also be an opposite -- a criminogenic -- effect, as a consequence of his time away. This could occur if he comes out of prison with a higher frequency (lambda) or with an extension of the criminal career. Probably both of these are going on, but with different people. To the extent that the null results from evaluation research apply here, they would suggest that both of these effects are going on, and so nullify each other.

I also want to indicate that the possibility that the sentence might occur near the end of the career. It might occur when the unknown residual career length happens to be less than the sentence imposed. In that case, the segment of the sentence that is served after the career ends is "wasted", at least in terms of incapacitative effect. This highlights the importance of having information about the residual career length in order to deal with that aspect of incapacitation.



**FIGURE 1-3** Incapacitation, rehabilitation, and criminogenic effects in an individual criminal career.



In the context of this characterization of a criminal career, the "career criminal" then is the individual who displays high lambda, long remaining career and involvement in serious crimes. The problem that poses is how well those career criminals can be identified: what are the strongest identifiers, how that information might be used operationally, ethically, and legally, and how much good can it do.

In the remaining discussion in this session, we will address some of those issues, at least in a initial way. I would next like to call on Dr. Jacqueline Cohen to present some of the results on measuring the dimensions of the criminal career.

(Applause.)

DR. COHEN: What I want to do is start to put some meat on the bones of the criminal career that have been mentioned by John Kaplan, and now by Al Blumstein. Let me start by first reiterating the distinction between the two basic concepts. Participation refers to who does crime, and frequency refers to the rate at which people who are offenders commit crimes.

What we have done is looked at a large body of research and tried to summarize the levels of participation and frequency for offenders in various kinds of crimes, particularly serious crimes (Slide 1). Many people, although probably not many in this room, would be surprised at how widespread criminal offending is in the population. If we look at the likelihood of an arrest by age 18 for urban males, 25 to 45 percent are arrested for some crime (excluding traffic crimes) by age 18. So, one quarter to almost half of urban males are arrested for some crime by the time they are 18. If we focus on the UCR index crimes, -- a more serious subset of offenses -- we are down to 12 to 18 percent of the urban males arrested by age 18, still a non-trivial proportion of the males in our cities. Focusing only on violent crimes, 4 to 8 percent are arrested by age 18.

# Cumulative Participation Arrest By Age 18 Urban Males } $B_{18}$

All Crimes 25-45%

UCR Index 12-18%

Violent 4-8%

$B_{18} =$

$50\% \times B_L$  (% Arrested in  
Life time)

$33\% \times D_{HS}$  (% Reporting They  
Commit Crimes  
by High School)

These levels of arrests by age 18 bear some relationship to lifetime levels of arrest. Of those who are ever arrested in their lifetime, half are arrested as juveniles, or before the age of 18. Likewise, those people who are arrested by age 18 represent about one-third of the people who report ever committing crimes by high school age. So for violent crimes, for instance, 4 to 8 percent of urban males are arrested by age 18, and approximately 12 to 24 percent of urban males would indicate in self-report studies that they have committed a violent crime by high school.

Slide 1 gives you some indication of the level of variability in participation measures. For the most part that variability reflects differences in the criteria that are used to define what counts as crime -- in what we are measuring here. The more narrowly you define offending, the lower the participation rates.

So, as we focus on fewer and more serious crime types, the comparison between violent and all crimes, for instance, participation rates decrease. As we focus on deeper penetration into the criminal justice system, participation decreases. The proportion of the population ever arrested is smaller than the proportion who admit that they commit crimes. Likewise, if you shorten the length of time over which you are measuring participation in crime, participation rates will be smaller. Participation rates by age 18 are lower than those during a lifetime.

One has to be sensitive to the criteria that are being used to measure participation when evaluating alternative estimates. The variation in those estimates doesn't necessarily represent inconsistency, but instead it may reflect differences in the measurement criteria with participation filtered more narrowly or widely, depending on what is defined as criminal behavior.

The juvenile/adult link in criminal careers is of special interest. The risk of later adult offending is much higher for juvenile offenders than for non-offenders (Slide 2). Using numbers that were found in a variety of studies, about one-half of delinquents go on to have adult criminal careers; while less than 20 percent of non-delinquents go on to have adult criminal careers.

So, juveniles who have delinquent careers are about three times more likely to become adult offenders as are juveniles who do not have records of juvenile delinquency. Having a juvenile record is thus a strong indicator of later adult offending.

This sharp difference, in this case 50 percent and 17 percent, has only limited usefulness in policy applications, however. Among juveniles, non-delinquents outnumber delinquents by about two to one. For males, about one-third of juveniles are delinquents with arrest records by the time they are 18, and two-thirds do not have records. With this distribution, even though non-delinquents have a much lower individual risk of becoming adult offenders, the larger number of non-delinquents still go on to comprise 40 percent of adult offenders.

This pattern illustrates some of the potential limits on the usefulness of even a very powerful predictor -- in this case, having a juvenile record. Because of the large differences in the risk of future adult offending, crime control and prevention efforts might be targeted at identified juvenile delinquents in the hope of interrupting those careers and disrupting the progression to adult careers. Such efforts, however, will not affect a fairly large portion of adult crime because of this significant 40 to 50 percent of adult offenders, who do not have any juvenile involvement.

# Juvenile/Adult Link

Delinquents ( $\frac{1}{3}$ ) w/Adult Careers      Non-Delinquents ( $\frac{2}{3}$ ) w/Adult Careers

50%

17%

3:1

40% of Adult Offenders  
Have NO Juvenile Records

The next aspect of criminal careers that we wanted to look at was individual frequencies -- lambda -- reflecting the rate at which people commit crimes while they are free during a year. Like participation, frequency estimates are available from a variety of different sources. The data that are used rely upon arrest records, as well as self-reports of crimes committed. The samples vary by offender age; some studies include juveniles while others focus on adults. The studies also represent a variety of different jurisdictions.

Despite this variety in sources, considerable convergence is emerging in the average magnitude of lambda (Slide 3). Active, violent offenders average two to four violent offenses per year free. In other words, if violent offenders were free for an entire year and not incarcerated at all, these offenders would average two to four violent crimes committed during that year. Property crimes are committed more frequently. Active property offenders average five to ten property crimes per year free.

The frequencies reported here are most typical of arrestees. Frequency rates vary for different criminal justice samples. When free, inmates generally commit crimes at higher frequencies than arrestees, and arrestees on average commit crimes at higher frequencies than a general population of offenders active and free on the streets.

Two factors contribute to the higher rates for more highly selected samples of arrestees compared to the general population, and of inmates compared to arrestees. First, there is a statistical selection. Each time an offender commits a crime, he faces a risk of being arrested. It is not certain that he will be arrested; there is instead only a small risk that he will be arrested for that crime.

● Individual Frequency -  $\lambda$   
(lambda)

(Crimes/offender/year free)

Agg. Ass. 2-4

Robbery 4-8

Burglary/  
Theft 5-10

Inmates: Higher  $\lambda$

Street  
Offenders: Lower  $\lambda$

The more crimes he commits in a year, the more likely an offender will be arrested at least once that year. Even though high rate offenders face a very small arrest risk per crime and this risk may even be the same as that faced by a low rate offender, the offender who commits many crimes in a year goes through the "arrest lottery" many more times, and he is thus more likely to "win" at least once during that year and end up being arrested. As a result, high rate offenders are more likely to be found among arrestees than they are in a general population of offenders.

When you apply the same sort of selection process with the even smaller risk of incarceration after commission of a crime, you have an even further concentration of high rate offenders found among inmates. This greater selection of high rate offenders is a purely statistical phenomenon; it has nothing to do with the system trying to identify high rate people and do something special with them.

In addition to the statistical selection just described there may also be a purposeful selectivity where the criminal justice system attempts to focus more severe outcomes on high rate people. This kind of selectivity would occur when criminal justice system policies and procedures operate to increase arrest risks or incarceration risk for high rate offenders. Programs that focus police apprehension efforts on repeat offenders, like ROP in Washington, D.C. and career criminal prosecution units are two examples of programs which attempt to selectively target criminal justice system resources on high rate offenders.

The individual crime frequencies reported so far, like the four to eight robberies per year by an active robber, have been population averages for arrestees. Individual frequencies for separate offenders vary widely from one



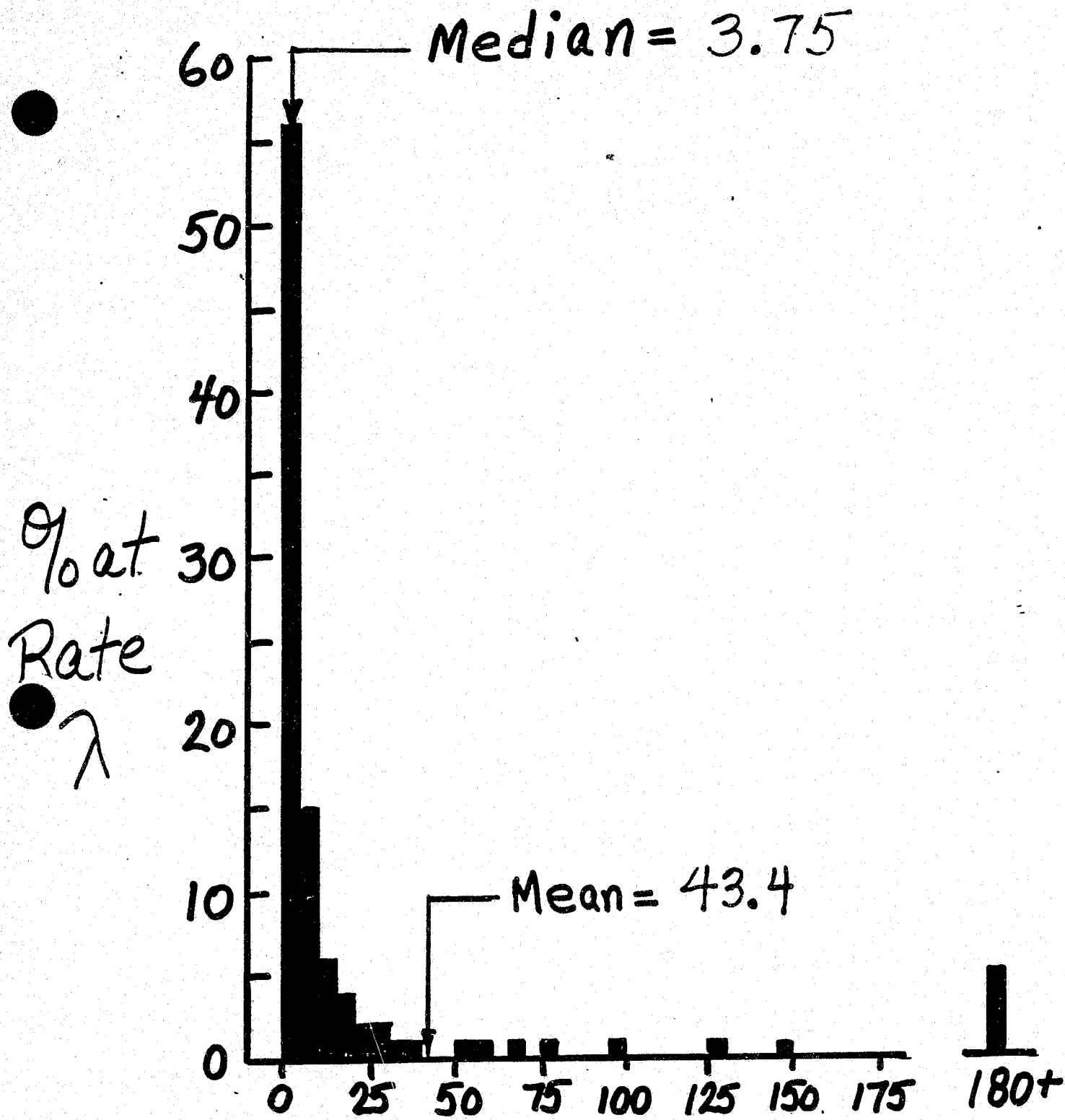
offender to another. Slide 4 illustrates the lambda distribution that was estimated from the Rand Corporation's survey of inmates in three states. The distribution is highly skewed with most offenders committing crimes at very low rates, and a small number of offenders committing crimes at very high rates.

In this case, for robbery over the three states that were examined, half of all the active robbers found among inmates commit fewer than four robberies per year while free. About 5 percent of those active robbers found in prison, however, commit more than 180 robberies per year while free. For burglary, half of the inmates report committing less than five burglaries per year while free. The top 5 percent report committing more than 400 burglaries per year while free.

So, there is wide variation in the levels of criminal activity for different offenders. To the extent that offenders who are committing crimes at high rates maintain these rates over several years, these high rate offenders are precisely the ones that are referred to by characterizations like "career criminals."

From a crime control perspective, the policy question is can we identify prospectively the small number of high frequency offenders sometime early in their careers. If we could do this, then special crime control measures might be directed at these high rate offenders in an effort to interrupt the progression of their careers. The kinds of crime control measures might include career modification and rehabilitation programs, special prosecution as career criminals, special bail provisions, and selective incapacitation with longer prison terms for high frequency offenders.

We want to now look at some of the variables that might be used to distinguish high rate offenders from other offenders. Demographic variables, particularly age, race and sex, are among the potential predictors of high rate offenders.



$\lambda$  - Robbery  
(Inmates 3 States)

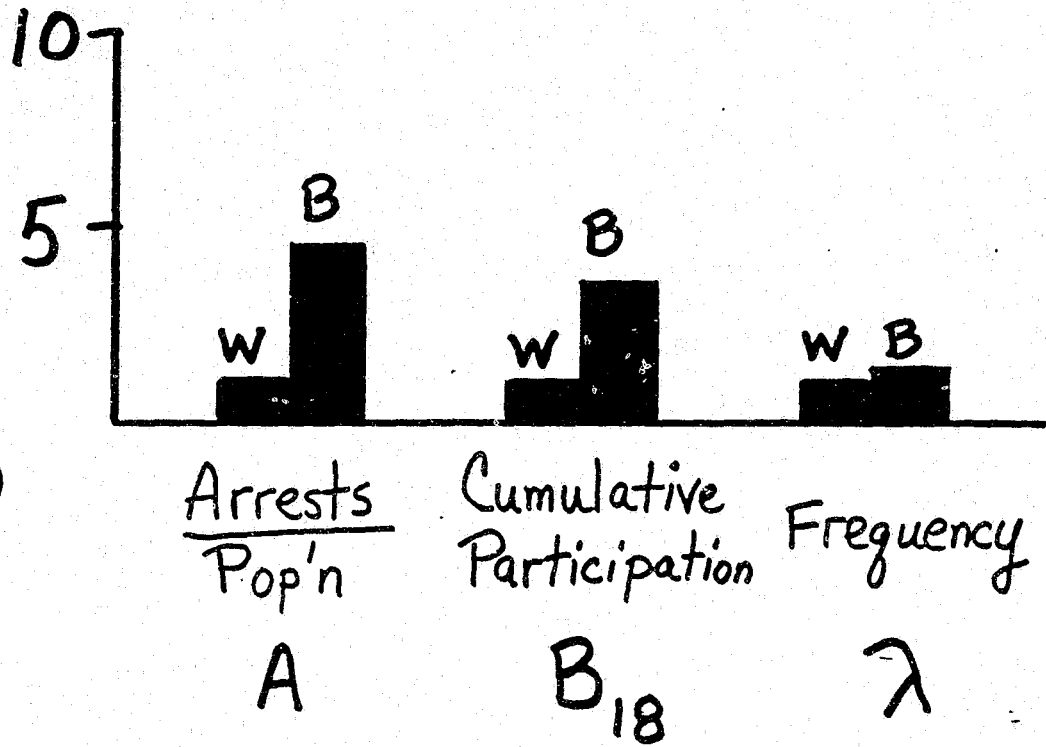
Demographic variables have frequently been examined, primarily because these variables are readily available in the data used by researchers. The theoretical standing of these variables is more ambiguous. No doubt these personal attributes stand in for a variety of social, economic, biological, and psychological variables. In the case of age for example, any predictive association derives not only from chronological age as a determinant, but also age as an indicator of where persons of any particular age fit in the social and economic nexus of the society.

The potential importance of demographic variables is highlighted in comparisons of aggregate population arrest rates, in which we take arrests in a given year for a given age, for instance, and divide them by the population of that age; or arrests for people of a given race divided by the population of that race; or arrests by sex divided by population by sex. In comparisons across demographic subgroups we see wide variations in these aggregate arrest rates, especially for violent crimes and robbery.

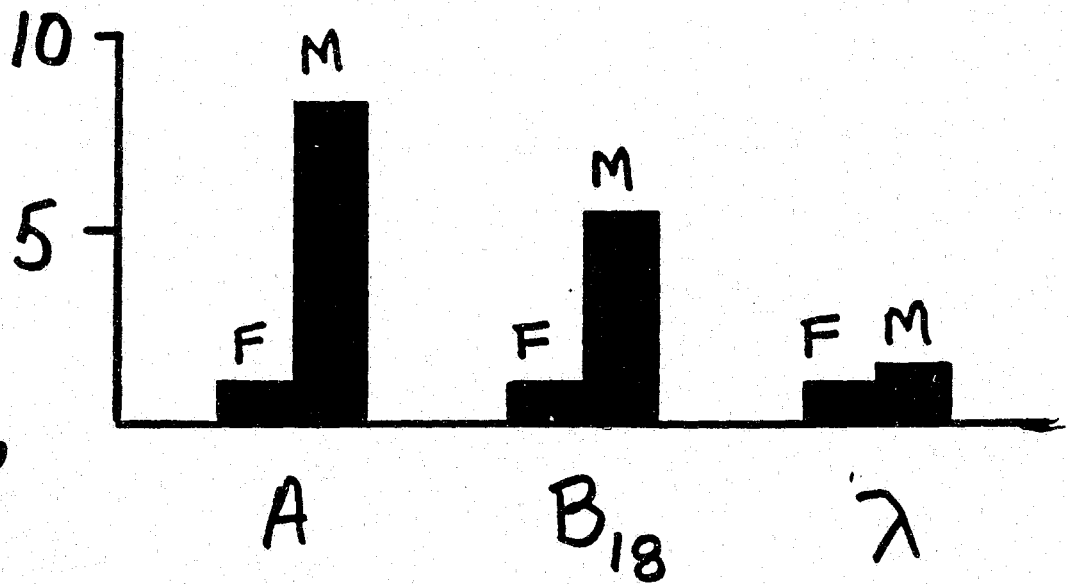
For instance, in Slide 5 we compare the arrest rates by race for violent crimes and by sex for violent crimes. Population arrest rates in violent offenses (most typically aggravated assault) for black males are almost five times those for white males. Likewise, male arrest rates in violent offenses are eight times those of females. The key question for the Panel has been the relative role of participation and frequency in these differences.

The major variation in aggregate population rates found for these demographic variables is associated with differences in participation, the center bars on Slide 5. Among active offenders, offending frequencies are much closer across demographic groups, with ratios very close to one. Participation rates, however, vary widely by race and by sex.

Race Ratios  
(Whites,  $W=1$ )



Sex Ratios  
(Females,  $F=1$ )



Violent Offenses ( $\approx$  Agg. Ass.)

These demographic differences dramatize the inappropriateness of using demographic variables in criminal justice system decision-making. Aside from various ethical concerns that their use would raise, demographic variables are not very useful in distinguishing among active offenders. They represent a participation filter in who gets into the pool of people who are relevant for the criminal justice system, but once in that system demographic attributes do very little in distinguishing who are the more active offenders from the less active offenders.

The panel examined the relationship to criminal careers of variables other than demographics. Some of these variables emerged as important distinguishing factors of lambda. Drug use, especially use of multiple drugs, plays a role in both participation and frequency. Drug users are more likely to participate in crime (see Slide 6). Drug use, however, does not appear to be a causal factor in starting criminal careers. When drug use occurs with delinquency, it more usually follows crime, or occurs in the same year simultaneously with crime. These two types of deviant behavior seem to occur together and drug use does not seem to be a precipitator of crime.

There is, however, a strong relationship between drug use and crime frequencies for active offenders. Frequencies rise dramatically with increases in drug use. In Slide 6 we compare robbery frequencies for active offenders. Generally, we have estimates of four to eight robberies per year committed on average by offenders active in robbery. Among heroin users average robbery frequency rises to 20. When we start to look at different levels of drug use, the number of robberies per year by active robbers goes from nine for irregular users (i.e., using heroin one or two days a week) up to 27 for daily heroin users (i.e., using heroin almost every day in a week).

# Drug Use & Crime

## Current Participation - d

	No Drugs	Multiple Drugs
Felony Assault	13%	52%
Robbery	4%	22%

## Crime Frequency - $\lambda$

Offenders Generally	Heroin Users	By Drug Use (days/week)			
		Irregular (1-2)	Regular (3-5)	Daily (6-7)	
Robbery	4-8	20	9	17	27

This rise in offending frequency is found when comparing different offenders who have different levels of heroin use. The same relationship is also found when you look at the same people over time and ask the question how does their level of criminal activity vary as their level of drug use changes. Spurts in crime with as much as six times more crime committed during periods of high drug use are found when the same people are compared during periods when they are not using drugs or are using drugs at a very low level. Drug use, and particularly heavy drug use and use of multiple drugs, is thus a strong indicator of high frequencies of criminal activity for active offenders.

Two factors related to previous criminal careers were also important. Early onset of criminal careers is associated with higher lambdas. Offenders who are arrested or convicted at young ages as juveniles, on average, have higher lambdas (Slide 7).

This relationship between lambda and age of onset is not just the frequently observed phenomenon of more crimes or arrests found during longer careers. If we look at people who start early compared to people who started later, it has been generally reported that those who start early accumulate more arrests or accumulate more crimes during their careers. There has always been a suspicion that there was an exposure time phenomenon going on here: if you start earlier, you have a longer period of time in which to accumulate more crimes. When we have looked at the relationship more carefully and controlled for the variations in exposure time, however, we found that in addition to more total crimes, early starters also accumulate those crimes and arrests at higher rates than later starters. So, the association with age of onset is not just a question of differences in exposure time.

# Past Criminal Careers and Future Crime Rate

Early Onset

⇒ Higher  $\lambda$  as Adult

Previous High  $\lambda$

⇒ Continued High  $\lambda$   
If Still Active



Previous frequency rate is also predictive of future frequency. If an offender committed crimes at a high rate in the past, he is likely to continue offending at a high rate, if he remains active in a criminal career. This does not mean that a high rate offender will necessarily remain active. His career may terminate, but if he continues to remain active, he is likely to go on committing crimes at high rates.

Career termination and the associated length of criminal careers is another important dimension of criminal careers. When careers are short, there is a high turnover of offenders in the population of offenders. This would lower the crime control effectiveness of policies that are targeted on identified offenders. With continuous rapid turnover of offenders efforts directed at one set of identified offenders are likely to be lost in the face of a rapid influx of new offenders. If careers are long, on the other hand, the population of offenders on whom crime control efforts are targeted is more stable. Any crime control impact of policies addressed to identified offenders is more likely to be translated into crime reduction.

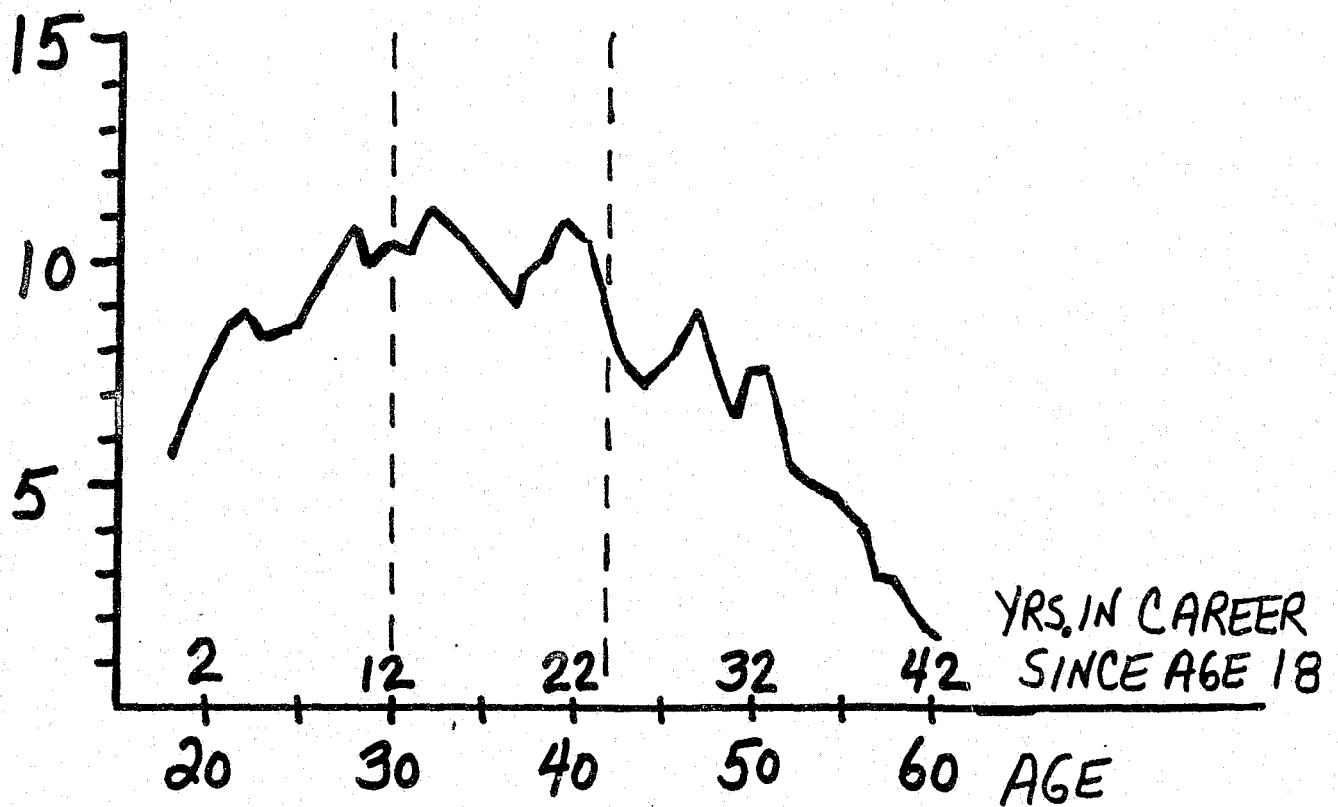
There is considerably less research on the length of criminal careers than there is on participation and frequency rates. The limited estimates that are available suggest that adult careers, starting at age 18, average about 5 to 10 years in index crimes (Slide 8). Career length varies somewhat for different crime types, with longer careers found in violent offenses and shorter careers for property offenses so that persisting offenders are more likely to be found among violent offenders than property offenders.

