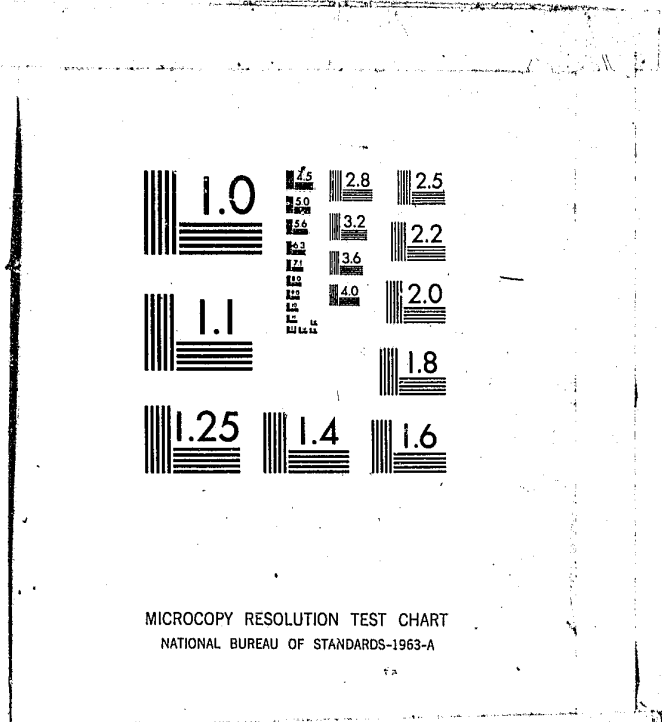


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United States Department of Justice
Washington, D. C. 20531

DATE FILMED

10/08/81

76233

[COMMITTEE PRINT]

COMPARATIVE CRIMINAL JUSTICE
RESEARCH

REPORT

PREPARED BY THE

SUBCOMMITTEE ON
DOMESTIC AND INTERNATIONAL SCIENTIFIC
PLANNING, ANALYSIS AND COOPERATION

OF THE

COMMITTEE ON
SCIENCE AND TECHNOLOGY
U.S. HOUSE OF REPRESENTATIVES
NINETY-FIFTH CONGRESS

SECOND SESSION

Serial II



JUNE 1978

Printed for the use of the Committee on Science and Technology

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1978

27-819

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE AND TECHNOLOGY,
Washington, D.C., June 1978.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to submit to you our Subcommittee's Special Oversight Report "Comparative Criminal Justice Research."

This report was prepared by Mr. Robert B. McKay, Director of the Program on Justice, Society and the Individual of the Aspen Institute for Humanistic Studies. Mr. McKay, a noted legal scholar, formerly served as dean of the New York University School of Law.

The report summarizes a seminar on Comparative Criminal Justice Research held in November, 1977, under the joint sponsorship of the Aspen Institute Berlin and the Aspen Program on Justice, Society and the Individual. Distinguished criminal justice and legal scholars were assembled from around the world to participate in the 5-day seminar. Mr. Jonah Shacknai of the Committee on Science and Technology Staff was an invited participant at the conference and reported on our oversight activities.

The Domestic and International Scientific Planning, Analysis and Cooperation Subcommittee has a continuing interest in crime and justice research issues. To date, during the 95th Congress, 15 days of public hearings have been held in this subject area. The excellent report prepared by Mr. McKay is highly compatible with our subcommittee's oversight activities and constitutes a valuable addition to the congressional literature on crime and justice research.

I commend this report to your attention, to the attention of the members of the Committee on Science and Technology and to the Members of the House.

Respectfully submitted.

JAMES H. SCHEUER,
Chairman, Subcommittee on Domestic and International Scientific Planning, Analysis and Cooperation.

(III)

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ACQUISITIONS

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Comparative Criminal Justice Research: Report of a Seminar at Aspen Institute Berlin

INTRODUCTION

In February 1976 Aspen Institute Berlin and the Justice Program of the Aspen Institute cosponsored a seminar on Comparative Criminal Sanctions, a topic which had been suggested by Chief Justice Warren E. Burger of the Supreme Court of the United States. At that seminar it became apparent that there was a need in each country represented for a review of the organizational structure pursuant to which research on the criminal justice system was commissioned, the methodology of such research, and the uses to which it was put. In November 1977 a follow-up seminar was convened, also at Aspen Institute Berlin, to examine the various ramifications of that problem; to determine what assistance could be provided each country by a comparative approach, and thus to strengthen the common enterprise of crime control and fair structuring of the criminal justice system in a struggle that recognizes no national borders. The tentative agenda, as set forth in the letter of invitation, reflected those concerns as follows:

1. The researcher and the policymaker. Roles, convergences and conflicts.
2. Channels of communication between researchers and policymakers in the criminal justice system. National experiences (drawing upon Professor Franco Ferracuti's report for the Council of Europe, "The Coordination of Research and the Application of Its Findings in the Field of Criminal Policy," plus selected U.S. materials).
3. Problems of choice of research topics.
4. The problem of evaluative research in the criminal justice system.
5. Criminal justice system research and research on general social problems within a single national context and in general.
6. Criminal policy within general social policy.
7. Conclusions and recommendations.

After the first day of meetings the participants agreed upon a revised agenda, which is annexed as Appendix A.

