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Directions for Community Corrections in the 1990s

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Directions for Community Corrections in the 1990s*

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* This paper is an extension of the ideas originally developed by the authors in *Controlling the Offender in the Community* (Lexington: 1983).

Foreword

One of the legislative mandates of the National Institute of Corrections is policy and standard formulation. Thus the Institute from time to time publishes documents that represent promising approaches to policy. They are made available to the field so they can be considered, tested in various settings, and the results disseminated to those in policy-making positions.

The Institute seeks to bring together researchers, academics, and correctional practitioners and through that interplay evolve standards and policies that will be of assistance to the field. This publication by Vincent O'Leary and Todd Clear represents a step in that process in the important area of community corrections.

Raymond C. Brown
Director

As we approach the 150th anniversary of the inception of probation and parole, it is clear that a redefinition of the aims of community supervision is badly needed. Generations of probation and parole workers have based their efforts on a vision of offender rehabilitation that today is seriously flawed! The rhetoric of reformation, many argue, has led to serious abuses of the rights of offenders[2] and further, they assert, its techniques have been demonstrated to be of negligible impact.[3]

When community supervision was initially advanced by liberal reformers, it was seen as one of a panoply of correctional methods designed to help offenders overcome their problems. Increasingly, this view of corrections has given away to new perspectives which portray it either as a way to protect the community or to promote justice. Community supervision appears to be almost an archaic idea built around concerns for offender well-being that have lost credence with scholars and citizens alike, to the point that one researcher calls probation "kind of a standing joke,"[4] while the Comptroller General of the United States describes its agencies as "in crisis."[5]

But if community supervision has lost its attraction as an idea, it has not lost its attraction as a function. For decades, approximately one-half to two-thirds of the offenders under correctional authority at any given time have been supervised in the community.[6] With institutional crowding a nation-wide phenomenon, viable community punishment alternatives are sought increasingly.[7] Thus, just as the concept is losing credibility as a way of managing offenders, the need for inexpensive and flexible community supervision alternatives has never been more important.

We think that community supervision is more promising than much contemporary comment indicates. The future of supervision need not be a bleak dumping ground for the overflow of judicial and correctional workload. In fact, in our view, community supervision has a rightful place as the central correctional method, and a careful analysis of the basic post-conviction processing will strengthen not only the idea of supervision, but also the practices under which it is carried out.

To address the problems of supervision requires first an ordering of the priorities of corrections. Community supervision must specify its goals clearly if it is to be prepared for the burdens it will continue to assume as we move toward the 1990s. It is not possible to do so without taking into account the larger context within which it operates, for it is only one agency responsible for carrying out functions which permeate the larger justice system. The prosecutor and the sentencing judge, for example, shape significantly the basic dimensions of supervision practice. Unless their work and that of others is accounted for, the activities of community supervision will be inefficient, ineffective, or even contradictory to the purposes of the system of justice.

The Purposes of Sanctions

Traditionally, the criminal law, and in particular sentencing, has been concerned with the need to balance two interests: fair punishment and offender risk. Because each is different in its assumptions and consequences, it is helpful to specify how they lead to different sentencing policies.

Offender risk, as an emphasis, uses the legitimate power of the state to intervene into a convicted person's life in ways that reduce the probability that he or she will commit another crime. The choice of a sentence is not based so much on what has occurred in the past, but on what may happen in the future—that is, the likelihood that the offender will commit another crime.

The nature of the crime committed is largely important to a sentencing judge to the degree that it increases his or her ability to forecast an offender's future behavior. As important as the instant offense is other information—prior record, substance abuse history, employment—that might help anticipate probable behavior.

To reflect a concern about risk, the rules or conditions of probation and parole required of the offender are designed to minimize the likelihood of future criminal acts. When he or she violates those rules, the consequences are not measured simply in terms of the immediate violation, but in terms of what it portends for the probability of further crime. Thus, an offender whose criminal history involved abuse of alcohol may well be enjoined to avoid its use by the court. Failure to abide by the condition, as evidenced by a drunkenness arrest or a refusal to attend therapy, might result in the imposition of the original sentence which had been deferred.

Persons trained in behavioral science are accorded substantial influence in decision making because they are most likely to know how to control offender behavior.[8] Concomitantly, significant discretion is granted to those who are charged with controlling offender behavior because of the flexibility needed to do so effectively.

Research is very important from this perspective. Means to reduce the

probability of recidivism are constantly tested, and improved methods of prediction receive a good deal of attention.[9]

Fair punishment, on the other hand, is concerned with insuring that: (1) an offender is punished for the act of which he or she is convicted, and (2) the punishment imposed is proportionate to the crime committed. Thus, robbery is viewed as more serious than auto theft, and a robber is expected to be punished more severely than an auto thief.

The primary concern in sentencing under fair punishment is to secure a clear understanding of the nature of the offense committed so that the appropriate sanction may be imposed. Forecasts about potential criminal behavior are ignored as irrelevant. Instead, a good deal of effort is devoted to trying to measure the culpability of the offender. Was the act aggravated in some way? Were there mitigating circumstances?

Conditions of parole or probation are limited in scope and are designed to exact a penalty rather than to prevent a crime.[10] Thus typical conditions include restitution or community service, not therapy or behavior control. Failure to abide by these conditions calls for the imposition of a sanction, such as incarceration. If the offender commits a new crime while on probation, the reaction of the state is limited to the penalties ordinarily attached to the new crime.

Decisions about offenders are reached through the application of a carefully articulated set of rules. Discretion is minimized as much as possible by the use of those rules.

Empirical research is only marginally important since the sanction that is deserved is essentially a normative judgment. The only research that is relevant is directed toward such matters as reducing the arbitrariness of decisions rather than the effectiveness of interventions.

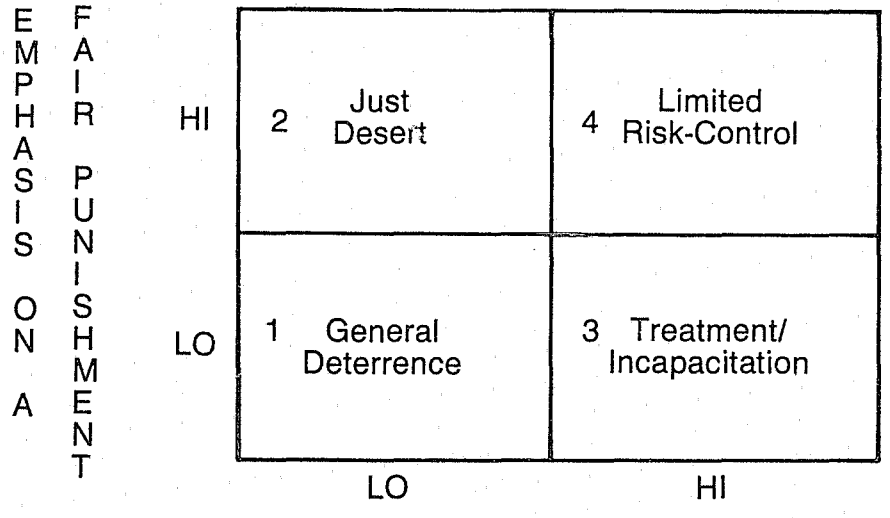
Approaches to Sanction Policy

While there are some who argue unqualifiedly for one or the other of these emphases, most scholars recognize the dilemmas involved. Those who would focus on offender risk are faced with the inevitable consequence that their methods will result in unequal punishments for offenders convicted of similar offenses. On the other hand, those who focus on fair punishments must ignore considerations of public safety and crime control.

We believe these difficulties make it necessary to develop a conciliation of the two approaches. To demonstrate why this is true, we must first analyze the typical sanctioning approaches, based on these two values. In Figure 1 we have portrayed the values of risk

Figure 1

The Purposes of Sentencing



and fairness as independent dimensions, and posited a relatively high and a relatively low concern for each, thereby identifying a set of four punishment philosophies.

General Deterrence.[11] The sentencing aim shown in Cell 1 reflects a low emphasis on fair punishment or the risk posed by a specific person. There is little concern with whether or not a particular offender will commit another crime, but rather with the aggregate effect of consistent sanctions imposed on many individuals. Nor is there an overriding concern for determining the fairest sanction for an individual (although occasionally the unusual circumstances of a heinous offense or a vulnerable victim will raise important deterrence interests). Punishment is symbolic and aimed towards the general prevention of crime by nonoffenders. It is an element that must be considered by any sentencing policy. The sanction imposed on an offender is employed as a warning to others that similar acts will be punished. Thus the measure of success or failure of general deterrence is the crime rate.

A deterrence-based community supervision effort would tend to select those offenders whose crimes were less serious. It would be used only when a more severe sanction was not necessary to symbolize public disapproval of the offense. Visible punishments would be emphasized, such as fines and restitution. Revocation of supervision would swiftly follow any failure to abide by supervision requirements.

Just Desert.[12] Cell 2 reflects a high emphasis on fair punishment with little concern for risk. Sometimes called retribution, desert looks exclusively to the seriousness of the specific crime to determine the appropriate penalty that should be meted out to a specific offender. Punishment can be fashioned in a number of ways—prisons, community service, or restitution. Whatever the form, proportionality between crime and punishment is the overriding principle.

Desert limits the capacity of a community supervision agency to intervene coercively into offenders' lives. Since probationers or parolees are chosen by offense seriousness, regardless of personal attributes, there is no reason for involvement in other aspects of their life. The full punishment is embodied in the status itself and the few restrictions it places on freedom: movement, reporting, and so forth. Supervision is terminated when the offender fails to abide by the sanctions imposed.

Treatment/Incapacitation.[13] Cell 3, with its high emphasis on offender risk and low emphasis on fair punishment, is labeled treatment/incapacitation. Incapacitation imposes external controls on offenders while they are subject to the coercive power of the state so that they will not commit offenses during that time. Treatment, on the other hand, intervenes into the life of the offender so that when free to do so, he or she will choose not to commit another crime. Although it is possible to distinguish these two concepts, most often they are bound together in practice — for instance, indeterminate sentences are often employed to incapacitate offenders until competent professionals determine that, due to treatment, they are no longer a danger to others.

A treatment/incapacitation approach to community supervision emphasizes an analysis of personal and social factors that led the individual to commit a crime. Offenders selected for community supervision are those whose problems can be effectively approached while they remain in the community. Emphasis is placed on counseling and other services designed to rehabilitate; but in addition, such methods as unannounced home visits, designed to control behavior, are also employed. Supervision is terminated when the offender fails to accept the restrictive or therapeutic efforts of the supervision agency.

Limited-Risk Control.[14] Cell 4 is an attempt to integrate the two dimensions and reflects a concern with both offender risk and fair punishment. Under limited risk-control, the seriousness of the offense establishes a range of penalties that is just, with the lower range establishing the minimally acceptable punishment, and the upper range establishing the most severe punishment that may be imposed. Within those limits, specific decisions about the amount and character of state intervention are determined by the individual's potential for new criminal behavior. The discretion employed by decision makers is structured so that it will be relatively consistent and susceptible to control.

We believe that limited risk-control is the most appropriate method for the selection and supervision of offenders in the community. In the course of explaining our approach, we shall detail the nature of community supervision as a tool of limited risk-control. However, we must first return to the general aims of supervision.

Sorting Out Purposes of Supervision

There are some recent developments in correctional policy and practice that have a direct significance for the resolution of the conflict over correctional purposes. For example, there has been a widespread attack on the concept of treatment, the most telling directed toward the question of its effectiveness.[15] Critics point to a familiar history of the failure of rehabilitation programs as evidence that the treatment rationale for corrections ought to be abandoned. Added to this is the

belief (buttressed by considerable evidence) that the rationale of rehabilitation has been used to justify abusive and coercive handling of offenders.[16] Thus, it is argued that treatment, both as an idea and a method, is bankrupt.

Our belief is that this literature misstates the proper role of treatment. One serious difficulty has been the tendency to overstate the importance of treatment as a risk-control measure to be used *in prisons.* As John Conrad has put it, we should never have promised a hospital.[17] Even operating at its most powerful, treatment was rarely, if ever, a central purpose of prisons, as some of treatment's most effective critics have seemed to think.[18]

Actually, there is evidence that some programs are, in fact, effective at reducing the potential for repeated criminal behavior. Though effects are often small, programs that appear to be successful tend to be carefully targeted for designated subgroups of offenders (particularly the younger offender), focused on behavior change (rather than attitude reformulation), and administered while the offender resides in the community.[19]

In any case, it is unlikely that rehabilitation efforts will ever be abandoned because of the sustained support they enjoy among many offenders, criminal justice officials, and significant segments of the public. Moreover, emerging legal requirements also support rehabilitation programs—increasingly, courts insist that punished offenders (particularly incarcerated offenders) be provided essential and elementary services, such as school, job training, and counseling, at least on a voluntary basis.[20] More controversial, of course, is the degree to which a treatment service may be coercively required of an offender—on this we shall have more to say later. For here, it is enough to indicate that treatment is still very much alive.