In addition to total career lengths that average five to ten years, we are also interested in remaining career length. How much longer is a person

Adult Careers Average  
5 to 10 yrs. in Index Crimes

Violent Careers > Property Careers

Remaining Career Length  
by Age for Early Starters



likely to stay active in a criminal career from any point of intervention in that career?

Remaining careers seem to pass through three distinct phases. Early in careers there is a break-in phase. At this point the population of offenders includes many offenders with short careers, people who will drop out rather quickly from offending.

After this break-in phase, when the weak of heart are weeded out, we are left with a more stable population of offenders who have more enduring, longer criminal careers. People who have been active for about 12 years in index careers as adults, are expected to stay active for another ten years.

Then after a period of about ten years of stability, when expected remaining careers average about ten years, careers move into a wear-out period, where dropout starts to increase rapidly and the number of active offenders declines sharply. For long term offenders, career termination really starts as offenders get older, especially as they reach their early forties for those active at 18.

The most enduring adult careers are, therefore, those for offenders who were active at age 18 and who remain criminally active into their thirties. These offenders are few in number, as was indicated by the age distribution that we have seen for arrests per capita (see Blumstein, Figure 1-2). There are not very many offenders left at age 30, but those who do remain active, and who have had long prior careers, are likely to also have the longest remaining careers.

Contrary to conventional wisdom, offenders who are in their thirties with long prior careers are the least likely to terminate their careers; not most likely, but least likely to terminate their careers; and they, thus, represent prime candidates for incarceration. At younger or older ages, or at

earlier or later points in a career, the offender population includes many more offenders who have short criminal careers who are likely to drop out rather rapidly.

(Applause.)

DR. BLUMSTEIN: For those of you who are waiting for the break, we will be about 15 to 20 minutes late, we anticipate. There will be a break after this session.

DR. ROTH: Regardless of the purposes for which you as practitioners are using imprisonment, one of the effects of imprisonment is incapacitation. People who are in prison can't commit crimes in society. Incapacitation occurs efficiently if it is high lambda people -- high rate active offenders -- who are being incarcerated and if their time served is relatively short compared to the time remaining in their criminal careers.

Incapacitation will be less efficient if low rate offenders are being incarcerated and if they serve long terms relative to the time remaining in their criminal careers.

The Panel devoted a fair amount of its attention to looking at how practitioners, such as yourselves, can make decisions that use incapacitation efficiently within the constraints of your other objectives. I would like to share the panel's insights with you now.

First, as a benchmark, I would like to start with how effectively the system incapacitates offenders now. If we look at 1982 figures, there were approximately 400,000 inmates in jails and prisons throughout the country, and there were 550,000 reported robberies in the Uniform Crime Reports. But that is only part of the picture.

Estimates prepared by Jacqueline Cohen for the Panel's use indicate that if all those prisoners had been released to the street, there would have been some additional robberies. More precisely, 20 to 42 percent of potential robberies were prevented through incapacitation. If all prisoners had been released, 685,000 to 950,000 robberies would have occurred. In other words, by incarcerating the 400,000 inmates that we had incarcerated in 1982, we reduced total robberies by 20 to 42 percent, to our 550,000 robberies. That describes the incapacitative effect of incarceration policy in 1982 (see Figure 1).

Now, suppose, for example, that we wanted to reduce the serious crime index by an additional 20 percent beyond the 20 to 42 percent that was already being accomplished in 1982. There are several ways that we could go about this. The first policy, which might be called collective incapacitation, is across-the-board increases in time served. In order to achieve a 20 percent reduction in UCR index crimes through collective incapacitation, a massive increase in prison populations would have been required -- on the order of 200 percent (see Figure 2).

The point is that there are a lot of people out there committing index crimes who are not already incarcerated. And so to achieve meaningful decreases in crime from those 1982 levels, massive increases in prison population would have been required if the system continued to incarcerate people using the decision processes that it uses currently.

We can narrow that down a little bit to look at collective incapacitation effects on robberies. Relatively more of the people who commit robberies are already in prison; consequently, to achieve the same 20 percent reduction in robberies from 1982 levels would still require a substantial increase, 90 percent, but not quite the unthinkable numbers or nearly unthinkable numbers of 200 percent increases.

Incapacitative Effect - 1982 UCR Robberies  
(400,000 Inmates)

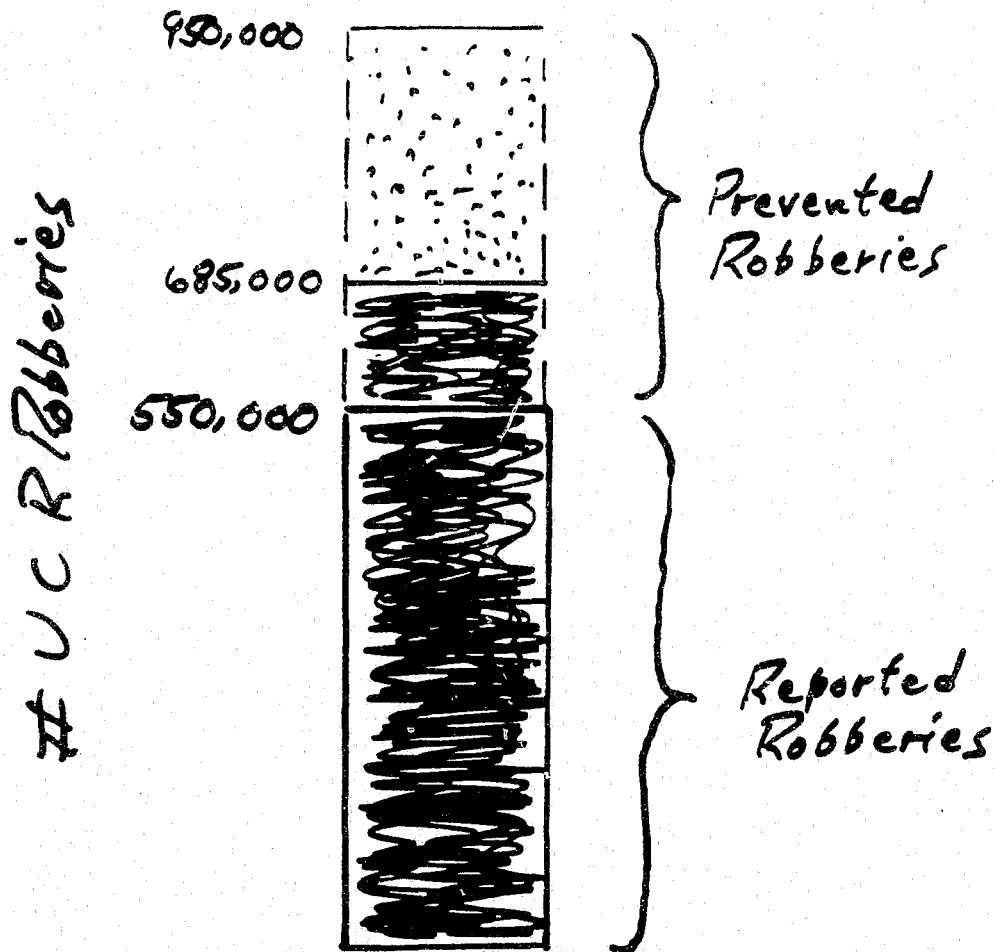


Figure 1

REDUCING CRIME BY  
20% FROM 1982 LEVELS

Policy	Inmate Increase
"Collective"/Across-the-board ↑ (UCR Index Crimes)	+ 200%
"Collective" ↑ (UCR Robberies)	+ 90%
Selective Policy (Rand est.)	+ 0%

Figure 2

Against this background of predicted requirements of 90 percent to 200 percent increases in prison population to achieve 20 percent reductions in crime levels, a lot of attention was attracted by a 1982 report from the Rand Corporation. It advocated a selective policy of incapacitation; that is a scale and a policy that were designed to identify prospectively the high rate offenders, that small handful that Jackie referred to, committing more than 180 crimes per year, and to give them selectively longer sentences. The claim was that using that policy the 20 percent reduction could be achieved with effectively no increase in prison population.

I will take just a few minutes to review the specifics (Figure 3). The Rand Corporation proposed a prediction scale which involved seven factors. Jackie Cohen has already referred to these factors as being correlated with high rates of serious offending: prior convictions for the same charge, robbery or burglary, activity during the two years immediately preceding their current incarceration.

If they had started their criminal careers early -- if they had been convicted before age 16 or served time in state juvenile facilities -- those were aspects of the juvenile record that were adverse predictors, even in early adulthood. Drug use and, in particular, juvenile drug use, were adverse predictors.

Now, associated with the scale, there was a particular policy. The policy was basically to give each offender a point for each of these characteristics so that the total number of points could run from zero to seven. Offenders who scored four or more were classified as high rate offenders and for purposes of an analytical exercise, they were assumed to



## Rand Classification Rule for Robbers and Burglars

Prior conviction same charge	+1
Incarcerated >50% of preceding 2 yrs.	+1
Employed <50% of preceding 2 yrs.	+1
Convicted before age 16	+1
Served time in state juvenile facility	+1
Drug use in preceding 2 yrs.	+1
Juvenile drug use	+1
	<u>          </u>
TOTAL	0-7

TOTAL = 4+ → "High-Rate" → 8 yrs.

TOTAL < 4 → "Low/Medium Rate" → 1 yr.

Figure 3

serve eight years in prison. Offenders with lower scores were assumed to serve only one year. It was that policy that produced the estimates of reductions in crime on the order of 20 percent without appreciable increases in prison population.

The Panel was concerned with the replication and examination of these findings and did a number of analyses related to this policy and others. We happened to use the Rand policy as the example for most of our work, not all.

As a benchmark on this graph (see Figure 4), I have located the Rand Corporation estimate that a 10 percent reduction in adult robberies could be accomplished with something on the order of a 5 to 10 percent decrease in prison populations. As an early step in the Panel's work, a paper was commissioned by a member of our staff, Dr. Christy Visher, to replicate the Rand analysis, including the prediction analysis and the estimates of the crime control effects. In general, Christy's replication produced estimates in approximately the same neighborhood. But her work indicated that the selective policy that had been examined by the analysts at the Rand Corporation might not actually decrease prison populations. It was unlikely to lead to appreciable changes in the prison population in the course of achieving a 10 percent reduction in adult robberies.

At that point, we began to look more closely at the assumptions underlying the estimates of the crime control effects. Both the original Rand estimates and the original model that the Panel and Christy had adopted effectively ignored the fact that criminal careers do end at some point. At the Panel's direction Jackie Cohen did a number of further analyses to see what happens if you introduce dropout from careers, the termination of careers into the model.

# Reducing Adult Robberies by 10% With Selective Policies

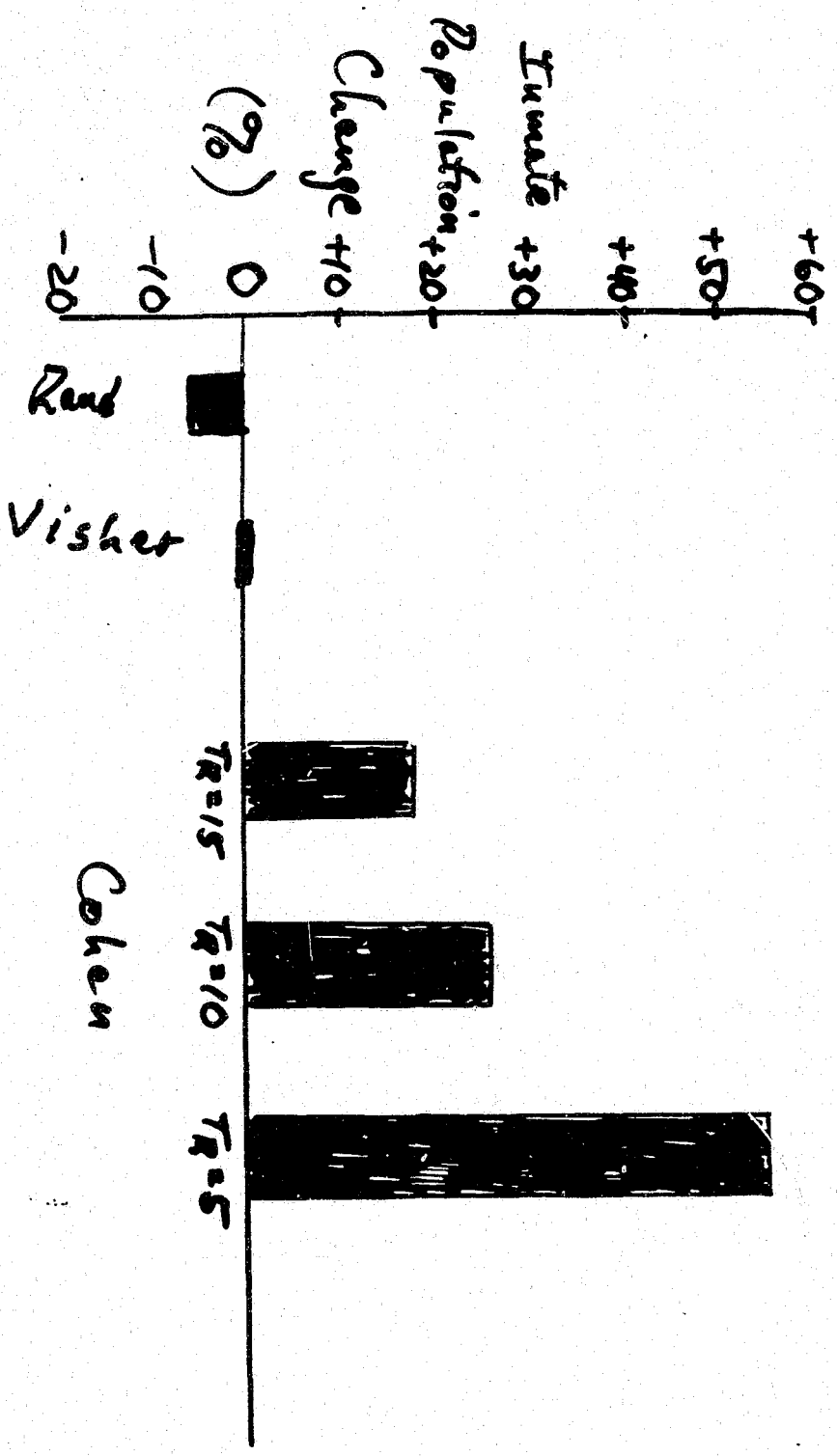


Figure 4

She found some fairly surprising things. If, for example, one assumed that the residual career length, that is the time remaining in the career, is finite, then instead of getting a small decrease, you begin to see increases in the projected prison population. For example, if the time remaining in the criminal career was 15 years, the same 10 percent reduction in adult crime would lead to a 17 percent increase in prison population. If residual career length is on the order of ten, which is common for offenders in their twenties and on into their early thirties, then achieving the 10 percent reduction, using that policy, would lead to a 25 percent increase in prison population.

Finally, if you applied the same policy to young adults, who, as Jackie pointed out, had much shorter careers, on the order of five years, because so many of them are merely experimental offenders, then the policy becomes far less efficient. Achieving that 10 percent reduction encounters on the order of a 55 percent increase in prison populations.

Now, that is still better than the collective incapacitation effects from general increases in prison population, but still substantially different from estimates obtained, ignoring the effect of dropout from criminal careers.

Taking all of the estimates together and trying to reduce them to a bottom line, the Panel reached a conclusion, based on what we know about interstate variations in these effects, and what we know about patterns in residual career length. The Panel reached a consensus on an estimate of potential -- I put "potential" in red because I want to come back to it later -- estimates of the potential tradeoff from selectivity for robberies. Its estimate was on the order of a robbery reduction of 5 to 10 percent with an accompanying 10 to 20 percent increase in the inmate population by applying the policy that was simulated by Rand.

Now, that raises an interesting question. Given the tremendous skewness in the distribution of lambda that Jackie referred to -- this handful of offenders committing robberies at very high rates -- why doesn't it work better? Why didn't the Panel project higher gains in crime control through selective policies, with smaller increases in prison populations?

Well, there are a number of reasons for that. First, as we have already mentioned, criminal careers do end and, so, even under a selective policy, some imprisonment is wasted, particularly when the sentences involved are especially long and the careers remaining are relatively short.

The second reason is that new criminals come along and replace the dropouts. Obviously, they are not being affected by the policy until they have been convicted. So they are committing a lot of crimes before that. Consequently, their activity and this ongoing process of new criminals initiating careers tends to limit the crime control effects.

The third reason relates to you as practitioners. As decision-makers when you are sentencing, when you are choosing offenders to prosecute in your criminal programs, when you are targeting offenders for repeat offender policing, you are not flipping coins. You are using some of the same factors, perhaps not with the formal apparatus of a scale, but you are using them on an intuitive basis or an informal basis, particularly items like the instant offense, which we know has some predictive power for future offenses and the adult record.

If you were flipping coins, then a selective process that involved a scale might improve incapacitative efficiency dramatically over your performance, but you are already doing better than that and that in turn limits the potential gains from the policy.

Finally, a factor that limits the crime control gains from selective policies has to do with classification errors in the system. Any prediction rule will lead to false positive errors, that is, classification of some offenders as high rate, even though they are really low rate. Those misclassifications waste criminal justice dollars. They also place burdens on offenders.

The Panel looked at four scales that had been either developed or revised since 1979 and found false positive rates within the range of 15 percent to 55 percent. The four scales included not only the Rand scale but a probation release scale that had been developed in the State of Iowa, a scale that was developed by INSLAW for use in selection of career criminals in the Federal system, and the Salient Factor Score, the 1981 version, which is used by the U.S. Parole Commission to guide release. Those four scales show ranges of 15 to 55 percent false positive rates.

False negative rates are predictions that somebody will be a low rate offender when they are really a high rate offender. Of course, they limit crime control effectiveness. Looking at those same four scales, we found, again, a fairly wide range, 11 to 36 percent. There is another measure or accuracy called relative improvement over chance, which counts both kinds of errors and, again, we saw quite a range of performance in those scales.

There is some fairly famous conventional wisdom within criminal justice that I think was probably true until about 1980, that predictions can't do better than 60 percent false positive error rates. Well, the panel's investigation indicates that the recent scales are doing somewhat better than that. The state of the art is improving, but the crime control gains are still limited because of these other reasons that we have talked about.

It is worth spending a few minutes to talk about accuracy claims. One of the reasons why I am not standing here telling you which of the four is the best scale is that deciding which scale is best is a very difficult problem, not one that can be reduced to any single accuracy measure, like false positive or false negative error rates.

One piece of advice that the Panel has for you as practitioners is to be extremely careful in evaluating claims that you hear about accuracy rates for various scales and comparisons of accuracy rates.

For one thing, accuracy usually deteriorates when a scale that was developed in a sample from one population is applied to a second sample, even from the same population. If you take your sample, split it in half, develop the scale on one half, test it on the other, in the test, accuracy will be less. So, you need to know which of those accuracy claims you are hearing.

The second thing is the predictions of rarer events have higher false positive rates and lower false negative rates. If are trying to predict re-arrests within five years, that is a more common event than reincarceration within two years. So, other things equal, you would expect a lower false positive rate when you are trying to predict the former, the outcome that occurs more frequently.

Similarly, by using high cutoffs, in essence, by making fewer positive predictions, as you would expect, you will make fewer false positive errors. The tradeoff is that you will make more false negative errors.

An even more important issue and a theme that runs through the Panel's report is that regardless of the accuracy statistics for a scale in one application, it is going to drop in a new setting. By new setting, we mean different jurisdictions where, perhaps, the offenders are different, but more important, the ongoing decision processes in the jurisdictions are different.

Consequently, the effectiveness of a scale is going to differ a lot from one jurisdiction to another.

Effectiveness will differ by criminal justice stages. There is not any particularly good reason to assume that a scale that was developed to predict success on parole is going to do very well when it is applied to a population of arrestees, perhaps in selecting cases for a Career Criminal Unit because arrestees and potential parolees are different populations. The people that have been arrested are different from the people that have been convicted and incarcerated and so there is not a reason to expect the same patterns and the same effects from scales.

Different outcomes affect accuracy. For example, the Rand scale was designed to predict rates of robbery and burglary. Again, there is no reason to expect it to do terribly well at assaults, rapes, homicides, other things for which it was not intended.

Finally, different time periods. You can anticipate that the performance of a scale will change over time within a jurisdiction, within a setting. As the composition of offenders change, the performance of the scale will tend to change.

So, in evaluating the accuracy claims of scales as practitioners, we strongly urge that you get technical advice, but also that you recognize that it is too important a problem to be left to the technicians. It is something that you need to stay in touch with as practitioners and policymakers yourselves.

You will remember a few minutes ago I referred to our projections of crime control effects from selective policies as potential effects. There are some reasons why the projections that we have made under theoretically optimal conditions are likely to be greater than what will be achieved in actual



practice. As John Kaplan mentioned earlier, groups of which an incapacitated offender may be a part may continue offending even when he is not there.

John said he knows what happens when Mr. Big is arrested. We don't know much about what happens when Mr. Assistant Big is arrested, whether the group continues offending or not. So, there is a need for further research on group crime, the nature of groups, the dynamics of groups in order to establish the importance of this effect and its implications for estimates of incapacitation.

Secondly, it has been asserted that selective policies -- that is longer sentences for the high rate offenders, shorter sentences for the low rate offenders -- may encourage those low rate offenders. They may become aware of the policy and decide, well, my crimes are free because I won't get a high score. So, I can continue doing crimes.

Well, the claim is there. Unfortunately, we know very little about the extent to which offenders find out about these policies and even less about how responsive they are to the knowledge of the policies. So, again, it is an area for further research. Its empirical importance is not really established.

The third issue, the third impediment, which we know about from prior experience such as the New York State drug laws a few years ago, is that when policies are introduced that offend the desert perspectives of criminal justice practitioners, the system will adapt informally in order to reduce the discrepancy selectively. Juries won't convict for the offense; plea bargains will be made more easily and so forth.

The antidote to that, if that is the right term, is basically to anticipate from the beginning that there are desert limitations on selective policies. As policies are developed, involve the practitioners, involve the public in developing those so that you are not prescribing policies that are going to be considered unacceptable and, therefore, adapted to by the system.

Finally, as I mentioned, scale accuracy drops when it is transferred to new settings. The advice we have on that score is first, before transfer, assess its suitability; make sure that it is trying to predict what you are trying to control and that it uses variables on which you have data, that it is applicable to your stage of the decision process and so forth.

At transfer you will need to revalidate and perhaps to reconstruct the scale in your own jurisdiction. After transfer, because of changes over time, there is a need to periodically revalidate and recalibrate scales.

Another obstacle that you will find are data gaps, particularly in the prior adult record, in information about drug use and in information about the juvenile record.

Now, if I have discouraged you about scales, it is important to recognize that the research that has been involved in developing scales and other research as well that Jackie has reported on implies very clearly that you can achieve some of the benefits of selection -- in less structured, less formal ways without the statistical apparatus, merely in going about your own decision-making process. In other words, in making your decisions there are criminal career indicators that you already use. Jackie has already listed them. Let me just repeat them briefly.

First, research shows that you look at the instant offense in making decisions. The point is that the instant offense is a sample of one event from the criminal career. Therefore, it is not surprising that in the Rand scale, a prior conviction for burglary was a prediction of a high rate burglar. The point is that what you are looking at primarily from a desert perspective is already gaining you something in terms of selection.

The adult prior record, lambda before an arrest, is a good predictor of lambda after the arrest. That is information you can use informally. Drug use. We know that heavy use by the offender is associated with a high lambda. If you can find out about drug use, and there are experiments going on now that involve doing that at arrest, that is information that can be used.

Juvenile record. You will remember that an early onset of criminal behavior is associated with high lambda. Well, data gaps in those records will affect your ability to use this information. Whether you are using it in the context of a formal scale or whether you are merely trying to instruct your assistant prosecutors or to make your own decisions as a judge in a selective way, you need the information in order to make the decisions.

Consequently, the Panel made several recommendations for improving record systems so as to fill the information gaps that are needed to inform decision-making. First, with respect to adult criminal records, the obvious one is improving completeness and accuracy. Second is to record dispositions. Third is noting and providing the opportunity for expungement of unfounded arrests, arrests that are found immediately after the arrest to have been erroneous.

Recording offense attributes was another recommendation. There are aspects of offenses that do not appear in the record, which usually contains only a legal charge, that may be quite important in making predictions about the future criminal career. Redesign the record system so as to record more of those attributes.

Perhaps most important, make it available immediately post arrest because there are decisions at charging, at assignment to career criminal units, at pre-trial release, which must be made very quickly after arrest and simply can't wait for the two weeks to get rap sheets from the state repositories or the FBI, for example.

Information about drug involvement and use. One approach that was thought about and explicitly rejected by the Panel was to seek more access to treatment program records. Not only does it interfere with the treatment process and undermine confidentiality of the counselor/patient relationship, it is also likely to be counterproductive. Who would go to seek voluntary drug treatment if they knew it was going to show up in a police record? So, that is something we are not recommending.

There is some recent evidence that urinalysis at arrest is feasible. There are issues concerning that that will be talked about in one of the roundtables tomorrow. It may be a source of information.