The 27 seminar participants came from the Council of Europe and the following nine nations: Canada, Finland, France, Great Britain, Israel, Italy, Sweden, the United States, and West Germany. The list of participants is annexed as Appendix B.

Materials distributed to the participants in connection with the seminar were the following:

Clarke, Penal Policy-Making and Research in the Home Office (unpublished report from Great Britain, 1977).

Ferracuti, The Coordination of Research and the Application of Its Findings in the Field of Criminal Policy (to be published by the Council of Europe).

Kaiser, *The Relationship Between Scientific Research and Criminal Policy* (chapter in Kaiser and Kursentberger, *Criminological Research Trends in Western Germany*, 1972).

Rein and White, *Can Policy Research Help Policy?* 49 *The Public Interest* 119 (fall 1977).

Report of the Subcommittee on Crime of the Committee on the Judiciary, U.S. House of Representatives, 95th Congress, First Session, *New Directions for Federal Involvement in Crime Control* (April 1977).

Report of the Subcommittee on Domestic and International Scientific Planning, Analysis and Cooperation of the Committee on Science and Technology, U.S. House of Representatives, 95th Congress, First Session, *The Federal Role in Crime and Justice Research* (November 1977).

Understanding Crime: An Evaluation of the National Institute of Law Enforcement and Criminal Justice (summary chapter of the 1977 report by a committee of the U.S. National Academy of Sciences-National Research Council).

Wolfgang, *The Conditions of Criminology and Policy Research* (in the United States) (extracts from unpublished paper, May 1976).

In addition, a number of brief papers descriptive of particular aspects of differing national research policies and practices supplemented the oral presentations. A "library" of other relevant books and monographs was available for individual study.

The topic, which had seemed important in early 1976, appeared in late 1977 to be urgent. Without exception, participants from every nation represented indicated the crucial nature of current discussions about how best to control crime, to structure the criminal justice system, and to design a research program relevant to those needs.

The disarray of criminal justice research in the United States is well known. Despite nearly \$6 billion spent by the Law Enforcement Assistance Administration (LEAA) in less than a decade and the vast sums spent by other Federal agencies, State and local governments, and private organizations, there is substantial doubt about the soundness of the research structure and the utility of the expenditures. The National Academy of Sciences-National Research Council report concluded that the National Institute of Law Enforcement and Criminal Justice (NILECJ, the research arm of the LEAA) "has not been the catalyst of a first-rate and significant research program commensurate with either its task or resources. [S]tructural and political restraints have all too often deflected the Institute from its true mission—to develop valid knowledge about crime problems." The findings of the Subcommittee on Domestic and International Scientific Planning, Analysis and Cooperation of the Committee on Science and Technology of the U.S. House of Representatives, "The Federal Role in Crime and Justice Research," were similarly critical of the Federal research effort.

Experience in other countries is not dissimilar, although nowhere else have such vast sums of money been poured into research about the criminal justice system. Participants from every country emphasized that new structure is being sought, new questions are being asked, and new methodology is being tried in order to provide more information and better ways of structuring the criminal justice system.

From Israel to Scandinavia the issues were surprisingly similar and the need for new answers equally vital.

It was particularly striking to discover that in all the nations represented the effort to use criminal justice research in the formulation of policy is relatively new, typically within the last decade; but the results have in general been disappointing. Where there were once high hopes, even expectations that crime rates could be lowered by the application of principles developed through criminological research, crime rates have increased unrelentingly, and dissatisfaction with the system is high. That is a central message of Professor Ferracuti's study for the Council of Europe, viewing criminal justice research from a comparative perspective. Professor Marvin Wolfgang concluded in his study of criminal justice research in the United States that most of it has been of low quality and not very useful. Similarly, the article by Messrs. Rein and White describes the fumbling and largely ineffectual efforts to use evaluation research in the formulation of policy. Obviously, there are many lessons still to be learned about the problem-solving function of criminal justice research. Charles De Gaulle seems to have been discouragingly right when he said, "I have lived a long life and I have never seen a single problem solved."

One American participant asserted that there is too much criminal justice research, or at least too much research of a cumulative nature directed at targets where answers are already available. A European participant noted, however, that social and economic conditions are constantly in flux, making necessary continuous re-examination of criminogenic phenomena and changing structures of the criminal justice system. And another participant wisely observed that both may be right: there is too much wasted research, but not enough directed to the proper questions. Indeed, it is not altogether clear what are the right questions.

In view of the unhappy consensus that criminal justice research has not been as successful as anticipated even a few years ago, the participants asked why sincere efforts had been so unrewarding. Several reasons were given:

In the first place, criminology itself is a relatively new discipline. Until about a decade ago there were few trained practitioners. The rapid rise in the number of researchers, largely self-certified, developed with the increased interest of governments in research whose purpose was to prescribe how to prevent crime or at least to control it. Ironically, perhaps too much money was available too soon, that is, before trained researchers were generally available. Qualified researchers are still in short supply, apparently in all the countries represented.

When the U.S. space program was threatened by the lack of qualified technologists, there was no hesitance to invest vast sums in support of training programs. Surely the criminal justice system is no less important. The training of research technicians must remain a high priority, along with the preparation of middle-management to understand the research presented to them for action. Almost equally important is the necessity to train social science writers who can translate research findings for more efficient understanding by legislators, judges, and other policymakers who use research data.