Partly because treatment has been widely regarded as a failure, incapacitation—the other aspect of risk-control—has been given increasing attention. It is an intuitively attractive notion—offenders who are incarcerated cannot commit crimes upon the general public. Some of the most popular advocates of incapacitation have advanced the idea on just that simple a foundation.[21] The idea is promoted despite evidence that indicates that we have a limited ability to predict future human behavior.[22] Nevertheless, support for incapacitation has gained dramatically in recent years. Recently, this trend became more marked upon the release of a Rand Corporation study which advanced the notion of "selective incapacitation," in which prediction methods were applied to offenders identifying a subgroup most likely to commit a large number of new crimes. The Rand study then explored the potential benefits of holding this group in custody for substantial periods.[23]

Another contemporary alternative to a treatment-based system is one that places emphasis on fairness as an overriding principle. It is a movement born in reaction to a perceived failure of risk-control strategies and was designed to attack several key problems: disparity in sentences;[24] punishment unpredictability and irrationality;[25] and the need for a consistent theoretical rationale for sanctions.[26] Its proponents argue that the criminal sanction ought to reflect the offender's criminal behavior, not the offender's problems or future potential behaviors. Elaborate schemes were designed for ranking criminal behavior according to seriousness while allowing variations within and between offense categories.

But as the rhetoric of desert became more popular, its reality became more elusive as operationalized through presumptive (or definite) sentencing.[27] These sentencing reforms, in practice, often led to penal codes substantially more severe than prior practices. In many cases[28] the level of punishment that emerged from the desert movement was never envisioned by its original proponents. Rather than restricting the severity of penal sanctions, the sentencing movement of the late 1970s increased them. While such reformers as von Hirsch and Singer eloquently argued for the need to minimize government coercion and punishment as an element of desert, other authors, notably Wilson[29] and Van den Haag[30] were much less reserved about the need to include crime control aims within a retributive rationale. Thus, they used desert as an argument for *more* punishment because, after all, it was deserved.

The most obvious illustration of the ambivalence about sentencing aims has to do with the relevance of prior record. For those who would punish simply for the offense committed, an offender's prior record arguably is irrelevant. Yet, those who develop desert-based sentencing approches typically include prior record as a consideration in sentencing on the basis that the repeater is more culpable for having been "once warned."[31]

However, the fact that prior record is closely linked to risk is not lost on other decision makers. This circumstance makes it possible to maintain a posture that risk prediction ought not to influence sentencing decisions, while a salient risk variable—prior offense history—is allowed to influence the punishment.

The great danger in this ambiguity—justice for some, crime

control for others—is that it obscures goals and provides opportunities for inordinate punishment. Masking the pursuit of crime control under the label of desert enables authorities to justify draconian punishments that have no empirically demonstrable crime-control value, simply on the grounds that they are "deserved."

This approach also deprives authorities of the kind of information most helpful for achieving crime control. In desert-oriented punishment schemes, information secured after conviction is deemed irrelevant in determining the penalty to be served by an offender. In contrast, a crime-control orientation involves a high degree of interest in information about the offender that may be developed after the conviction and imposition of sentence.

Using desert as an exclusive basis for setting a specific sentence fails to account for a goal that virtually all persons seek from a sentencing system; namely, crime control. The overriding desire of citizens, who wish to be secure in their persons and property, is the reduction and prevention of crime, not simply appropriate punishment. The irrelevance of desert to this almost uniform public desire for greater crime control may be a major reason why no contemporary sentencing reform has adopted the approach in entirety, even though the values attached to desert have often received legislative lip service.

It is our position that risk-control, the reduction of the probability of crime, should become an explicit purpose of sentencing. It is not a position based simply on pragmatic considerations, but on principle as well. The protection of the public is not only an inevitable but also a proper role of the criminal law. Government has a right, indeed a fundamental duty, to protect its citizens from acts designated as criminal. It is entirely appropriate for it to invoke greater sanctions on those convicted of a crime when they pose more of a risk to the community than others convicted of the same crime. We assert this while recognizing that in a society committed to the notion of fairness, risk cannot be the sole determinate of the sanction imposed by the state. A penalty must not be disproportionate to the seriousness of the offense committed and reflect both general deterrence and desert perspectives. Those are not precise mathematical expressions, rather, relative statements about punishments that are clearly excessive or overly lenient. They establish a range within which the purposes of crime control are to be achieved.

Further, while the nature of the offense for which a person is convicted fixes the upper and lower limits of admissible punishment, decision makers may not arbitrarily select specific punishments within those limits. A second principle, that of equity, requires that similarly situated individuals in general should be treated similarly. It is therefore necessary to develop a process by which those who pose similar risks are treated approximately the same. Our fundamental aim is to develop a fair system of community protection in which incapacitative and treatment measures are employed rationally. It is a system constrained by the notion of desert which fixes the range of acceptable punishment and encourages the use of such devices as restitution and community service.

Community protection is a complicated task, however, often involving trade-offs in benefits, difficult cost determinations, and treatment interaction effects.[32] While it is easy to specify that correctional managers should not take actions that jeopardize the safety of the community, translating this aim into action is not simple, for the best method to protect the public is not always clear. Moreover, two or more measures may carry roughly equivalent levels of risk control, and choices must be made among them. Inevitably a considerable amount of discretion will remain with correctional managers. How that discretion is used is a matter of central concern to us, and we shall describe a number of methods for controlling its use.

Before we undertake that task we should explicitly state the principles that guided us in developing this model. First, change efforts ought to be directed toward reducing rather than widening the net of formal social control. There is no objective evidence that augmenting social control through criminal justice agencies increases safety, stability, or fairness in this society. Second, the uniqueness of the United States criminal justice system resides in its provision of fundamental rights to all its people. The aims of reform must include the protection of those rights and the development of meaningful policies that reinforce due process. Third, whatever is attempted must be feasible. Programs must be designed in such a way that they are likely to enjoy public acceptance, and there must be an appreciation of the characteristics of the persons, both probation and parole officers and offenders, toward whom change efforts are directed. Fourth, any change undertaken should recognize the necessity, indeed the inevitability, of future change. Improving the criminal justice system is a developmental progress, so any change undertaken must be designed to facilitate future reforms that will follow necessarily.

Limited Risk-Control

We propose that a strategy of limited risk-control be used as a basis for correctional policy. As we envision this approach, the idea of "appropriate punishment" would be of primary importance as a limiting principle in establishing appropriate ranges of punishment. Those ranges would include both the duration and the *nature* of the punishment imposed.

The latter involves two critical programmatic decisions. The first relates to the initial assignment of an offender to a correctional setting, such as probation, half-way houses, and traditional institutions. Obviously, the range of alternatives available for initial offender assignment is constrained by the severity of the offense—certain serious offenders will not be eligible for some nonrestrictive options, and intrusive settings such as maximum security prison will not be appropriate for nonserious property offenders. Within these constraints, however, offender risk would be a key basis for selecting initial assignment—higher risk offenders would generally be placed in more restrictive settings.

The second programmatic decision involves moving offenders progressively from more to less restrictive settings. For this, as well as the prior case, a well-articulated decision-making framework needs to be developed.

The Need to Structure Discretion

Foremost in a limited risk-control approach is the idea of structured discretion, both in terms of the durational decision and the programmatic decisions of initial assignment and movement. Many writers who employ a desert perspective reject the idea of discretion. They argue, instead, for a carefully designed offense-punishment scale that ranks offenses as to seriousness and also provides for variations in seriousness within offense groups. The intention is that two offenders who commit crimes of similar character receive the same penalties, no matter in which jurisdiction the punishment is imposed or who imposes it.

Theoretically, it may be possible to articulate sufficiently all the meaningful variations within and between offenses, but the problems involved are formidable. A special task force of the 20th Century Fund devoted almost an entire book to scaling penalties for one aspect of

Table 1

Oregon's Sentencing/Parole Matrix

Offense-Severity Rating	Criminal-History/Risk Assessment Score: Length of Sentence			
	11-9 Excellent	8-6 Good	5-3 Fair	2-0 Poor
Category 1	-6	-6	6-12	12-22
Category 2	-6	6-10	10-18	18-28
Category 3	6-10	10-16	16-24	24-36
Category 4	10-16	16-22	22-30	30-48
Category 5	18-24	24-30	30-48	48-72
Category 6	36-48	48-60	60-86	86-144
Category 7				
subcategory 1	10-14 yrs	14-19 yrs	19-24 yrs	24 yrs-life
subcategory 2	8-10 yrs	10-13 yrs	13-16 yrs	16-20 yrs

Note: Ranges in categories 1-6 are in months.

Table 2

Distribution of Prediction Decisions
Under Base Rate of 20% and Accuracy Rate of 60%

Predicted Outcomes	Actual Outcomes: Offenders	Actual Outcomes: Non-Offenders	Total
Offenders (Hold)	(1) 120	(3) 320	440
Non-Offenders (Release)	(2) 80	(4) 480	560
Total	200	800	1000

assault law, and even then there was substantial dissent on the appropriate penalties.[33] One can well imagine the operational complexity of an entire penal code composed of over 100 offenses, based on this approach.

The idea of presumptive sentencing flows from a rationale under which a presumed penalty is stated for an offense, with variations allowed within established limits for so-called aggravating and mitigating factors.[34] Yet not one of the presumptive schemes thus far enacted actually restricts the imposition of variations solely to offense characteristics. Routinely, offender characteristics such as "prior record;" "potential for rehabilitation;" and other special personal traits are allowed to influence the punishment.[35] In most instances, these variables are clearly related to the offender's risk.

It is not necessary to include risk concepts in such a haphazard manner. Indeed, one of the best examples of how to include risk systematically in a desert-limited model is provided by the Oregon Parole Guidelines, shown in Table 1.

This approach employs two scales: an offense seriousness scale on the vertical axes; a risk scale on the horizontal. As can be seen from the values contained in the matrix, the role of desert is clearly to establish outer limits of the punishment; the role of risk is to adjust penalties within those limits.

We believe that this kind of structuring of discretion is the best way to include risk concerns in a sanctioning system, but it needs to be understood for what it is. Any system that includes risk will result in prediction error. We should not deny this fact, but instead we must devise means to deal with it.

The Problem of Error

Typically, it is argued that prediction systems produce substantial classification errors, while desert systems, because they do not predict, do not have error. This argument has the appearance of plausibility, but does not survive close inspection. Any contemporary sentencing system will incarcerate some offenders and not others; will have some "rules" for release of those who are incarcerated, as well as "rules" for imprisoning those who initially were not incarcerated. Undeniably, some of those released and some never incarcerated will commit crimes. Consequently, any system will differentiate offenders for punishment program and duration; any system will experience crimes in doing so; any system will have to adopt policies with respect to the pressures that result from criminal events which will inevitably be experienced. It is from this perspective that we wish to analyze the problem of error.

Table 2 shows how error is distributed when the following facts,

which approximate the results of research on actual rates, are taken to be true:

1. The base rate of new offenses is 20 percent—that is, 20 percent of currently incarcerated offenders will commit new offenses if released.[36]
2. Prediction methods enable us to identify accurately 60 percent each of the failures and successes.[37]

Under these two conditions, 120 offenders will be correctly predicted as recidivists (Cell 1), while 480 offenders will be correctly predicted as nonrepeaters (Cell 4). Eighty recidivists will be misclassified (Cell 2), while 320 "safe" offenders will be thought to be risks (Cell 3).

It is interesting to note the two kinds of errors that exist in this prediction policy. The prediction errors in Cell 3 are called "false positives" and represent 320 cases in which an unwarranted deprivation of liberty occurs because it is believed erroneously that these offenders need tight security. From the standpoint of risk alone, these cases represented wasted resources—32 percent of our sample will receive closer control than is necessary.

Yet it is a much smaller group of cases, the 80 (only 8 percent of the sample) "false negatives" that are thought to be safe and recidivate, who receive the most attention from the public and the media. A great deal of public and official concern has been expressed about false negatives, and the thrust of most new "get tough" punishment policies, often manifested as determinate sentences employing the rhetoric of desert, has been aimed at reducing the size of this group. The difficulty is that the only way to do that is by "overprediction"—systematically taking cases ordinarily predicted to be safe and treating them as if they were "risks." This is our only choice, since, in our example, our prediction methods were unable to differentiate the 80 true risks from the nonrisks with which they have been classified.[38]

Table 3 shows the results of a policy of overprediction that is intended to reduce false negatives (Cell 2) by 50 percent. The only way to do this is to also move half of Cell 4 to Cell 3 because we want to move half of Cell 2 to Cell 1, and Cell 2 cases "look like" all 4 cases to us. Consequently, 560 nonrisk offenders

Table 3

Prediction Error Amplification
Under Conditions of 20% Base Rate;
60% Accuracy and
Demand for Reducing Type I Error by 50%

	Actual Outcomes		
Predicted Outcome	Offender	Non-Offender	Total
Offender (Hold)	(1) 160	(3) 560	720
Non-Offender (Release)	(2) 40	(4) 240	280
Total	200	800	1000

are predicted and treated as poor risks. This reduces the false negatives by half, to a level of 4 percent of our sample. But the cost is increasing the false positives so that now 56 percent of all of our cases are in this group. That is, because our prediction methods are imperfect, the price of reducing "crime" errors is to increase vastly "control" errors.