During pre-trial release and probation, requiring drug monitoring as a condition and requiring treatment for those who test positive, and keeping records of who shows up for monitoring, who drops out of treatment programs, may be helpful in terms of filling information gaps.

As I am sure most of you know, in nearly all states juvenile records are kept in separate repositories from adult records. The Panel recommended that the adult criminal justice system be given access to the juvenile court record at what we called the first serious involvement with the adult system.

As Al mentioned a few minutes ago, we believe that defining "serious" and defining "involvement" are issues for local communities. But it may well be that making them available earlier in the process will improve the possibility of crime control.

Following the first adult conviction, the Panel recommended that the juvenile record be made a permanent part of the adult record so that it is available for decision-making on subsequent arrests.

Finally, for both the purposes of criminal justice decision-making and for further research on some very important issues like the transition from juvenile careers to adult careers, for both those purposes we recommend retention of juvenile records for the long term.

I will turn things back to Al to summarize some of the other Panel recommendations that relate to policymaking.

DR. BLUMSTEIN: Rather than try to do that, in the interest of time, let me simply say that one of the issues that we did not address in this discussion of highlights was an issue that the Panel thought was very important and should be addressed by any jurisdiction in dealing with some of the questions that we have raised today. That is the issue of what are the ethical considerations in any of the uses of such information. Following the break we are going to have a panel chaired by Andrew Sonner, the district attorney of Montgomery County, who will be leading that discussion about the ethical questions in predictability.

There are a number of other issues related to research recommendations. I think we will save those until tomorrow. We are going to have a 15 minute break. Let me say that there is coffee and tea outside in the Great Hall and the rules here are that you are not allowed to bring that in here. So, let's try to reconvene in at most 15 minutes.

(Recess.)

MR. SONNER: We are a little bit behind time so if I can get you to take your seats real quickly.

The purpose of the next panel is to air some of the controversy, some of the discussion, some of the concern in the academic world over the practical application of much of the data from the career criminal research. What limitations, if any, should there be upon the use of the information to those of us who are practitioners?

We have three experts who have been following or who have even been responsible for some of the research that went into the report. On my far right is Kenneth Feinberg. He is a partner in the law firm of Kaye, Scholer, Fierman, Hays and Handler. Previously, he was chief counsel to the Senate Judiciary Committee and as the administrative assistant to Senator Edward Kennedy, he had major responsibility for drafting legislation to recodify the Federal Criminal Code and created the Federal Sentencing Commission.

Even in private practice, he has maintained an active interest in criminal justice policy. He formerly served as counsel to the New York State Sentencing Commission. He is currently counsel to the Federal Sentencing Commission.

On the left is Professor Marvin Wolfgang, a professor at the University of Pennsylvania. He was a member of the Panel on Research on Criminal Careers and is recognized as one of the leading criminologists in the U.S. today. His landmark studies of birth cohorts at Philadelphia first focused attention on the existence of chronic offenders, the small group of delinquents who accounted for a major share of crime.

Professor Norval Morris of the University of Chicago Law School was also a member of the Panel on Research on Criminal Careers and currently chairs the Committee on Research on Law Enforcement and the Administration of Justice, under whose aegis the Panel worked. With Mark Miller he is the co-author of a recent paper on dangerousness in the judicial process, which examines the jurisprudential issues surrounding just deserts, prediction of dangerousness and criminal justice decision-making.

We will first hear from Ken Feinberg.

MR. FEINBERG: Thank you very much.

I am very pleased to be here today. There are various theories as to why I am on this panel following these two giants of the subject matter -- and they are giants -- Norval Morris and Marvin Wolfgang.

Theory number one. I am food for the lions. I will go first. They will make a few notes and then I will be ripped apart.

Theory two. I am like a warm-up act, like you see on the stage or at a boxing match. The first act is one where the lesser notable comes out and gets everybody ginned up and in the frame of mind for something very, very special.

I suppose there is a third, more serious theory and that is, perhaps, a dose of what Norval calls the "practical jurisprudence of dangerousness" as opposed to utopian concerns with predicting dangerousness. I certainly have paid my dues in terms of the "practical": special counsel to the Senate Judiciary Committee in writing the new sentencing statute; chairman of the New York State Committee on Sentencing Guidelines, (a book which collects dust on every library bookshelf in the country), and currently consultant to the United States Sentencing Commission.

So, I represent the practical view when it comes to prediction. And what I am going to talk about during the next few minutes is sentencing and prediction as public policy, as practical public policy. We will see that there is a real irony in at least the federal trend towards sentencing reform, an irony which we will talk about during the next few minutes.

We start, of course, with the obvious -- that prediction is involved at every stage of the criminal justice system, at every level and has been from the beginning and will continue to be. It doesn't matter if you are talking about bail or sentencing or parole or investigative resources or prison population control. To one degree or another, prediction is an inherent part

of our criminal justice system. It has the blessing of the Congress and the blessing of every state legislature.

So, the real question from a public policy perspective is what are the limitations, what are the rules that govern prediction, what are the constraints on the use of prediction as a public policy vehicle?

It is very important, it seems to me, that everybody should beware of the search for the perfect when it comes to prediction. The "perfect" can become the enemy of the "good" and I suggest to you that policy alternatives are important here. It doesn't do the policymaker a great deal of good to hear about the flaws of prediction, unless that critic is prepared to offer political and substantively viable alternatives when it comes to existing use of prediction.

Some prediction is better than other prediction. For example, everybody could predict that this Conference would be running an hour late by now. That was a sure thing. So, the real question here is what predictions can be used and will be more valuable than other predictions? How much prediction will be used, based on what data or anecdotal evidence, and under what circumstances?

I am going to focus during the next few minutes just on sentencing. Why? Two reasons. One, I believe it is the most visible step in the criminal justice system. It has the greatest impact and is the most visible example of the states' attempt to restrict freedom.

Secondly, there is my personal experience. It is really sentencing that I am most familiar with and am most comfortable talking about. That is not to say it is not important elsewhere.



Today, at the federal level, sentencing is done by the judge, and the judge's use of prediction is largely unfettered. There is really great discretion. The range of offender variables and offender characteristics, community relationships, family relationships, prior record, real underlying crime or harm, etc. is really not institutionalized when it comes to sentencing. So, what you have is, it seems to me, a situation today where, in the individual case at the federal level and most states as well, unfettered discretion and unfettered use of prediction, as long as you stay within the statutory range, which as we all know is largely very great.

This is a real problem, it seems to me, even for advocates of prediction. That is, you do not have any institutionalized rules to limit or circumscribe the utility of prediction. Some people may say that is a good thing. I think it leads to serious problems of disparity and lack of certainty. Whether you are a law enforcement advocate or a member of the ACLU, I suggest to you that the lack of institutionalized constraints on sentencing is a serious problem. That is one problem.

What we will soon have are guidelines that are now being promulgated by the United States Sentencing Commission, which will go into effect next year and govern all federal criminal sentences.

How will the the U.S. Sentencing Commission, as a practical matter, deal with prediction in formulating its guidelines?

Well, some of the members of the Commission will soon be here. Ask Kay Knapp, Michael Block and Ilene Nagel. But as a Commission consultant I can give you some of my early views as to how prediction will fit.

First, you set strict parameters on the use of prediction. You don't have to do this expressly. If you are going to have guidelines that will establish certain rules limiting judicial discretion, you are, by definition,

setting limits on unfettered discretion and, therefore, the unfettered use of prediction.

Here is one of the real ironies of this Conference and this debate. The real debate, it seems to me, has nothing to do with prediction as such. The real debate, as I see it, in the states and in the federal government's attempt to develop sentencing guidelines and sentencing reform is not over prediction but is over the outer limits, "just deserts" maximum of the guidelines. It is one thing to tell the offender: you can get a statutory maximum of 25 years for bank robbery even though most everybody gets 5. If you are going to develop a guideline that says the maximum for bank robbery is 5 years, which is the actual time now being served -- and just deserts says that 5 is the maximum, watch the political reaction to such "truth in sentencing." We will have a conference next year on that subject. The real problem -- more than prediction -- is what should be the guideline maximum based on a "deserts" model?

Now, of course, we all know you can start playing games about deserts and prediction, and Norval and Marvin will talk about that in a little while. But I suggest to you that how we determine that guideline maximum -- actual time served today, the statutory maximum, a hearing record -- that is a critical policy choice.

It is true that prediction can play a role, even in a guideline system, in two ways. One, if you have a guideline with a ceiling and a floor, where you put a particular prisoner within that construct of ceiling and floor, can be based, perhaps, on predictive variables if we can agree on what they should be. And if you want to provide, in a guideline system, that the judge go outside of the guideline for certain designated reasons, a predictive variable may come into play.

But in the federal law, don't forget, the maximum allowed by law between the high and the low of the guideline cannot exceed 25 percent. So, unless you build in a rule that will permit the judge in certain cases to go outside the guideline at his discretion, you run into a built-in limitation on any prediction.

Should a guideline system take into account such considerations as community and family ties, in determining the appropriate sentence? I have real problems with that even as a defender of prediction; in any event, I don't see it happening.

Wait, you say. A judge now considers community ties, family ties, drug use, the real underlying offense, etc. Why not have a guideline system that takes into account such variables as are used today? One problem, of course, is that you are not dealing in developing guidelines with an individual case. You are drafting guidelines across the board, in the aggregate, in a manner that is going to deal with a host of convicted offenders.

Accordingly, I see problems, even as a defender of prediction, with those types of variables being promulgated and formalized in law across the board.

That does not mean that I am against all prediction and here is where I probably part company with Norval and maybe with Marvin. But I shroud myself in practicality and political reality in constructing my defense. There is a role to play in promulgating guidelines in considering such factors as juvenile arrests, the timing of the prior convictions and the age of the offender.

In other words, I would like to be more discriminating in the use of criminal records than perhaps some would in the promulgation of guidelines, in order to develop with a little bit more discrimination the nature of the conviction, the age of the conviction and the age of the offender. Now, maybe

you can label my argument "just deserts." I don't know. But I think such factors probably should be considered, notwithstanding the problem I have just raised of formalization of sentencing rules that will now guide judges.

Finally, it is probably a good idea to let the judge maintain some discretion, as a practical matter if nothing else. No two sentences are exactly alike. I think a guideline system that goes all the way from unfettered discretion to a sort of ministerial function is probably a bad idea.

Keep in mind that you have to be careful what predictive variables you use just as a practical matter involving problems of administrative efficiency. If you are going to allow a judge in a guidelines system to look behind the plea or behind the conviction, and in sentencing consider the real underlying offense variables and offender characteristics, be prepared, I suggest, for hearing after hearing after hearing and a terrible problem of judicial inefficiency in trying to deal with that problem.

So, what do we conclude? What is the irony? Well, irony number one is that although prediction is a worthy subject for debate and raises very, very important issues, I view the recent trend in sentencing reform as dealing with issues much more serious right now than prediction; namely, the number one issue of determining the outer limits of the "just deserts" sentence.

Irony number two. We must always keep in mind when we talk about sentencing reform that we are not talking about sentencing any individual. I see most of the sentencing literature designed to help the judge or the policymaker deal with a certain prototype of individual, but when you get into sentencing reform in the aggregate, and you begin discussing sentencing norms and guidelines, you have to be careful as to what you want to formalize in law.

Finally, I have to agree with Norval, that you run into a serious practical problem in trying to debate "sentencing reform." There is a terribly difficult political problem here and you know what it is. Sentencing reform is to many people a substitute phrase for substantial increases in the maximum sentence. That is a problem. It is one thing to talk about "truth in sentencing." Many people tell me that truth in sentencing is a bad idea; why go looking for trouble?

I hope my one useful role in this very distinguished audience is to satisfy, somewhat, Norval's definition of the "practical world of dangerousness."

Thank you.

(Applause.)

MR. SONNER: Thank you, Ken.

Next, we will hear from Professor Marvin Wolfgang.

DR. WOLFGANG: I take a cue from Kenneth. I am not shrouded in as much practical experience as he and I intend to shroud my remarks mostly within the just deserts model.

The current issue of "Daedalus," which is the quarterly journal of the American Academy of Arts and Sciences, is devoted to the topic of art and science and one of the most sterling and seminal essays in that current issue is by Susan P. Gill, entitled "The Paradox of Prediction." I won't summarize that piece but I would like to read two pithy comments from it.

She quotes from Nelson Goodman, the world-renowned philosopher who just recently published a book at Harvard University Press called "Facts, Fiction and Forecasting." Nelson Goodman says, "The problem of the validity of judgments about future or unknown cases arises, as Hume pointed out, because such judgments are neither reports of experience nor logical consequences of

it. Predictions, of course, pertain to what has yet to be observed. What has happened poses no logical restrictions on what will happen. It is generally agreed that from a cognitive perspective there is little difference between retrodiction, which is the reconstruction of the past, explanation, and prediction since all require completing the pattern implied by partial information."

Finally, "Prediction is linked with emergence precisely because of the paradox of prediction, the uncertainty inherent in observation means that any prediction which the observer attempts to verify will influence the observation. So, the paradox of prediction warns us; namely, a theory may predict but the experiment that would confirm or refute that prediction may also be influenced by the prediction."

Now, prediction as part of scientific studies of human behavior should surely be made and be continued. Science is cumulative and knowledge will increase about past, present and future behavior. We need not know the causes of the phenomenon in order to predict the changes or stability in that phenomenon.

In criminal justice utility, however -- and I will restrict myself to sentencing -- prediction should not be used to lengthen the sentence. Only past behavior of offending by the character of that offensive behavior should govern the length of the sentence.

All citizens should know in advance through specified criminal and penal codes -- which is exactly what Cesare Beccaria said in 1764 -- what acts are criminal and what the presumptive sentence is. Extending a sentence based on research models that change, that fail to give the citizen adequate knowledge of his future is wrong.

Now, models can be used to predict, I think, assaultive or violent behavior in prison for classification purposes, both in the initial classification and in reclassification during the later periods of incarceration. Prediction may be used as a basis for planning intervention or treatment programs.

A more focal concern, a more intensive working with high risk convicted offenders might be viewed as appropriate. Prediction should never be used to make any program more harsh, more punitive, more onerous in any way. Prediction should be used for benevolent purposes; that is, benign or benevolent purposes for the offender, which, in turn, could have a future effect of protecting the public or society.

Invasion of the purity of the just deserts model -- that model, as you know, claims that one should be punished only for what one has done in the instant case -- occurs when prior offenses for which punishment had been inflicted are taken into account and then there is an augmentation in the instant sanction because of the prior history. At least that invasion of purity of the just deserts model is based on information clearly known, 100 percent known, forgetting about the gaps of information that Jeff talked about -- known both by the defendant and the criminal justice system, known by the defendant and the judge.

However, using predictive probabilities regarding relatively unknown behavior to increase the defendant's sentence, I view as unfair, perhaps unethical. Neither the judge nor the defendant knows for sure what the future will hold.

Moreover, if incarceration is criminogenic, as more than a few of my colleagues assert, augmentation of the length of imprisonment biases the dice game in favor of the predictors and reduces the future protection of society.

The augmented period of imprisonment, based on the prediction model, may incapacitate an offender during that time, but his future criminality after the augmented time may be accelerated in velocity and gravity.

The defendant is given no right to invoke his prediction of his own future conduct nor to predict the failure of the criminal justice system to provide him with sufficient treatment programs to help him alter his behavior nor to predict the deleterious or beneficial conditions in the community when he returns.

We arrest on suspicion that says there should be a probable cause to arrest, meaning about, I think, 50 percent reasons to arrest this particular suspect. We convict with the traditional phrase "beyond a reasonable doubt," which I interpret as about a 95 percentile.

Now, what probability level would be used by those who would use prediction to augment sanctions. The extra two years, say, added to a defendant's incarceration because he is a high-risk person could be as long as the entire sentence for a low-risk person when both have the same record and committed now the same offense.

Surely, beyond reasonable doubt about the assertion of future crime should be the minimal standard; that is, if criminal justice policy invokes prediction.

Finally, I am not prepared to make a cozy peace with the advocates of prediction use for increasing penalties. I do not wish to put into the hands of those who have the means to define and manufacture what we call normal, the additional power to control people by the manufacturing of future expectations.

Thank you.

(Applause.)

MR. SONNER: Professor Norval Morris.



DR. MORRIS: We have heard two very different perspectives on this problem. I am moved by Marvin's position. It is one that he has held and fought for vigorously throughout the work of this panel.

I am delighted by Ken, particularly his capacity for anticipatory refutation of what one hasn't said, but he has always had that skill.

I think I know why I am here, as sort of a buffer between these two positions or it may be because I have been struggling with them for a long while. That doesn't mean that I have succeeded in defeating them, but I started thinking about this a long while ago, in 1949, writing a book on the habitual criminal. So, it is age that gets me here.

Shakespeare was wrong. There aren't seven ages of men. There are three ages of men; youth, middle age and, my word, you are looking well! I think it is in that latter category that I am here.

One of the problems in Marvin's position as a practical matter, though certainly not as a theoretical matter, is that the Congress has directed the Sentencing Commission to take into account in sentencing the likely future dangerousness of the offender and the Supreme Court has spoken to the propriety of every court in the country also doing that. Now, that doesn't mean Marvin is wrong, but it does mean he has a tough battle on his hands.

If you look at this report of ours, of which I am immensely proud, it is proper for me to say, I think, that it avoids the ethical issues. You will see the typical lawyer's "on the one hand, this, and on the other hand, that, and what do you really want, Mr. Client?" on pages 8 and on pages 128 to 130. Marvin Wolfgang and Mark Moore, John Kaplan and I fought about this, fought in the sense that we wanted more concern given to it, but it dropped out -- maybe because it is too hard. But it remains a central issue.

The other areas of criminal careers and career criminals in this report are handled, I think, superbly, but this one is neglected. And as John Kaplan pointed out this morning: the criminal law is and certainly should be a moral system, and the ethical, moral, jurisprudential issues are central and, frankly, the numeracy of the social scientists is secondary. Very important, but secondary.

All right. So, there are three broad positions that one can have here. Now, I just put down headings. We really need a lot more work on this. There is the -- forgive the fancy word -- the deontological position; that is, some people say they know what a deserved punishment is independent of its results and when Marvin says punishment may not be more severe than that, he must know what it is because otherwise he can't know what more severe means.

So, some people know what deserved punishments are and say we must not exceed that by virtue of other factors associated with dangerousness. That is a very respectable position, a highly moral position.

An alternative position is the pure utilitarian position, the extreme opposite. If you have a sufficiently high risk offender, his further incarceration is infinitely less important than the protection of his potential future victims. I may say, of course, we have difficulties now in that prediction, of course, we have imprecisions, but we are going to get them better. We are going to get them better and at a certain point if the interference with his life is relatively small and the protection of the community is relatively great, we had better act on it. That is the second possible position.

Now, I take a third and somewhat different position which I have tried to develop in some articles referred to in the report and which is that of the "united retributivist." Those of this view say: It is very hard to know what a

deserved punishment is. Nobody is good at that. They tell me St. Peter is good at it, but I doubt it, but none of you are any damn good at it. The best in the room is Marvin and he is not much good at it.

What you do recognise are undeserved punishments. You have a very strong intuitive sense in this culture of when a punishment is too lenient. You have another very strong intuitive sense -- it will vary from time to time and with different cultural groups, but, all have it -- when a punishment is too severe; severe in relation to the offense and the criminal's career.

Within that range of the not undeserved punishment, discretion operates throughout our system at every level, from police right through to not only parole but to revocation for breach of parole.

We are moved by fear. We take into account danger. Within the range of a deserved punishment, it would seem sensible and fair to use emerging information, provided it be reliable, provided it be validated, about prediction of future criminality.

It is in that area that I think there is an operative range in the practicalities of the world for the material that is excellently presented in these two volumes. What, then, are the problems? And I will put the headings down only.

We have to allocate resources. To say -- when you allocate towards leniency, you are also allocating towards severity. You take a hundred people and you treat the less dangerous more leniently. Like it or not, you are treating the others more severely from a norm. So, in that allocation of resources, our first problem is improving the reliability of our data, turning what are implicit, clandestine, not declared predictions of dangerous and allocation of resources as much as possible into the explicit.

Now, Marvin may be right. To make them explicit may make it worse. I don't know, but at least there is the argument.

The truth of the matter is that though they claim to the contrary, what is happening here is that probability theory, is coming into conflict with a system of individualized justice, and the reconciliation of those two processes is peculiarly difficult.

And the next difficulty about all of this is the inadequacy of our records. Our youth records are extraordinarily poor and bedevils the question of whether to use those records or not.

And then there are other problems that we don't talk about. Many of our predictors appear to have a racial and class bias and that, entirely properly, gives us pause.

Now, what have I done? I have done nothing much except to illustrate the difficulties and suggest the alternative positions and I have not kept you beyond the time I have been told to keep you.

My principle, for what it is worth (it almost surely is wrong because there is so little literature behind it -- it is amazing that so little has been written in this), is that predictions of future dangerousness are proper to use in allocating punitive resources at every stage, including sentencing, provided, but only provided, the sentence is otherwise deserved.

(Applause.)

MR. SONNER: What I have just heard reminds me of what I heard in law school once, that the "A" students become the law professors, the "B" students become the judges and the "C" students go out and practice law. I feel like I have just heard the "A" students speak.

I would like now to ask the general question to all three of the people on the panel. If they had to operate a prosecutor's office or a police department or be a judge or operate on a parole board, how would you go about using this information, this research, in an ethical and a practical fashion? If I could ask you first, Ken.

MR. FEINBERG: I think it would be very helpful. The trouble with Norval's argument, it seems to me, is, that if it doesn't beg the question, it raises the terrible question of what is going to be the "just desert" sentence and what is the maximum to be.

I would use the information that is provided here. I think it is helpful in trying to draft some sort of model as to where, within a guideline system, we will treat, in terms of sentencing, the offender who meets more of these variables. But these variables really do not help resolve the question of just deserts unless you want to take many of the variables in here, recast them semantically in terms of just deserts and say a three time loser is more deserving of a guideline maximum than a first time offender. Well, that is fine, but you have to understand what I think is the real debate over how one reaches the outer limit.

These variables may help in finding a just deserts outer limit. But in terms of prediction, except for using predictive variables within the guideline or maybe permitting the judge to go outside the guideline up to a defined point, I don't think they are very helpful.

MR. SONNER: Marvin.

DR. WOLFGANG: Well, I don't know if I am answering your question directly but since I was attributed to have the best knowledge of what a just desert is, I would like to say one or two things about that.

I continue to encourage my colleagues to do more research on trying to scale the gravity of crime and punishment. We have had research on the scaling of crime. It is vulnerable to criticism, of course, but we have just completed a large national survey using approximately 60,000 persons in representative households in the United States to give us a number indicating how serious they thought different crimes are. We have 204 crimes now scaled.

Something should be done similar to that, using psychophysical scaling, to get the public's perception of the severity of sanctions. After all, crime is itself a subjective term, even declaring what particular acts are criminal is a cultural subjectivity and so it is with punishment. I think that is a difficult task, but a just desert deserves to have more than the rhetoric and the philosophy that we have had thus far. It deserves to have some entry from our quantitative capacities.

My major point is that the variables that have been used traditionally, that is the seriousness of the offense and prior record, I am not seriously objecting to and I am not declaring that as necessarily unfair or unethical. What offends me is the introduction of factors over which individuals have had little or no control.

In this deterministic world, often what we call the high-risk offender is a person who has been disadvantaged from birth and has been a victim himself of the environmental and social conditions under which he has had to grow up and live. By adding some of those factors such as having been convicted as a juvenile before age 16 or having served time in a juvenile institution, and so forth puts him at an increased disadvantage and by augmenting his sentence as the Rand simulation showed from one year to eight years is, to me, an additional unfair advantage in life and I find it unethical.

MR. SONNER: Norval.

DR. MORRIS: One really does wish to have days on this issue not moments, but given moments, I do not think that the criminal justice system is capable of rectifying the disadvantages to which Marvin correctly points. I don't think he does either.

I think we have to live in a world in which given social inequalities and pressures towards crime the adult, at least, is held responsible for conduct. Given those two precepts, then I address the allocation of resources within a criminal justice system, an overloaded criminal justice system, and then I address your specific question about police and prosecutors.

And it seems to me that within those realities it would be better for the police to allocate their resources to the expeditious arrest and expeditious prosecution and forceful prosecution of those who deserve the punishment if they be convicted and who present the largest threat. So, I would do my best to institute, even with our relatively inadequate data, allocation of resources that were guided by our knowledge of the impact of regular or frequent drug use on criminality, past convictions, the miseries of the lives of some people, simply because they are the highest risk.

I am not dealing fairly in the sense of a fair world, but it isn't a fair world. It should be but it isn't. The same, it seems to me, with prosecution. Given limited prosecution resources, I want the effective prosecution to be allocated to those people; if we can't do all and do all equally, as we can't, let us concentrate on the largest threats.

So, yes, I would indeed use this emerging data. One thing I would insist on, which is sort of tragic, is quite often what the police use is different from what the prosecutors use and they have a little fight with one another about it and you get back to the inefficiencies of the system.

Final point. The problem about consulting people about deserved punishments, particularly in this country, is that for decades they have been fed with false information because what we really run is a "bark and bite" system by which what we say we do by way of punishment is considerably greater than what, in fact, we do, even though that too is quite severe for those people who make their way through the system.

So, people are at loss really to have informed knowledge about just punishments.

MR. SONNER: I think we have reached the end of the time that we have allotted. I would like to lead a hand for the panel.

(Applause.)

(Whereupon, at 12:44 p.m., the meeting was recessed, to be reconvened at 2:08 p.m., the same afternoon, Monday, September 8, 1986.)

A F T E R N O O N      S E S S I O N

DR. MORRIS: Ladies and gentlemen, may I have your attention. It is my unenviable task to launch this next session and then get out of the way.

The topic is "Program uses of Criminal Career Knowledge." Chairing that meeting is Allen Andrews, who is chief of police, Peoria, Illinois and was an active member of our Panel of Research on Criminal Careers.