Second, there has even been confusion among funding agencies and within the academic community about the definition of research. For

present purposes, research is defined comprehensively, as suggested by one participant (with apparent agreement by others), to include all of the following:

1. *Library research*.—That is, study of constitutions, statutes, regulations and case law in the search for rationalizing principles or opportunities for modification.

2. *Literature surveys*.—Although closely related to library research, the difference is that the survey technique contemplates a review of the research of others to extract common findings and to determine what gaps remain for further research.

3. *Empirical research*.—The traditional and most valuable technique, provided the methodology is properly established and the research design is value free.

4. *Evaluation Research*.—Review of existing programs to test achievement of original objectives and (sometimes) to make recommendations for modification.

5. *Experimentation*.—The establishment of specific programs designed to test current hypotheses, including randomization studies where appropriate.

6. *Research on research*.—Constant review is necessary of research methodology.

Third, there has been—and remains—uncertainty about the role of researchers in relation to policy makers. It has often not been clear who frames the questions, the extent to which particular results are demanded, and the use to be made of research studies. Moreover, there is a serious problem of communication between researcher and user.

In explanation of this difficulty one of the participants outlined what he called a phenomenological description of the relationship between the "research encoder" and the "client decoder." His chart (annexed as Appendix C) demonstrates problems in conveying a comprehensible message from the researcher to the policymaker; in finding the right channel to overcome administrative and other barriers (and to arrive in time for policy formulation); and in overcoming what he called the noise of political, economic, and mass communications obstacles to understanding. Finally, he said, receptivity to the research message will be affected by the nature of the political structure, whether it is authoritarian, permissive, or ritualistic.

The model prompted a lively discussion. There was general agreement that it was a useful representation of the "no communication" model which is all too common at present. It is accordingly important to recognize these potential obstacles to communication and to do whatever is possible to eliminate, bypass, or reduce interference with effective communication. As one participant observed, such a diagnostic model is useful if it leads to prescription for improvements. And another pointed out that there are also communications problems when the policymaker seeks to explain to the researcher the questions to be answered.

Here indeed was the central issue of the seminar: Coherence must be brought to efforts to determine who decides on research needs; how to assure quality research; how to communicate the results to policy makers and other potential users; and how to make certain that only appropriate uses are made of the results.

OBJECTIVES OF THE CRIMINAL JUSTICE SYSTEM

A useful starting point in defining the purposes of the criminal justice system is the statement attributed to Marc Ancel that criminal policy is the "coherent and rational organization of society's reaction to crime." But that definition, graceful though it is, does not carry us very far toward solution of pressing problems. In addition, the participants noted the importance of setting research in the proper frame of reference, including the following:

1. It is not appropriate to think of the criminal justice system in a vacuum. It relates—and thus criminal policy relates—to other aspects of society, including (at least) poverty, education, employment, housing, breakdown of family relations, and urban problems in general. The basic values of society must be kept in mind in order to keep research in the proper context. It is in this context that the effort must be made to prevent or contain crime and to treat criminals. It is vital that criminal justice research not be isolated from the entire social context out of which criminal problems arise; and only there can solutions be found.

2. Moreover, criminal justice should not be isolated from civil justice. The interaction between the two is strong and significant. There are many points of intersection, including policy choices as to whether the civil or criminal route is preferable in dealing with anti-social behavior.

Once upon a more optimistic time it was widely believed that crime prevention was the name of the game, and research goals were often cast as promises to find ways to win "the war against crime." Now, taking a much more subdued view of what is possible, we talk about understanding crime, perfecting the process, and dealing fairly with victims of crime and those accused of crime. It is also popular to speak of cost/benefit analyses of alternative proposals. But cost/benefit analysis in the criminal justice context does not mean the same thing as in the case of consumer research, for example, where the seller's objective is the relatively straightforward goal of maximizing profit. Profit and loss on the criminal justice balance sheet is not so readily measured. In criminological research it is more helpful to think in terms of risk/benefit than in terms of cost/benefit. The purpose must be to evaluate the social risks against the social costs, without losing sight of fiscal considerations—a difficult balancing act. Since objectives of criminal policy, whether the system is viewed as a whole or only in relation to a particular topic, are necessarily multiple and often unclearly defined, criminological research is difficult to structure and speculative in nature.

The models for a criminal justice system have been suggested, the crime control model and the due process model. The participants agreed that it is no longer necessary to talk about choices between those models. Rather the search should be for an appropriate mix, controlling crime to the extent possible, but always in a system that is fair and seen to be fair by all those involved in the process. Noting that "nothing is so practical as a good theory," one participant reminded that researchers in criminal justice should be regarded as social engineers, intermediaries between the purely theoretical and the entirely pragmatic.

CRIMINAL JUSTICE RESEARCH AND POLICY OBJECTIVES

The participants devoted substantial and recurring attention to two related questions: (a) How are research needs to be determined? and (b) Who fixes the research agenda? Basically, the question is one of control versus independence; but the issue is seldom framed in such stark terms. Nevertheless, the participants expressed relatively sharp differences in emphasis as to the amount of direction researchers should accept from policymakers. Some asserted the importance of absolute independence on the part of the researcher to choose topic or basic research and to proceed without regard to the potential usefulness or not of the results. Others, however, argued that policymakers should be able to identify the areas in which they need reliable information and alternative "solutions," including estimates of the implications of choice. For example, in dealing with the drinking driver, the policymaker should be entitled to ask the probable consequence of fines (large or small) as compared with loss of license and as compared with prison sentences (long or short).