It is a small wonder that prisons are so crowded—they are full of the false positives held in order to try to reduce the false negatives! Issues of fundamental fairness aside, the cost becomes unbearable, and jurisdictions ultimately face incarceration crises which force them to reduce the numbers of inmates under close control.

In the best of all worlds, there would be no error, but this is not a likely possibility in the foreseeable future. The question for managers and policy makers alike is how to deal with the error that will exist. In our view, two concepts help to answer this question. The first is visibility: it is critical to recognize openly the existence of error. We should not employ systems which allow us to pretend that errors do not exist, nor should we fail to assess carefully all costs, financial and personal, associated with different types of error. The determination of moral trade-offs is fundamentally a public policy venture, one which is currently much too poorly informed to be pursued with confidence. One of the chief benefits of limited risk-control, as we envision it, is its grounding in visible policy-making based on current knowledge about the impact of existing risk-control methods.

The second point we would make is a need to refocus the analysis of errors toward the largest group of offenders—the true negatives. This group is simply too often ignored in the current debate, but they are of great importance to good policy. These are offenders—the vast majority—who can be managed in low-control settings. Doing so provides us with several advantages. For one thing, low-control punishments are more humane, cheaper, and generally as effective as alternatives. For another, it is simply more likely that we will improve our knowledge of effective offender management if we turn our attention to creative, low-control methods.

Structured Risk Assessment

Reliance on a limited risk-control model assumes the use of information that identifies the offender as requiring, for some reason, a level of control by correctional authorities. This level of control is "morally and legally legitimate only if we can accurately determine those persons to whom such special treatment should apply."[39] A number of studies have shown that the task of devising a valid method for differentiating risk is a difficult one.[40] It requires employing two basic approaches: actuarial (or statistical) and clinical (or judgmental). For each, several variants are used.

Clinical predictions are normally made by an individual after some form of case analysis. It has been defined as "the problem-solving or decision-making behavior of a person who tries to reach conclusions regarding risk on the basis of facts or theories already available to him by thinking them over."[41] An unfortunate consequence of using so broad a definition is that even the most incompetent guesswork by nonprofessionals comes to be seen as clinical prediction. Most trained clinicians see prediction as a complex process. In describing one clinical model, Cohen, Groth, and Siegal argue that it requires

> a minimum of a 60-day period... Sources for prediction are clinical interviews, psychological tests, official records and transcripts, family interviews, behavioral reports of the offender's adjustment during the observation period, field investigations, and, where relevant, interviews with the victim. Only after completing this process is a predictive decision made.[42]

This description probably applies more to an ideal process than to the actual manner in which most agencies undertake the tasks of clinical prediction.

Actuarial or statistical predictions rely on less information than clinical approaches, but tend to use the information in a more systematic way. Normally, building a statistical-prediction device involves several steps.

> In parole prediction the records of the prisoners paroled in past years are tabulated statistically to determine the violation rate for each group into which these past parolees could have been classified at release. Thus separate violation rates are determined for each age, offense, prior criminal record, and other statistical categories. There are several methods of combining this information to get an overall prediction. One of the simplest procedures is to assign a "parole success score" to each past parolee by giving him one point for each item on which he is in a category which had less than average violation rates, and either none, or minus points, for items in which he is in a category with above average violation rates. For example, a prisoner might get one point for being above 40 years old, one point for having the offense of manslaughter, one point for being a first offender, and so forth. Violation rates, then, are determined for each score; thus parolees with 12 points may have had only a 10 percent violation rate, as compared with 40 percent for those with only five favorable points, and 80 percent for those with no points.[43]

Statistical models, then, are similar to the tables that determine insurance premiums. Based on a person's most salient characteristics, a risk probability score is calculated; the resulting percentage figure states the proportion of individuals possessing the same characteristics who have exhibited the criteria (such as violent offenses) in the past.

Figure 2

Ohio's Risk-Screening Instrument

Number of prior felony convictions (or juvenile adjudications)	0	None	
	2	One	
	4	Two or more	___
Arrested within five (5) years prior to arrest for current offense (excludes traffic)	0	No	
	4	Yes	___
Age at arrest leading to first felony conviction (or juvenile adjudications)	0	24 and over	
	2	20-23	
	4	19 and under	___
Amount of time employed in last 12 months (prior to incarceration for parolees)	0	More than 7 months	
	1	5 to 7 months	
	2	Less than 5 months	
	0	Not applicable	___
Alcohol usage problems (prior to incarceration for parolees)	0	No interference with functioning	
	2	Occasional abuse; some disruption of functioning	
	4	Frequent abuse; serious disruption; needs treatment	___
Other drug usage problems (prior to incarceration of parolees)	0	No interference with functioning	
	2	Occasional abuse; some disruption of functioning	
	4	Frequent abuse; serious disruption; needs treatment	___
Number of prior adult incarcerations in a State or Federal institution	0	0	
	3	1-2	
	6	3 and above	___
Age at admission to institution or probation for current offense	0	30 and over	
	3	18-29	
	6	17 and under	___
Number of prior adult probation/ parole supervisions	0	None	
	4	One or more	___
Number of prior probation/parole revocations resulting in imprisonment (adult or juvenile)	0	None	
	4	One or more	___
		Total	___

Figure 2 shows a risk-screening instrument used in Ohio. This approach identifies variables associated with risk and arranges them in a screening device that enables a rater to calculate the reconviction potential of an offender by summing the weighted values of the variables; the higher the score, the greater the risk.

Paul Meehl conducted one of the earliest and still most widely cited comparisons of statistical and clinical studies. Despite his acknowledgment that the prediction studies he reviewed were not "optimally designed to exhibit the clinician at his best," Meehl concluded that the preponderance of the evidence indicated the superiority of statistical methods.[44] Other researchers have been less hesitant in supporting statistical approaches, even early in their development. In 1943, for example, Sarbin argued that actuarial models should replace clinical models at virtually every stage of the diagnostic phases in hospitals and schools, making clinical evaluation "a secondary function."[45] Since Meehl's evaluation, numerous studies indicating the effectiveness of statistical models have been reported.[46]

Statistical risk-prediction models have proved useful for probation supervision. A recent report by the U.S. Comptroller General "tested the validity and predictive powers of [eight] existing models by applying them to 900 closed cases"[47] selected from three counties. Three of the models were found to be useful in identifying risk for the offenders. The report concluded that

> probation prediction models could improve probation systems operations by allocating resources to offenders who most need help... Model sources appeared to be useful in determining supervision levels and more successfully selected probationers for early release.[48]

These and other research efforts indicate that statistical methods are efficient means of identifying client risk. Yet Don Gottfredson has noted that statistical models cannot easily handle contingency-specific risk predictions: "Prediction tables appear static; they seem to assume no changes will occur in the personal or social conditions that might alter the prediction."[49] This is an important point to underscore, for decision makers are more concerned with predicting the effectiveness of various methods of control for various offenders than with simply predicting whether, in general, they are likely to commit new offenses. For example, suppose an offender has exhibited a long pattern of assaultive behavior and is in a class of offenders in which 40 percent are likely to commit crimes again. Suppose further that it appears the offender has gotten into trouble only when drinking excessively. Two predictions beyond the general probability of recidivism become central: the likely precise relationship between the offender's behavior and drinking, and the likelihood of controlling that drinking pattern.

Unfortunately, most studies of statistical predictions have been concerned simply with whether given classes of offenders would succeed or fail. Very few have dealt with the type of contingencies suggested in our example.[50] One reason is that it is very difficult to get reliable information about these kinds of relationships in the case records on which most research depends. Second, contingency estimates are impossible to calculate reliably without a large sample. And third, the tremendous variety and combinations possible make systematic predictions of this type exceedingly difficult to make in simple statistical terms. This type of prediction must rely heavily on clinical judgments.

Such predictions are made and acted upon daily in correctional settings, where the ability to manage events through risk-control measures is greater than is the case with predictions of general recidivism. Moreover, to the extent that the risk level and type of error are known in such cases, the probability increases that decisions will be more accurate, more effective (in terms of minimizing error), and more reliable.

Thus it is clear that to present clinical and statistical prediction as alternatives is simplistic. Both approaches provide benefits. The optimal model will rest on both, enabling decision makers to use validated prediction scales as aids to making probablistic judgments.[51]

Structure for Decision Making

In general, one effective way to increase decision reliability is to make visible the criteria for decisions.[52] For that reason, we advocate the use of statistically based devices to classify offenders according to relative risk. This does not mean that clinical judgments are unnecessary. In fact, they are crucial in an effectively operated system. However, when a clinical judgment leads to a risk assessment different from the one suggested by a statistical device, an appropriate official must decide whether or not to accept that judgment. The decision to override the findings of the statistical device will depend on the reputation and experience of the person making the clinical assessment, the circumstances under which it was made, and the specific factors considered.

Table 4

Failure Rates for Various Risk-Assessment Scores

Risk-Assessment Score	Actual Rate of Failure	
	Percent	Number
0-5	6.3	48
6-10	10.2	177
11-15	28.9	201
16-20	46.4	166
21-25	63.2	76
26-31	76.5	17
Total	31.7	685

Source: Todd Clear and Ken Gallagher, "New Jersey Case Management Project" (Report to the National Institute of Corrections, (Washington, D.C., 1981).

Note: Rates reflect all types of violations and all arrests for a three-year follow-up period subsequent to supervision.

Table 4 illustrates a statistical risk-screening table. As a score increases, so does the rearrest rate of prior offenders with that score. The aggregate scores show that offenders with a score of 0–10 have a reconviction rate of 9.3 percent, while offenders with a score of 21 and over have a reconviction rate of 65.6 percent. Instead of making predictions, this instrument in effect classifies offenders according to their relative potential for rearrest, or more accurately, according to the risk potential indicated by their aggregate characteristics. In addition to clarifying the risk criteria, this approach also makes visible the amount and character of prediction error involved in various decisions. It becomes possible to say, for example, that about one-third of those classified as high risk (21 and over) will not commit offenses (false positives) and that less than one-tenth of those classified as low risk (0–10) will commit offenses (false negatives).

Structuring the risk-assessment process makes it possible to know the nature and degree of error likely to exist. Thus, prediction becomes more manageable and more reliable as an aid to purposeful policy-making.[53] Policymakers can reduce the ratio of false positives to false negatives and improve knowledge about risk control. The availability of a standardized, objective technology of risk screening also makes it possible to establish risk as a systematic principle of sentencing.

As was pointed out earlier, at least two decisions need to be structured at the sentencing stage: the durational decision and the initial program assignment by the judge. The durational decision can be handled in a straightforward manner, as illustrated earlier by the Oregon Parole Guidelines, based on risk and offense. The initial program assignment, however, requires additional considerations. Thus, correctional programs would need to be ranked according to the level of public protection each affords (and concomitantly the amount of intervention in the life of the offender each represents) as in the following fashion:

Control Level	**Programs**
I:	Maximum Security Prison Medium Security Prison Minimum Security Prison
II:	Local correctional facility Half-way house Home detention

III: Intensive surveillance in Community
Community supervision on probation or parole
Community service/restitution

The control levels provide a roughly equivalent loss of liberty and degree of public safety. Category III might be subdivided into a Category IV to include such relatively unintrusive measures as yearly reporting by mail, payments of restitution without supervision, or a case being placed in inactive status subject to reactivation if contact with a police agency is made. For our present purposes we shall deal with three categories: I, types of full-time institutionalization; II, varying degrees of part-time incarceration measures; and III, forms of community supervision.

For purposes of illustration, in Figure 3 we show how the initial program assignment decision could be structured. It can be seen how limited-risk as a principle operates: lower-risk offenders would tend to be handled in less intrusive settings and high-risk offenders generally would receive more close control. The idea expressed in this policy is to optimize the balance between true positives and true negatives, while minimizing the degree of intrusion with potential false positives. Within the constraints imposed by the limits of fair punishment, we have structured the initial program assignment decision to produce our policy in regard to error and management values in corrections.