I enjoy working with some police chiefs and more with Allen than most. I mean, he has a range of knowledge about this system, which is very great, including a good deal of research and scientific knowledge, which I for one envy.

Allen, that is enough for you.

MR. ANDREWS: Good afternoon.



Don Gottfredson, who will begin the program this afternoon is under some severe time constraints, so I am going to forego the remarks that I will make later. You are not saved permanently from hearing them, and I introduce Don so that he can make his plane. He will have to leave as soon as he is done.

Don Gottfredson is dean of the School of Criminal Justice at Rutgers, president-elect of the American Society of Criminology. He is one of the early innovators in the use of prediction scales to make parole release decisions and was one of the collaborators in developing some of the first state sentencing guideline systems.

He continues to be much involved in those activities at the state level and will talk with us today about experience with the use of risk prediction to establishment time served through the sentencing and the parole decisions.

Don, we will let you get moving and your car will be waiting for you when you finish.

DR. GOTTFREDSON: Thank you very much.

It was announced that the title of the general program is "Program Uses of Criminal Career Knowledge." I thought that one should have a title for presentations, so I considered "Research: Who Needs It?" thinking that I would explain that administrators and managers need it. Then I thought that that could be read differently, as in "Research? Who Needs It?" So, that was rejected. Then this morning I thought that a good title would be "Zen and Systems Analysis." But I was reminded this morning by Attorney General Meese that that title already has been used. It is a little known fact that the first publication of the National Institute of Law Enforcement and Criminal Justice, Report Number One of the Institute, was written by Dr. Ralph Siu, the Institute's first Director; and that was the title: "Zen and Systems Analysis."

The first Zen story in that paper was about two offenders who had been apprehended for stealing. They were brought before the sultan. They learned that the penalty was death. The sultan told them that they would be hanged promptly the next morning.

They were back in the cell talking this over and one said, "I know that the sultan has a beautiful white stallion and I am going to offer, in return for my freedom and life, to teach that stallion to fly."

The first inmate said, "You are out of your mind. Teach a horse to fly!" The second inmate said, "I am going to have three chances to live. First, in a year, which I will bargain for, the sultan might die. Second, the horse might die. Third, I just might teach that horse to fly."

Since this is a Zen story, you have to figure out why I think it is relevant.

I would like to try to stress the importance of decisions throughout the criminal justice system. That has already been emphasized this morning. If there is one thing that helps us to characterize the criminal justice system, it is that there is a series of decisions made about offenders or alleged offenders against the law. Whatever the diverse roles might be in the different parts of the criminal justice system, all make decisions about offenders or accused.

It is useful to consider, in the light of that importance, the nature of decisions and particularly of rational decisions. It can be argued that any decision has three parts.

First, there is some goal or objective, or some set of goals and objectives, that the decision-maker would like to achieve.

Second, there are some alternatives; that is, there are some choices.

And, third, there is some information relating the alternatives to the goals that the individual wants to achieve. That would define a basis for rational decision-making, because otherwise there is no decision to be made. If there are no choices, there is no decision to be made. If there is no information relevant to the outcomes of the decision, we can hardly consider the idea of a rational decision. A rational decision is that decision taken in the light of the available information that maximizes the likelihood of achievement of some goal or objectives or some state of affairs.

You know that we do not have a great consensus about the goals and objectives of the criminal justice system. You know that we have a number of alternatives; but we seek to invent more. Indeed, one of the interesting things about alternatives is that they are invented.

You also know, and it was asserted this morning, that we lack information relevant to alternatives and goals. That is, in large measure, what this conference is about. It is the improvement of information (as opposed to mere data) that may increase confidence in the outcomes of decision-making.

There is a wide lack of information in the criminal justice system. It was stressed by several speakers this morning that we need to improve the quality of that information.

Michael Gottfredson and I have spent six years reviewing the empirical research on decision-making, throughout this spectrum, from victim decisions to report a crime through police, prosecution, bail decisions, sentencing, correctional decision-making, and parole decision-making. We think that we have found four things that are important.

First, this research shows that three factors are most important in explaining decisions.

Second, it shows that the concept of prediction is everywhere important in this decision-making process.

Third, it shows that models for improving decision-making have been developed and successfully implemented in some instances.

Fourth, it shows how decision-making might be improved.

I asserted that three factors were everywhere important. Two of them are stressed by the Panel in their report and were mentioned this morning; these are some measure of the seriousness of the offense and some measure of the prior record of the offender. The third one, curiously, is not mentioned by the Panel in their discussion of sentencing. It is one we do not very often think of; but it is pervasive in the research literature about decision-making throughout the criminal justice process. That is the prior relationship of the victim and the offender. The criminal justice system behaves differently in respect to "stranger to stranger" crimes than to crimes among acquaintances, friends or relatives.

These three factors are very important throughout the structure. That has relevance to conversations this morning about whether or not decision-making through this system is wholly capricious or arbitrary or whether it does have some rational basis. That we find these same factors over and over again as important in decision-making is an important fact to consider.

The centrality of prediction was stressed this morning by several speakers. Everywhere we turn, prediction is important. It was indicated this morning that all the utilitarian aims of the criminal justice system (deterrence, incapacitation and treatment) have a predictive notion underlying them. We do not always think of that in terms of deterrence, but, of course, there is a prediction involved in the idea that if I do something bad and you

punish me, that warns others and affects their behavior. It is very clear, of course, that that idea is important for incapacitation. It is important also for a treatment orientation, which involves trying to change the probabilities of later offending. The only prominent criminal justice aim that does not require prediction is that of deserved punishment.

The other thing we found is that the guideline models for setting policy, within which individual decisions may be made, have been used successfully in paroling, in sentencing, in screening for prison release to intensive supervision, and in bail. They have been shown at least to provide increased openness in the decision, an increased clarity of the objectives and procedures, and an increased equity in decision-making. They tend also to provide a sound basis for further learning from experience. Such policy models provide one of the best hopes for the rational use of information in decision-making and in decision-making policy.

Such guidelines models have a few essential elements that are especially important. They help define the kinds of models that I wish to advocate.

First, there is a general policy for decision-making articulated in explicit terms, within which the individual decisions are made. Then, there are explicitly designed criteria for the decision-making with the specific weights to be given to these criteria, also explicitly defined.

Within that general policy model, guidelines that usually are, but need not be, in the form of a chart or matrix or grid, are used in the process of arriving at a decision for a particular individual. They reflect the most important policy concerns. They give expression to those concerns as a matter of policy; and they are decided upon by the persons responsible for that policy. An example is given by reflecting the dimensions of the grid in the

United States Parole Commission's model. These reflect the seriousness of the offense and the likelihood of parole violation. Thus, these are seen as the two most important policy concerns for that parole board.

Next, these guidelines are intended to structure the discretion used in making a decision, but not to eliminate it. There are two ways in which discretionary judgments are required of the decision-maker. First, within the cells of a grid such as that United States Parole Commission, there is some leeway for discretion within narrow bounds. Second, considering the facts of each individual case, the decision-maker is expected (not only permitted, but expected) sometimes to reach a decision that is a departure, that is an exception, from the suggested decision outcome.

Next, when such departures are made, that is, when there are exceptions, the decision-maker must provide explicit reasons for it.

Next, there is an established monitoring system to provide periodic feedback to the authorities responsible for the policy. For example, such feedback might give the percentage of persons falling outside the suggested guideline category and the reasons given for those decisions.

The next essential is that the authorities may modify the guidelines at any time.

Next, the general policy, including the guidelines incorporated within it is not regarded as a once and for all statement of a right policy. Rather, the policy and the procedures are designed to facilitate an evolutionary process of policy development, changing in response to experience, resultant learning and social change.

Finally, the policy in general and the guidelines specifically are open, available for public review, criticism and debate.

These are the essentials of the kinds of models that I wish to advocate. You might note that there are some important features of such models that are not included in the list that I have recited.

For example, you may make guidelines up in a descriptive fashion or in a normative fashion; that is, by looking first at past experience or by considering only what ought to be. I have said nothing about that debate.

There are other quite possible structures for guidelines. For example, the decision model may be sequential in nature. It does not necessarily have to be a grid. It might be three dimensional. Or, it could be rounded off, like a crystal ball. There are many models that might be invented that I did not speak about.

Similarly, I did not talk about the general nature of the main dimensions involved, such as whether prediction is used or whether desert is appropriate or not, or about the relative emphasis on such purposes as are implied. These issues raise as many questions of ethics as they do of science and, of course, these are intertwined.

Now, the difficulty philosophically with most formulations along these lines, as already indicated in our most recent panel, is that there is a fundamental strain between desert and utilitarian aims. It was suggested this morning that this was largely ignored in the report of the Panel; and I believe that is correct. That strain is reflected in the Panel's report, although they did not elaborate on it.

This conference has a risk and crime control theme; yet, it is held in the context of very strong demands for desert. This calls to mind what some philosophers have called the paradox of retributivism. It is very difficult to justify in a coherent theory of ethics why it is that people must be punished for doing harm. The paradox is that much of the criminal law condemns the retributive impulse, while demanding its use by the state.

If the desert and utilitarian orientations are utterly and fundamentally at conflict, it seems that we might spend some time considering what a purely utilitarian theory would look like. Let me suggest what might be a useful concept, one that does not require an acceptance of desert.

When we predict offender behavior anywhere throughout the system, we usually predict the likelihood of success or failure or doing harm (by some specific criterion). For example, in the case of lambda, we predict a future classification as a high rate offender. Available prediction instruments give us some indication of the odds of success or of failure (in some sense) for the individual offender.

Now, if you go to the roulette wheel at Las Vegas and consider putting a dollar on No. 28, you know that the odds are 38 to 1. There are 36 numbers, one zero and one double zero. Given those odds, you might reasonably be expected to put a dollar on No. 28.

You probably would not put a thousand dollars on that or another number. You have considered the odds, but you also would want to consider the matter of the stakes. The value of a wager is the product of the odds and the stakes.

We are busily trying to measure the odds, but we do not have adequate measures of the stakes. Usually, when we seek to apply prediction instruments, we apply them with respect to the odds, but ignore the stakes. Then, we tend to express surprise that people don't use them operationally. We shouldn't be surprised, if the stakes have been ignored.

Let me give two simple examples of how both risk and stakes may be important in a decision. First, you will know the kinds of offenders that have a high probability of failure (that is, they are poor risks); yet, the stakes are not high. For example, a young man comes repeatedly into the juvenile



court. He is always stealing. That is all he does. You know if you are going to release him, he is going to steal some more, but he is really only a nuisance. He has a high risk of re-offending, but the stakes are low. You also can imagine readily a case in the other extreme. Consider a person never in trouble before, older, an accountant all his life. He is a straight arrow. But he did a murder. He is a very good risk in terms of odds, that is, very unlikely to offend again. But he did a murder. The stakes are very high. He is a low risk, high stakes case.

If the concept of punishment is rejected, then perhaps an ethically sound, viable mode could be developed from this concept. We seek a rational decision-making process. We seek to be utilitarian. We believe that the end of government is the good of mankind.

What would the "stakes" dimension include? It certainly would include the present offense. It may very well include past behaviors that seem to raise the stakes for the decision-maker. An example might be a prior assault conviction. Although the present offense is theft, he used a gun on a prior occasion.

Perhaps we can conceptualize a utilitarian theory within which we must make decisions under uncertainty. The proper dimensions of concern are both risk and stakes.

The seeking of rationality implies finding a greater clarity of goals than we now have, developing and improving the alternative choices available, and improving information for making decision policy.

Guidelines models of the type described have been found to be useful. A risk control model ought to differentiate between the concepts of risk and of stakes. It is possible that a model not requiring a retributive theory could be defined that meets the requirements of theoretical consistency and practical utility.

(Applause.)

MR. ANDREWS: Thank you very much, Don.

Our next presenter, Joan Petersilia, is a senior social scientist with Rand Corporation, has been very closely involved with Rand's career criminal work, is presently vice president of the American Society of Criminology and recently has completed a study of intensive probation supervision.

She has been studying new methods of supervision on probationers, such as electronic surveillance, something I can assure her that many of the practitioners at my level in the system are captivated by. We would love to hear something about that.

She will speak to us today on the use of risk assessment and offender needs assessment in setting conditions for probation.

Joan.

DR. PETERSILIA: Thank you, Chief Andrews. My assignment from Jeff was to discuss the utility of career criminal information for the field of corrections. When I received the book, I was immediately convinced that I needed to narrow my discussion to the topic of corrections, and more specifically, probation. I think that parole risk assessment, using the salient factor score and its continued revalidation has been given adequate attention. But there is one area that we scholars have neglected, and I myself have been party to this. Having written on career criminals and criminal careers, I think what we have used the research information to influence police, prosecutors and parole. But, we haven't been bringing this information to the area of community release and probation supervision, where in fact, many more risk decisions are being made than in these other fields. I think we are all familiar with the Bureau of Justice Statistics' report, (Crime in the Nation), which shows that about 1.7 million people are on probation

supervision. About 60 to 70 percent of all the people we choose to supervise are, in fact, residing in the community.

At the same time, contrary to the prison population and their respective resources, probation resources have remained relatively stable, so you have got three facts. One is that the probation population is increasing. The resources are either declining or stabilizing, and many believe that the probationer's characteristics have become more serious.

So, you have the situation that Norval described this morning. It is not simply an academic exercise to talk about whether or not you want to use risk prediction in deciding how to allocate punishments. You have very limited resources, many more people which qualify for the conditions and trying to decide who are you going to supervise in a more intensive fashion.

I think it is important and why I want to focus on this is that in terms of the Panel's report and in many of our discussions we have been neglectful of the fact that the field of probation supervision, under the auspices of the National Institute of Corrections, has for the last ten years been developing the NIC risk assessment model. It is currently being used in over 200 jurisdictions nationwide. That is precisely an instrument that is, in essence, violating many of the conditions or the cautions that the Panel's report sets out. The NIC risk assessment instrument was developed in Wisconsin, and has been simply taken and adopted in other jurisdictions.

So, you have got a field (i.e., probation) that is really yearning for information on risk prediction, is not closely aligned with us as researchers and so, is doing the best they can. I think they could greatly benefit from the kind of information that the Panel's report presents.

It is even more serious than that, though, because when you look around what is happening in the field of community supervision, you find that 40 states now have passed legislation or authorized money to develop intensive supervision probation programs. It is currently one of the hot, sexy topics. Electronic monitoring is another one, as is house arrest programs.

These new "control in the community" programs are all groping for some sort of instrument which will help them make the allocation decision -- who is going to participate in these kinds of intensive, and I might add very expensive, community control programs.

I hope this information gets to the field of probation and I know some of them are here -- I am pleased to see there is a handful of probation chiefs and others active in the field here at this meeting, but it is probably the first time that I have engaged in these kinds of meetings where we have given that invitation to the field of probation. Why has this occurred? Why, even among the Panel's members, was nobody included from the probation field? I think the reason is that we assume probation is not a control-oriented agency and this panel is after all based on control. But I think that distinction no longer holds true for the field of community supervision. Probation is very much interested and, in fact, being forced to be in the business of control, and so the information in this book is useful. For instance, I think it is a fascinating fact that employment in youthful ages tends to increase the probability of recidivism. Age, in fact, has a curvilinear relationship with recidivism. They also note that you have got to study offenses separately -- that the same model that predicts recidivism for robbers doesn't necessarily predict for burglars. Also, the information about career termination is important. Given certain characteristics, how long can that offender be expected to continue in crime?

All of those facts have been somewhat "blessed" by the Academy because so many studies have consistently shown the same effects, but those pieces of knowledge are not really getting to decision makers, and affecting offenders in the community.

I want to mention three other issues in this light, and one is the ethical issue we have been talking about today. Using risk prediction in probation sidesteps some ethical issues, in that those people are legally liable to prison. There is no guarantee to probation. They are being allowed to remain in the community; they could have gone to prison. So, anything in the interest of public safety, I think, is somewhat reasonable. If resources weren't a problem, these probations would be having these additional monitoring conditions anyway.

Some work I did in California showed what the public safety consequences were of allowing offenders to remain in the community under "nominal" probation supervision. I think that the kinds of risk-prediction models, and the factors that we have identified to identify career criminals, could help "cream off" that offender population that, in fact, does need a more intensive kind of program.

Another issue I think is important: we need to think a little bit about where the base information is coming from. Most of the information that we as researchers code and analyze and is used by police, prosecutors, court and parole release decision-makers, comes from the probation pre-sentence investigation.

Having worked with those data, I question not the probation staff's competence to get that information, but given their time constraints, both the information's completeness and its quality. I think that is why our predictive models are, in part, so poor, because the data not only has gaps, as Jeff

indicated, but I frequently found when you cross-check it, it is inaccurate. So, I think we have got to think about where the data are going to come from and if we are going to use the pre-sentence report, what the accuracy of it is.

The Panel's report spends a fair amount of time talking about research priorities and what should be the next step. I think that is another reason why we have to link up, especially with probation. Most of the information that we need on these people, we need when they are out in the streets; how sanctions affect lambda; whether or not there is a deterrence operating; how drug use affects lambda; how jail terms affect lambda.

I think that the probation staff involved in these intensive community supervision experiments could be helping to gather some of that data, and perhaps put us in the right step in terms of what's next.

In sum, I think the Panel's report will be very useful to that 1.7 million offenders out there being supervised in the community. I am skeptical that it will actually get to those people since the whole movement in the field of community supervision is moving very fast. New programs are being brought on line and what you typically see in developing these programs is simply a statement which says -- for instance, I know in New Jersey's and Georgia's intensive probation programs, that "the offender's risk should be taken into account." We need to get to those people, give them the best information that we have, even though it is not perfect, to help make those decisions better.

(Applause.)

MR. ANDREWS: We have just gained nicely on our timetable. That allows you to speak a little longer, John.

John Goldkamp is a member of the faculty of the School of Criminal Justice at Temple University. He was one of the designers of the first pre-trial release guidelines tested experimentally in Philadelphia several years ago and now being replicated in several other cities.

He will speak today about the design and implementation of pre-trial release guidelines and the role of risk prediction in developing those guidelines.

John.

DR. GOLDKAMP: Thank you very much.

Joan, I would like to give you back four of your minutes. I have never seen that happen before actually.

I guess when Jeff invited me to speak a few weeks ago, I wondered what it was that my assignment really would be. He said I should look at the volume that was just published, which I think I got late last week and I wasn't in town at the time. However, I think that if my job is to discuss the operational uses of criminal career knowledge in the area of bail and pre-trial release, that my ability to do that depends on what that means and how it might apply to a very specific and narrow problem area, different than the ones we have been discussing, the period between arrest and adjudication of a defendant's case.

Now, in the pre-trial area, we don't speak Greek. We don't have a word for "lambda." I was trying to make up something, coin a phrase like "pre-trial lambda", or something for "u" [individual arrest rate], or perhaps for "T" [career length], but I think as you will find, we are not quite there yet.

Let me just assume that the parallels that I am supposed to focus on really -- the one of main relevance -- is the long time preoccupation of the politicians, the public and the criminal justice system with the public safety threat posed by defendants who are on pre-trial release or with the belief, in the words of Congress as they were drafting the Federal Bail Reform Act of 1984, in the existence of a small but identifiable group of particularly

dangerous defendants, who are disproportionately responsible for pre-trial crime.

Are these the same people addressed by the career criminal research reported in the NAS volume? I don't know. Mary Toborg, a few years back, tried to estimate that among arrestees about 10 and 20 percent were on release already for a pending or an earlier case. We also know that if we look around the country at the various pieces of research (which are hardly comparable) concerning the phenomenon of pre-trial crime, of crime committed during pre-trial release by defendants, that we find perhaps between 5 and 15 percent of defendants are re-arrested for new crimes during pre-trial release.

About half of these are arrested for what we would probably think of as serious offenses. That this theme of the rare but serious repeater has been a political and practical concern in the field of bail and pre-trial release is clear, but what we call the dangerous defendant -- a not too distant relative, I suppose, of the career criminal -- has been and continues to be somewhat controversial, just as his or her identification proves to be elusive.

A chief source of the problem has to do with prediction. Among the difficulties we have encountered in our quest for the dangerous defendant are several kinds of questions. First, questions concerning the nature of the goals of the bail or pre-trial release decision. If danger is a legitimate concern, danger of what?

A second question concerns the criteria relied on in pursuing these goals. Should judges rely on the seriousness of the criminal charges, on community ties, on drug positive urine tests, or on prior criminal history? What are the criteria that would best help us locate the prospective dangerous defendants?



And, thirdly, the questions involve the errors associated with predictions of dangerousness at the bail stage. If the goal of prediction and control of pre-trial criminals is legitimate and the criteria are either actually related to pre-trial crime or thought reasonably to be related, are the errors associated with this kind of prediction great enough to call its legitimacy into question? There is some debate about that. We have heard a little bit about that today and we will probably talk about that more later.

Let's consider a few of these questions about our pursuit of the dangerous defendant briefly.

One problem we do not have is arguing about the appropriateness of retributive versus utilitarian goals at the bail decision or pre-trial release stage. We have little to offer Andrew Von Hirsch here, I am afraid. In theory at least, bail is all about risk, about prediction. In fact, it is only about risk. It is purely utilitarian.

Interestingly, there has been little controversy in the past about judges' practice of trying to predict likely absconders. Oddly though, until recently, it has been highly controversial when we would discuss judges' attempts to predict who among all defendants would be the likely criminals during pre-trial release.

Since Congress enacted the 1970 Preventive Detention Law for the District of Columbia, the log jam has broken and the danger agenda has come flooding down the river or has come out from under the table, or from wherever, and is increasingly acknowledged now in the laws of many states. In fact, recent look at state laws shows that about 35 states now acknowledge a public safety orientation. The District of Columbia law, and, of course, the new Federal law, the Federal Bail Reform Act of 1984, incorporate this concern for the dangerous defendant.

Interestingly, after the passage of the Federal Bail Reform Act of 1984, few court decisions have given signs that this new explicit orientation is likely to be rejected. There are a couple of recent circuit court decisions that are once again raising the old questions about the appropriateness of predicting danger at the bail stage.

The current status of legislation aside, the fact is, and I think the Panel notes this in its text, that whether we like it or not, judges do it. Judges have been, are focusing and will focus on prediction of criminal conduct by released defendants.

Whether we take the perspective of the new laws or of the front line judges, we have a number of questions to resolve. One is confusion over danger of what. Maybe we agree that danger is okay. If we look at the laws around the country we find a wide variety of definitions: from references to general threat to the safety of the community, to some very specific phrases about the fear of serious bodily injury. In one state, even a threat to property is considered a reason for detaining a person.

A related question is: Are we trying to predict the occurrence of dangerous crimes or trying to identify individuals likely to be dangerous? To be valid, do our bail predictions have to predict crimes occurring only within the pre-trial period? Do "dangerous" individuals have to commit serious crimes to warrant their label and treatment as likely dangerous defendants?

Well, the controversial nature of predicting dangerousness aside, if we agree that a bail decision is all about risk, then perhaps we have to begin to ask that if we are doing it, how well are we making assessments of risk and making those decisions that are designed to respond to those assessments of risk. This is a difficult question to answer because we are at a very early

stage of conceptualizing the judges' decision task and in conducting research measuring its results.

Here are some of the problems that we face. How does the judge organize the decision task and so how can we set about to assist the judge? Is it true that, for example, first the judge assesses the level of risk posed by a defendant and then selects the option that matches and counterbalances the level of risk posed?

If so, how well do judges assess risk? How well do they select counterbalancing release options? Which release options work for which kinds of risk?

Well, it is fair to say that we are just at the very, very early stages of research that might answer some of these questions.

It also appears that the risk assessment and decision selection tasks that judges pursue have aims that mix both specific deterrence and incapacitation and this we have just barely begun to try to sort out. That is, in selecting the least restrictive options of release, a judge may be invoking release options that are specific deterrents, such as the threat of revoking cash bail -- losing, forfeiting cash bail -- of revoking release altogether or of facing enhanced penalties for crimes committed during periods of pre-trial release.

Should the judge decide that no specific deterrent is available that would match the level of risk posed by the defendant, the judge might move to select an option that constrains the individual or partially incapacitates the individual, such as supervision, house custody or ankle bracelets, electronic monitoring.

Failing this, the judge might decide or others might argue that total incapacitation is appropriate and then procedures for detaining particular

defendants deemed dangerous outright would follow. This kind of organization of the goals of the judge's decision task has not been well-outlined, nor can we describe the crime reduction effects of either specific deterrence or incapacitation when these kinds of options are used at the bail stage.

Actually, in the area of bail and pre-trial release research we are at a much more fundamental stage. The question that we are struggling with around the country -- that judges and pre-trial services agencies would love to know the answer to -- is which criteria actually do predict flight or crime among defendants who are released.

This is where we are right now.

What is the answer? Are there criteria that are universally useful to predict flight and crime among released defendants? Is common sense just as good as statistical prediction? What kinds of errors are associated with prediction? Is the traditional favorite, the seriousness of the charge, just as good as the community ties criteria suggested by bail reform over the last couple of decades?

Or is knowledge of active drug use, as I think Jay Carver later on will argue, the best predictor we have ever had, equivalent to or perhaps better than knowledge of a defendant's prior criminal history?

And once we can answer those questions, how can we work this knowledge into a useful approach for the judges in making their decisions. This is where some of the recent work that Mike Gottfredson and I have been conducting in the Bail Guidelines Project, the project funded by the National Institute of Justice, has been focusing recently. We are trying to address a number of ways in which we can help judges and courts improve their decision-making at the bail stage. One of them involves risk classification as a central theme and this we investigated first in Philadelphia where we conducted an experiment.

We have Judge Glancey here today, who is the president judge of the Philadelphia Municipal Court, who will be able to talk a little bit about what that was like, what the results of this course of research can contribute, later this afternoon.

Since then we have moved to Maricopa County Superior Court, Dade County and Boston, to work with the courts there. Risk classification is a central theme in each of these places, but there are different slants and different emphases that these orientations take.