Ultimately, no one dissented from the proposition that policymakers have the right, indeed the obligation, to seek such information and advice. The central question remains, nevertheless: How it is possible to combine these policy needs with the imperative of research independence.

Various types of research activity should be noted and contrasted, each raising somewhat separate problems. For example:

1. Research may be commissioned and indeed supported by government in the search for ways of approaching a general problem of the system, but without directions as to what the answers should be or even what questions should be asked. An illustration would be the grant of a block of funds to a single university to support research over a period of years into the still largely uncharged world of white collar crime. If the researchers are told to seek information and to look for answers to questions to be developed by the researchers, independence is thus assured while at the same time responding to social needs defined by the policymakers.

2. Research may at times be sought into more precisely defined questions, with answers requested within a short time frame. The hazards to independence are apparent if the researcher is required—or believes that he is required, which is the same thing—to come up with an answer that will serve immediate political objectives. But it need not be so. Where necessity requires quick answers (e.g., where alternative legislative proposals are being considered), it is not inappropriate to seek whatever advice research experts can provide. If the time constraints do not permit original research, at least there is no reason they should not report whatever is available from a search of the relevant literature, and models can be suggested for evaluation of the results of any change in policy. The test is whether the researcher is as free to provide information that does not advance the stated goals of the policymaker as that which supports the desired policy objective. Integrity of the research effort must in the long run be helpful to the honest policymaker as well as to the public and to the researcher.

3. It is important that research opportunities be kept open to persons and organizations not part of the system in order to provide

a balance to research commissioned by government. So-called against-the-system research is not likely to receive government financing, but it is likely to be useful in developing and preserving the due process model of the criminal justice system. If the adversary process is useful in promoting opposing views in judicial proceedings in general, ways must be found for the presentation of opposing research methods and results where there is no single "correct" answer.

4. Two types of less useful research remain for discussion. On the one hand are those researchers who deny the need for empirical or experimental research, contending that the values they espouse dictate the answers to criminal justice system questions. But serious doubts must be raised as to the viability of theories whose proponents are unwilling to have them tested for verification. On the other hand, some self-styled "experts" are available for any project and to confirm any desired result. Researchers and others willing to sell their services to the highest bidder are not likely to make useful contributions to the enlargement of knowledge in an already imprecise field. The short of it is that some research is so value-laden that its conclusions are suspect, either because the researcher comes to the task with a predetermined set of values or because the researcher is willing, chameleon-like, to assume the values of another.

The participants agreed upon several protections that could be developed to assure the independence and integrity of research into the criminal justice system.

1. Research activities must be pluralistic. Even though most research support will come from government funds, it is vital to preserve and strengthen the ideal of multiple research efforts. If some (or much) research money comes directly from government grant or contract, other government research support, equally valuable, should come indirectly through university funding where the determination of research direction is better shielded from government priorities. Obviously, in the case of direct funding of research, the principal danger is that the research might be result-oriented rather than free-ranging.

At the same time it is important that an in-house research capacity be maintained at each government funding agency, thus assuring research capacity and understanding of methodology on the part of those who evaluate and approve or reject applications for public funding. Moreover, in-house research is immediately available for use by the policy maker.

Private foundations must be encouraged to remain in the criminal justice field. Even though their share of the total research dollar may be small, it is significant as a means of preserving diversity and providing initiatives and creativity of the kind less likely to come from government.

2. In the case of research commissioned by a government agency, particular care should be taken to insulate the research from political influence. This may be accomplished by one or more of the following techniques.

a. Research guidelines and priorities for the granting organization should ordinarily be established by an independent body, whether a board of directors, an advisory council, or consultants not affiliated with the agency.

b. The charge to the principal investigator of each research undertaking should be as open as possible. Thus, requests for proposals should seek applications that promise information, understanding, and implications of alternative courses of action. Specific action results should neither be requested nor promised. It may be useful to define the relationship of the researcher and the grantor by contract in order to assure arms-length research and to make sure that understanding is mutual. Statutes to protect the confidentiality of research findings should also be encouraged.

c. Assurance should always be given that the results of the research will be disseminated to the appropriate constituency, whether the recommendations of the research study are accepted or not (even though the grantor is not obligated to accept the proffered conclusions or to implement any action recommendations). In particular, any research program with policy implications must provide for accessing the data. Competing analysis of any project evaluation or experiment is justified on scientific, political and economic grounds. So any contracts or grants should require that data once collected and analyzed by the original investigator must be made available as soon as possible for secondary analysis. See Hedrick, Boruch and Ross, "Policy and Regulation for Ensuring the Availability of Evaluative Data for Secondary Analysis" (to be published in 1978 in "Policy Sciences").