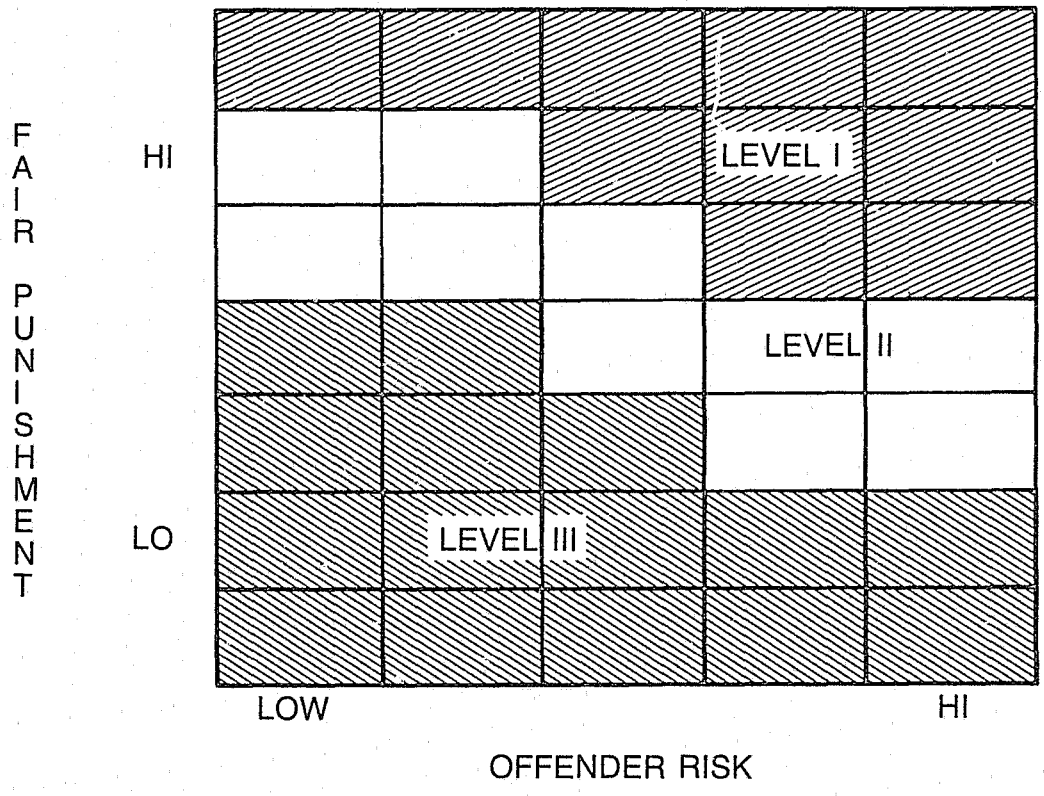
We recognize that offenders so vary that no given initial assignment or duration of punishment can be applicable to all of them. Exceptional circumstances will exist which require that a judge be allowed to choose, within some limits and with a written justification, a setting outside of the structure provided so long as the decision can be subjected to appropriate review.

The Objectives of Risk Management

We have described a system which, at least on the surface, appears similar to many of those advocated in the United States in the early 1980s. Like

Figure 3

Matrix of Initial Program Assignment



them, it aims to control discretion at the time of sentencing to reduce apparent disparities in the character of the punishment imposed and the length of terms. However, in one crucial respect it differs from most, particularly so-called determinate sentencing schemes. Such proposals not only structure decision making at the time of sentencing, but also provide that a decision, once made, is unalterable in any major respect. Thus a person sentenced to four years in prison must stay in prison for four years no matter what information becomes available about that person.

These kinds of proposals are usually based on the logic of commensurate desert. But as we have argued, such logic is ultimately flawed, for offender risk is, and will continue to be, a prominent part of the sentencing process. Consequently, it is our position that information secured after sentencing is very relevant to decision making and, within limits, we should retain our capacity to change the place and character of the settings in which punishment is carried out after the time of sentencing. The greatest problem with most determinate sentencing plans is that they give, explicitly or implicitly, to judges, and most importantly to prosecutors, final responsibility of determining the future risk of a convicted person. Both officials are poorly positioned in the sequence of the criminal justice process to make that total judgment.

It is important to emphasize at this point that a concern for risk has at least two overlapping but distinguishable aspects. The first relates to changing the fundamental basis of risk (i.e., altering an offender's character or the social structure in which he must function). The second emphasizes *managing the risk* posed by the offender even if fundamental change is not possible or probable. It is the latter which is at the moment the most relevant to corrections. One need not adopt a so-called "sick model" of crime to recognize a medical analogue. Many sicknesses have no cure or at least only marginal cures, but we are still greatly concerned about reducing pain, cost, and other social and personal disadvantages for those afflicted and the community. In short, we are concerned with managing the situation so that these secondary goals are realized while the search for a more fundamental understanding of the nature of the illness goes on.

Similarly, our present knowledge is limited about ways of significantly altering the lives and the worlds of offenders so that when they are released from state control they will no longer commit crimes. Under these circumstances we are left, as is the case with medicine, with the task of management. We have to control crime in the short term while pursuing what Lamar Empey has called "a strategy of search" that might lead to longer term effects. While that search continues, we must attempt to realize other important values. There are three—humaneness, knowledge utilization, and cost containment—which have particular implication for the management of risk.

Humaneness

Humaneness asserts both affirmative and negative guidance on correctional decision making. Negatively, it means that interventions into offenders' lives must be limited to the least intrusive necessary to achieve the legitimate purposes of the criminal sanction. A criminal sentence is not a blank check for correctional administrators to implement favorite or convenient controls upon offenders. Humaneness limits discretion, particularly with regard to treatment and incapacitative interventions, and constantly tests decisions against potential alternative methods that are less intrusive.

Humaneness also requires that, wherever possible, the correctional administrator take actions that improve, or at least maintain, the life and potential of the offender while he or she is under the control of the state. The punishment involved in a criminal sentence is established through restrictions on the behaviors incurred as part of the sentence. Punishment cannot be augmented by refusal to provide basic services such as medical, educational, or vocational programs.

Knowledge Utilization

An emphasis on knowledge requires that those who make decisions regarding correctional measures recognize that risk control is a complicated concern. At a minimum, decisions must reflect an understanding of the effects of various options, familiarity with recent knowledge about corrections, and an ability to implement appropriate changes to improve effectiveness. Too frequently, correctional managers spend precious resources of time, money, and community credibility implementing new programs that, when attempted and evaluated in other settings, were only marginally effective.

Moreover, knowledge as a value requires that correctional actions be undertaken in a way to improve our understanding of the impact of correctional policies. Managers must develop means to study the impact of all policy decisions, especially utilitarian programs of punishment.

Cost Containment

Simply stated, a concern for cost requires that correctional managers adopt strategies that are least expensive to the state, other things being equal. Cost alone does not justify the denial of desirable programs to offenders (this violates the principle of humaneness) or failure to protect the community or evaluate a new program. Thus, cost values are less important than the others.

There is also a tendency to adopt too narrow an interpretation of cost, using dollars as the only measure. A sufficiently broad definition takes into account the unknown cost of failing to attempt new approaches that might improve both effectiveness and efficiency, and the human costs involved in overextending state control over offenders' lives. Difficult as it may be to quantify these considerations, it is important not to underestimate them when attempting to keep costs to a minimum.

These values of humaneness, knowledge, and cost justify a heavy reliance on community supervision as a primary form of the punitive sanction in criminal law. Notwithstanding the claims of much recent rhetoric, the effectiveness of imprisonment remains unclear at best. Although sophisticated statistical models have estimated that imprisonment has some deterrent effect,[54] other research finds no significant relation between incarceration rates and reported crime rates.[55] Despite some projections of the potential incapacitative benefits of imprisonment,[56] when applied to offender cohorts such models have demonstrated only a small potential effect on actual crime rates.[57] Both specific deterrence and rehabilitative rationales[58] fail to support incarcerative penalties.[59] Although recent research has questioned the degree of cost savings in programs designed to maximize the use of community supervision,[60] it is fair to say that traditional community programs are substantially cheaper than institutional alternatives, and evidence is growing that such options can be exercised without significant increases in risk to the community.[61]

In short, these management values support continued reliance on community supervision approaches to risk control, absent conduct that deserves a greater restriction on liberty or evidence that community safety can be secured only through institutionalization.

The Need for System Flexibility

Risk management is concerned with determining, at least in part, where specific offenders can be placed while serving their sentences, so that danger to the public is minimized and the goals of humaneness, knowledge utilization, and cost containment are optimized. Fortunately, in this instance the information, methods, and feasible alternatives that are available are much more developed than is the case with longer term and more fundamental methods of crime control. They are employed quite effectively every day in corrections as persons are assigned to minimum security, granted a furlough, moved to a halfway house, or placed on work release.

In our view, once the sentencing judge has set the duration of sentence and the place of initial assignment, risk management becomes the dominant concern as corrections takes responsibility for the offender. The task is to determine the most appropriate setting in which an offender should serve his or her sentence after the initial assignment within the constraints imposed by the requirements of punishment. One cannot expect that a murderer serving a 30-year term and a burglar serving three years will be both put in a work release program after serving 12 months in prison, even if they seem to pose the same level of risk to the community and probability of escape.

In the interest of fairness and effectiveness, a limit needs to be established on the time a person should spend in a risk-control sanction of a given level unless a reasonable variation can be justified after an appropriate review. Table 5 illustrates how this approach might work. Thus, an offender with a sentence of six years might be required to serve no more than 24 months in a Level I setting (i.e., maximum, medium, minimum security prison). After 24 months, it would be expected that the offender would be shifted to a Level II setting which could range from a community correctional facility to a half-way house. Twenty-four months later the case might be reviewed again for further reduction in control to community supervision.

Variations in rates of movement would be accepted so long as they were not excessive and were justified in writing. Thus, individual offenders could move more quickly through control levels if decision makers so determined. Likewise, some offenders might move more slowly, particularly if their behavior clearly indicates that a given level of control does not ensure adequate public protection or there exists an extraordinary risk of depreciating the seriousness of an offense. Offenders could also be

Table 5

Illustration of Risk-Control Movement Principles

Maximum Duration of Control	Expected Rate of Movement	Variation in Rate Permitted
6 years	24 months	12 months
4 years	16 months	8 months
2 years	8 months	4 months
1 year	4 months	2 months

reassigned to more controlled settings if their behavior showed that restriction to be appropriate. The flexibility permitted to decision makers would, of course, have to be accompanied by review procedures designed to protect offenders from unjustified variation in assignments. Thus greater discretion would be given correctional managers for assignments within control levels than across them. A probation department, for example, might be able to move an offender to intensive surveillance but not to a community corrections or prison setting without external approval.

The principle of humaneness would require that decision makers provide offenders opportunities to demonstrate their ability to live with increasingly less severe restrictions on their behavior. It would be the responsibility of corrections to design risk-management programs at every level so that offenders have a chance to demonstrate their ability to live in less restrictive settings without undue risk to the community. Corrections cannot simply rely on past behavior to make irrevocable decisions about offenders' risk. Instead, decisions should depend increasingly on recently demonstrated offender behavior with an eye to reducing, as much as possible, the intrusiveness and cost of interventions, consistent with public safety.

In brief, we envision a limited risk-control system that incorporates at a minimum the following features:

1. Use of standard assessment instruments that make decision criteria visible, testable, and subject to continuing research.
2. Use of known groupings for risk classification, thereby making the type and amount of prediction error visible.
3. The placement of offenders in programs with control levels based on the risk they pose.
4. The establishment of routine, consistent schedules for reducing the intrusiveness of risk-control methods
5. The establishment of decision-review mechanisms that allow, within limits, decisions other than those indicated by an objective instrument and guard against arbitrariness in the acceleration or retardation of an offender's movement through programs of various risk-control levels.

Such an approach has several advantages over current methods. First, it minimizes error but also makes visible the error that does exist so that it can be studied and further reduced. Second, it provides a mechanism for controlling the discretion of decision makers who apply risk-control criteria to offenders. Third, it establishes a structure for risk control that makes the corrections function more rational and predictable.

It is not our purpose to describe in detail the type of sentencing system we would advocate to facilitate the development of a constrained risk-control system. Several alternatives, in fact, would be consistent with the approach. However, there are several

key characteristics that would be necessarily included in a sanctioning system that sought to integrate simultaneous concerns for fair punishment and risk control.

First, as observed earlier, the information necessary for making decisions along desert and deterrent dimensions is available at the time of sentencing. For this reason, and because of the traditional role they have played in our society, the courts should make the decisions about the appropriate punishment for a given crime. It is up to correction agencies to administer various programs and institutions with restrictions and controls established for each based upon the relative risk posed by the type of offenders in those programs or institutions. Correctional agencies should not assume the responsibility of creating or deciding upon the appropriate punishment for a given offense and offender. They have to operate within the punishment constraints imposed by the court and the legislature. The correctional function is to work within those limits and operate humane and efficient programs designed to carry out risk-management purposes.

Risk management requires information available both before and after the time of sentencing, and it is clear that there is shared responsibility between the courts and corrections in risk-management decisions. It is also clear that from this perspective it is important that some mechanisms exist (e.g., parole boards) that can permit decisions after sentencing, within limits, with respect to the confinement of offenders, speeding up or retarding their release, or assigning them to higher control settings when appropriate.

Were this a book on sentencing, we would have to elaborate on this general model: what modifications are needed to deal with serious multiple recidivists? Is less flexibility needed to deal with unusually heinous offenses? The nature of criminal behavior and offenders is sufficiently varied that the law would need to provide for a wide variety of circumstances. We would emphasize that the system we have described is generally applicable to the vast majority of offenders who must be routinely handled by corrections and demonstrates how reliability, predictability, and control of discretion can be built into a system emphasizing risk control.