Well, we believe that further research -- it is just beginning in the area of risk classification in prediction and bail -- has an important payoff to offer the decision-makers who make the bail decisions. We are also concerned with the kinds of problems that it can cause.

We think that risk classification may help in managing flight among defendants during pre-trial release, as well as pre-trial crime and might have something to say about the use of jail space.

In all of the jurisdictions in which we are working and have worked, jail crowding is a major concern. So, we think that risk classification has payoff there, as well, at the pre-trial stage.

We also think that this kind of research will allow us to be able to evaluate the flood of new preventive detention laws, pre-trial detention laws, that all specify different kinds of criteria that should guide the judges' decision in trying to make the bail and pre-trial release choices.

Are the criteria they specify related to producing optimal bail or pre-trial release decisions? Will they reduce pre-trial criminality? Will the effect of these laws, given these criteria, actually address the problem of pre-trial criminality and how will they affect the jails?

I invite you to join our roundtable discussion, which will be held

shortly, and we can talk about some of these issues with some other people as well.

(Applause.)

MR. ANDREWS: We deliberately gave the practicing attorney in our group the clean-up spot, figuring he would be fast and shifty on his feet and on his thinking and certainly in his speaking.

Steve Goldsmith is district attorney for Marion County in Indianapolis, Indiana. As an advisor to the recent University City Science Corporation Survey and Evaluation of Prosecutors' Career Criminal Units, he has picked up a great deal of familiarity with those projects and with the difficulties, successes, failures of that approach.

He will share his insights with us today on that and, I am sure, add some comments, as each of us is ready to do.

MR. GOLDSMITH: As I sat here this morning, I tried to determine whether I was in better shape when I was ignorant and blissful than I am now when I am confused and educated.

When I was first invited to be on the University City Advisory Board for the Career Criminal Evaluation, I thought I was coming to a career criminal evaluation. They said no, this is selective incapacitation. I said okay, if it is selective incapacitation, what are you going to do? They said we are going to evaluate career criminal units.

I said, wait a minute, do not call it selected prosecution. I am elected and we don't want to select down among the violent people. We want to enhance the prosecution. So, they said we will call it any thing you want. Let's just study what they do out there. So, I am now invited to speak to you and I don't really know whether I should speak about selective incapacitation, selected prosecution, or career criminal units.

I don't want to tie us all up in a lot of definitional issues, but when we started career criminal units in 1977, selective incapacitation wasn't even faddish. You may have been writing about it but we were not reading about it in 1977. Now, as selective incapacitation becomes written about more, debated more, and discussed more, it becomes more important; yet career criminal units limp along in their original fashion. The general career criminal philosophy is I am against crime and I am particularly against people who commit a lot of crime; therefore, I am against career criminals.

This whole research effort came after these millions of dollars in career criminal units got started and the result is that there is no particular linkage between selective incapacitation and the traditional career criminal unit. They are really different concepts that deal with different things.

Now, it depends on what criminal you want to use. If you are for retribution, this discussion is irrelevant because it is good to punish the people that do the crimes.

We tend to be simplistic in our projections of general deterrence, but at least we like to think that punishment has some sort of general deterrence. If we look at why we are here today, which is crime reduction as it relates to selective incapacitation and to career criminal units, there are some very serious questions. In fact, there are very few programs that are set up that make use of the information we have been discussing. They generally tend to highlight the last crime and the severity of the last crime, rather than the record itself. Of the study sites, only Dade County even purported to target felons irrespective of which felony they were arrested for.

Juvenile records are used rarely. Conviction rates frequently are used as the success standard of a career criminal unit, but such rates do not in and of themselves relate to crime reduction. At least we should measure the

number of persons we send to prison, rather than the percentage of those people we convict.

If a district attorney sets up a model unit, what should he do? First, it seems eminently sensible to look at juvenile records, even though very few people do. And one of the reasons they do not is because they are called juvenile records and people do not want to hold juvenile records against people who redeem themselves.

But we are not really talking about records of juveniles. We are talking about juvenile records of adults who are prosecuted. Records of juveniles should be a key part of any program that is to be set up.

We use juvenile records, age of onset, previous admittance to state institutions and until Al Blumstein at a conference last summer completely confused me, I used age at risk. Now that I have listened to him, I don't know whether I want to target younger people or older; and, I don't know, given their residual time, whether I want longer sentences for older felons and shorter sentences for younger felons.

Juvenile "career criminal" prosecution units have some relevancy, too. There are some serious juvenile offenders and to use predictors for them, albeit maybe not the same severity of punishment, is a reasonable thing to do.

Next, an activist district attorney should use those same predictors that we have been talking about in terms of selective incapacitation to change the dynamics of legislation. In Indiana we have asked the legislature to tell the judges that if there is a severe juvenile felony record, there should be a presumption towards incarceration for the adult offender, a presumption towards it that the judge specifically has to find against. We eliminated appeal bonds for categories of persons that fall into those definitions. There are other items that can be accomplished in terms of pre-trial release.



Now, the whole issue of ethics I find less troublesome than many of you. The easy thing to do is to say we are only going to use the predictors for positive effects so that the juveniles who predict to be recidivists we will target for counseling. We will target our help; we will target our assistance; we will target the family counseling, but all of that reminds me a little bit of the kid on the basketball court and they start choosing up teams and he is the one left and they say it is nothing personal against you. We just think the other guys are better risks. The predictors have all operated for "good" purposes and someone is still left holding the bag. It doesn't make any difference whether you call it predicting what you do good for kids or predicting what you do bad for kids or adults, you are still using predictors.

We ought to use those predictors, but they do have some very serious ramifications. The certainty that a person committed the crime increases as does the severity of the repercussion. For example, in the pre-trial release situation, some say they are going to use preventative detention; and if they are going to use such a theory, is it not better that at least it is used for those people who are predicted to be recidivists?

Once we have adjudicated guilt, I am less worried about the false positives. If the legislature establishes the parameters for the sentence and those parameters are reasonable, who should bear the risk of the false positive: society or the person who has been convicted of the crime?

So, once you reach the conviction point, I am not so worried about the false positive as long as the punishment is humane, and not cruel or inhuman punishment as fixed by the legislature.

In the area of juveniles, if we use predictors are we worried about false positives? Sure, we are, but in those situations we are more willing to use electronic monitoring, intensive probation, drug monitoring as alternatives to locking up a juvenile for a long period of time.

If you add all those items, and, obviously, I have done this a little flippantly, but there is a very serious issue here. In my perspective, my uninformed, uneducated discretion is worse than reading what you publish and then try to apply it. I would rather have informed judgments, albeit including false positives, than uninformed judgments with false positives. And the research that is reflected in the published journals for this session is most promising. Selective incapacitation has a role as a crime control strategy, a role that is new and different from why we set up career criminal units, a role that has a place whether the prisons are full or not because it has a better chance of targeting those who need prosecution and who need help and reducing crime, than the uninformed, unbridled discretion of prosecutors and judges throughout the country.

Thank you very much.

(Applause.)

MR. ANDREWS: When Steve and I were on a panel advising the FBI on their uniform crime revisions, I discovered how much fun it was to get him going.

I feel obliged to make a couple of remarks that I would have made introducing the panel. I had, I think, a singular and unique experience of being the token cop on this panel and I appreciate that I really wasn't treated that way. Many of the individuals on that panel are powerfully intimidating in their knowledge and expertise and their verbal skills, but they went out of their way to try and get the so-called practitioners who were on the panel a little bit in line with what they were trying to say to us.

I am reminded of an experience that we had in the Police Executive Research Forum when we were captivated by a Stanford Research Institute study attempting to predict the solvability of burglaries and robberies. Police

solvability of crimes, of course, is very poor and we were all extremely interested with the idea that perhaps we could improve our batting average by predicting which crimes were more likely to be solved.

As a result, our members replicated that SRI study in 23 of our member cities and counties all over the country. Suffice it to say that the results held up; you can, indeed, improve your batting average at predicting which burglaries can be assigned for more successful investigation and which should not be investigated as thoroughly.

But one of the shocking things that came out of it was that in many cases in some of the best departments in the country -- departments which seriously consider who should be in charge of burglary investigations and how those cases should be assigned -- the research evidence was that too often a flip of the coin would have been better than the practitioner's decision if you were really interested in solving burglaries.

I would offer to this group, and I think there is sufficient evidence out there in our experience and in the research that has been done, the idea that we can do considerably better than present practice because I think in all of the fields of criminal justice many of us are not doing as well as we might by a flip of the coin when we use our present state of informed or uninformed knowledge and judgment, as Steve just mentioned.

The panel points out that there is a clear capability in the current state of the art to develop predictors that are better than chance, but it is still unclear how much better than current practice statistically-assisted prediction can be.

I would like to offer to you that since most of us probably figure there are a lot of us out there not doing as well as chance, that we ought to get on with this and especially on with the research agenda which is suggested.

Thank you very much.

(Applause.)

(Whereupon, at 3:19 p.m., the general meeting was recessed, to reconvene at 1:35 p.m., the following day, Tuesday, September 9, 1986.)

A F T E R N O O N   S E S S I O N

DR. MORRIS: My task is really a very simple one now and one that gives me personally a great deal of pleasure. It is to introduce Lee Robins to chair this last plenary meeting of this conference.

Lee is professor of sociology and psychiatry at the Washington University School of Medicine at St. Louis. Her research, as most of you know or ought to know, has centered on childhood predictors of antisocial personality, alcohol and drug abuse, and on mental disorder in the community. She is, in the view of us, myself included, a social science researcher without peer in this country.

Lee.

DR. ROBINS: Thank you, Norval. Now that you have heard all that we already know, this afternoon's group will have to make the case for doing more research. I think we will be able to demonstrate this afternoon that a real need remains, and not just because almost every paper ends "we need more research." We will try to be more innovative than that.

We will try to say what kind of research is needed, what sort of shape it should take.

Each speaker will have a maximum of 20 minutes and, we will hold them to that because we want to have adequate time at the end for audience participation. So, collectively, you, the audience, will have at least as much time as the speaker.

The order of speakers is as you have it on your program with one exception. Mr. Stewart is going to finish the session and follow Dr. Elumstein.

The first speaker then will be James Q. Wilson from Harvard University.

DR. WILSON: Thank you very much.

As Lee Robins indicated, when scholars arise at the end of a conference to call for more research, it is usually a signal for you to nervously shuffle your feet, check the airline schedules, and glance hastily at the exit to see if you can make an earlier flight. I hope those of you who have already resisted that temptation will continue to resist it for a few more moments because, though I am going to call for more research, it is not out of an idle desire to occupy the time of yet another generation of graduate students. Rather, I want more research because my experience with the National Academy panel has reaffirmed a view I have held for over 20 years: Not only is research needed, but a particular kind of research is badly needed now. In this year, 1986, it is quite likely we may well set the research agenda in criminology and criminal justice for the rest of this century or for longer.

In order to make this case, let me ask you to imagine your being present on three occasions, 20 years ago, today and 20 years from now. In 1966, if we were meeting, we would be meeting because we were members of or associated with President Johnson's Crime Commission and we would be reviewing drafts of a document that appeared later that year addressing the public's concern about crime. What would we have said with respect to the causes of crime, the prevention of crime, and the improvement of the criminal justice system?

With all due respect to the authors of that report (and I contributed my own small part), I think the answer must be -- not much. We were able to point out the correlates of crime. We were able to show how much more crime there is in poor neighborhoods than in rich ones, among younger persons as opposed to older ones, among men as opposed to women. We uttered some generalizations based upon these correlates. If the correlates were actually causes, our generalizations might have been good policy recommendations. But we had no way of knowing whether they were good policy recommendations because we had no way of knowing whether these social correlates of crime were, in fact, the causes of crime.

With respect to criminal justice policy, we called for the usual things: more and better-trained police officers, more human correctional administration, and the like. There were some useful policy innovations that came out of all this, but in general the sense that emerged from that report is that whatever we have been doing up to now, we should do more of it and spend more money on it.

In the early 1970s, the findings from a group of scholars here and abroad began to filter into the criminological profession in ways that, if they did not alter the conclusions of President Johnson's Crime Commission Report, certainly sharpened its focus.

Marvin Wolfgang and his colleagues at Pennsylvania published "Delinquency in a Birth Cohort" and David Farrington and Donald West in England began publishing their series of books on delinquency in a London cohort. Robert Martinson published his famous article and much less famous, but equally important book on rehabilitation. Economists began to study crime as an occupation and to estimate the costs and benefits of crime and how they might be altered.

This research had a dramatic impact on the evolution of criminal justice thought. Instead of the rather broad generalities (and in some cases empty pieties) of the Crime Commission Report, we now seem to have something to hold onto. First, we now know that crime is disproportionately committed by a small proportion of all active offenders, and that this is true not only in the United States, but in England. It follows that the very high rate offenders commit a very large proportion of all crimes.

Second, we began to sense that the early optimism about rehabilitating offenders was misplaced. Bob Martinson never used the phrase "nothing works." Some people drew that conclusion from it, but as an earlier panel of the National Academy pointed out -- though the phrase "nothing works" was not uttered and should not be uttered because we cannot prove it -- we can say, with some sad conviction, that not much that has been tried so far and evaluated by the canons of acceptable scientific methodology has been shown to work for many people.

Third, the economists' models of crime as an occupation caught our interest because it seemed to rehabilitate the concept of deterrence. An enormous amount of research to test, refine and challenge those arguments got underway.

Now we come to 1986. Today we are seeing the completion of a period of evaluating, testing, refining, synthesizing or questioning the kind of research that appeared in the early 1970s.

A decade after President Johnson's Crime Commission we had a sharper view of what the crime problem was in America and a decade after that view appeared we have begun to understand the limitations of our earlier knowledge. We have begun to have a deeper understanding of the underlying processes.

As a result, we have been able to speak with greater confidence, though not with any certainty, about a wide variety of criminal justice policies. When the police create a repeat offenders project, when prosecutors create a career criminals project, when judges attempt to make their sentencing decisions based on a clearer understanding of the dangerousness of the offender, when parole boards attempt to determine on the basis of base expectancy scores whom to release and whom not to release, the criminal justice system is acting out the intellectual agenda that was set by criminal justice research.

It is not that criminologists invented the idea that there might be such a thing as a career criminal or the high rate delinquent. Police officers since the beginning of time had always had a rather sharp occupational sense that a small number of troublemakers were making life miserable for the rest of us. But it was not until the advent of this research that that occupational instinct became broadly legitimate and diffused itself throughout the rest of the criminal justice system.

I don't want to say that the report of this Panel, with which I was associated, is simply tidying up the loose ends of an earlier insight, but rather to suggest that in this report we are still working out the intellectual agenda set ten years ago.

In short, we now have made legitimate and diffused throughout the criminal justice system a rather distinctive perspective on how best to try to control crime once criminals are produced. But it is safe to say that very little that we have learned so far has represented a breakthrough in our understanding of what causes crime in the first place.

If our task is not only to control crime, but to reduce the production of high rate offenders, then I would have to say that though insights have been



gained and promising leads exist, we have not yet had that substantial advance in knowledge in this area, akin to the advance that occurred with respect to criminal justice policy ten years ago.

Now I ask you to think of yourself in the next century. The year is 2006 and the National Academy has invited you here to discuss crime, both as a problem of prevention and as a problem of control. What answers will you hear to such questions as the following: Does child abuse cause or create high rate criminals, or is child abuse simply a correlate of children being raised in families that for other reasons are producing delinquent children because of discordant relationships between the parents?

Why is it that delinquents so often do poorly in school? Is it because they are dumb? Is it because they have been labeled as troublemakers by the school authorities? Is it because in school people who are delinquent for reasons we can't understand find more colleagues with whom to associate and, thus, engage on a group basis in activities they might have been reluctant to engage in on an individual basis?

What is the relationship between the labor market and crime? Is it the case that the shortage of jobs leads to a sharp increase in criminality, or is it the case that people who have become criminal turn out to be very poor candidates for legitimate employment in the labor market? And does this relationship, whatever it is, occur only when the youth enters the labor market and sizes up his or her prospects, or does it occur many years earlier when the child, growing up in a family, begins to form a sense of what the future may hold and, therefore, how he or she ought to behave?

Is the juvenile court reducing crime by getting tougher on juveniles, or is it increasing crime by labeling otherwise casual delinquents as hard-core delinquents?

These are the questions that continue to animate and agitate the criminological profession. I think it is safe to say that the criminological profession cannot now give settled answers to those questions of a sort that would provide reasonable guidance to policymakers.

Therefore, if we are going to meet 20 years from now, we ought to meet on the basis of a National Academy report that analyzes, criticizes and synthesizes the kind of research that attempts to answer these questions. That research has not yet been done.

There is reason to believe that we may see another major upturn in criminality later in this century. Crime rates are a little unstable now; down in many places, up in some places. In many places they will continue to drift down as the population ages, but soon the population will begin to get younger again. We already note that in many parts of the country enrollment in elementary schools is up.

Whenever you see enrollment rising in elementary schools, it is time to lock the doors and windows because in about ten years, when they reach the age when they are no longer under the control of their elementary school teachers, some fraction of this enlarged number of young persons will take to the streets.

If we wish to address what is possibly going to be another crime wave, and if we are going to satisfy ourselves that we have increased our knowledge about how best to deal with crime, then we have to make the research decisions now. The key decision, in my view, is to set in motion research that will attempt to sort out the causal linkages that account for individual differences in criminality. I think there is only one way to do this and that way is to mount one or more prospective, longitudinal studies beginning at or near birth that follow young people as they grow up, especially as they grow up in our

large cities. In this way, and only in this way can we sort out the effects on crime of prenatal care, birth stress, early childhood socialization, and the first experiences with school and the labor market. The goal is to see if we can understand why some persons turn to crime in higher numbers than one would predict, knowing the base expectancy rates.

I think it would be desirable if this prospective, longitudinal research were linked with planned experiments designed to see if certain interventions, such as preschool education, the training of parents, and prenatal care, can make a difference in the outcomes of young people growing up. Such research would be useful not only to the criminological and criminal justice professions, but also to all professions that care about improving the character of America, that care about mental health, that care about employment, and that care about educational achievement.

Longitudinal studies have been done. Very few have been prospective; almost none have begun at or near birth, and those few that have have ended too soon and have not used the right measures. None has been accompanied by experimental interventions.

I am not urging this strategy simply because I believe that is the best way to advance knowledge. I am urging this because this is certainly the most difficult but possibly the most useful kind of research. It is easy to find reasons not to do it. There is no single government funding agency that has the responsibility for finding out how young people grow up in our society. That responsibility is divided among the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the National Institute of Mental Health, the Children's Bureau, the National Science Foundation and the like.

There is no foundation in the United States that has made this its principal concern. There are very few research institutes or universities prepared to take the long view and to commit scholarly and research careers to the ten or fifteen years it will take to benefit from this kind of research.

Cross sectional research is relatively easy to do. One can publish an article in two years, deliver a result to the National Institute of Justice in 18 months and satisfy one's promotional committee at the university within 8 months that you are doing something worthwhile.

The incentives in the public and private sector alike all run against this strategy. Most people respond rationally to incentives. It is all very well, scholars and foundation officers will say, to talk about watching a group of kids grow up from birth on and doing a lot of complex, costly, time-consuming research. But there will be no results for eight or ten or twelve years. We can't wait that long. Therefore, we won't do that job. Somebody else should do it. And, of course, once the research is done, we will be happy to point out its shortcomings.

If that is the view all of us take, then in the year 2006, when we gather here in the National Academy meeting hall to discuss its most recent report, we will discover that we are asking the same questions we were asking in 1986 and the same questions that were asked in 1966. There will be no answers. And if we do that, we ought to be ashamed of ourselves.

Thank you.

(Applause.)

DR. ROBINS: The next speaker will be Delbert Elliott, who is actually involved in one of the kinds of projects that James Wilson recommended and I hope will tell you something about it.

DR. ELLIOTT: Thank you, Lee.

I would like to take a slightly different perspective and focus upon what I see as the research agenda that will follow directly from or at least be directly influenced by this paradigm for research. It is my belief that the concepts, definitions, and assumptions suggested in this report constitute a major paradigm for research that is likely to have a rather profound impact on criminological research in general.

I would like to deal at a more specific level than the level that Jim dealt with, although I clearly endorse the need for longitudinal research in general. I will come back at the end and talk about some of the problems I see in implementing that kind of a strategy, although I am a hundred percent behind our moving in that direction.

First, I think that the paradigm that you have seen these last two days is going to have a profound effect on our data collection systems. In particular, I am hoping that we will see changes in the consistency and the type of data, which are routinely collected by justice agencies, and on the maintenance of those data systems and their availability for research use.

In the session this afternoon when we were talking about continuity in careers from juvenile to adult years, there was a discussion about these data. One person in the audience raised the question that they didn't understand that there appeared to be problems with the data that are available through juvenile court or through police agencies. I have a very different perspective on that, having looked at thousands of those records. The problem is as much the failure for any systematic data collection across various agencies and across various jurisdictions, as it is the lack of certain kinds of information. Clearly there is a need for us to have a systematic, consistent data collection for research purposes, and that need is highlighted by this research paradigm.

I am also concerned with the validity of justice system data, what Marvin Wolfgang calls junk data, which too often characterizes official records and which seriously jeopardizes the attempt to do the kind of career research that we are describing here. Our advance of knowledge about criminal careers will be limited if those data are not clean and more care is not taken relative to those data.

Finally, I would hope that there will be exceptions for research built into the legislation which presently defines when data are to be sealed, when records are to be sealed or expunged. This is a situation which is very uneven across various states and jurisdictions.

We in the National Youth Survey attempted to collect data from 18,000 different police jurisdictions and this was a consistent problem, which we ran into, and it is particularly problematic if you are studying juveniles because there is a tendency to close the records at the age of 18 (or whatever the age of majority in that particular jurisdiction is). In many cases, agencies throw away those records or destroy them on a systematic basis. Hopefully, the focus upon criminal careers will emphasize for us the need to maintain those kinds of data and make them available for research use.

A second effect, I think, of the criminal career paradigm is that we will see some resurgence in the attempt to evaluate treatment, prevention and control programs. In part I think that is likely to take place because the career paradigm offers some refinement on the dependent measure; that is, on the outcomes that we are looking at. It is an important contribution, I think, to criminology that we are suggesting that it is possible that the effect of a treatment program may be reflected in a reduction in the individual offending rate, a reduction in career length or a reduction or change in crime mix, as opposed to looking at a simple dichotomous recidivism outcome.

Researchers have found it very difficult to work with the current measures of recidivism because they tend to be very insensitive indicators of criminal behavior and it is quite possible that independent of a re-arrest in one's record, there may be major changes in the individual's level of offending or crime mix.

As a matter of fact, some of the recent research coming out of the Achievement Place Program, which is a behavior modification program, suggests that there is, in fact, a change in the crime mix, following involvement in those programs, such that the rates of lambda or individual offending for serious offenses is reduced -- there is a major depression in that kind of offending subsequent to release from those treatment programs.

So, the net effect of the paradigm is to suggest some more sensitive outcome criteria for treatment and intervention programs and it is clearly my expectation that we will see career measures implemented in treatment and prevention programming over the next ten years.

Third, I believe that the paradigm will enrich deterrence research and will, in all likelihood, precipitate a resurgence of interest in labeling theory. From my perspective, labeling theory is passe at this point. Researchers are no longer interested in exploring those issues, but my guess is that with the presentation of this paradigm there will be a resurgence in deterrence research and labeling theory. In part, that is because of the refined outcome measures and the ability to look for the effects of labeling or deterrence in a more refined way on individual offending rates, career lengths and crime mix.

There is another sense, however, in which I would expect that it will have an impact on interventions and that is because there is reason to believe that the effects of deterrence and labeling may vary with stage of career and

the introduction of the career concept into that research opens up a number of new possibilities or hypotheses. Again, our own research provides some evidence that the effect of an arrest is quite different depending upon stage of the career. For those persons who are arrested very early in the career, we have some preliminary evidence that the effect of an arrest at that point is largely to deter and we see a very rapid fall-off in involvement in crime after that point. That is consistent, of course, with the arrest data which suggests that something like 80 percent of those who have an initial arrest do not have a subsequent arrest.

The effect of an arrest at a later point in the career is typically to enhance the career, to increase the level of individual offending and to increase the length of the career. These findings are at this point speculative. They are very preliminary findings. But they do suggest that introducing the concept of the career into current deterrent research may produce interesting findings, both with respect to different kinds of outcomes and with respect to the mediating effect of the stage of the career.

Fourth, while I think that the paradigm is primarily a descriptive rather than an explanatory paradigm, it will nevertheless encourage the emerging awareness in etiological studies of crime and delinquency that the factors or variables associated with the onset of crime (what we call participation or prevalence in this particular paradigm) are not always the same as those factors or variables which are associated with maintenance or termination of crime. It is also the case that the role of a particular variable may change as we switch our focus from looking at the onset of crime to looking at the maintenance of crime. For example, our own research suggests that the role of peers is not nearly as important to explain the onset of delinquent behavior as it is to explain the maintenance and changing levels of



involvement in crime over time. I think the career paradigm will thus facilitate the development of etiological theory, which will account for each of the major parameters: participation, individual offending rates, crime patterns and career length.

Fifth, the paradigm has introduced a new focus on the measurement of crime and delinquency. The debate over self-reported, as compared to official measures, is not over. As a matter of fact, one of the research agendas, I think, that will be obvious over the next few years, will be an increased attention to the validity of these two measures. The paradigm, however, does refocus that question away from the validity issue and involves a conceptualization which will resolve much of the controversy over which of these measures is the legitimate measure of crime; it will focus our attention on the relationship between these two measures.

Clearly, research on the paradigm requires us to use both measures. Both are needed to address the critical issues. For example, arrest probabilities and how these probabilities vary by race, class, sex, offense types and individual levels of offending. Again, our own work suggests that the relationship is not simple, that there is a linear relationship between the probability of arrest for a particular crime and the rate of offending such that those persons who are high rate offenders have a substantially lower probability of arrest per offense than do those who are relatively infrequent offenders. The net effect of that, if it is true, is that low frequency offenders are over-represented in the arrest population.