3. Unique problems arise in the context of government-commissioned research, which deserve more extended comment as follows:

a. The most serious potential hazard is the danger of political influence, whether seeking to influence the result for political advantage or whether based on a know-nothing mistrust of research in general. The commissioning authority and the research community must join together to resist either kind of attack on the integrity of the process; and of course the researcher must prove worthy of such freedom by demonstration of skill and objectivity.

b. Scarcely less troublesome than political interference is the danger of media distortion. Even the most responsible journalist of the press or broadcast media is not altogether immune from the temptation to sensationalize reports or to draw firm conclusions from findings that should be read in much more tentative fashion. This is a temptation not limited to representative of the media. It is not unknown for researchers, over-eager to impress, to over-state conclusions and to speculate overgenerously on possible implications. Self-restraint is essential by all concerned, including research sponsors whose obligation for accurate statement is apparent.

c. Research should be as value free as possible; but there may be no such thing as absolutely value-free research. Even the choice of topic for investigation by an independent researcher reflects the personal preference of inclusion and exclusion, even if it should not be regarded as bias. Thus, again emphasizing the need for pluralism in research, it is useful to have the same topic investigated by various researchers with varied viewpoints.

d. Research cannot be hurried or compressed into an arbitrary time frame: but such restraints are often not understood by those who commission research, desiring results sooner rather than later. While researchers may not always perform with the diligence that might produce more prompt and thus more usable results, they must be protected in their unhurried ways against unreasonable pressure. Results should neither be sought nor promised in a period that is unlikely to permit the development of meaningful data. The problem can be avoided most easily when the inquiry is directed, as is always preferable, to long-range information gathering and empirical or experimental to test various alternatives. The problem is most acute when answers are sought to immediately imperative issues. The important thing is that those who commission and those who perform research understand from the beginning what is probable, what is possible, and what is likely.

e. Evaluation research in review of Government programs is particularly hazardous. Program objectives, as defined by statute or regulation, may be multiple rather than single, may not be clear, or may not even be stated at all. It is especially difficult to accommodate research design to uncertain objectives. Moreover, the agency whose program is to be evaluated may be reluctant to supply data that might lead to unfavorable evaluation or to recommendations different than the perceived goals of the policy makers. A final difficulty with research for government policy formulation is that the policy decision may need to be made before the research results are complete. In all these respects the researcher is liable to the hazard of being caught up in the political process with the unhappy risk of having research results challenged on grounds that go more to politics than to integrity of methodology.

COORDINATION AND COMMUNICATION OF RESEARCH

All governments, and government at all levels, need research to aid in the formulation of criminal policy. Regrettably little is known about the system and what actions will trigger favorable responses. Accordingly, there is need for research at every level on virtually every topic. The central question is to determine how research priorities should be set, by whom, and subject to what conditions. In considering the policy formulation aspects of a research program, some participants worried that too much energy (and funds) are directed to organizing the research endeavor and too little on research itself. Others observed that proper organization of the effort to determine priorities is a crucial part of the venture. If the bureaucracy has sometimes to consume too large a share of the available resources, it may be in part that the effort has been misdirected.

The quality of the research result is unlikely to rise above the quality of the administrative structure which sets priorities and screens proposals. If, as some believe, criminological research has been excessively policy oriented in the past, the fault may lie with the direction—or lack of direction—at the center. It is accordingly important that those responsible for planning develop an acute sense of what is needed, what is being done, and the time constraints for all projects in order better to harmonize the entire research endeavor. Manifestly, it is

desirable that this coordinating impulse take place at every research level within each nation and across national borders as well.

Once the purposes and structures for research are established, it is important to work out the channels of communication. As Professor Ferracuti observed in his paper, "It is self-evident that the major problem, in the field, is that of existing channels of communication between research and policy making." One participant suggested, and others agreed, that it is useful to examine the communications process in terms of the recipients of research results, recognizing the possibility of different consequences and needs for each. He classified the client-recipients as follows:

1. *Legislators*.—The need here is often for what has sometimes been called "quick and dirty" research. That is, when a legislative act is under consideration for enactment or amendment, it is vital to secure now, not later, whatever relevant information can be made available. The research effort involved is thus very different from that required for the long-range policy planner. Researchers should be flexible enough to assist legislators, so long as appropriate caveats are understood.

2. *Judges*.—Like legislators, judges need information in a relatively short interval. Unlike legislators, however, their interest is primarily retrospective; and their concern involves the interpretation of particular past events. Legislators, on the other hand, seek advice for the formulation of policy with implications for an uncertain future. Experienced researchers should accommodate the needs of judges whenever possible, drawing upon the accumulated wisdom of experts and review of relevant prior research.

3. *Police*.—Police officials operate in the short run, but plan (we hope) for the future. Accordingly, there is much research that can be directed to the police function so long as quick results are not expected or promised and so long as predictions remain as tentative as the data suggest.

4. *Corrections officials*.—Perhaps nowhere is our knowledge so uncertain as in the field of corrections, from sentencing through incarceration to ultimate release on parole or otherwise. No quick solutions are likely to be forthcoming. But the area is wide open for creative research.

5. *Criminal defendants*.—Although this fifth category of client-recipients was not included in the original formulation, some participants thought that persons accused of crime deserve separate recognition as research recipients. Certainly much current research is directed to crime prevention, deterrence, rehabilitation and other matters directly related to the individual defendant.

6. *The public*.—The ultimate consumer of research is the public, collectively and as individuals. Researchers must never lose sight of this fundamental truth. Legislators, judges and all the others are only intermediaries who should likewise have the public interest in mind as they request research and implement its conclusions.

In this connection it was also observed that the research recommendations most likely to be implemented in practice are those commissioned by or on behalf of the research recipients above identified. Research that is commissioned by or for such a client community is more likely to find a receptive audience; and it is significantly more difficult for such a commissioning body to reject the research results it has sought.