The Community Supervision Function

Having clarified the role of corrections in general, it is possible to be more specific about how community supervision programs ought to operate. We begin by examining the conditions that offenders must observe when they are assigned to community supervision settings. A failure to obey them can result in a substantial loss of freedom by an offender. They rank among the most important elements shaping the character of community supervision. They not only represent legal requirements for the offender, but also are they official mandates governing the performance of the supervision worker.

It is our contention that conditions should be restricted to only those that are meant to be enforced and are necessary to the maintenance of the supervision relationship. Failure to do the first undermines the credibility of community supervision, and ignoring the second represents an unjustified extension of power of the state into offenders' lives. The decision to involve a condition, specific or general, is a grave one and should be rendered by a judge or parole board and not delegated to probation or parole officers.

There are three types of conditions that may be imposed, the first of which we label "operational." These are conditions that apply to all offenders. They are few in number and in order to be justified, a clear and convincing case must be made for each that it is necessary for all offenders and requisite to the operation of a particular type of community supervision program. Reporting as directed and refraining from committing new offenses are examples of appropriate general operational conditions for most kinds of programs. All other conditions would be fixed specifically for each offender.

The second type of conditions are "punitive." They are established by the court to make the punishment proportional to the offense and might include, for example, restitution, fines, or community service orders. Such conditions are a means of substituting for a punishment that would have otherwise been required of a convicted person because of the nature of the offense committed. In order to be justified, there needs to be a measure of proportionality between the offense and the condition, and such conditions also have to meet tests of capability of observance and standards of appropriateness.

Restitution and community service are sometimes suggested as a means of changing an offender's attitude and consequently the probability of future criminal behavior. It should be emphasized that this is a risk reduction goal, not a punishment goal, and in this context it is no different conceptually than

psychotherapy or a job program and should be subject to the same type of critical analysis.

Recently, several jurisdictions have implemented a practice of charging "probation fees" of all offenders placed on probation. These fees, which range from $5 to $25 per month, are justified on the grounds that probationers ought to bear a portion of the costs of the state's expense in maintaining a system of community supervision. Serious questions have been raised about the appropriateness of a user fee model for community supervision. Objections have been made about its coercive quality and the implied "benefit" to an offender without recognizing the benefit to the state that is involved.

Our preference would be to avoid requiring probation fees as a correctional matter for two reasons. First, the attractiveness and measurability of "dollars collected" and subsequent pressure to collect them can deflect the supervision officer from his or her main mission. The task is difficult enough, and we see little advantage to imposing a bill-collector responsibility on top of the other duties. Second, the key to credible community supervision is to enforce the conditions we would retain. Yet a fee is often a financial hardship for a large number of offenders. To revoke their community status merely because they have been unable to pay seems extraordinarily extreme; to ignore their violations of legal conditions is equally unwise. Perhaps the solution is to separate collection agency responsibilities out of the criminal courts to the civil courts, a more traditional and appropriate location. Failing that, fee collection responsibilities should be separated as much as possible from probation and parole officer duties.

The third type of condition, called "preventive," would apply to those cases that require a special restraint to justify the maintenance of the offender in the community. This type of condition may be employed only when there is substantial reason to believe that its imposition is immediately, directly, and importantly related to the ability of an offender to conform to a punitive condition and/or to reside satisfactorily in the community without committing serious crimes. Something specific in the history or circumstances of the offender or offense must link the special condition imposed to an immediate risk of crime or of failure to observe a punitive condition. By this definition, conditions which are aimed at long term risk-control benefits to the offender or society, as is the case with most treatment conditions, cannot be imposed until such time as compelling empirical evidence demonstrates that such benefits will be accomplished. Only those conditions which are immediate, direct, and important can be justified. Some latitude would be given to a judge or parole board in reasonably justified instances to fix a condition for a short period of time (three months or less) to determine its effectiveness in meeting these criteria.

The central role of the supervision worker is to make certain that the conditions laid down by the court or parole board are observed. This is not only a negative, but a positive responsibility as well. The officer is expected to help offenders observe conditions as well as to enforce them.

Beyond this primary task, officers have a responsibility to provide assistance to offenders in significant ways that are not directly related to carrying out a condition of a court or parole board. However, any assistance rendered an offender must be reasonably related to a crime reduction goal. A supervision agency is not a welfare agency, and an extension of its activities beyond a crime control focus is both inappropriate and dangerous. Whenever an offender presents a problem not related to a crime reduction function, he or she should be referred to an appropriate social agency.

Secondly, whenever an officer seeks to achieve goals for any offender not required by a condition imposed by a court or parole board, they must be mutually agreed upon by the officer and the offender. The coercive power of the state cannot be used in these instances. The mere fact that a person is under supervision in the community does not constitute permission for community supervision workers to intervene willy-nilly in the lives of those offenders under the rubric of "help." Only when a goal has been demonstrated to have a crime reduction purpose and has been mutually agreed upon by the offender and officer is it in order to assist the offender with respect to a noncondition-related goal.

Whenever problem-solving activities are undertaken beyond those required by a formal condition of probation or parole, it is crucial that there be a written and explicit statement of the problem or goal being addressed so that it can be reviewed by appropriate persons in the agency. The possibilities of hidden coercive and/or inappropriate behavior by staff is substantial unless this final step is taken.

To summarize, then, we argue that the supervision effort ought to involve six basic principles:

1. A few general conditions, which are clearly necessary to maintain a supervision program and to prohibit further crime, may be applied to all offenders in that program.

2. In the interests of punishment, specific punitive conditions may be established for offenders by a judge to reflect the relative seriousness of their offense.
3. In the interest of risk control, specific preventive conditions may be fixed by a judge or parole board when there is substantial reason to believe that any specific and serious risk posed may be controlled only through the application of the conditions.
4. The central role of the officer is to enforce conditions and to assist in their observance.
5. Assistance to offenders in dealing with problems other than those associated with official conditions is done only on a voluntary basis and when a crime control purpose is being served.
6. Records, in which goals being served are explicitly stated, must be maintained.

It can be seen how these principles flow directly from the earlier discussion of the concept of limited risk control. They may also form a basis for the organization of the community supervision office and the definition of the tasks of staff.

The Organization of Community Supervision

We envision community supervision as offering categories of varying degrees of intensity for supervising offenders. Correctional officials would have discretion in moving people among these categories, but initial assessment to a category would be based on the type of risk classification scale shown earlier. The process would operate similarly to that described for corrections generally, with offenders being expected to move through supervision levels of decreasing intensity unless their behavior suggested otherwise (such as might be indicated by a new arrest). There can be several categories of supervision intensity, but for our purpose we will concentrate on three: (1) intensive; (2) regular, subdivided into close and medium; and (3) reduced, subdivided into minimum and administrative.

1. Intensive Supervision

This level of supervision would be reserved for those who are classified as posing a significant risk in terms of committing a new offense. Such programs have been subjected to a wide body of research,[62] and most authors would conclude that there is little reason to believe that a simple reduction in caseload size leads to greater effectiveness in supervising offenders. Recently, however, research has begun to suggest that increased supervision applied to selected groups of high-risk offenders may well be effective.[63]

We think the information supporting the effectiveness of close supervision of high-risk offenders provides sufficient rationale for this approach, but we would argue for this organization of work for another reason, even without this evidence. High-risk offenders represent a potential for harm to the community that must be managed as carefully as is possible. Close monitoring of offenders may well allow earlier detection of return to criminal involvement, thus enabling the agency to minimize the extent of criminal behavior by clients. Both of these issues deserve additional research,[64] of course, but the balance of the current knowledge supports intensive supervision.

By "intensive," we anticipate very small caseloads—on the order of ten clients per officer—handled with consistent contact. Field visits, weekly office visits, and so forth, would be standard procedures for this group. Any violation of conditions, particularly preventive ones, would result in immediate action by supervision authorities.[65] While the full panoply of due process rights must apply to any revocation proceedings for any offender, this group, because of its generally greater risk, should not be subjected to the inordinate delays that often accompany many typical bureaucratic processes. Swift agency action is a prerequisite for public safety and for these conditions to have symbolic credibility. Action does not require the simple alternative of long-term incarceration, as is currently too often the case. A variety of dispositions, such as a period of time in a community corrections center or house detention, as well as other methods, might be used.

In some cases, offenders initially assigned to other levels of supervision could be reassigned to intensive supervision by a judge or parole board should their behavior (failure to comply with conditions, especially as indicated by a new arrest and/or conviction) demonstrate aggravated risk. Offenders assigned to this new level should expect, absent violative behavior, to be moved to regular supervision following a definite time period (e.g., nine months).

For several reasons, we expect that the intensive supervision program will require specialized caseloads, rather than mixed caseloads, with some offenders designated for more intensive supervision.[66] For one thing, a specially trained and experienced staff member will be necessary to provide the kind of close supervision needed. Second, in the context of the routine pressures felt in a variable workload of cases, it is simply too difficult to schedule the more demanding supervision time for a handful of cases.[67] Finally, there are solid programmatic reasons for

changing the officer when an offender moves to another supervision level, since it will be difficult for the officer to change supervision "styles" in the middle of a supervision relationship. At the same time a new officer helps to reinforce the change in supervision responsibilities of the offender. Separation of the "intensive" program from others through special caseloads (even units) will provide it with a uniqueness that will reinforce its credibility with offenders and the community.

We have emphasized the enforcement or monitoring function of the probation or parole officer thus far in our discussions. However, as indicated earlier, the officer has an assistance function as well, similar to that of an officer supervising cases classified as "regular." The principles regarding assistance that are discussed in the next section apply as well to cases assigned to intensive supervision.

2. Regular Supervision

This level of supervision would be reserved for offenders who, although judged not to pose a serious immediate risk to the public, (1) require a substantial to moderate level of monitoring to ensure that the conditions of the courts are observed, and/or (2) are coping with problems related to a potential violation of the law, for which a probation or parole officer can provide assistance, and for which the offender agrees to such help.

It is expected that a classification system would be developed that would provide for at least two subcategories of supervision intensity: (1) *Close Supervision* might be used for offenders whose risk is somewhat less than that required for intensive supervision, but who nonetheless pose some risk to the public or who are having difficulty in observing a punitive condition set by a court or parole board. (2) *Medium Supervision* would be employed for offenders of lesser risk or those having less difficulty in observing conditions. Policies governing required frequency and types of contacts between officer and offender would have to be spelled out for both of these levels of supervision.

In addition to monitoring cases, officers would work with offenders around problems relating to crime reduction purposes; however, as discussed above, offenders could not be forced to address problems not required by conditions of probation or parole supervision. Moreover, while it may be appropriate for some services (rudimentary counseling, clarification of legal responsibility, self-assessment and contracting) to be provided directly, the bulk of services could be delivered more effectively if they were brokered to other agencies in the community.[68]

When the assistance function and the monitoring function are combined, the average offender-to-officer ratio in regular supervision might average 50 per officer. In reality, it is difficult to arrive at a meaningful estimate for average caseload size, because we envision a set of activities for this role that is different from most traditional supervision approaches. A good description of the type of work performed in this function has been provided under the label Community Resource Management Team.[69] In this approach, staff develop special knowledge of community resources in areas typically experienced as problems by offenders (substance abuse, employment and training, etc.) so that high-quality referrals can be made. The maintenance of traditional caseloads is unimportant for purposes of carrying out this function.

There are several ways in which specialization could be useful to the regular supervision function. One possibility is to establish a special "Community Resource Unit" that would provide service to the regular supervision officers by developing community referrals and working with offenders with regard to their adjustment problems. However, this kind of specialization is difficult to coordinate administratively and may promote organizational conflict between the "monitoring officers" and "supervision" officers.

A variation is to specialize officers in terms of the primary type of offender problem with which they will be dealing. This approach has the dual advantage of increasing officer professionalism by creating special areas of expertise for which they are responsible, while also guaranteeing that the most concentrated expertise will be applied to key problems of offenders. The disadvantages are: How are the "key problems" selected, and what can be done about multi-problem offenders?

We believe areas of specialization should be related to the reasons for which offenders are a risk to the community. In later sections, we give some detail as to how those methods can be identified through improved information about supervision practices, but our point is that offender "needs" are not enough—instead there must be some showing that those needs are related to potential criminal behavior. For offenders with multiple needs (who, perhaps, have been transferred to regular supervision after a period of time assigned to intensive), it is possible to indicate "secondary officers" who will carry joint, but lesser, responsibility for cases who are primarily supervised by another officer. A secondary officer system promotes shared accountability for supervision and maximum use of expertise to provide services to offenders.

3. Reduced Supervision

At this supervision level, the offender does not pose a threat to the public, formal supervision conditions require no more than miminum monitoring, and the offender is not coping with a set of problems appropriate for attention by the supervision agency.

A *minimum* supervision level might involve as few as one contact every six months between an officer and offender. Average caseloads might be at a level of approximately 300 to 1. The offender would be responsible for maintenance of supervision conditions, and a minimal routine of contact would be used to monitor compliance. Offenders would be placed under minimal supervision in one of two ways. A number of low-risk, nonserious offenders could be placed there immediately. Others would be placed there as a result of regular movement through the supervision process, having performed adequately under previous modes of supervision.