In addition, the effect of arrest on subsequent career parameters is another major question, which can be addressed only by using both kinds of data, both arrest data and self-reported data. Finally, arrest processes, if we are to understand them well, require that we understand the exact nature of

relationship between self-report and arrest. While there is a great deal of similarity and we have tended to focus upon that in the report, i.e., between findings based upon self-report and official data, I would call to your attention that there still are a number of areas where there are systematic differences in findings which are related to the measure employed.

For example, in self-report data, the pattern of development across the career appears much more consistent. It involves an increase in frequency with time in the career. It involves an escalation in seriousness with time in the career and it involves an increase in variety of offending across the career. And that particular pattern of offending accounts in part for what we see in arrest studies in which there appears to be no relationship between the offense committed at one point in time and an offense committed at the next point in time; or a relatively weak relationship, at least. That is because the pattern of progression is an add-on pattern and at any point in the career an individual is most likely to be re-arrested for a non-serious offense as a simple probability of the rates of offending.

Finally, I think that this particular paradigm will have very direct policy implications. The underlying rationale for this paradigm in many respects involves the attempt to address specific policy questions and, as a result, I think the payoff from research involving this paradigm will be relatively great for direct policy implications. However, it will also stimulate, I believe, theories which will account for variation in those rates.

Let me turn now to the question of the research recommendations, which were made in the volume. This was certainly a very ambitious research program, recommending a long range, developmental study of individual careers with a projected multiple cohort sequential design covering the effective life span

for criminal involvement and examining those factors associated with the onset, maintenance and termination of delinquent career.

I think there is a great deal of consensus today, not only from this particular panel, but also from a panel of the MacArthur Foundation that was looking into justice issues; also with respect to the National Institute of Justice and the National Institute of Juvenile Justice and Delinquency Prevention's recent approach to funding in the criminal justice area. So, there is no question that currently it is very fashionable to talk about longitudinal research.

Let me mention, however, some particular methodological problems which we must address, it seems to me, if that attempt is to be successful. First of all, there are major sampling issues which are involved in that kind of study. The classic problem is that if you have a representative sample, the number of cases, which you will have involving serious crime or delinquency, are too small for any effective generalization.

My own view of this current state of knowledge is that we are in a position at this point to do a more effective job of sampling. The technology for stratifying samples and obtaining high risk samples from which we can draw selectively is in place and I am encouraged that the state of the art with respect to sampling makes it possible to use probability samples and still have the capability to generalize to serious violent offenders. That has not really been implemented yet, but my own feeling is that we have the technology that we can do this.

There are design issues, however, which are more problematic. Problems of appropriate time lags that are necessary to build into the design of this study continue; we know very little about this issue, not only with respect to the time lags for measuring crime and delinquency, but for measuring

the independent variables, which we would be using to account for variation on those measures.

It is a technical issue, but the fact of the matter is if you have the wrong time lag, Lew and Pelz argue that you can come to the incorrect causal ordering in an analysis which has incorrect time lags. We truly need to have research which will help us understand what the appropriate measurement intervals are for the kinds of variables we will be using in this study.

There are a number of measurement issues, which I find particularly problematic. In longitudinal research which is covering a life span, say 20 years, the kinds of measurement changes that are required over that life span play particular havoc with longitudinal research and the need to obtain repeated measures. Exactly how to resolve that problem is a critical issue and one which I think we need to address before we can successfully carry out life span studies, which are called for in this particular research agenda.

I think it is also the case that the heterogeneity and skewness of the dependent variable makes it very difficult to use the existing statistical analyses and techniques in trying to generalize from these data.

Finally, there are cost considerations. Recently, the MacArthur Foundation invited a number of researchers to submit proposals to carry out this kind of a program. The cost for those proposals ranged between 15 and 60 million dollars for a single study of the magnitude we are describing here. And as Jim mentioned, the fact is the Federal government is not organized in such a way to support that kind of a research effort. The structures are simply not there in the existing agencies, which fund this kind of research. There are other options and I think that as a practical matter we are much more likely to see a number of smaller studies carried out on different sites than we are likely to see one large major undertaking.

In that respect I point to the recent NIJJDP solicitation which called for studies on the etiology of delinquent behavior. The arrangement for that particular study is one in which while independent grants are given to independent investigators, the funding agency is providing a mechanism for bringing these investigators together to try to develop a common core set of measures so that there will be a cumulative knowledge base across those particular kinds of efforts. NIJ is also using a cooperative agreement in their domestic violence studies, setting up an advisory group, which serves in an advisory capacity to a group of investigators, again, in an effort to try to coordinate that effort so that it has a cumulative knowledge-building capability.

Thank you.

(Applause.)

DR. ROBINS: Next, you will hear from Alfred Blumstein, whom I hope you have all heard from before at this conference. He is going to help us wrap it up.

DR. BLUMSTEIN: In view of all you have heard from me, I would like to keep my comments very short at this point. My two predecessors, who are also on the Panel, said much of what I wanted to say, and I think they said it far better than I could have.

I would like to make a few brief comments about the Panel's recommendations on research needs and programs.

A major theme of much of the work of the Panel was the necessity to partition the phenomenon that has traditionally been studied simply by looking at crime and its correlates. We have tried to isolate the separate parameters relating to initiation, termination and what goes on in between. This separation is necessary because each of those can be influenced by different

causal factors, by different life events, and by different factors in the social environment. It is only when we can develop that finer, differentiated structure that we will be able to establish the kind of causal knowledge that everyone has sought.

Another major theme is associated with the questions of disentangling the crime/drug nexus, which seems to be so central to so much of what we are dealing with. Some of that information might emerge from cross sectional studies, but it is clear that the fundamental steps forward are going to require the longitudinal studies that have been recommended by everyone that has looked at the issue, and, indeed, have already been initiated by the Office of Juvenile Justice and Delinquency Prevention.

There are a number of problems in moving that longitudinal research program forward. Del Elliott talked about some of the problems in the sampling strategy, in making the trade-offs, for example, between representativeness and finding high yield groups. High yield is required so that we are not stuck at the end of a period of time with only three or four serious offenders in any particular sample.

There has also been discussion about the trade-off between a single cohort that runs from birth to 24 years, in which case we would have to wait too long a time before we get useful results, versus a partitioning into multiple overlapping shorter cohorts. One could, for example, take one cohort between birth and eight years; another between seven and fifteen during the period of high initiation; another between twelve and twenty, the period of high termination; and a final one to cover the period from eighteen to twenty-six, looking at the transition from high involvement in delinquency to transition into normal adult lifestyles for the great majority.

In developing this research program, we are going to have to work very hard to establish the linkages between the research community and the practitioner community. This conference has demonstrated the growth in the number of police officials, prosecutors, and judges who have come to appreciate that the knowledge base which they have to use is less than adequate to make their decisions. Nevertheless, they still have to make those decisions irrespective of their knowledge base. Increasingly, they are coming to recognize the necessity to start building that knowledge base, both in their own community and as a responsibility to their profession broadly.

The recognition that they have to make these connections with research opportunities is being found in an increasing number of agencies. Those agencies then become the first and primary recipient of the information that is developed. It is clear that the research community, in establishing its relationship with the operating agencies, is also going to have to find ways to reach those mutual accommodations. They will have to be careful to avoid embarrassing the agencies that provide access to the kind of laboratory setting that is needed for research to move forward. The data and the relationships with the agencies are going to have to be handled with considerable sophistication for mutual benefit.

The longitudinal study will require multiple data sources, multiple agencies, and multiple relationships with complex communications and growing interdependency. I think we are going to have to see much more in the way of connection, collaboration and coordination between the research and the operational communities, since they are so inherently mutually interdependent.

Developing those relationships has been a major theme of the National Institute of Justice under Chips Stewart's direction. It has certainly been a theme of this conference. It has been impressive to me to see the amount of

communication between practitioners and researchers at this conference, in contrast to the typical situation with the two communities off in separate corners. I think that bodes very well for the potential for bringing about the kind of longitudinal research we have been talking about and the associated experiments that will be necessary to test operationally the kinds of interventions that will emerge from the research .

I hope that this interaction continues. I think it has to be reflected in the design of the research and in the operational improvements that will be undertaken. We saw that collaboration in the work of the Panel. The absence of that communication has resulted in the erroneous use of research that may have been developed elsewhere, but may not have been applicable to the particular jurisdiction in which it was applied.

Efforts by the National Institute of Justice, by government generally, by state planning agencies, and by local agencies, will be needed to link operational agencies with local research communities. These links are needed for technical assistance and also for feeding research results into improved operations.

That puts a very heavy burden on the research community to make sure that those connections are honored, to make sure that the flow of information is both ways, and to make sure that both communities benefit appreciably from all of that.

I think this conference has been an important start in that direction, building on much that has been done in the past. I certainly hope it continues.

(Applause.)

DR. ROBINS: The last speaker on the panel is James Stewart of the



National Institute of Justice. He has been a very important person in making these plans come to fruition.

MR. STEWART: Thank you very much, Dr. Robins. A special thanks to all of the members of the Panel, who have worked so tirelessly over these past 24 months. In addition, a special thanks from the National Institute of Justice goes to Professor Norval Morris, who is the chairman of the National Academy's Committee on Research on Law Enforcement and the Administration of Justice, and to a man with whom I have worked on a regular basis, Dr. Alfred Blumstein, the chairman of this particular panel. Originally this panel started out as careers in crime, or criminal careers, and along the way it developed, I think, a very important aspect: namely, how do you identify career criminals? I think that much of what has happened as a result of the debate that has gone on here today and yesterday bodes very well for the future.

James Q. Wilson has admonished us not to be sitting here in 20 years -- although Jim, let me just say I am sure you will be here in 20 years as a tower of strength. But the charge to all of us is that we shouldn't let this sit. It is an individual responsibility. In a time when government resources are extraordinarily tight, times of Gramm-Rudman, there is a special responsibility on each of us to be sure that the taxpayers' money, yours and mine, is spent in the best way possible. Opportunities like this only come once every 20 years and what we make of it really counts.

I think that this has been a very important conference. Thorsten Veblen wrote the book, "The Theory of the Leisure Class," and Warren Cikins frequently refers to meetings amongst academics as the leisure of the theory class. What I would like to say is that this certainly has not been leisurely. Criminal careers is a topic that demands our utmost attention. But

this panel has also been very stimulating because it has brought together diverse views and divergent disciplines that had to bring their perspectives to bear on the problem. In addition, for the first time, I think, a very important element was included in this panel, which is practitioners. We were very fortunate to have Reggie Walton, a judge; Al Andrews, a police chief; and Andy Sonner, a district attorney, to be part of this esteemed and prestigious panel.

But more importantly, look at the mix of this audience that is before you. And then look back, as Jim has suggested, 20 years ago and think of the tremendous gulf that existed between practitioners and researchers. We were talking different languages then. I am sure Al Blumstein will be gratified to know that many people over coffee are talking about "lambda this" and "lambda that." We used to talk about "busting the bad actor" and now we are talking about lambdas.

I think that something extraordinarily important is happening. We are developing new knowledge, and a new era of cooperation. We are overcoming the parochialism that has existed between separate agencies and institutions in the past.

I am very grateful to the President for the opportunity to be Director of the National Institute of Justice, as well as to the Attorneys General past and present, William French Smith and Ed Meese, and also to the staff of the National Institute of Justice, which has been extraordinarily helpful to me. Having said that, I also want to say that over the past decade, much of the research in the area of career criminals has come as a direct result of the sponsorship of the National Institute of Justice.

Some of the historic efforts include Marvin Wolfgang's discovery of the small percentage of individuals who were responsible for a

disproportionately large amount of crime; the efforts of the Chaikens to talk about the fact that our official records may reflect the high rate offenders who are typically "losers," and probably would get fired from any job. The more serious criminals may continue to avoid our detection.

There is also Peter Greenwood's very important work on selective incapacitation, sponsored by NIJ. I think over the last three years it has been interesting to watch the public debate on that issue begin to shift. At first Peter was the only one out on the limb. Now there is more discussion and public debate about the difference that a policy can make on our justice system.

I think out of this conference have come some very important things. One has certainly been that juvenile records may be an earmark of a career criminal. Previously we thought that for the benefit of society, juvenile records should be unavailable. But this may, in fact, have contributed to some of our inability to create a policy that would be effective.

The other thing that I think is an important breakthrough is what kind of crime a person is now doing, his current status. Rather than looking back over the last 33 years of his lifetime, it may be more important to take a look at what has happened in the last six, twelve or twenty-four months.

The most important breakthrough, I think -- and I feel very personally involved in this - is that multiple drug use may distinguish a high-rate offender from an occasional offender. I think that is extraordinarily important because for a long time we didn't realize these relationships existed. Many times, as judges, as police officials and as criminal justice practitioners, we were faced with having to make decisions based on what we felt intuitively were the right reasons: youth, ethnicity, demographics, et cetera. Drug use was seen as merely a lifestyle that had

nothing to do with crime. Juvenile records were seen merely as dalliances with other forms of behavior and lifestyles which had obviously worked themselves out. But now we have reached a threshold of new knowledge and made a very important step across it.

I also want to say that we don't conduct research in a vacuum and here at the National Academy of Sciences, they don't either. I am very pleased to say take a look now at the public attitudes. Ed Meese articulated them very well in his opening remarks: he talked in terms of the public being fearful of criminal attack, and their concern with crime and what is done about it ranks number one and number two and number three in public opinion polls for the last decade.

In addition to that, it is not just public feelings that we are dealing with. We've seen a strong push for determinant sentencing because the sense of the public is that the public policy was not correct. The move, I think, towards mandatory sentencing for things like drunk driving was a grass roots movement. They didn't wait for the experts. If you look now at what fear does to our communities, you see that many people are willing to pay a crime tax to purchase private security, a new phenomena that has arisen in the last ten years; not because they don't have confidence in policing, it is because somehow they have a sense that the police, the prosecutor and the criminal justice system are withdrawing from them and they are feeling particularly vulnerable.

I also think that another very important phenomenon is the crack crisis. You see, the crack crisis is putting an enormous amount of pressure on your police chiefs and as we sit here to debate, we find ourselves confronted with the idea that we ought to do what many people are doing now, seize the automobiles, searching, shaking down people on the street, et cetera. The

public now is saying this is so serious and that creates a special kind of urgency, an urgency not to continue to say we need better information, but to get the best information available to the policymakers.

As I say, I am very pleased with this panel. One of the things I would like to say at the National Institute of Justice is we need better measurements. I think that is clear today. It is clear from the research that has gone on.

Let me say a bit more about NIJ's research, just briefly because I don't want to take up too much of your time, but I want to give you a sense of some of the things that we are doing.

One of the areas that I think is extraordinarily important is that we don't know what the extent of drug use is in America. In particular, we don't know what drug use is in the population that we fear the most, that is, amongst the criminal population.

All the data that we hang our hats on is really self-report information. Some very fine work done by Eric Wish in New York asked the people who were arrested if they were using drugs. Then they asked for a urine specimen that shows what kind of drugs someone has taken in the last 48 hours. We found out that the truth factor was off by about 250 percent. The self-report was rather conservative, in fact, extraordinarily so.

So, what I am proposing and what the National Institute of Justice is about ready to move into is some form of a national drug index to begin to use testing in several cities across America. We would begin at random to get the empirical data that will let us know what the drug trends are in our cities amongst arrested populations.

That is something that has never been done before and it is something I think is extraordinarily important considering the links discovered by this

panel. In addition to that, and I think that is a breakthrough, a major breakthrough because it will give us some data that we never had before -- in addition, we want to say and I want to stress so strongly amongst all of you the idea that drug testing in terms of a new technology expands not only our information, but it gives the criminal justice system so many additional policy options. It enriches our choices as judges, as prosecutors, as probation people and as prison administrators.

It gives us a better choice than between prison and nothing and that is one of the things that we have been looking for. Besides that, it not only helps identify the high risk offender, but it carries with it the option to intervene in a very positive way that doesn't require us to build more and more new prisons, but intervene in a way that says the individual has a choice to make. Put a person on bail; require him as a consequence of accepting those bail guidelines not to use drugs.

Let me say it another way. If a person is convicted of a felony crime and on probation, it seems to me we ought to say they shouldn't use drugs. We have it in our power to do that now, thanks to, I think, some very effective work done by Jay Carver and the Pre-Trial Services Agency here in Washington, D.C. and by Judge Fred Ugast. We are seeing practitioners begin to move forward very boldly into these areas to try to provide better information for more informed judgments.

I want to emphasize that I hope that many of you will take back the idea of drug testing, take it back to your communities and see if you can intervene in criminal drug use in your own communities.

Finally, one of the things -- well, not finally because I am going to go on a little bit longer here - one of the areas of measurement that I think is quite poor is the measurement of crime committed by the individual, the idea

of lambda. I think that our measurements are in Del Elliott's words, "extraordinarily insensitive." I think that we grossly underestimate, just like we have done with drugs when we found out that instead of 20 percent of the people arrested being on drugs, it turned out to be 65 percent of the people arrested in Washington, D.C. on drugs and a similar amount in New York City. I think that that same awakening may occur to us, when we begin to look at individual crime rates. In the future, the Institute is going to be very interested in that idea because we are quoting official records that talk about the average guy getting out of prison for robbery who may commit four robberies a year.

That seems extraordinary to a grizzled old police officer, who used to sit down there and watch through binoculars on stakeouts as a guy would go down with a gun and rob six guys in the block by the time we got down to arrest him.

It just seems not to be true to my experience. But the problem is our ability to measure has not been as effective as it ought to have been. I think we need to get a better idea through ethnographic research and the National Institute of Justice is going to move in that direction.

My sense is that maybe we have been keeping some of the wrong information, like guilty verdicts, on the criminal rap sheets. A guilty plea or a guilty verdict may be an artifact of a process that has nothing to do with a person's behavior and yet we tend to cling to that as if it is a finding of fact, the same as if we were trying to cause a linkage in an important laboratory experimental design.

It is not the case. Arrests to some degree also obscure and cloud our judgment. We have not done a good job at beginning to insist that as practitioners we must keep accurate data because that data can be analyzed for the benefit of all. Likewise, the junk data that is in our system. I think

that we have to do a better job because it gives us a distorted view of what may be going on.

Let me say that our efforts at the National Institute of Justice have been to move towards policy-relevant research, strongly into the area of policy-relevant research and this conference is a product of those efforts. I am pleased with the kinds of changes that we have been able to make at the National Institute of Justice.

One of the areas I will quickly go over with you is the area of domestic violence. Thanks to research sponsored by us but designed by Larry Sherman and by Police Chief Tony Bouza, who was brave enough to go ahead and take a chance on eliminating police discretion for the benefit of a test, we were able to show that how police act has consequences in terms of future violence. That gave us a breakthrough because it showed that policy can make an enormous difference, and that if our goal is to have less violence, that is reachable or at least it can be influenced by better research.

Probation is another important area of policy. In order to deal with prison crowding, in the seventies we moved energetically towards felony probation and I think it has given us an interesting look into whether that is a good policy or bad one.

Joan Petersilia did a very good job in trying to flesh that out. BJS says that 28 percent of the people convicted of felonies go to state prison and here we are bemoaning the crowding of the prisons. As it turns out, 70 percent are, in fact, given felony probation. Given the constraints on the felony probation officer, that means no supervision and so that means an enormous crime influence in our communities. I think it is important to take a look at what that does to us. I think it is important in terms of interrupting



criminal careers that we understand how really impotent our system is for those kinds of efforts.

We ought to look at policies that might, for instance, use the drug testing idea and electronic monitoring. That might make house arrest a real probability. Electronic monitoring and drug testing at the local level could separate the predator from the use of drugs, not only making him less crime prone, but cutting the demand for drugs.

I also think that the Repeat Offender Project (ROP) managed by Ed Spurlock in Washington, D.C., the president of the Police Management Association, and evaluated by Sue Martin, has done extraordinarily well -- talking about new forms of data and information based on community observation as to who is doing the crime in the community. This project has some very interesting appeal and is a different way of looking at policing. At NIJ, I also want to say, we are not afraid of basic research. Our effort, obviously, is to continue in those important areas, but we are not afraid of basic research and I am here to say that as a practitioner, I believe that basic research can serve as the foundation for more policy-relevant research.

As to the longitudinal surveys that I have heard so carefully couched today as recommendations, I would say, yes, we are on our way. I formed a partnership with the juvenile justice people, an idea growing out of our drug testing program in Washington, D.C., to take a look at drug use by young offenders and their criminal patterns and we are giving them a universal research number. Mary Toborg is going to be doing the evaluation on this and we are going to follow them as they enter the system as juveniles with their arrests and with their drug use and follow them all the way (because our mandate at NIJ includes both the adult and the juvenile area), follow them into adulthood and into a criminal career.

That would provide you with data to do a much better analysis of the relationship between drugs and crime early on in the career. I hope it would provide the kind of data that is now missing, so flagrantly missing, so as to give us some idea about the relationship between that and eventual careers.

One other point that I would like to mention quickly is that much of the research that we have done has been determined by practitioners because they are the ones who are saying these are the pressing issues. But I have to commend not only the practitioners but the very skillful and highly competent scholars who have been able to provide the research designs that help shed some light on these problems, and the tireless energy that they have put into this work.

You know, grants people don't get rich on grants. Before I came into government I sort of thought that they did, but now that I see what is happening. It is very clear that part of our national resources really are brains and that is something that has got to be husbanded. In the Gramm-Rudman era, it is a very difficult issue -- a very difficult thing to continue to husband. But what we would like to do and we are going to do is, where there is a good proposal submitted by policymakers or practitioners that may not have the best design, to team them up a little bit and give them some technical assistance to begin to boost that proposal in. I think it is going to make a big difference. I think the National Institute of Justice should have done this in the past, but we think this will even better advance the kinds of projects that we plan to do in the future.

In conclusion, I would just like to echo what Ed Meese said, that is it is extraordinarily important to look things in the eye and say: does this help us in terms of crime control? does this make a difference in terms of the

sense of safety and fairness that we have in this society? That is what we try to do at the National Institute of Justice.

I also want to mention the Crime File series that I think all of you have seen, or ought to have seen. We are very pleased that James Q. Wilson is the moderator and responsible solely for the content and selection of the ideas that are discussed and who goes on the program. The Institute merely has provided general sponsorship as they do with everything else and it has become a runaway success, a best seller.

I think we have sold 8,000 copies, and 66 television stations across the nation now are beginning to bring research and practitioners together. I think that is extraordinary.

I just want to say that NIJ over the past four or five years has made extraordinary strides and I think that I cannot make it more clear to you that in times of fiscal stress that we need to be sure that the kinds of things that go on at conferences like this are actually put into practice. You have a responsibility just as I have a responsibility when I go to Congress or the Attorney General to say "this is the difference we have made."

Now, we don't have all the answers and research is certainly not going to dictate to the practitioner, but what we can do is help provide some policy consequences and options that you may not have had in the past. I am delighted to have had the opportunity and to continue to have the opportunity to work together in this kind of partnership.

I have grown enormously. I am pleased to see that the field has too, and I am glad to see that the support of the National Academy of Sciences with its very distinguished, esteemed people has been so vigorous in the effort to try to bring together all of the divergent views in the area of research.

I want to thank also the police chiefs and the judges who are here. I see Judge Anderson, Justice Cameron from Arizona is here, Pat Fitzsimons from Seattle is here, Fred Rice, Joe Casey is here, as well. Tony Bouza, I have already mentioned before. We have a police chief who has just been put in charge of a major research effort, the Police Executive Research Forum and that is Darrel Stephens and I think that augurs well for bridging the gap. There is a lot of excitement that is going on in the field of criminal justice today. The reason I think it is exciting is because of the kind of debate that happened here and the kind of debate that is happening in your own board rooms and in your own local establishments and I am pleased, as I said, to be part of it.

Thank you very, very much.

(Applause.)

DR. ROBINS: Before we start the open discussion, I would like a couple of minutes to air some concerns that I suspect are in the minds of many of the practitioners here and that I think should guide our plans for future research projects.

I suspect that many of the practitioners here are justifiably concerned about whether many of the research findings that have been reported so far and are likely to come up in the future can ethically be used in their jurisdictions to decide length of sentences.

It seems clear that using research to decide sentence length for an individual requires much greater precision of findings than does most of the uses to which social science research are put. For instance, if we are interested in improving family life in order to reduce crime, we could be satisfied with a relatively small positive result because if we can improve family life, it will have a lot of advantages for people who would never be

criminals and there is no reason not to try to do it, whether or not it is going to reduce the level of criminality. If it reduces the level of criminality as well, that is wonderful.

But the role of the practitioner recommending extended sentences is much more like the surgeon who recommends bypass surgery than like the person who recommends improving families. You have to be quite sure that the alternative, which would be crime rather than a heart attack in this case, is extremely likely because having surgery or being locked up is not an innocuous experience from the point of view of the person to whom it happens.

In the long run, we will never be totally sure. We will never be a hundred percent right about the people we choose to give special treatment to, but we can't tolerate a high rate of error; therefore, in order to make the prediction as precise as possible, we need to do a lot more detailed research than we have done previously. We can't depend on just a few predictors, such as crime history or demographic factors, or family history because we know that any one of these predictors or even the overlap of a few of them produces an intolerable rate of false positives; that is, it selects too many people who will never, in fact, commit a crime.

So, what we have to do is to look at as many factors as possible and narrow our predictions to populations at increasingly greater risk. We can start out with the general population, but then we have to pick people who already have quite a number of existing predictors to look at what more we can add to make things still more precise.

You have heard a lot about the importance of experiments. They are very important in two ways. First, they are the only way we have to definitively test our hypotheses; that is, we will never know whether

correlates of crime are real causes or not until we can find ways of modifying them and then showing that there has been a reduction in crime.