BASIC AND APPLIED RESEARCH

Controversy abounds as to the relative role of basic and applied research. There is, indeed, even a preliminary difficulty in deciding where to draw the line. All participants agreed that both are necessary. Perhaps it is not so important to draw a line between the two as it is to make sure that the questions asked are basic questions—and that insulation from governmental interference is assured. This is what is meant by social engineering, a term frequently used by the participants. If government sometimes seems more interested in applied research and short-range results, it is necessary for the research community to continue its insistence on the need for basic research as well, even though the immediate usefulness may be less apparent.

At this point the participants were reminded of the need for experimentation in addition to theory building and empirical research. In some countries experimentation involving the use of control groups is limited or even forbidden by the principle of legality, making even more important the dissemination to those countries of the results of experiments in other countries.

RESEARCH ACCOUNTABILITY

Finally, in this connection the participants emphasized once more the importance of accountability.

1. Government must be held accountable for encouraging value-free research and for regular and careful testing of government programs by evaluation research.

2. Researchers must be accountable to their funding source for competent research design, integrity of methodology, care in reporting results and on-time performance. If, as is sometimes asked, "Who watches the watchdog," we might equally ask, "Who researches the researcher?" And, as some participants reminded, much remains to be learned about research planning and the structuring of research funding agencies.

INTERNATIONAL COOPERATION IN CRIMINAL JUSTICE RESEARCH

The topic of the seminar was comparative criminal justice research, and much useful information was exchanged about the state of the art in the various countries represented, including mutual condolences about disappointment with the results to date. When the discussion turned to cooperative efforts across national boundaries, there was little to report. Two primary problems were noted: (1) Interdisciplinary and cross-cultural research is particularly troublesome because of the difficulty of holding a culture constant long enough to get comparative findings. (2) Funding sources are extremely scarce for any transnational research efforts. Participants doubted the availability of government funding (except to the limited extent that international agencies can help, as discussed below). The only private organizations which came to mind were the Ford Foundation and the German-Marshall Fund.

The international agencies interested in criminal justice research are also limited in number and activity.

1. The United Nations has not emphasized criminological research, partly as a result of the internal structure which includes crime prevention and the treatment of offenders as part of the social services area. Perhaps criminal justice activities should be given separate agency status to encourage greater research creativity. Moreover, the United Nations is heavily preoccupied with developing countries, whereas the crime problems are concentrated in the developed countries. By this measure, in the field of crime the United States is the most "underdeveloped" country, and West Europe is a close second.

We were told that the United Nations research centers would be appropriate places for international cooperation on criminal justice research, but they have not yet lived up to that potential. Part of the problem, we were told, has been the failure to provide effective research directors in the responsible posts.

2. The Council of Europe has done considerable work in promoting and coordinating criminological research (in particular by organizing conferences, granting fellowships, publishing a Research Bulletin); but money and staff are limited.

3. The few regional bodies are also possibilities, but most areas do not have such organizations, or they exist primarily on paper. The Scandinavian Research Council is a good example of the potential for effective comparative research and sharing of results.

Subsequent to the conclusion of the seminar one of the participants, Dr. Denis Szabo, Director of the International Centre for Comparative Criminology at the University of Montreal, submitted a more detailed statement of international comparative criminology. It is included there as Appendix D.

CONCLUSION

These comments may present a more gloomy picture of the status of criminal justice research in the principal nations of the West than was the spirit of the seminar. It would be more accurate to report that the participants shared considerable dismay about the too-much, too-soon quality of past criminological research. Even that record is not wholly unfavorable. Several European participants noted that the very fact of ongoing research has an impact on the process, even apart from the outcome. For example, research on police discretion and research on sentencing in West Germany both have had beneficial consequences on the system entirely apart from ultimate recommendations. A participant from the United States was even more explicit. Criminal justice research in the United States has contributed to policy formulation in at least the following areas: (1) Sentencing: determinate versus indeterminate; (2) sentencing guidelines; (3) elimination of status offenses; (4) curtailment of parole; and (5) modification of the treatment model.

The present is a time of foment in criminal justice research, in criminal policy formulation, and in the organization of research efforts. The in-balance conclusion of the participants was that the topic is timely and should be pursued. The mood is upbeat for a better future.

An appropriate peroration might be this statement by one of the participants. "Do not," he said, "refight the battles of the last war. Identify the problems of the future and get about the business of researching them."

APPENDIX A

COMPARATIVE CRIMINAL JUSTICE RESEARCH

FIRST REVISED AGENDA

1. What is public policy, and who are the policy makers?
2. What is the proper relationship between policy makers and researchers?
 - a. To what extent should policy objectives be served by researchers?
 - b. How can independence of research be preserved?
 - c. How should accountability be structured?
 - d. What balance should be struck between in-house and external research?
 - e. Is the researcher a social engineer (between theoretician and practitioner)?
 - f. How should criminal justice research be integrated into research on poverty, social welfare, education, the family, etc.?
3. What are the functions of research?
 - a. Basic versus applied research.
 - b. Collection of data and statistics.
 - c. Retrieval and dissemination of research.
 - d. Training and education of researchers.
 - e. Impact of research on public policy. "Addressees" of research.
 - (1) Legislators.
 - (2) Judges.
 - (3) Police.
 - (4) Correctional authorities.
 - f. Communication to public through the media.
4. What are the best ways to develop alternative points of view internally and externally?
5. How is it possible to develop better cooperation across national boundaries or with international bodies?
6. What are the appropriate divisions of research activity, in a federal system, at the Federal, State and local levels? What structure will best serve those ends? (Consider, e.g., the role of the LEAA.)