In addition to minimum supervision, there might be as well a subcategory labeled *administrative,* under which offenders would be placed in inactive status, and only if there was contact with law enforcement agencies would their case be reactivated. Other methods, such as yearly reporting, might be employed as well. With these types of administrative devices, average workloads ranging from 500 to 750 and even more per worker might be considered, and clerical support would play a very important role in carrying out the supervision function in these caseloads. It would be better for cases such as these to be entirely dismissed, but it must be recognized that often courts or boards are reluctant to dismiss cases entirely. Thus minimum supervision and administrative devices such as described here are crucial in well-organized probation and parole agencies.

In addition to organizing around these three levels of supervision, another specialized group that might be usefully established, particularly in urban areas, would be a warrant unit. Its purpose would be to insure that those probationers or parolees for whom warrants have been issued are taken into custody. One of the major problems faced by probation and parole officers in the United States is the enforcement of warrants, particularly for absconders. Often they are not served effectively by police agencies and instead tend to pile up. The credibility of probation and parole officers is thereby seriously undermined.

Warrant officers would need to be specially trained. An important skill would be the ability to work closely with supervising probation and parole officers as well as police agencies. It may be that the job stress of warrant officers will require their rotation into other types of activity from time to time.

By introducing a warrant enforcement concept, we recognize the potential for law enforcement aims to overwhelm the supervision process. Removing this role from the responsibility of officers may ameliorate this problem, but careful guidelines will be necessary as well. These guidelines would have to address issues such as cooperation with police, the use of firearms, and how cases are to be referred to the warrant unit.

As traditionally constituted and administered, most correctional field services organizations are not well-equipped to operate according to the guidelines we have described. The system we envision would require substantial and in many ways fundamental changes in the organization, staffing, and daily operations of correctional field services. It is one thing to specify a philosophy for administration; it is quite another to institute practices which make that philosophy operational.

This has been one of the traditional failures of most sentencing reform ventures. Broad principles and generalized justifications are formulated to advance the need for reform, but detailed practices necessary to institutionalize the reform are never developed. As a consequence, a reform in practice is often quite different from the idealized version held by its original proponents. Examples of this problem abound, including the unexpectedly draconian policies that were applied under desert-oriented presumptive sentencing schemes and the punishment uncertainties that have followed mandatory sentencing schemes.

We wish to reduce this problem as much as possible, and so we provide below a fairly detailed description of the practices we believe would be useful in implementing limited risk-control in community supervision agencies. Three major themes have guided the development of the suggested system.

First, it is crucial in a system of limited risk-control, with its emphasis on structured discretion, that the activities of community supervision workers become visible. Persons independent of these workers must be able to answer the question: Is the behavior of the community supervision officer appropriate, given the values of limited risk-control?

Second, the talents and skills of community supervision officers ought to be used to the fullest, particularly in times of shrinking resources. Moreover, better use needs to be made of resources available in the community.

Third, the vaguely defined casework-counselor model that has been valued extensively in probation and parole must be changed to become congruent with the types of activities sought.

A Critique of Traditional Supervision Methods

Probation and parole organizations vary in the case management methods they employ,[70] but with very few exceptions, the underlying mechanism for assigning work to staff is the caseload. For many community supervision agencies, the caseload is a generic work assignment, and officers are given a set of offenders who differ widely in backgrounds, problems, and needs. The predominant supervision method is counseling. Even in those settings where specialization does occur,[71] the approach officers often take with their clients is one of counseling, with minimal emphasis on developing and using community services.

The caseload-counseling approach of most community supervision agencies rests uneasily on assumptions about change processes in corrections that may well be untenable. Most significantly, it assumes that one person can adequately handle the range of problems represented in a normal caseload—from unemployment to emotional illness. While it is at least arguable that a trained therapist might be equipped to handle such an array through psychotherapy, it seems beyond dispute that the typical community supervision worker does not possess the requisite skills to deal adequately with all of these problems in the context of authoritarian casework.

The fact that the setting is authoritarian also militates against the caseload-counseling approach. In the abstract, it may be possible to meld together the roles of helper and enforcer in the community-supervision setting,[72] but the evidence suggests this is a difficult task and is made virtually impossible by the semicontrolled discretion common to traditional supervision.[73] This may be why research consistently fails to support the usefulness of the caseload counseling approach to community supervision.[74] Yet, probably primarily because of administrative convenience, the traditional model remains common, despite its failures. We seek a fundamental change in the way clients are managed by corrections generally and, particularly, by community supervision agencies.

One of the first things with which we must deal is the fact that officers carry out their duties with limited feedback about their work. It has been shown how the sporadic negative feedback system of most agencies breeds defensive behavior, idiosyncratic daily practices, and ultimately exacerbates the problem of officer burnout.[75] in the absence of meaningful feedback about the results, agencies and officers focus on activity instead of goals. Most performance measures that are used focus on "energy-expenditure" variables such as case contacts rather than "production" variables such as offender behavior changes.

Methods must be put into place that (1) provide for regular feedback to officers about their results with clients; (2) provide a basis for officer accountability for decisions; (3) are less time consuming than most present systems; and (4) constitute a case recording method that reinforces the values of limited risk control. We suggest than an objectives-based case management approach can provide this technology.

Objectives-Based Case Management

Essentially, objectives-based case management means that, at every level of operation in the community supervision function, tasks are organized around explicit risk-control goals. As we envision it, each officer would articulate to specific objectives for offenders under supervision, indicating the behavioral goals being sought for each in order to pursue limited risk-control objectives. Then specific unit and organizational objectives would be set, based on aggregated client objectives. There is a similarity between the system and the social services management-by-objectives approach advocated by Raider.[76] We illustrate by describing the approaches that would be required of line staff, supervisors, and administrators under an objectives-based case management model.

Line Staff. The key element in structuring the risk-control activities of line staff is to require them to describe in clear, unambiguous language the goals they are seeking with each offender and the actions they are planning to take to achieve those goals. This represents a major change in officer case planning.

Typically, line officers do not plan cases systematically. All too frequently, whatever planning is done on a case may exist only in an officer's thoughts or reflect the inconsistencies of day-to-day judgments. As a consequence, supervision decisions are often unpredictable and unrelated to legitimate aims. Even when case plans are written, they almost always state the activities the officer intends to pursue during supervision, with such phrases as "get probationer to complete a psychological evaluation" and "refer client to a mental health center." This "activity" approach has no clear link to the goal of controlling risk, since the intended results are unclear.

Such statements as "to improve probationer's ability to deal with authority" and "to gain in self-concept" say very little about what changes are actually intended. Their vagueness makes their meaning open to interpretation, doing little to control the discretion of the officer in selecting supervision activities and even less to clarify the meaning of the supervision effort with that client.

Effective control of line officer discretion requires the statement of

Figure 4

Illustration of Objectives-Based Case Plan

Objective	Importance of objective	Resource	Client Performance on Objective
1. REFRAIN FROM ALCOHOL USE	Required	Tommy Fox AA Chapter	Full
2. PAY RESTITUTION OF $480.00	Required	Client	Full
3. Obtain full-time employment and stay employed during supervision period.	Critical	Lake City Employment Service	Partial

specific, measurable supervision objectives by the officer early in the supervisory relationship with the probationer or parolee. We would recommend a model which includes the idea of behavioral supervision objectives.[77] This model identifies behavioral changes that are expected to result from supervision activities and gives visibility to the officer's use of discretion in supervising the case. Figure 4 offers a schematic description of what such a plan might look like.

In this illustration, special conditions of the court are capitalized while supervision objectives are in lower case. The latter are written after talking to the offender about his or her problems, and they identify supervision objectives which will help the offender to stay out of legal difficulties and comply with the conditions of supervision. The use of specific, written supervision objectives helps to clarify the difference between court or parole board conditions and promote the development of a supervision plan which reflects how the officer and client intend to work together to resolve significant problems in adjusting to the community. The availability of specific, written objectives also permits review of the officer's work to make certain he or she is not overly intrusive in supervising the case.

Because each of the objectives of supervision in Figure 4 is measurable and specific, it is possible to test the assumptions the officer is making about the case by asking in terms of each objective: "How does accomplishing this help to promote the purpose of the risk control?" Stating specific objectives thus places case planning in the context of organizational priorities and requires the officer to justify supervision decisions in terms of risk-control purposes.

This change in case planning methods has several implications for supervision. One obvious implication is the differentiation of the ends and means of supervision. Line officers often fail to distinguish the routine tasks of supervision (contacts, case records, referrals, counseling) from the larger goal of managing client risk. Requiring the written statement of outcomes early in the supervision process forces the officer to think through the purpose of intended supervision methods.

Establishing clear, unambiguous goals provides a basis for involving the offender in the supervision process and enhances the probability of a fairer use of supervision authority. The fairness of the exercise of authority can be gauged in terms of the reasonableness of supervision objectives. Objective-based case planning links directly to the rapidly growing school of casework based on the use of short-term, jointly developed, specific tasks. Such task-centered approaches to casework have demonstrated that significant changes in clients' behavior can be achieved relatively quickly through jointly established, time-limited, reasonable objectives.[78]

Because the case record is objectives-based, the need for narrative, chronological information is minimal. The officer need document only significant events (arrest, violations of conditions). Aside from documentation of dates of contact, the only other information needed is the assessment of the client's performance in relation to the supervision objectives, as indicated above in Figure 4. The assessment of client performance helps to inform the decision as to continuing supervision intensity.

The Supervisor

Under the objectives approach, the supervisor's primary responsibility is to monitor the line officer by reviewing case plans, questioning the suitability of objectives, suggesting alternatives for handling cases, and assessing achievement of objectives. Improved quality in case plans is accomplished by giving the officer regular feedback about various aspects of those plans, including classification, objectives, resources, and progress reports. The objectives underlying the case plans are the responsibility of the supervisor, who checks their specificity and quality through a formalized case review procedure.

In case review, the supervisor reads and reacts to case plans in light of limited risk-control goals. This is a qualitative activity in several respects. First, the supervisor is interpreting the officer's plan in terms of established priorities: Is this a high-risk case requiring close surveillance? Does this case call for less direct attention than the officer appears to be providing? Has the officer considered sufficiently the variety of resources for dealing with the client's needs? Are the officer's biases interfering with supervision of the case?

This last question deserves some elaboration. Previous research has indicated that officers tend to specify objectives related to their own personal attitudes and background.[79] While this is not necessarily bad, since these biases may reflect natural and useful variations in officers' skills and knowledge, sometimes it is necessary to control biases affecting client supervision. It is the supervisor's task to recognize these biases and to question the officer if they appear to be intruding in the supervision of the offender.

Table 6

Illustration of Objectives Feedback

Officer (Unit A)	No. of Cases With Employment Objectives	Percent of Objectives Rated Critical	Percent of Objectives Achieved, First Six Months of Supervision
Smith	55	65	85
Jones	42	73	53
Baker	36	61	41
Wilson	48	58	63
Thomas	51	66	51
Watson	40	70	47

Case review is centered on quality in another respect—the probation officer must ensure that the objectives are well-written, specific, and measurable. When problems occur, the supervisor can help the officer to clarify a vague objective, rewrite an "activity" statement into an outcome statement, and in other ways improve the technical quality of the case plan.

In giving feedback to the line officer, the supervisor is able to act as the interpreter of organizational policy. For example, the supervisor can encourage the officer to follow up on an apparent violation by the client where appropriate, but can also advise an officer when to reduce the intensity of supervision of a client or guide the officer in changing the client's classification. The routine involvement of the supervisor in these decisions enables the line officer to check case decision making against established organizational policy and to receive management support for supervision decisions.

This review process places substantial authority in the hands of the supervisor. From a case-management perspective, supervisory review is the mechanism by which risk-control policy is made an organizational rather than a line function. However, proper handling of that authority by the supervisor requires skill in giving line officers feedback about their plans without becoming unduly controlling of the officer's discretion to establish those plans. Table 6 shows the format in which feedback about officer effectiveness might be organized by the supervisor to be handled on a unit basis.

Specifying objectives can play a role in the fruitful allocation of the unit's resources to clients. For example, in Table 6, Officer Smith's success with employment objectives and the significant proportion of cases in which employment is rated critical suggests that a specialization in this area might be appropriate. In this way, specialization of functions results from natural skills and interests of staff rather than abstract assignments of staff to special job functions. Moreover, the type of feedback the unit can receive concerning its objectives helps to lead to a set of unit objectives which will ultimately improve unit performance.

Administration. One of the chief roles of the administrator is coordinating staff in light of organizational goals. Ordinarily, the administrator has only limited information on clients; however, the data from objective-based case plans can be aggregated through automated processes and provide information on the character of agency objectives, the array of resources being used to achieve those objectives, and the success of those resources in achieving the objectives. Combined with information on case termination (new arrest, successful termination), this information can prove a powerful tool in various administrative functions.