So, for testing hypotheses, they are essential. Their other importance is to learn whether an intervention actually works. For that purpose, we are interested in testing only interventions that are ethically feasible and reasonably inexpensive so that they could, in fact, be used in a large population. If we are interested in using experiments to assess interventions, we have to get interested in a broader range of research questions than have traditionally been the preserve of criminologists. Interventions may affect a lot of outcomes in addition to crime. They may improve occupational histories, or reduce use of drugs, as well as leading to committing fewer crimes.

To learn the variety of outcomes of an intervention, we need to be able to link records of various kinds. All longitudinal research has suffered considerably from the 1974 privacy regulations, which failed to discriminate between administrative and research uses of existing records. Failing to use records means that we have to interview people about outcomes that could be learned more efficiently and more accurately from available records.

Income and employment are one such obvious possible outcomes. They could be ascertained from Social Security records, but those are inaccessible.

The Privacy Commission met some years after this law was passed and strongly recommended the separation of administrative from research purposes so that medical records, for instance, could be open to research purposes, but that has not really happened. Their report sits on the shelf and nothing has been done.

Longitudinal researchers need to be able to link records. We also need more predictors of crime than we have yet had access to. Longitudinal

studies have shown that the kind of family someone comes from, the way they are reared early in childhood, their early school experiences are all contributory to the occurrence of crime. We do not yet know whether these factors predict the continuity of the criminal career.

Once we recognize the variety of roots of crime, we find that criminology has begun to overlap with many other disciplines, with developmental psychology, with educational psychology, with child and adult psychiatry and, yet, there has not been much opportunity to bring all those disciplines together to work on these problems.

While criminology, as you have heard in these sessions in the last two days, has made tremendous strides, so have these other fields. One advance is that we now have interview techniques to allow lay interviewers plus a computer to make psychiatric diagnoses comparable to those made by psychiatrists. And now the interviews themselves are being computerized. This means that interviewers will use exactly the same method in every center, making collaborative studies much more practical. In planning longitudinal studies of crime, we should seek input from the various sciences that can contribute to the design and methods available.

A good example of the advantages of a broad approach is the Head Start project. Head Start was intended to improve the educational performance of poor children. What was found, in fact, was that it had more profound effects on delinquency and school attendance than it did on educational performance. That was a happy and accidental finding. It should have been built in from the beginning. When we plan studies, I hope that we will think about the range of outcomes that we ought to be looking at in addition to crime.

We also need to think about how to make best use of these highly expensive studies -- and longitudinal research is very expensive. One problem

is how to make results available to as many researchers for as rapid analysis as possible, because research results get old fast. Research done 15 years ago may not be relevant to today's populations.

I would recommend that plans include setting up an analytic group who would know the data intimately and could serve any practitioner who wants a particular kind of information from that data. This is more practical than public use tapes. Using data from a study requires fully understanding how the data were collected and coded. Practitioners and researchers seldom have the time to acquaint themselves with the data in sufficient depth to use it well. There should be a bureau to answer questions that are relevant to particular localities and particular research needs.

Thank you.

(Applause.)

I promised you equal time and now is your chance. When you ask a question, would you come to the microphone, identify yourself and the agency with which you are associated.

MR. ANDERSON: I have a question about the concept of expungement of records, in particular as it applies to the juvenile court records.

Maybe I misread the Panel, but it seems to me that the Panel is either skirting this issue or not addressing it or is recognizing the validity in the concept of expungement of records. Yet you are telling us that you need to continue additional research and that the onset of crime is an important factor in your considerations and, of course, the frequency in the lambda and the pattern of crime.

In its concluding chapter, the book also seems to conclude and accept the fact that some juvenile records will not be available. I wonder if that is the position of the Panel and if you could discuss that question with regard to



the concept of expungement of records. It seems to me that there is a theory existing that says that we ought to have accurate, complete records of all offenses for all offenders, which are confidential and available to those on a need-to-know basis as opposed to expunging the record if you find out that it was a false arrest or the individual was found not to be responsible. I wish the Panel would comment on that.

DR. BLUMSTEIN: The questioner, first, was Judge Anderson of --

MR. ANDERSON: I am sorry. Carl Anderson from San Francisco.

DR. BLUMSTEIN: The Panel basically shared the view of retaining the information that could be usable for making subsequent decisions. The Panel did not address the issue of whether records should be expunged after they had ceased to be useful. We might well have been sympathetic with a position that closed records which are unambiguously no longer useful with regard for making decisions about an individual, well after his career might have been terminated, for example. The Panel still wanted those records to be available for research purposes, however.

The Panel would certainly agree with the view that those records should not be available for general public use. The point of the panel was to improve the quality of decision-making within the criminal justice system.

To the extent that there were arrests that were unambiguously found to be inappropriate -- wrong -- if it was a clear case of mistaken identity, for example, the Panel would not want to see information retained that essentially was erroneous and that was at risk of being improperly used.

Now, I think that is a fair summary of where I think we would have come out even though the Panel didn't address all the issues you raised in the level of detail that you raised them. You might ask anyone else on the Panel if they have a --

DR. WILSON: I would just add that my recollection of our discussions was that there was great support for the importance of the continuity of recordkeeping, both for the purposes of the criminal justice system and for the purposes of the research community. We did not, as Al said, explore every detail of how that might be done, in part because practices vary so enormously across states and counties, it is hard to know what you are arguing against or what you are arguing in favor of, but I want to assure you that I didn't hear many people say and I don't think there crept into the report a desire to seal records from the criminal justice system or the research community.

DR. BLUMSTEIN: Indeed, one of the very explicit recommendations that was discussed in some detail yesterday was to see to it that those records of the juvenile period become available appropriately to the adult system for their use. The question of what is appropriate, as you recall from the discussion yesterday, may well vary across jurisdictions, and such local discretion will always enter. Our formulation of it was at the first serious adult involvement, with "serious" meaning felony, and "involvement", meaning arrest. We recommended that the juvenile record be appended to the adult record subsequent to the first adult serious conviction. So that it was a particular formulation, but with a recognition that local jurisdictions are going to want to think about it and may well choose different thresholds for what represents "serious", or different thresholds for what "involvement" means.

But there was a clear principle that the decisions of the adult system should be informed by knowledge about what went on as a juvenile.

MR. MacDONALD: I am Malcolm MacDonald. I am serving as the president of the American Probation and Parole Association and first of all, I would like to express my appreciation for the invitation to this conference.

Mr. Stewart referred to Joan Petersilia's research and referred to constraints on probation officers and made some comments on impotency. I guess a general issue that comes up with practitioners regarding research is that research in two counties in California projected to the nation can be problematic for some of us in listening to that.

We are quite aware in probation that we are taking on 78 percent of the population, but in many states the resources are being provided to deal with that; Illinois, Texas, Georgia, Phoenix, Arizona, the list goes on, where resources are being provided -- not only in the sense of the quality of supervision that a probation officer can offer through case classification, strategies for case supervision, but also resources for intensive supervision, electronic surveillance, contract services for drug abuse, restitution centers. There seems to be, you know, the dependence on probation that came about in the seventies. There is a match taking place in many jurisdictions on the resources necessary to deal with that. So, I just relate it to Joan's studies, which were quite informative and we use that information, but Alameda County and Los Angeles County are not Phoenix nor Harris County.

I just want to caution that probation can respond in some jurisdictions and is responding pretty adequately, I think. Certainly the type of research that Joan did -- on the effectiveness of probation on recidivism by ex-prisoners -- we would welcome. Through our association, we can lead researchers who have interest to jurisdictions that have that full spectrum of sanctions in place and offer you that opportunity to do the same type of research.

What is the effect on recidivism when you do have alternatives, other than as the Bureau of Justice Statistics reports of straight probation or prison? There is a lot in between and we would welcome that type of research

to take place to see if all our other community sanctions have an impact on the system. So, we welcome you to be in touch with us to pursue that type of research.

Thank you.

MR. REPKO: My name is Stan Repko. I am with the New Jersey Department of Corrections.

I have a question. I understand there are methodological problems with sampling and different types of research modeling. I have a question relative to data collection.

With the court system so backlogged and with corrections so backlogged, has any thought been given to assisting either state or local agencies in improving their data collection process or their management information systems to provide you the necessary data you need for your research?

MR. STEWART: I guess that must be mine.

Let me say that the Bureau of Justice Statistics is working on that now and creating special centers around the country to assure that there are data that are being processed that they can begin to work on. Also, the OBTS (Offender-Based Transaction Statistics) systems that are being developed as well are a major breakthrough in terms of tracking individuals. The old dictum, garbage in and garbage out, obviously does hold. And if the first time at the local level you have a cut-back and cut back all your clerks, your error rate goes up substantially. So, I would like to suggest to all the practitioners that are here that you defend those clerk positions. We do that and we are providing actual money to fund the acquisition of computers and programs to begin to collect that information on sort of regional centers. I

can't remember how many states have those systems, but Steve Schlesinger is working on that. It is a very good point, very, very good point. Thank you.

DR. BLUMSTEIN: Could I make a comment?

DR. ROBINS: Sure.

DR. BLUMSTEIN: Far be it from me to argue that money should not be used to support the collection of data, I think the question you pose raises the issue of the appropriate partition between the federal and the state role.

I happen to be involved with the Pennsylvania criminal justice system as chairman of its criminal justice state planning agency. We have come to recognize the importance of reliable and consistent data and are seeing to it that the state legislature is providing support for the development of criminal justice information throughout the state. This is not so much for research, because states in large part are unwilling to do very much about research, but primarily to improve the efficiency and effectiveness of operations.

That data will be very valuable for improving operations, and it may well provide a repository for research. I think that using the inevitably limited federal research funds to provide broad-scale general local data collection is very questionable. One place that I think is an unambiguous federal role is to provide support for research that just wouldn't go on if it were not for the federal involvement. I think this is an issue that the Attorney General addressed yesterday.

I think the most public good in this environment is really the support of research because those are generalizable findings that will affect the whole country. The collection of data in individual localities tends to be of primary benefit to the individual localities. As those become part of a national data system and of a national research effort, then additional federal

effort to support it becomes warranted, in effect, to seduce the participants into cooperating with the national system.

But the issue you have raised represents one of the choices for using the scarce federal dollars most efficiently for advancing the state of knowledge and for the improvement of practice in the field.

MR. STEWART: We might do something similar to the UCR where the redesign work is being done. We could do what Dr. Robins has suggested and that is to keep records in such a way so that they are consistent, so we could do collaborative research from state to state. I think that is extraordinarily important.

I agree with what Dr. Blumstein has suggested. We would like to see, other recordkeeping, like UCR, supported essentially at a local area. I want to emphasize a fact of life and that is that many states have a surplus in their budget today where the federal government is running at an enormous deficit. We would like to see and encourage more states to try to replicate the national designs and options and then feed back their experience to researchers so that they can find out whether, in fact, what is true in one area is true in others or not. What Malcolm MacDonald, I think, brought up very correctly -- is to begin to share that information in such a way that is usable and comparable.

So, I want to encourage states' rights and the states' rights initiative and you go back and ask for research support to support your local decision-making.

MR. FREED: My name is Dan Freed. I come from Connecticut.

I want to introduce a note of skepticism about some of the things that have been said here today. But, first, I ought to introduce a note of acknowledgment, not only to thank, as previous speakers have, the National

Institute of Justice and the National Academy of Sciences/National Research Council for inviting me here, but also appreciation for the Panel for the tremendous amount of information and knowledge that has been imparted in two days. I haven't yet had a chance to read the report that was sent to us. I think many of us received it late and perhaps there will be more comments after this. And I apologize in advance for the extent to which my comments today are uninformed by what is in the document itself.

It strikes me that the case made by Professor Wilson and Professor Elliott for a longitudinal study is very cogent, very important, very persuasive. There is a lot of very valuable information that can be gathered in a careful study over a long period of time and if the study were going to be done in a careful, objective way over a long period of time, I and many others would have great confidence in it.

The problem is that I don't know the design of the study. The study seems to me to have been formulated up to now by the authors of reports that I haven't written -- that I haven't written, that I haven't read. There is also a report, which was revealed during Professor Robins or Dr. Linster's panel just before lunch, on understanding and controlling crime, which is about to be published, about to be released.

So, the agenda for your longitudinal study is yet to be studied by most of us, but I would like to express some concerns about that and perhaps some suggestions for what might be done.

It seems to me that a long term longitudinal study has both great benefits in store and great dangers. If we have to wait 20 years for a long study, maybe with interim reports, will it be in some ways a time bomb waiting to explode, waiting to be dumped on 20 years hence? I don't know what is in it. I don't know who has made the case against it, but I would like to suggest

that one of the elements of a study of this magnitude and this cost and this amount of publicity being focused on it ought to be the subject of some testing in the way in which lawyers test facts in an adversary process.

Have these plans for study been examined by the police chiefs and the prosecutors and the judges and those in the legal profession who are concerned about the uses and abuses of information in the criminal process? Have you had a panel discussion yet in which people who are concerned about the possible misuses of data could be heard so that the design of the study might be strengthened, so that the uses to which the legal process might put these results years hence might be anticipated?

It seems to me that many of us in this audience who don't understand -- or didn't understand before we came here -- lambda and beta and tau and all the other symbols, want to have a chance to study the report and to ask questions. In the same way we came to this conference without reading the report to hear what it was about, perhaps there ought to be a conference at some distance hence when we could have a conference to discuss the recommendations, having been briefed on what is in the document, what are the contours of this study.

There is also the concern that some people have in any generation, whether it is the Johnson Administration or the Nixon Administration or the Reagan Administration or in the 1990s of the extent to which the agenda for research, paid for by the government, has in some ways been touched by a political agenda. We don't know. We are living at a time when all of us are agonized by crime and when we are seeing imprisonment go up. The search for alternatives to imprisonment is just beginning, but at the moment most of the talk in this conference about those high rate offenders who were identified is about incapacitating them by means of imprisonment.



I think many of us want to know the extent to which questions of the sort Al Blumstein raised yesterday about the possibility that imprisonment is criminogenic -- the extent to which questions of that sort are going to be researched so that when it comes to using information about the career criminal and the career law abiders 20 years hence, we will also know a bit more about methods of treatment that ought to be used and ought not to be used.

It seems to me that we run a risk in putting too many eggs in the basket of one or three long term, very costly longitudinal studies that haven't been subjected to a public process for airing the ingredients of that study in advance so that those of us who simply want to know more or those prosecutors who know how they identify people today for high felony prosecution as opposed to diversion will have a chance to say what their criteria are, which things they would like to put in your study, which things they would like to have questioned.

All of us were present through television earlier this year when an immensely costly project with years of investment and many lives involved went up in flames. I would hate to think that the kind of longitudinal study that you are talking about here has some flaws in it that could have been exposed and could have been discussed at a conference of this sort -- that the project for which so much acclaim is being given in advance is being launched without that earlier debate.

I would hope there will be more debate before we invest public funds in the kinds of studies we have talked about.

DR. WILSON: Since my name was mentioned, let me respond and I am sure others will want to respond as well. I agree completely with everything Mr. Freed said. I want to assure him that there is not in the Panel's mind -- I think I can say confidently -- some worked-out research agenda, which is to be

promulgated today in hopes that we can slip it past unsuspecting witnesses and into the bank account of some funding agency.

The process of evaluation and testing and review of alternative designs has really barely begun. There was a conference a year or two ago among academics in Chicago to discuss this. The book that you mentioned "Understanding and Controlling Crime," by Lloyd Ohlin and David Farrington and myself, which came out literally within the last few weeks, is an effort to set forth some of the conclusions of that and to outline in some detail one possible research agenda.

Chips Stewart and his colleagues in the Office of Juvenile Justice and Delinquency Prevention are beginning to put out for peer review and fund, at least in a preliminary way, some start-up efforts, but I think you are quite right that really what is necessary is to develop a variety of approaches and to have them subject to some kind of fairly public discussion. This is too important to be left entirely to the individual researcher working alone on a \$100,000 grant. The risk of a Challenger explosion I think is too great.

Secondly, no one is hoping to wait for 20 years. No one is proposing that. Most of the designs that have been discussed in a very tentative way -- and they all need this kind of public review you talk about -- call for the use of multiple cohorts; that is to say, as Al Blumstein put it, let's say one group birth to six, another group maybe five to twelve, another group ten to eighteen or whatever, so that reports will be coming out frequently from a relatively early point in time. These reports will not only give you some preliminary findings that you might find useful, but could also refine and alter the research designs of older cohorts along the line.

Finally, I hope that it isn't the case that you fear a political agenda may be touching this because I endorsed the idea of longitudinal

research. I have discovered in my long career that the best way to stop something in its tracks is for me to be in favor of it. At least that is the case in universities. Outside of universities, the reverse seems to be the case.

I have not heard a whisper -- I think my ear is fairly sensitive to such whispers -- from anybody that there is lurking behind this a desire to make greater, less or no use of prison. The purpose, I think, first and foremost, is to uncover the causes of crimes, whatever they may be and, secondly, to draw inferences that might be useful to practitioners about where are the most opportune and cost effective points to intervene and by what strategies. It may be teaching young women how to be better mothers or it may be putting everybody in preschool or it may be the Boy Scouts. It could be school curricula and it could be different uses of the criminal justice system.

If you doubt that this is as politically innocent as I believe it is, then the process of public review and discussion, which will follow everybody's having had a chance to read not only this book but the book on understanding and controlling crime and other documents that will come out and be reviewed would I trust and believe fully reassure you on this matter.

DR. ROBINS: That is a wonderful summary, I think, of where we are at this point and I would like to call on Al to tell us goodbye.

DR. BLUMSTEIN: Lee, thank you. It falls on me to formally close the conference on behalf of the Panel and its parent committee, the parent CBASSE, and the parent NRC.

In doing this I want to offer a few thanks. First, to all the people who were participants and speakers in the conference and to the session chairmen, I think the discussions were very lively, well-informed, and terribly vigorous.

I particularly want to thank the members of the Panel on Research on Criminal Careers, most of whom are here, for their contributions to the conference and -- perhaps more important -- for their contributions over the past two to three years in what for most of us was a very exciting and invigorating adventure.

I particularly want to thank in that context Jeff Roth, Christy Visher, and Jackie Cohen, who were really the mainstays of the work of the Panel in its efforts.

I want to thank the Academy for making these facilities available, and its support staff for running what I think was a very classy conference.

I particularly want to thank Christy Visher who, aside from the substantive contributions she made throughout the work of the Panel, was the director of planning, scheduling, and arranging for the conference, and the work Jeff Roth did to back her up. She managed the structure and she managed the development of the program.

(Applause.)

I want to thank NIJ, Chips Stewart, and Dick Linster, who was the liaison to the Panel throughout its effort, for their support. Finally, I want to thank you all for attending. I think it was an excellent conference. I think we gained a lot. I hope you did and I hope some of the wheels that have been set in motion here continue in the interaction between the research and the practitioner community from here on out.

Thank you all.

(Whereupon, at 3:26 p.m., the meeting was adjourned.)

CRIMINAL CAREERS AND "CAREER CRIMINALS"

APPENDIX A: PROGRAM

CONFERENCE ON CRIMINAL CAREERS AND "CAREER CRIMINALS"

Committee on Research on Law Enforcement  
and the Administration of Justice  
Commission on Behavioral and Social Sciences and Education  
National Research Council

September 8-9, 1986  
Auditorium  
NATIONAL ACADEMY OF SCIENCES  
2100 C Street, N.W., Washington, D.C.

PROGRAM

Monday, September 8

- 8:00 am Registration, coffee, continental breakfast
- 9:00 Welcome and Introduction  
Norval Morris, *Chair, Committee on Research on Law Enforcement and the Administration of Justice*  
Robert White, *President, National Academy of Engineering*  
Alfred Blumstein, *Chair, Panel on Research on Criminal Careers*  
James K. Stewart, *Director, National Institute of Justice*  
Hon. Edwin Meese III, *Attorney General of the United States*
- 9:30 Modes of Crime Control and Their Relationship to Criminal Careers  
John Kaplan, *Stanford Law School*
- 10:00 Criminal Careers and "Career Criminals": Highlights of the Panel's Report  
Alfred Blumstein, *Carnegie-Mellon University*  
Jacqueline Cohen, *Carnegie-Mellon University*  
Jeffrey Roth, *National Research Council*  
Chair: Norval Morris, *University of Chicago*
- 11:00 Break
- 11:15 Uses of Prediction in Criminal Justice Decision Making  
Kenneth Feinberg, *Kaye, Scholer, Fierman, Hays & Handler*  
Norval Morris, *University of Chicago*  
Marvin Wolfgang, *University of Pennsylvania*  
Chair: Andrew Sonner, *State's Attorney for Montgomery County, Maryland*
- Audience Discussion
- 12:30 pm Lunch

- 2:00      **Program Uses of Criminal Career Knowledge**  
Don Gottfredson, *Rutgers University*  
Joan Petersilia, *Rand Corporation*  
John Goldkamp, *Temple University*  
Stephen Goldsmith, *District Attorney, Indianapolis, Indiana*  
Chair: Allen Andrews, *Chief of Police, Peoria, Illinois*
- 3:15      **Break**
- 3:30      **Concurrent Roundtables on Programs and Experiences**
1. **Pretrial Release Decision Making**  
John Carver, *Director, District of Columbia Pretrial Services Agency*  
John Hendricks, *General Manager, Kentucky Pretrial Services*  
Joseph Glancey, *President Judge, Philadelphia Municipal Court*  
Chair: John Goldkamp, *Temple University*
2. **Police Targeting of Repeat Offenders**  
Reuben Greenberg, *Chief of Police, Charleston, South Carolina*  
Edward Spurlock, *Inspector, Metropolitan Police Department, Washington, D.C.*  
Robert Vernon, *Assistant Chief, Los Angeles Police Department*  
Chair: Anthony Bouza, *Chief of Police, Minneapolis, Minnesota*
3. **Prosecution of "Career Criminals"**  
Peter Gilchrist, *District Attorney, Mecklenburg County, North Carolina*  
Stephen Goldsmith, *District Attorney, Indianapolis, Indiana*  
Kathleen E. Voelker, *Assistant U.S. Attorney, Washington, D.C.*  
Chair: Jeffrey Roth, *National Research Council*
4. **Risk Predictions in Establishing Time Served**  
James Austin, *National Council on Crime and Delinquency*  
Ira Blalock, *U.S. Parole Commission*  
Reggie Walton, *Associate Judge, Superior Court of the District of Columbia*  
Chair: Alfred Blumstein, *Carnegie-Mellon University*
5. **Establishing Conditions of Release and Supervision**  
Donald Cochran, *Commissioner of Probation, Commonwealth of Massachusetts*  
Harvey Goldstein, *Assistant Director for Probation, New Jersey*  
Malcolm MacDonald, *Texas Adult Probation Commission*  
Chair: Joan Petersilia, *Rand Corporation*
- 5:00 pm      **Reception**  
Great Hall, National Academy of Sciences

Tuesday, September 9

8:00 am Coffee and continental breakfast

8:30 Criminal Career Knowledge and Criminal Justice  
Strategies: Concurrent Roundtables I

1. Prevention and Modification of Criminal Careers  
Paul Gendreau, *Rideau Correctional Center, Canada*  
Ted Palmer, *California Youth Authority*  
Harry Wexler, *Narcotic and Drug Research, Inc.*  
Chair: Rolf Loeber, *University of Pittsburgh*
2. Collective and Selective Incapacitation:  
A Discussion of Impact, Potential and Limitations  
Jacqueline Cohen, *Carnegie-Mellon University*  
Philip Cook, *Duke University*  
William Spelman, *Police Executive Research Forum*  
Chair: Daniel Smith, *University of Illinois at Chicago*
3. Drug Use and its Relationships to Criminal Careers  
Douglas Anglin, *University of California, Los Angeles*  
David Nurco, *University of Maryland School of Medicine*  
Eric Wish, *Narcotic and Drug Research, Inc.*  
Chair: Harold Rose, *University of Wisconsin, Milwaukee*
4. Linking Juvenile and Young Adult Criminal Careers  
Peter Greenwood, *Rand Corporation*  
E. Michael McCann, *District Attorney, Milwaukee County,  
Wisconsin*  
Albert Reiss, *Yale University*  
Chair: Marvin Wolfgang, *University of Pennsylvania*
5. Developing and Using Criminal Career Research  
Alfred Blumstein, *Carnegie-Mellon University*  
Ilene Nagel, *Commissioner, U.S. Sentencing Commission*  
Lloyd Ohlin, *Professor Emeritus, Harvard University*  
Pamela Swain, *Office of Juvenile Justice & Delinquency  
Prevention*  
Chair: Richard Linster, *National Institute of Justice*

10:00 Break

10:30 Criminal Career Knowledge and Criminal Justice  
Strategies: Concurrent Roundtables -II  
(see schedule for 8:30 am)

12:00 pm Lunch

1:30 Perspectives on the Next Steps: Criminal Career  
Knowledge and Crime Control  
Alfred Blumstein, *Carnegie-Mellon University*  
Delbert Elliott, *University of Colorado*  
James K. Stewart, *National Institute of Justice*  
James Q. Wilson, *Harvard University*  
Chair: Lee Robins, *Washington University*

3:30 Adjourn



CRIMINAL CAREERS AND "CAREER CRIMINALS"

APPENDIX B: ATTENDEES

PARTICIPANT LIST - CONFERENCE ON CRIMINAL CAREERS AND "CAREER CRIMINALS"

Francis Amoroso  
Chief of Police  
Portland Police Dept.  
109 Middle St.  
Portland, ME 04101

James L. Beck  
U.S. Parole Commission  
5550 Friendship Blvd.  
Chevy Chase, MD 20815

William J. Brennan  
Director-Regional Planning U  
945 S. Detroit  
Toledo, OH 43614

Carl West Anderson  
Presiding Justice  
Calif. Court of Appeal  
State Bldg.  
San Francisco, CA 94102

Fred Becker  
Bureau of Justice Assistance  
633 Indiana Avenue, NW  
Washington, DC 20531