APPENDIX B

WORKSHOP ON COMPARATIVE CRIMINAL JUSTICE RESEARCH—NOVEMBER 7 TO 11, 1977

LIST OF PARTICIPANTS

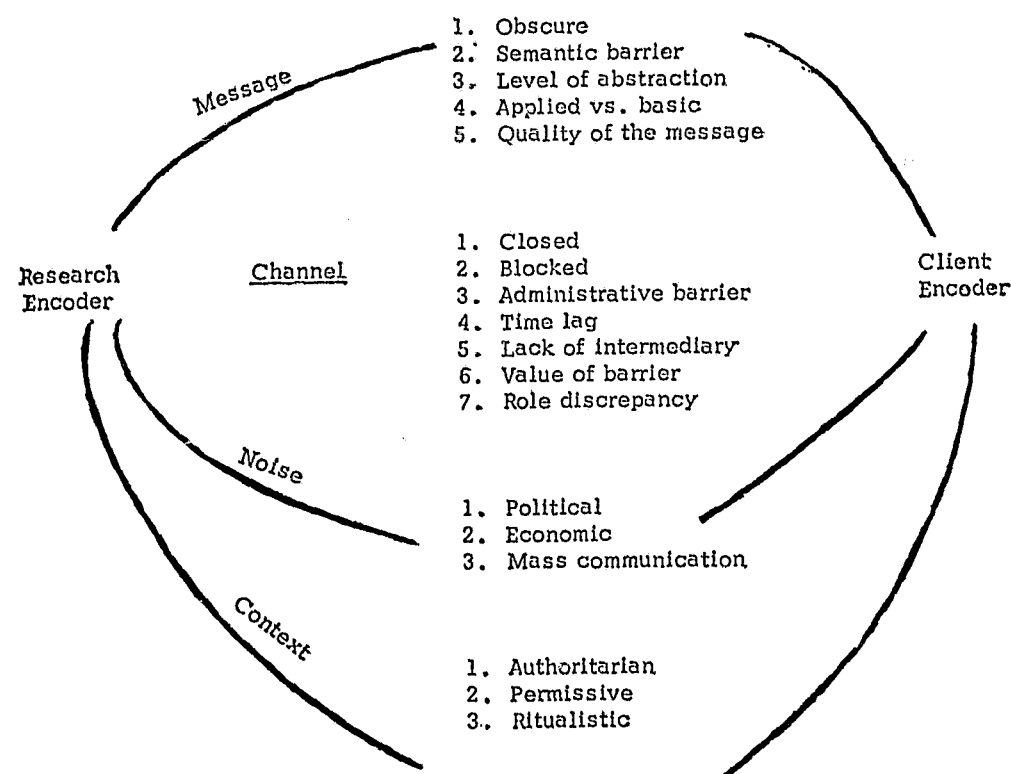
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APPENDIX C

Research Communications Model



APPENDIX D

INTERNATIONAL COOPERATION IN COMPARATIVE CRIMINAL JUSTICE RESEARCH,
DENIS SZABO, NOVEMBER 17, 1977

At the meeting of the Aspen Institute Berlin on Comparative Criminal Justice Research, the question arose concerning the role of international organizations, governmental as well as non-governmental, in the fostering of comparative research, in international cooperation and the exchange of information. Moreover, the question was also brought up concerning the possible role of international cooperation within the framework of the ongoing reorganization of the National Institute of Law Enforcement and Criminal Justice of the LEAA. In this short note, I would like to address both these questions.

I. COOPERATION CONCERNING INTERGOVERNMENTAL ORGANIZATIONS

At the United Nations level, the Crime Prevention and Criminal Justice Section of the Social and Economic Affairs Department is the supreme body within this world organization devoted to criminal policy. Its main activities concern the preparation of the congresses which take place every five years and which are prepared through a great number of regional meetings devoted to the several topics discussed at the Congress. At the same time the Section monitors the several international agreements concerning the criminal justice system, such as the standard minimum rules in the prison system, the deontology of police conduct, etc.

The United Nations Social Defence Research Institute, UNSDRI, established in Rome as a research branch, adopts the strategy of action of the Section whose headquarters are situated at present in New York. Three regional institutes, one in Japan, one in Cairo and one in Costa Rica are entrusted with carrying out the United Nations criminal justice programme in their particular areas.

The criminal division of the Legal Affairs Department of the Council of Europe coordinates and stimulates research activities concerned with the objectives of criminal policy and assists the European Council of Ministers of Justice.

The Scandinavian Research Council for Criminology performs similar activities under the authority of the Nordic Council, which includes Iceland and Finland. The Panarab Organization of Social Defense of the Arab League provided leadership in determining the criminal policy of its own member states.

In the Socialist countries of Central and Eastern Europe, regular meetings take place between the research institutes affiliated with the General Prosecutors Office. Information is exchanged and some coordination of research activities attempted. These meetings do not include representatives of research institutes affiliated with the universities or the Academy of Science.