One such function is planning. Objectives-based data serves to regularize the "needs assessment" part of planning by presenting straightforward information on the kinds of risk-control services offenders require and whether the services provided are adequate. For example, a 20 percent achievement rate for job-training objectives and conditions suggests that an administrator may want to purchase placements at different job training programs. A low proportion of drug-related objectives may indicate that new drug programs are not needed. A steadily increasing rate of offenders with objectives related to family relationships might indicate that the agency should establish a working relationship with family counseling programs.

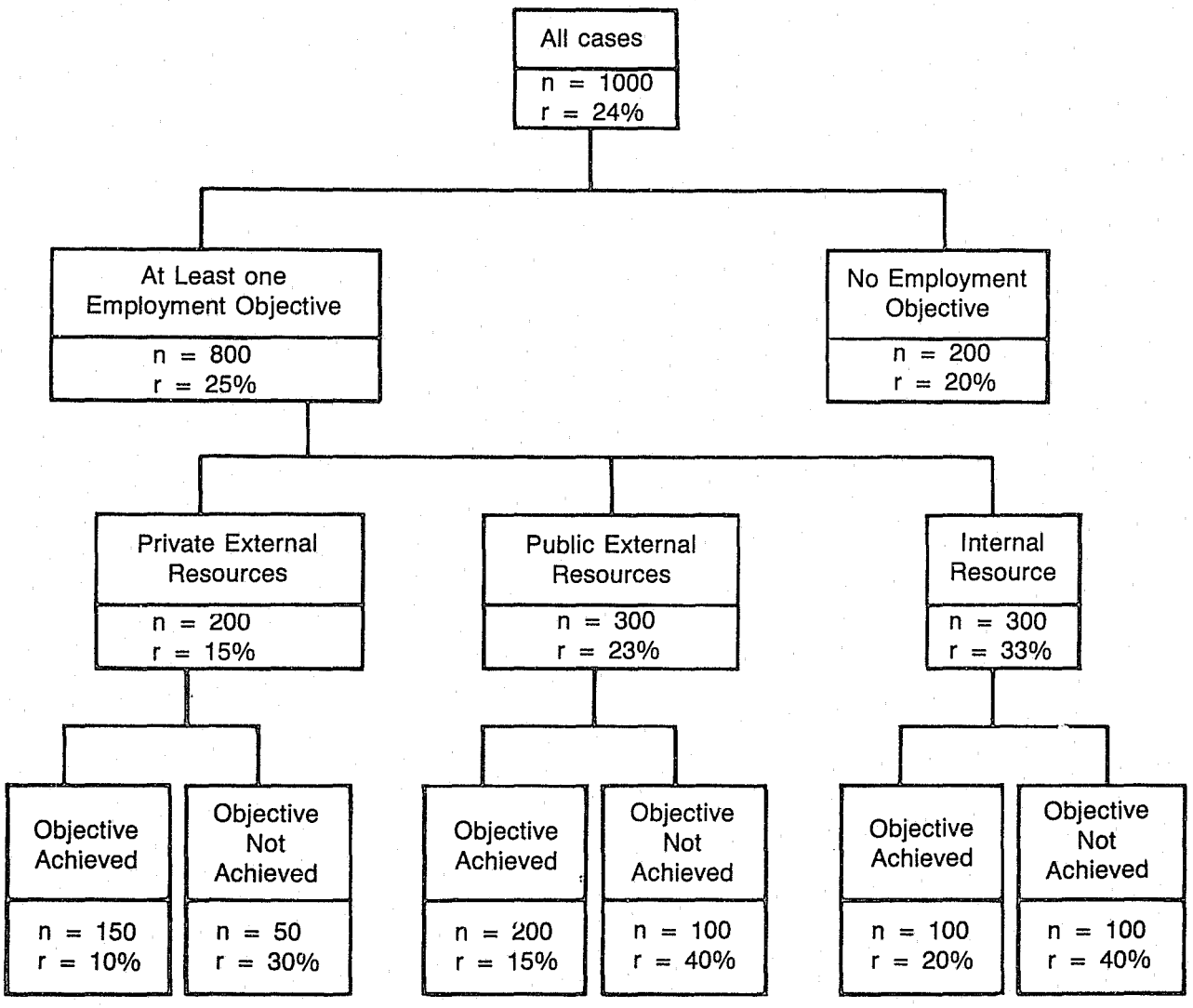
The data can also help decide what specializations would best fit the needs of the agency. For example, a high rate of clients with limited education might lead the administrator to reduce some officer's caseloads in order to allow them to develop a tie with local schools. A high rate of failure among clients with alcohol-related objectives may suggest the need to create a special unit for such clients and to provide specialized training to the officers in that unit. If there is a substantial number of high-risk clients with few or no supervision objectives, this may be a reason to establish a special surveillance-only caseload. A wide geographical distribution of offenders with different needs and objectives will also affect the task of organization. In any case, the aggregate data assists the administrator in making these decisions.

It is the administrator's responsibility to assess continually the appropriateness of the existing way of doing business. Figure 5 illustrates this point by arranging some hypothetical results of employment-related objectives and three types of resources: internal (probation officer), external referral (public agency), and external referral (private agency). In this representation, the higher overall success rates of private external resource clients appear to be due primarily to the ability of that agency to achieve a higher proportion of employment objectives, not simply differences in the overall success rates of clients who do not achieve their objectives.

What we envision is a two-way process of goal setting. Administrators

Figure 5

Hypothetical Example of Breakdown of Success Rates for Resources Used in Handling Employment Objectives (r = Failure Rate on Probation)



would review aggregations of objectives set by the line officers and establish broad goals for improving risk-control performance of the organization. These broad goals then translate into unit objectives for implementing the risk-control aims. It represents an intensified use of a learning-system model for managing offender risk.

Of course, administrators' responsibilities do not end with organizing the risk-control aspects of the organization. Major importance must be given to the "environment management" functions of public education, victim responsiveness, coordination with other organizations, and so on. We do not diminish these aspects of the administrator's role; rather we emphasize the need to organize and evaluate the internal functioning of the system in terms of

information about its risk-control performance based upon objectives.

To summarize, it is possible to conceive of community supervision as being administered under a process of goal-setting, which has as its ultimate aim limited risk-control. This approach has several advantages over most current practices. First, the expression of explicit goals permits staff to understand the goals being sought and their appropriateness. This will tend to inhibit inappropriate uses of discretion. Second, goal statements help reorganize tasks, with the recognition that some goals are best achieved by certain officers or certain organizational arrangements, while many goals can be best achieved outside of the agency. Third, explicit goal statements help to develop useful information and feedback systems which allow organizations to focus on the attainment of goals other than simply violations of the law. Fourth, explicit goals also allow systems to monitor aggregate sets of goals across all of the cases under their jurisdiction. One can assess the degree to which various goals are achieved in total and which resources are most useful or needed in their attainment. Suitable adjustments in resources can then be made.

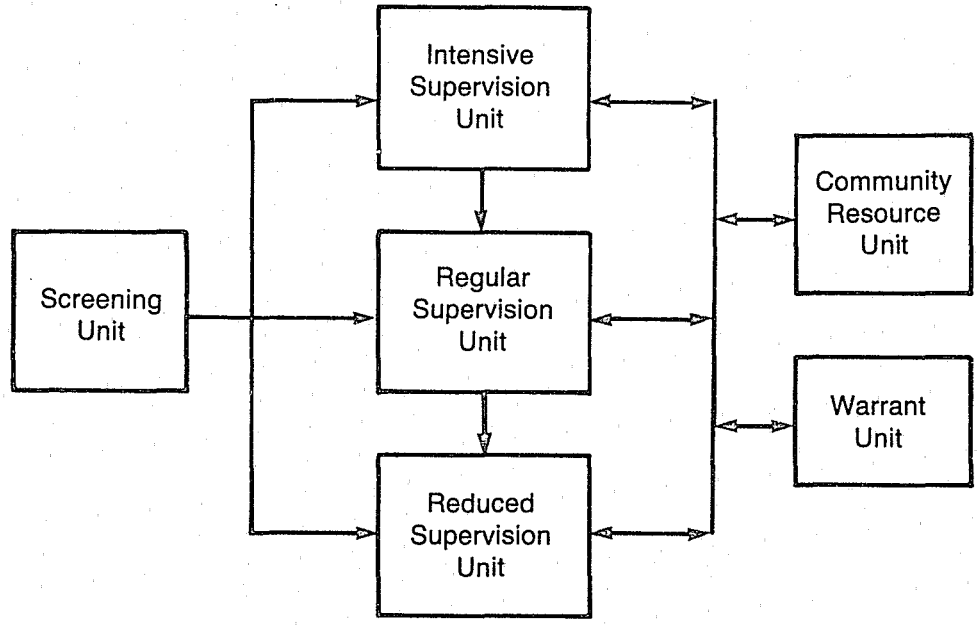
The Structure of Supervision

We have already described three levels of supervision—intensive, regular, and reduced—that would be central to the limited risk-control process. It remains to describe how those functions would interrelate in an operational manner. Figure 6 is a schematic presentation of how the various functions of supervision would relate.

Community resource specialists would be responsible for working with noncorrectional service delivery agencies that should be meeting the needs of clients. The special areas where these staff would work would be based on an assessment of supervision objectives for clients. For example, if such an assessment indicated the need we illustrated for more extensive use of outside agencies for employment services, these staff would have the responsibility for developing new employment referrals and for increasing the utility of existing agencies for community supervision clients. Thus, these workers provide a service to the supervision units and specifically work

Figure 6

Organization of Field Supervision Office
(Schematic)



with clients who wish to deal with significant problems, not a part of court conditions. The purpose of this unit is to give support to the service-delivery functions of community supervision.

The warrant unit has as its sole function the investigation and documentation of violations and the making of arrests. The main purpose of this unit is to give credibility to the control functions of supervision. Traditional law enforcement organizations often give the enforcement needs of community supervision a very low priority, thus reinforcing the sense of poor credibility that now permeates the control aspects of this work. A warrant unit may well help many agencies overcome this problem.

The activities of community supervision workers should vary among clients, but the specialized assignments we have described will result in differential emphases of supervision activities. The major tools of community supervision work—surveillance, field visits, referrals, and interviews—will still form the basis for the daily activities of most officers. However, some of these approaches will be suitable only for certain offenders, and so we expect that the widely varying "styles" of supervision exhibited by officers operating within discretion now commonly unchecked will be largely curtailed. Instead, officer work assignments will require the selection of activities relevant to the type of client being supervised.

Implementation of Limited Risk-Control

We expect that there is a variety of adaptations that can be provided to this general scheme, depending upon the particularities of the agency. For instance, community supervision specialists might be integrated into the supervision units, or warrant units may not be needed.

It is crucial to emphasize the importance of implementation in limited risk-control systems. There is no single, best way to achieve this aim. We have described some particular parameters we think will apply to most risk-control operations, but our experience tells us there is much yet to learn in implementing those principles.

Therefore, we conclude this paper with a brief suggestion about *how* these principles may best be implemented in a given agency. Our assumption is that agencies differ as to current practices, environment, and staff variables sufficiently that the actual mechanisms of risk control they would use would have to be revamped to fit those particular characteristics.

Too often, procedures, titles, or paper policies are modified while work at the line level continues unaffected. The difficulty of any change effort—and the underlying goal of pursuing change and reform simultaneously—is to change actual performance methods instead of merely changing the rules or paperwork that surround the work as it is being done. Even in the face of legislative changes, for example, trial judges often continue to take actions in court that maintain past norms and reflect their own values.[80] The Supreme Court's holding in *Miranda* has been subverted by the practices of line police officers.[81] It is a small wonder, then, that virtually every community-supervision worker can tell of major alterations in agency procedures that had little or no effect on the way staff actually handled clients.

Real change means that line officers perform their work in ways that are consistent with the goals of the change and without unanticipated, negative side effects. The requirement of additional paperwork to do case planning, for example, may ultimately reduce the quantity (and, unintentionally, the quality) of line interaction with clients. Therefore, one test of any real change in government services is whether it significantly alters specific work activities at the line level. A second, related test is whether the goals of the change are achieved. If the activities that constitute the government service are never altered, it is unlikely that the goals have changed in any operational sense.

A final test of real change is that it not produce the very consequences it was designed to avert. For example, diversion programs have been justified on the grounds that they will reduce the number of people processed by criminal justice agencies, but some evaluations have found that these programs have in fact increased the number of people taken into the system.[82] This criterion establishes a strong case for closely monitoring the implementation of any change effort flowing from reform goals. Locating and exposing a criminal justice (or community-supervision) problem is relatively easy; doing something about it in the day-to-day operational context is substantially more difficult.

This calls for an organic approach toward change. By this we mean that the agency itself becomes a participant in action research in which a participatory task force would be given the task of, with assistance from consultants, designing and implementing the limited risk-control model. Inherent in this idea is a long-range project, with "learning systems"[83] designed to inform the change agents continually how changes are proceeding; whether practices are taking place as intended; whether modifications in the design are necessary. Moreover a strong commitment to staff development and staff training will be a necessary component of the change.