J. deKoven Bowen  
Chief of Police  
606 E. Market St.  
Charlottesville, VA 22901

Joseph A. Arellano  
Office of Crim. Just. Plan.  
1130 K Street, Suite 300  
Sacramento, CA 95814

Steven Belenko  
Associate Director  
NYC Criminal Justice Agency  
305 Broadway  
New York, NY 10007

Kevin M. Burke &  
Joseph Green  
District Attorneys Office  
70 Washington St.  
Salem, MA 01970

Sam Asbell  
Camden County Prosecutor  
c/o Camden Co. Pros. Office  
518 Market St.  
Camden, NJ 08101

John P. Bellassai  
Vice President  
Toborg Associates  
1725 K Street, NW  
Washington, DC 20006

Walter Burkhardt  
Nat'l Institute of Justice  
633 Indiana Ave., NW  
Washington, DC 20531

Helena Ashby  
Captain, L.A. Co. Sheriff Dept.  
NOBLE  
254 S. Detroit St.  
Los Angeles, CA 90036

Michael Block  
U.S. Sentencing Commission  
1331 Penn. Ave., NW - Suite 1400  
Washington, DC 20004

Justice William G. Callow  
Wisconsin Supreme Court  
Box 1688  
Madison, WI 53701

David D. Bachman  
Deputy Secretary  
Florida Dept. Corrections  
1311 Winewood Blvd.  
Tallahassee, FL 32399-2500

Barbara Boland  
Senior Research Associate  
Abt. Associates  
4250 Conneticut Ave., NW  
Washington, DC 20008

Justice James Duke Cameron  
Supreme Court of Arizona  
1700 W. Washington  
Phoenix, AZ 85007

Thomas Baker  
Admin. Assistant  
Office of the Chief Justice  
U.S. Supreme Court  
1 First Street, NE  
Washington, DC 20543

Michael D. Bradbury  
Dist. Attorney, Co. of Ventura  
800 S. Victoria Avenue  
Ventura, CA 93009

Nancy M. Campbell  
Director  
Colorado Dept. of Correction  
2862 S. Circle Dr., Suite 40  
Colorado Springs, CO 80906

Michael R. Band  
State Attorney - Dade Co.  
1351 N.W. 12th Street  
Miami, FL 33125

Malcolm W. Brady  
Bureau of Alcohol, Tobacco  
& Firearms  
1200 Penn. Ave., NW-Rm 3226  
Washington, DC 20226

T.L. "Ted" Cannon  
Salt Lake Co. Attorney  
South 231 East, 4th South St  
Salt Lake City, UT 84111

Norman Carlson, Director  
Federal Bureau of Prisons  
U.S. Dept. of Justice  
320 First Street, NW  
Washington, DC 20534

Cpt. James Collier  
Denver Police Department  
1331 Cherokee Street  
Denver, CO 80204

W. E. Deloach  
Executive Assistant to Gov.  
P.O. Box 11450  
Columbia, SC 29211

Paul Cascarano  
Nat'l Institute of Justice  
633 Indiana Ave., NW - Rm. 810  
Washington, DC 20531

Dennis M. Condon  
Undersecretary of Public Safety  
1 Ashburton Place/ Rm 2133  
Boston, MA 02108

William J. DeVance  
Director  
Md. Div. of Parole/Probation  
6776 Reisterstown Rd.  
Baltimore, MD 21215

Joe D. Casey  
Chief, Metro Police Dept.  
200 James Robertson Pkwy.  
Nashville, TN 37201

William A. Crews Jr.  
Assistant Secretary  
P.O. Box 27687  
Raleigh, NC 27611-7687

David Diroll  
Office of the Governor  
65 E. State St.  
Columbus, OH 43215

Pamela Casey  
Nat'l Center for State Courts  
300 Newport Avenue  
Williamsburg, VA 23187-8798

Mark A. Cunniff  
Executive Director  
1500 Mass Ave., NW  
Washington, DC 20005

Robert A. Edmonds  
Assistant Sheriff  
211 W. Temple ST.  
Los Angeles, CA 91207

Dan Catley  
Va. Dept. of Criminal Justice  
805 E. Broad St., 10th Fl.  
Richmond, VA 23219

John Curran  
Chairman, Parole Board  
100 Cambridge St., Rm 2207  
Boston, MA 02202

William Eldridge  
Federal Judicial Center  
1520 H Street  
Washington, DC 20005

Othniel R. Chambers  
Research Contact Officer  
Oregon Corrections Division  
2575 Center St. NE  
Salem OR 97310

Debra Dailey  
Director  
State Office Bldg., Suite 51  
St. Paul, MN 55155

John D. Erskine  
Superintendent  
1246 University Avenue  
St. Paul MN 55104

Donald L. Chamlee  
Chief, Div. of Probation  
U.S. Courts  
Washington, DC 20544

G. Ronald Dashiell  
Chief Criminal Deputy  
Spokane County Sheriff Dept.  
Public Safety Bldg.  
Spokane, WA 99260

Vince Fallin  
Deputy Commissioner  
#2 Martin Luther King Dr.  
Atlanta, GA 30334

Harold D. Clarke  
Superior Court Judge  
Spokane County Courthouse  
Spokane, WA 99201

Raymond C. Davis  
Deputy City Manager  
P.O. Box 1981  
Santa Ana, CA 92702

John R. Firman  
Associate Director  
120 S. Riverside Plaza  
Chicago, IL 60606-3997

Patrick S. Fitzsimons  
Chief of Police  
Seattle Police Dept.  
610 Third Avenue  
Seattle, WA 98104

Dudley C. Gibson  
Captain  
620 W. Washington  
Phoenix, AZ 85003

Carl R. Harbaugh  
Director, Police Org. Serv  
IACP  
13 Firstfield Road  
Gaithersburg, MO 20878

Richard Flintrop  
Director  
Wis. Council/Criminal Justice  
30 W. Mifflin St., Suite 1000  
Madison, WI 53703

Larry Greenfeld  
Bureau of Justice Statistics  
633 Indiana Avenue, NW  
Washington, DC 20531

Senator Paul D. Harold  
State House, Rm 507  
Boston, MA 02133

Tom Foley  
Ramsey County Attorney  
350 St. Peter, Suite 400  
St. Paul MN 55102

Louis E. Greenleaf  
Police Director  
31 Green St.  
Newark, NJ 07102

Dr. Peter Haynes  
Executive Director  
Arizona Criminal Justice Co  
1275 W. Washington  
Phoenix, AZ 85251

Brian Forst  
Director of Research  
Police Foundation  
1001 22nd St., NW  
Washington, DC 20037

John Gregerich  
Bureau of Justice Assistance  
633 Indiana Avenue, NW  
Washington, DC 20531

Gloria C. Henderson  
Legislative Analyst  
House Office Bldg. Rm 432  
Tallahassee, FL 32301

Daniel J. Freed  
Yale Law School  
401 A Yale Station  
New Haven CT 06520

Bernard A. Gropper  
Nat'l Institute of Justice  
633 Indiana Ave., NW  
Washington, DC 20531

David L. Hendricks &  
Sgt. Gary Lyle  
Assistant State's Attorney  
101 South St.  
Annapolis, MD 21401

Richard Gable  
Nat'l. Center for Juv. Justice  
701 Forbes Avenue  
Pittsburgh, PA 15219

Michael A. Hagstad  
Corrections Planner  
1923 Vermont Ave. NW  
Washington, DC 20001

Cedric R. Hendricks, Esq.  
Legislative Counsel  
Office of Rep. Conyers  
2313 Rayburn Building  
Washington, DC 20515

Joel Garner  
Nat'l Institute of Justice  
633 Indiana Ave., NW  
Washington, DC 20531

Eugene M. Hall  
State Prosecutor  
820 N. French St.  
Wilmington, DE 19801

Dwight Hixon  
District Judge  
Bullock Cty District Court  
P.O. Box 8  
Union Springs, AL 36089

Howard B. Gersh  
Asst. State's Attorney  
204 Clarence Mitchell  
Courthouse  
Baltimore MD 21208

Paul D. Hansen  
Judge  
Snohomish County Superior Court  
Everett, WA 98201

Thomas Hodson  
Office of the Chief Justice  
U.S. Supreme Court  
1 First Street, NE  
Washington, DC 20543

Gwen A. Holden  
Executive Vice President  
444 N. Capitol St. NW, Suite 608  
Washington, DC 20001

Herman B. John  
Deputy District Attorney  
821 W. State St., Rm. 412  
Milwaukee, WI 53233

Charles Kindermann  
Bureau of Justice Statistics  
633 Indiana Ave., NW  
Washington, DC 20531

Arnold J. Hopkins  
Commissioner of Correction  
6776 Reisterstown Rd.  
Baltimore, MD 21215-2342

Bruce D. Johnson  
Div. of Substance Abuse Serv.  
55 West 125th Street  
New York, NY 10025

Kay Knapp  
Executive Director  
U.S. Sentencing Comm.  
1331 Penn Ave., NW - Suite  
Washington, DC 20004

Martin Horn  
Director of Parole Operations  
97 Central Ave.  
Albany, NY 12054

Dan L. Johnston  
Executive Director  
PARC  
377 Broadway  
New York, NY 10013

Dr. John H. Kramer  
Executive Director  
Penn. Commission on Senten.  
P.O. Box 1200  
State College, PA 16804

G. Albert Howenstein  
Office of Crim. Just. Planning  
1130 K Street, Suite 300  
Sacramento, CA 95814

Larry J. Joiner  
Chief of Police  
1125 Locust  
Kansas City, MO 64106

Sigmund W. Krane, Ph.D.  
N.Y. City Mayor's Office  
250 Broadway, 14th Fl.  
New York, NY 10007

T. Don Hutto  
Executive Vice President  
Corrections Corp. of America  
28 White Bridge Rd., Suite 206  
Nashville, TN 37205

Jim Joneson  
Executive Director  
Nebraska Crime Commission  
301 Centennial Mall South  
Lincoln, NB 68509

Frank Kruesi  
Executive Officer  
R. J. Daley Center, Rm. 50  
Chicago, IL 60602

Barton L. Ingraham  
University of Maryland  
Le Frak Hall Rm. 2220  
College Park, MD 20742

John J. Kelly  
Chief State's Attorney  
Div. of Criminal Justice  
340 Quinpiac St.  
P.O. Box 5000  
Wallingford, CT 06492

Charles P. LaDell  
Deputy Chief  
New Orleans Police Dept.  
715 S. Broad Ave.  
New Orleans, LA 70119

Joan Jacoby  
Jefferson Institute  
1411 K St. NW  
Washington, DC 20005

William D. Kelley Jr.  
Director  
Criminal Justice Coord. Council  
205 Butler St., Suite 470 East  
Atlanta, GA 30334

William Lefbom  
Research Division  
Internal Revenue Service  
1111 Constitution Ave., NW  
Washington, DC 20224

Glen R. Jeffes  
Commissioner  
Penn. Dept. of Corrections  
Box 598  
Camp Hill, PA 17011

Timothy M. Kenny  
Deputy Chief  
Wayne Cty Prosecutor's Office  
1441 St. Antoine  
Detroit, MI 48226

Frank J. Leahy, Jr.  
Assistant Director  
4242 B Chain Bridge Rd.  
Fairfax, VA 22030

E. Roberta Lesh  
Executive Director  
Police Management Asso.  
1001 22nd St. NW, Suite 200  
Washington, DC 20037

Kenneth Mann  
Research Fellow  
Yale Law School  
Yale University  
New Haven CT 06520

Alan Hamilton Murrell  
MD Public Defender  
312 N Eutaw St.  
Baltimore, MD 21201

Marshall A. Levin  
Judge, Circuit Court, Balt. City  
Courthouse East Rm. 536  
Baltimore, MD 21202

Leslie J. Mann  
Director  
Career Criminal Section  
Essex County New Courts Bldg.  
Newark, NJ 07079

James F. Mulvihill  
Assistant Attorney General  
25 Market St.  
Trenton, NJ 08625

Felice J. Levine  
Law & Social Science Div.  
National Science Foundation  
1800 G Street, NW - Rm. 312  
Washington, DC 20550

Kai R. Martensen  
Assistant to Chief  
Baltimore Cty Police Dept.  
400 Kenilworth Drive  
Towson, MD 21204

George Napper  
Commissioner  
Dept. of Public Safety  
120 Ralph McGill Blvd., NE  
Atlanta, GA 30303

Richard Linster  
Nat'l Institute of Justice  
633 Indiana Ave., NW - Rm. 810  
Washington, DC 20531

Susan E. Martin  
Project Director  
Police Foundation  
1001 22nd St. NW  
Washington, DC 20817

Richard J. Neely  
Assistant District Attorney  
101 W. Broadway, Suite 144C  
San Diego, CA 92116

Sherri-Ann Loo  
Deputy Attorney General  
State of Hawaii  
250 S. King St.  
Honolulu HI 96813

Harold D. Miller  
Director  
Gov's Office of Policy Dev.  
506 Finance Building  
Harrisburg, PA 17120

David F. Nemecek  
Chief, NCIC  
FBI  
9th & Pennsylvania Ave's  
Washington, DC 20535

Samuel F. Lynn  
Chief of Police  
1300 First Avenue North  
St. Petersburg FL 33705

Dick D. Moore  
Director  
Dept. of Corrections  
P.O. Box 236  
Jefferson City, MO 65102

Steven O. Njemanze  
Management Analyst  
301 West Pearl St.  
Jackson, MS 39203-3088

William McDonald  
Professor  
Georgetown University  
37th & O Sts. NW  
Washington, DC 20057

William H. Moulder  
Chief  
Des Moines Police Department  
25 E. 1st Street  
Des Moines, IA 50309

Terrence L. O'Brien  
Judge  
Sixth Judicial District  
Court House  
Gillette, WY 82716

Philip G. McGuire  
Dir., Crime Analysis  
New York City Police Dept.  
1 Police Plaza, Rm. 1202  
New York, NY 10038

Timothy J. Murray  
Director Pretrial Services  
Dade County Dept of Corrections  
1500 NW 12th Ave. # 726  
Miami, FL 33134

Edward O'Connell  
House Subcommittee on Crime  
207 Cannon HOB  
Washington, DC 20515

Senator Mike O'Pake  
Senate of Pennsylvania  
Room 543, Main Capitol Bldg.  
Harrisburg, PA 17120

Virginia N. Price  
Criminal Justice Planner  
Governor's Crime Commission  
P.O. Box 27687  
Raleigh, NC 27611-7687

Stan Repko  
Division of Policy and Planr  
New Jersey Dept. of Correcti  
P.O. Box 7387, Whittlesey R  
Trenton, NJ 08628

Kenneth Parker  
Manager of Research & Planning  
840 W. Morgan  
Raleigh, NC 27603

Orville B. Pung  
Commissioner  
Minnesota Dept. of Corrections  
300 Bigelow Bldg.  
450 N. Syndicate St.  
St. Paul, MN 55104

E. Guy Revell, Jr.  
Commissioner  
Florida Parole/Probation Com  
1309 Winewood Blvd.  
Tallahassee, FL 32301

Anthony Partridge  
Federal Judicial Center  
1520 H Street  
Washington, DC 20005

Bian Qingzu  
First Secretary  
Embassy of the People's  
Republic of China  
2300 Connecticut Ave., NW  
Washington, DC 20008

Fred Rice  
Superintendent  
Chicago Police Dept.  
1121 S. State St.  
Chicago, IL 60605

Gilbert J. Pena  
Executive Director  
Criminal Justice Div.  
Office of the Governor  
P.O. Box 12428, Capitol Station  
Austin, TX 78711

Thomas J. Quinn  
Executive Director  
Criminal Justice Council  
State Office Bldg. 4th Fl.  
820 N. French St.  
Wilmington, DE 19801

Walter B. Ridley  
Associate Director  
D.C. Dept. of Corrections  
1923 Vermont Avenue  
Washington, DC 20001

George M. Phyfer  
Director  
Alabama Dept. of Youth  
P.O. Box 66  
Mt. Meigs, AL 36057

Stephen C. Rathke  
Crow Wing County Attorney  
Box 411  
Brainerd, MN 56401

David J. Roberts  
Director  
Reasearch and Statistics Pro  
SEARCH Group, Inc.  
925 Secret River Dr., Suite  
Sacramento, CA 95831

Henry S. Pinyan, III  
Executive Assistant  
Office of the Governor  
205 Butler St., East Tower  
Atlanta, GA 30334

Vance W. Raye  
Legal Affairs Secretary  
Governor's Office  
State Capitol Bldg.  
Sacramento, CA 95814

Honorable Edward D. Robertso  
Jr.  
Supreme Court Judge  
Supreme Court of Missouri  
P.O. Box 150  
Jefferson City, MO 65102

Larry Polivka  
Policy Coordinator/Gov. Office  
311 Carlton Bldg.  
Tallahassee, FL 32301

Phillip Renninger  
Director  
Statistics & Policy Research  
P.O. Box 1167  
Harrisburg, PA 17108

Peter Ronstadt  
Chief of Police  
Tucson Police Dept.  
P.O. Box 1071  
Tucson, AZ 85702-1071

Dwight C. Price  
NDAA  
1033 N. Fairfax Street  
Suite 200  
Alexandria, VA 22314

Benjamin Renshaw  
Bureau of Justice Statistics  
633 Indiana Ave., NW  
Washington, DC 20531

S. Stephen Rosenfeld  
Chief Legal Counsel to Gov.  
State House Rm. 271  
Boston, MA 02133

Kenneth F. Schoen  
Director, Justice Program  
Edna McConnell Clark Foundation  
250 Park Ave.  
New York, NY 10017

D. J. Storemski  
Assistant Chief of Police  
#61 Riesner  
Houston, TX 77032

Robert L. Trotter  
Operations Manager  
Ala. Board of Pardons/Paro  
750 Washington Ave.  
Montgomery, AL 36116

Douglas Smith  
Criminal Justice & Criminology  
Univ. of Maryland  
LeFrak Hall, Rm. 2220  
College Park, MD 20742

John L. Sullivan  
Commissioner of Correction  
Department of Correction  
80 Monrovia Ave.  
Smyrna, DE 19977

Craig D. Uchida  
Assistant Professor  
University of Maryland  
2220 LeFrak Hall  
College Park, MD 20742

James A. Smith  
Polk County Attorney  
Polk Co. Attorney's Office  
Room 408, Courthouse  
Des Moines, IA 50309

Terence P. Thornberry  
Dean  
School of Criminal Justice  
State Univ. of N.Y. at Albany  
135 Western Ave.  
Albany, NY 12222

Fred B. Ugast  
Chief Judge  
Superior Court of the  
District of Columbia  
500 Indiana Avenue, NW  
Washington, DC 20001

Warren K. Smoot  
Unit Chief-Trial Bureau  
Maricopa County Attorney  
101 W. Jefferson  
Phoenix, AZ 85003

James Thomas  
Executive Director  
Penn. Comm. on Crime & Delinq.  
P.O. Box 1167, Federal Sq. Sta.  
Harrisburg, PA 17108

B. Norris Vassar  
Virginia Parole Board  
1606 Santa Rosa Road  
Richmond, VA 23288

Howard N. Snyder  
Nat'l. Center for Juv. Justice  
701 Forbes Avenue  
Pittsburgh, PA 15219

Ritchie P. Tidwell  
Director, Div. of Public Safety  
Office of the Governor  
1205 Pendleton St.  
Columbia, SC 29201

Mack Vines  
Director  
Bureau of Justice Assistance  
633 Indiana Ave., NW  
Washington, DC 20531

Larry Solomon  
Assistant Director  
Nat'l Institute of Corrections  
320 First St. NW  
Washington, DC 20534

Mary A. Toborg  
Toborg Associates, Inc.  
1725 K St., NW - Suite 803  
Washington, DC 20006

Robert C. Wadman  
Chief of Police  
Omaha, Nebraska Police Dept.  
505 South 15th St.  
Omaha, NE 68102-2769

Gregg C. Stahl  
Executive Director  
Governor's Crime Comm.  
P.O. Box 27687  
Raleigh, NC 27611

Paul H. Toyozaki  
Prosecuting Attorneys Office  
1164 Bishop Street  
Honolulu, HI 96818

Ashbel Wall  
Principal Policy Analyst  
Office of the Governor  
State House  
Providence, RI 02903

Darrel W. Stephens  
Executive Director  
Police Exec. Research Forum  
2300 M Street NW #910  
Washington, DC 20037

Dave Travis  
State Representative  
Wisconsin Assembly  
P.O. Box 8953  
Madison, WI 53708

Fred Wicker  
Circuit Judge  
Pres. Circuit Judges Section  
P.O. Box 360  
Pontotoc, MS 38863



H.R. Wientzen  
Procter & Gamble  
P.O. Box 599  
Cincinnati, OH 45201

Yoshio Akiyama  
Fed. Bureau of Investigation  
9th and Penn. Ave., NW  
Washington, DC 20535

Anthony G. Flynn  
Governor's Office  
Carvel State Office Bldg  
820 North French Street  
Wilmington, DE 19801

Charles F. Wellford  
Director  
Institute of Crim. Justice  
and Criminology  
University of Maryland  
College Park, MD 20742

Alan Henry  
Pretrial Serv. Resource Ctr.  
918 F St., NW #500  
Washington, DC 20004

William Rhodes  
Research Director  
U.S. Sentencing Commission  
1331 Pennsylvania Ave.  
Washington, DC

Gerald L. Williams  
Chief of Police  
Aurora Police Dept.  
15001 East Alameda Dr.  
Aurora, CO 80012

Robert N. Kaye  
Assist. Coordinator, Crim.  
Just.  
Office of the Mayor  
250 Broadway  
New York, NY 10007

John Eck  
Senior Research Associate  
PERF  
2300 M Street, NW #910  
Washington, DC 20037

Bradford Wilson  
Research Associate  
Office of the Chief Justice  
U.S. Supreme Court  
1 First St., NE  
Washington, DC 20543

Anson Lee  
Prosecuting Attorney's Off.  
34 Rainbow Drive  
Hilo, Hawaii 96766

Paul Zolbe  
Federal Bureau of Investigat  
9th and Pennsylvania Ave., N  
Washington, DC 20535

Ray Wilson  
Staff Director  
Corrections Committee  
Florida Senate  
418 Senate Office Bldg.  
Tallahassee, FL 32301

Shahid Abdullah  
Legislative Aide  
c/o Rep. Stewart McKinney  
House of Representatives  
Washington, DC 20515

Sally Hillsman  
Vera Institute  
377 Broadway  
New York, NY

Mr. Anthony L. Guenther  
Research & Evaluation Unit  
Virginia Dept. of Corrections  
P.O. Box 26963  
Richmond, VA 23261

Shervert Frazier, Director  
Nat'l Inst. of Mental Health  
5600 Fishers Lane  
Rockville, MD 20857

Michael Smith  
Vera Institute  
377 Broadway  
New York, NY

Michael Jensen  
Prosecuting Attorneys Council  
150 West Market St., Suite 200  
Indianapolis, IN 46204

Terry Wooten  
Legal Counsel  
Office of Sen. Strom Thurmond  
Russell Office Building  
Washington, DC 20510

Tom Smith  
American Bar Association  
Criminal Justice Section  
1800 M St., NW - 2nd Floor  
Washington, DC 20036

Detective A.R. Scott  
Criminal Career Program  
Phoenix Police Department  
620 W. Washington  
Phoenix, AZ 85033

PARTICIPANT LIST - ADDENDUM

James Dimm  
Adjudication Technical  
Assistance Project  
EMT Group, Inc.  
3615 Wisconsin Ave., NW  
Washington, DC 20016

Stephen D. Gottfredson  
Temple University  
Philadelphia, PA 19122

Russell Immerigeon  
Criminal Justice Abstracts  
18 Cherry Street  
Somerville, MA

Bob Small  
Indiana Criminal Justice Inst.  
Rm. 134 State House  
Indianapolis, IN 46204

James J. Collins  
Research Triangle Institute  
P.O. Box 12194  
Research Triangle Park, NC 27709

Jan M. Chaiken  
Abt Associates, Inc.  
55 Wheeler Street  
Cambridge, MA 02138

Marcia Chaiken  
Brandeis University  
Ford Hall  
Waltham, MA 02254

Peter B. Hoffman  
U.S. Sentencing Commission  
1331 Pennsylvania Ave., NW  
Washington, DC 20004

Joseph G. Weis  
Center for Law and Justice  
University of Washington  
Seattle, WA 98195

James A. Morris  
D.C. Superior Court  
Probation Department  
Washington, DC

APPENDIX C

PANEL ON RESEARCH ON CRIMINAL CAREERS

Alfred Blumstein (Chair), School of Urban and Public Affairs,  
Carnegie-Mellon University

Allen H. Andrews, Jr., Chief of Police, City of Peoria, Illinois

Delbert S. Elliott, Department of Sociology and Behavioral Research Institute,  
University of Colorado

David P. Farrington, Institute of Criminology, Cambridge University, England

John Kaplan, School of Law, Stanford University

Rolf Loeber, Western Psychiatric Institute and Clinic, University of Pittsburgh

Charles F. Manski, Department of Economics, University of Wisconsin

Norval Morris, School of Law, University of Chicago

Albert J. Reiss, Jr., Department of Sociology, Yale University

Lee Robins, Washington University Medical School, St. Louis, Missouri

Harold Rose, Department of Urban Affairs, University of Wisconsin at Milwaukee

Daniel S. Smith, Department of History, University of Illinois at Chicago

Andrew L. Sonner, State's Attorney for Montgomery County, Maryland

Reggie B. Walton, Associate Judge, Superior Court of the District of Columbia

James Q. Wilson, Department of Government, Harvard University, and Graduate  
School of Management, University of California at Los Angeles

Marvin E. Wolfgang, Sellin Center for Studies in Criminology and Criminal  
Law, University of Pennsylvania

Jeffrey A. Roth, Study Director

Christy A. Visher, Research Associate

Gaylene J. Dumouchel, Administrative Secretary

Jacqueline Cohen, Consultant, School of Urban and Public Affairs,  
Carnegie-Mellon University