With regard to the role of the non-governmental organizations, there are four major scholarly organizations:

- International Association of Penal Law
- International Society of Criminology
- International Society for Social Defense
- International Penal and Penitentiary Foundation

Their activities, like those of the United Nations, are devoted to the preparation of their world congresses which take place every five years. A coordination committee, composed of the secretary generals of these organizations and those of the United Nations, meets regularly in order to avoid duplications or the overlapping of dates by their respective organizations.

The International Association of Penal Law is sponsoring the International Institute of Higher Studies in Criminal Sciences in the city of Syracuse, with the support of the Italian Government and the municipal council of this city. This Institute organizes yearly meetings. The International Society of Criminology sponsors a yearly course devoted to the study of criminology. In addition, this Society established, in conjunction with the University of Montreal, the International Centre for Comparative Criminology, and with the University of Genoa,

the International Centre for Clinical Criminology. It also organizes research seminars all over the world to stimulate empirical research in the various countries' own spheres of activity.

In North America, an annual meeting of the Directors of Criminal Justice Research Centers promotes ongoing contact between responsible persons in universities as well as governments.

II. PROPOSAL FOR AN INTERNATIONAL COMPONENT IN THE REORGANIZATION OF THE NATIONAL INSTITUTE OF JUSTICE

The following recommendation is based on our experience at the International Centre for Comparative Criminology with regard to international cooperation. It is mainly inspired by our experience in cross-cultural research and the training of researchers for comparative studies, part of which was sponsored by the Ford Foundation and by the National Institute of Law Enforcement and Criminal Justice of LEAA since 1966.

The problem

In spite of the great increase of internal activity within different countries and the growth of international communication, there is a great deal of redundancy and lack of complementary and mutual reinforcement in these efforts.

One commonly encounters two quite opposing but self-defeating attitudes in this area. One reflects a tendency to accept models of criminal justice, crime prevention and control measures from other countries that are quite inappropriate to the nature of the crime problem and the social and cultural conditions of the country that imports the model.

The second attitude reflects an advanced state of disillusionment and cynicism, arising from past failures to learn better methods of crime prevention and control from the research and practical experience of other countries.

The first attitude accepts too much without recognizing the need for adapting to local circumstances. The second rejects too much, on the assumption that the different countries have nothing in common with respect to the nature of the crime problem or the relative effectiveness of different control measures.

International cooperation in this area has suffered in the past from an inadequate recognition of certain key obstacles that have reduced the effectiveness of comparative criminological research and the transfer of criminal justice technologies.

These key obstacles may be briefly identified as follows:

- (a) Historical tradition, social and cultural, reflecting a tolerance for different types of criminal activities or permissible methods for preventive control;
- (b) Important differences in the structure of the legal system, penal code and methods of operation;
- (c) Striking differences in the relative salience of different crime problems in different countries, related to the degree of industrialization, population concentration, mobility, heterogeneity of ethnic, social and religious groups in the population and their level of social and economic development;
- (d) In many countries reduced priority of the crime problem in relation to other social problems which command the bulk of available resources, a condition especially characteristic of the so-called "developing nations;"
- (e) Variations in importance of the crime problem, in public attention and allocated resources in accordance with its relevance and urgency in the political context of different societies;
- (f) All the above also reflect significant differences in the degree of development of research capabilities, theoretical interpretation of the crime problems and the effectiveness of the social and legal response to it. There are also important differences in the readiness to promote collaboration between the research community and practitioners in the field of criminal justice. This is partly a function of the relative degree of state control of both the evaluation of research and practice.

We need therefore to obtain a sharper definition of those issues and priorities in research and action which countries share in common despite the difficulties enumerated above. By setting such an international agenda, especially among the most advanced countries, we can greatly stimulate and enhance the production of international cooperation.

The proposal

(A) The establishment of an international component within the framework of the proposed Criminal Justice Research Institute. This proposal concerns the

organization of yearly research conferences on the major priority topics of the research programme of the Institute, affording an evaluation of existing experiments and research results in these same areas in certain foreign countries.

These research seminars, small in number and with a restricted number of participants, should foster, at the same time, the creation of meaningful intellectual links between the members of the international community of scholars and criminal justice administrators. Moreover, the Institute should be represented merely as an observer at the annual meeting of Directors of the Council of Europe and the annual meeting of the Directors of Criminal Justice Research Centers of North America.

The actual legislation limits international cooperation to the field of drug addiction and international highjacking and terrorism. Our programme with LEAA has been limited to those particular topics. It seems to me that these limitations should be enlarged to include all interests seminal to the research activities of the Institute.

In addition to these seminars providing means of exchange of technology and innovation, I also propose:

(b) The enlargement and the institutionalization of the International Fellowship programme. This programme, which may be called the "Judge Tom Clark Fellowship in Comparative Studies in Criminal Justice," would fulfill the same needs that the Fulbright Scholarship realized in the humanities and social sciences after the Second World War.

By creating 10 to 20 scholarships, divided among American, Canadian and European scholars, the majority of whom should be 40 years old or less, we would stimulate not only a better understanding of the functioning of their respective criminal justice systems, but we would be able to evaluate the extent to which the transfer of technologies is possible between countries with widely differing social and cultural histories and different legal or political systems. Moreover, in a few decades we would build up, in the American universities as well as in federal and state government agencies, an intellectual striking force which would draw lessons from world developments in their own research and administrative areas.

To award these scholarships, the same technique of selection should be used as for the adjudication of research contracts.