While we are mindful of the scope and difficulty of what we are suggesting, we are encouraged by two aspects of our experience: first, the concept of limited risk-control is the most appropriate direction to pursue in community supervision agencies; second, a truly organic change approach will strengthen rather than weaken our understanding of these principles.

Footnotes

1. Numerous scholars and researchers have written about the demise of rehabilitation, but the popularization of this view perhaps occurred with the publication in 1971 of *Kind and Usual Punishment: The Prison Business,* (NY: Random House) by Jessica Mitford.

2. American Friends Service Committee, *Struggle for Justice,* (NY: Hill & Wang, 1971).

3. See W. Sechrest, et.al., *The Rehabilitation of Criminal Offenders: Problems and Prospects,* (Washington, D.C.: National Academy of Sciences, 1979); also see Douglas Lipton, Robert Martinson, and Judith Wilks, *The Effectiveness of Correctional Treatment,* (NY: Praeger, 1975).

4. Robert Martinson, "California Research at the Crossroads," *Crime and Delinquency,* (April, 1976), pp. 181-191.

5. General Accounting Office, Report to Congress, *State and County Probation: Systems in Crisis,* (Washington, D.C.: U.S. Government Printing Office, 1976).

6. Frederick Hussey and David Duffee, *Probation, Parole and Community Field Services,* (NY: Harper & Rowe, 1980).

7. The National Institute of Corrections has made the problem of institutional crowding a top priority in its funding; see M. Kay Harris, *Reducing Prison Overcrowding: An Overview of the Options,* (Washington, D.C.: National Institute of Corrections, 1982).

8. For an illustration of this viewpoint, see Karl Menninger, *The Crime of Punishment*, (NY: Viking Press, 1966).

9. For an illustration, see Marvin Bornstedt, et. al., *Classification for Field Services,* (Washington, D.C.: National Institute of Corrections, 1980).

10. Patrick D. McAnany and Doug Thompson, *Revocation Practices,* (Chicago: University of Illinois-Chicago, 1982).

11. One of the best discussions of this viewpoint has been put forth by Jack Gibbs, "Crime, Punishment and Deterrence," *Southwestern Social Science Quarterly,* 48, No. 1 (1968).

12. The predominant version of this viewpoint is Andrew von Hirsch, *Doing Justice: The Choice of Punishment,* (NY: Hill & Wang, 1976).

13. Paradigms for these approaches have been written by several authors, including Ramsey Clark, *Crime in America,* (NY: Simon & Schuster, 1970), on social treatment; Meninger, *The Crime of Punishment,* on individual treatment; and James Q. Wilson, *Thinking About Crime,* (NY: Basic Books, 1975), on incapacitation.

14. This view has been presented by Norval Morris, *The Future of Imprisonment,* (Chicago: University of Chicago, 1974).

15. See, for instance, Robert Martinson, "What Works—Questions and Answers About Prison Reform," *The Public Interest,* (Spring, 1984) pp. 22-54.

16. John P. Conrad, "Who Needs a Doorbell Pusher? The Case for Abolishing Parole," *The Prison Journal,* (Autumn-Winter, 1979), pp. 17-26.

17. John P. Conrad, "We Should Never Have Promised a Hospital," *Federal Probation,* vol. 39 (1975), pp. 3-9.

18. See Orville B. Pring, "A Defense of Prisons" in Lawrence F. Travis, III, et. al., *Corrections: An Issues Approach,* 2nd ed., (Cincinnati: Anderson, 1983), pp. 73-80.

19. Bob Ross and Paul Gendreau, *Effective Corrections,* (Toronto: Butterworths, 1980).

20. See Fred Cohen, *The Law of the Deprivation of Liberty,* (St. Paul, MN: West, 1980).

21. See Wilson, *Thinking About Crime;* also see Schlomo, Shennar, and R. Shennar, "The Effects of the Criminal Justice System on the Control of Crime: A Quantitative Approach," *Law and Society Review,* vol. 9, (1975).

22. John Monahan, et. al., *Predicting Violent Behavior: An Assessment of Clinical Techniques,* (Beverly Hills: Sage, 1982); see also Todd R. Clear and Donald Barry, "Some Unresolved Issues in Incapacitating Offenders," *Crime and Delinquency,* (forthcoming).

23. Peter W. Greenwood, *Selective Incapacitation,* (Santa Monica: Rand, 1982).

24. Leslie Wilkins, et. al., *Sentencing Guidelines,* (Albany, NY: Criminal Justice Research Center, 1976).

25. *Struggle for Justice.*

26. Marvin Frankel, *Criminal Sentences,* (NY: Hill & Wang, 1976).

27. David Fogel, *...We are the Living Proof—The Justice Model for Corrections,* (Cincinnati: Anderson, 1975).

28. Todd R. Clear, "Correctional Policy, Neo-Retributionism and the Determinate Sentence," *Justice System Journal,* 4 (1978), p.26.

29. *Thinking About Crime.*

30. Ernest van den Haag, *Punishing Criminals,* (NY: Basic Books, 1975).

31. von Hirsch, *Doing Justice.*

32. Todd R. Clear and Vincent O'Leary, *Controlling the Offender in the Community,* (Lexington, MA: Lexington, 1983).

33. Twentieth Century Fund Task Force on Criminal Sentencing, *Fair and Certain Punishment,* (NY: McGraw-Hill, 1976).

34. *Ibid.*

35. Todd R. Clear, John D. Hewitt, and Robert M. Regoli, "Discretion and the Determinate Sentence: Its Distribution, Control and Effect on Time Served," *Crime and Delinquency,* 24 (1978): 428.

36. This figure is roughly based upon commonly observed one-year failure rates for parolees; see Howard Kitchener, Annesley K. Schmidt, and Daniel Glaser, "How Persistent is Post-Prison Success?" *Federal Probation,* (March, 1977), pp. 9-14; see also Robert Martinson and Judith Wilks, "Save Parole Supervision," *Federal Probation,* (September, 1971), pp. 23-27.

37. This figure is roughly based upon studies of prediction. See Lloyd E. Ohlin, *Selection for Parole,* (NY: Russell Sage, 1951); see also Paul E. Meehl, *Clinical vs. Statistical Prediction,* (Minneapolis: University of Minnesota, 1954).

38. The erroneous prediction derives from the fact that both true and false cases in each prediction category "look alike" to the predictor.

39. Murray Cohen, et. al., "The Clinical Prediction of Dangerousness," *Crime and Delinquency,* vol. 24 (1978), p. 29.

40. Ernest A. Wenk, et. al., "Can Violence be Predicted," *Crime and Delinquency,* vol. 18 (1972), p. 402.

41. Robert R. Hold, "Clinical and Statistical Prediction: A Reformulation and Some New Data," *Journal of Abnormal and Social Psychology,* vol. 56 (1958), pp. 1-12.

42. Cohen, et. al., "The Clinical Prediction of Dangerousness," p. 31.

43. Vincent O'Leary and Daniel Glaser, "The Assessment of Risk in Parole Decision-Making," in Donald J. West, ed., *The Future of Parole: Commentaries on Systems in Britain and the U.S.,* (London: Duckworth, 1972) p. 182.

44. Meehl, *Clinical vs. Statistical Prediction,* p. 222.

45. Theodore R. Sarbin, "A Contribution to the Study of Actuarial and Individual Methods of Prediction," *American Journal of Sociology,* vol. 48 (1943), p. 601.

46. For a discussion of these studies, see Stephen E. Schlesinger, "The Prediction of Dangerousness in Juveniles: A Replication," *Crime and Delinquency,* vol. 24 (1978), p. 47ff.

47. *State and County Probation Systems in Crisis.*

48. *Ibid,* p. 53.

49. Quoted in Beverly Koerin, "Violent Crime: Prediction and Control," *Crime and Delinquency,* vol. 24 (1978), p. 52; see also Stephen D. Gottfredson and Don M. Gottfredson, "Screening for Risk: A Comparison of Methods," *Criminal Justice and Behavior,* vol.7 (1980).

50. Recently, the National Institute of Justice has funded a project to partially asses the practicality of a contingency-based prediction. See Todd R. Clear and S. Christopher Baird, *The Behavior Control Tolls of Probation Officers,* grant 83-IJ-CX-005.

51. See S. Christopher Baird, et. al., *The Wisconsin Workload Determination Project—Two Year Follow-Up,* (Washington, D.C.: National Institute of Corrections, 1982).

52. Michael Gottfredson and Don M. Gottfredson, *Decision-Making in Criminal Justice,* (Cambridge, MA: Ballinger, 1982).

53. Todd R. Clear and Kenneth W. Gallagher, "Management Problems in Screening Devices in Probation and Parole," *Evaluation Review,* 7 (1983), pp. 217-234.

54. Isaac Ehrlich, "Participation in Illegitimate Activities: Some Epirical Findings," *American Economic Review,* vol. 64 (1974), pp. 397-417.

55. William G. Nagel, "On Behalf of a Moratorium on Prison Construction," *Crime and Delinquency,* 23 (1977), p. 154.

56. Joan Petersilia and Peter Greenwood, "Mandatory Prison Sentences: Their Projected Effects on Crime and Prison Population," *Journal of Criminal Law and Criminology,* vol. 69 (1978), pp. 604-615.

57. Steve van Dine, et. al., "The Incapacitation of the Dangerous Offender: A Statistical Study," *Journal of Criminal Law and Criminology,* "vol. 14 (1977), p. 22.

58. Don M. Gottfredson, et. al., *Four Thousand Lifetimes: A Study of Time Served and Parole Outcomes,* (Davis, CA: National Council on Crime and Delinquency Research Center, 1983); see also Donald M. Barry and Todd R. Clear, *The Feasibility of Assessing the Effects of Sentencing on Criminal Behavior, Report to the National Institute of Justice,* (Newark: Rutgers University, 1983).

59. For a full discussion of this literature, see Todd R. Clear, et. al., "Managing the Costs of Imprisonment," *The Prison Journal,* (Spring-Summer 1982), pp. 1-98.

60. Paul Lerman, *Community Treatment and Social Control,* (Chicago: University of Chicago, 1975).

61. See, for example, S. Christopher Baird, *The Wisconsin Workload Project;* see also Barry and Clear, *Feasibility of Assessing the Effects of Sentencing.*

62. J. Banks, et. al., *Phase I Evaluation of Intensive Special Probation Projects,* (Washington, D.C.: U.S. Department of Justice, 1977).

63. See Baird, et. al., *Wisconsin Workload Deployment Project;* see also NY Division of Probation, *The Intensive Supervision Project,* (Albany, NY: Division of Probation, 1982).

64. Recently the National Institute of Justice has funded a series of projects to study community-based offender control methods.

65. The provisions of New Jersey's Intensive Supervision Project are based on this idea; see Administrative Office of the Courts, *Intensive Supervision Project,* (Trenton, NJ: Administrative Office of the Courts, 1983).

66. The latter model is the most frequently used approach under new, risk-based classification systems; see *Model Probation and Parole Management Project Handbook,* (Washington, D.C.: National Institute of Corrections, 1981).

67. For a discussion of this problem, see Robert M. Carter and Leslie T. Wilkins, "Caseloads: Some Conceptual Models," in Robert M. Carter and Leslie T. Wilkins, eds., *Probation, Parole, and Community Corrections,* 2nd ed., (NY: Wiley & Sons, 1976), p. 394ff.

68. This is discussed as a primary community supervision casework model in Todd R. Clear and P. Kevin Benoit, *Case Management Systems in Probation and Parole,* (Hackensack, NJ: National Council on Crime and Delinquency, 1980).

69. Frank Dell'Appa, et. al., *The Community Resource Management Team,* (Boulder, CO: WICHE, 1977).

70. Clear, Benoit, *Case Management Systems.*

71. Todd R. Clear, et. al., "Objectives-Based Case Management," *Criminal Justice Journal,* vol. 5 (Fall, 1982), pp. 69-94.

72. Shankar A. Yelaja, ed., *Authority and Social Casework,* (Toronto: University of Toronto, 1971).

73. For an excellent presentation of this argument, see Andrew von Hirsch and Kathleen J. Hanrahan, *The Question of Parole,* (Cambridge, MA: Ballinger, 1979).

74. Mark A. Neithercutt and Don M. Gottfredson, *Caseload Size Variation and Difference in Probation and Parole Performance,* (Washington, D.C.: National Center for Juvenile Justice, 1975).

75. Michael Lipsky, *Street-Level Bureaucracy,* (NY: Russell Sage, 1980).

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80. This is discussed by William O. Rich, et. al., *Sentencing by Mathematics,* (Williamsburg, VA: National Center for State Courts, 1983); see also Malcolm Freely, *Court Reform on Trail,* (NY: Basic Books, 1982).

81. Peter W. Lewis and Harry E. Allen, "Participating Miranda," *Crime and Delinquency,* 23 (1977), p. 75ff.

82. See, for example, Franklin E. Zimring, "Measuring the Impact of Pre-Trial Diversion from the Criminal Justice System," *University of Chicago Law Review,* 31 (May, 1974), p. 241ff.

83. David Duffee, *Correctional Policy and Prison Organization,* (NY: Halstead, 1975), p. 108.