RESEARCH ON CRIMINAL JUSTICE ORGANIZATIONS:
THE SENTENCING PROCESS

PREPARED UNDER A GRANT FROM THE DEPARTMENT OF JUSTICE

BERNARD COHEN
with the assistance of
STEPHEN H. LEINEN

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PREFACE

This report is one of several that appeared first as a background paper and then, in abbreviated form, as a chapter in a task force report entitled Criminal Justice R&D (National Advisory Committee on Criminal Justice Standards and Goals, Washington, D.C., 1976). Other reports prepared under similar circumstances are:


The main purpose of all four reports is to provide guidelines to R&D-funding agencies—i.e., those federal, state, and local agencies that make awards for, monitor, and evaluate R&D projects and programs. Such agencies include the U.S. National Institute for Law Enforcement and Criminal Justice, the criminal justice State Planning Agencies, and any number of local agencies that sponsor research. The present report, utilizing the sentencing process as an illustrative example, deals specifically with the problems that must be confronted when research is done on some topic concerning a criminal justice organization—i.e., a law enforcement agency, a court, or a correctional institution. In this type of research, special care must be taken so that both the research team and host agency can benefit from the research. The report describes some of the common problems that arise—before, during, and after the research—in trying to develop a collaborative relationship. The report then suggests several alternatives that might be encouraged by R&D-funding agencies.
The authors of this report were consultants to The Rand Corporation during the conduct of this study. Bernard Cohen is an Associate Professor, Department of Sociology, Queens College, City University of New York. Stephen H. Leinen is a homicide detective in the New York City Police Department and is completing his requirements for the M.A. in Sociology at Queens College.
SUMMARY

This study addresses the key problems and issues in conducting research on criminal justice organizations. The major topic areas covered are: (1) problems in research on criminal justice organizations; (2) key issues in research relating to sentencing, prosecution, and arrest; (3) selection of a research topic; (4) initiation of the research; (5) design of a research project; and (6) recommendations for conducting future research. Each topic is considered from the point of view of what an R&D-funding agency can do to improve the quality of research on criminal justice organizations.

Throughout this report, different facets of the sentencing process are used as illustrative topics. Sentencing was selected because it is one of the most critical issues confronting criminal justice organizations. Moreover, the methodology used for conducting research on the sentencing process may be applied to many other areas in the criminal justice system (e.g., arrest, prosecution, parole).

Problems in Research on Criminal Justice Organizations

In one sense, the problems confronting research on criminal justice systems are similar to those encountered for other research topics. At times, though, these problems may be heightened because of the need to develop a working relationship between researchers and criminal justice organizations. Such a relationship is nonexistent in other research areas, such as a study that merely analyzes the crime rates of different cities in relation to demographic characteristics.

One of the major problems concerns research access. Criminal justice organizations have traditionally been fearful of what they consider outside interference. As a result, many agencies have been reluctant, for a variety of reasons, to provide for researcher access to information. Therefore, successful pre-study agreement between the researcher and the subject organization is a necessity that confronts the research team. In addition, investigators conducting research on criminal justice organizations, in all likelihood, will have to establish a rapport with
agency personnel at all levels in the organization. And, should these attempts not succeed at one level, it is probable that access will be denied at other levels.

Other important problems in conducting research on criminal justice organizations may have to do with characteristics of the researcher, research continuity, ethical commitments, methodology concepts, measurement, implementation, and publication of results. It is suggested that many of these problems might be mitigated if: (1) researchers were sensitized to the operational constraints of the criminal justice agencies that they study; (2) host agencies developed a more sensitive posture toward research; and (3) both parties took the opportunity at the outset of the research to clear up any misconceptions and to establish important guidelines and requirements. R&D-funding agencies should assure that such guidelines have been followed in the course of developing proposals for new research.

Key Issues Relating to Sentencing, Prosecution, and Arrest

In large measure, research on criminal justice organizations focuses on decisionmaking as a process. Much of the criminal justice system can be defined in terms of the decisions to arrest, prosecute, and sentence, made by the police officer, prosecutor, and judge, respectively. Although the illustrative examples for this report are mainly drawn from sentencing, the discussion is intended to apply, in principle, to research on these other decisionmaking events.

For example, in all decisions, individual discretion plays an important role. Discretion refers to the amount of freedom a practitioner (e.g., judge, prosecutor, police officer) has in making a particular decision. Whether discretion is examined in the light of an arrest, a prosecution, or a sentencing decision, there are a host of legal as well as extra-legal factors that influence the decisionmaking process. These factors include the social context in which decisions are made, the nature of the offense (seriousness), administrative accommodation, opportunism, and information input. A study designed to examine discretion in one set of decisions will need to review the same influencing factors as a study geared to another set of decisions.
Other key issues considered include prediction of dangerousness (Is there a common definition of dangerousness? If not, how does it differ among various criminal justice agents?); disparity (inequality in dealing with perpetrators of similar offenses); corollary system effects (system interaction and feedback); locus of decisionmaking (Who should make the decisions regarding the offender?); and accountability (overseeing and reviewing the decisionmaking process). The main point is that, when research is done on a single agency or topic (e.g., sentencing), the methodology and principles of that study may be applicable to studies of other criminal justice organizations.

Selecting a Research Topic

One of the initial steps in the conduct of research is the selection of a topic. Besides such factors as the researcher's own interests and values, as well as the practical limitations surrounding a research project, R&D-funding agencies should encourage the researcher's final choice to be influenced by the following considerations:

- The gaps in the mass of existing knowledge and theory, especially where there is a paucity of research;
- The feasibility of the research;
- Any existing areas of ambiguity and conflicting results that demand further clarification; and
- The potential for research to promote policy change.

On the illustrative topic of disparity in sentencing, existing research has only focused on selected determinants of disparity: sociodemographic variables, legal factor studies, and human and personal determinants. Future studies could probe the attitudes of those doing the judging and the decisionmaking process itself, in order to show how different implicit theories of sentencing (based upon punishment, incapacitation, deterrence, or correction) affect the judicial decision. Sample research projects that may be useful in assessing decisionmaking problems include: the role of the legislature in sentencing; the impact of decisionmaking on the offender and other sectors of the criminal justice system; and the establishment of a procedure for reviewing sentencing decisions.
Initiating the Research

Initiating research on criminal justice organizations follows the selection of a research topic. One of the very first steps in initiating research is to establish a set of standardized definitions. On the illustrative topic of commitment sentences (i.e., a sentence in which the offender is committed to an institution), a major problem in research has been the absence of standardized definitions, including: dangerousness, recidivism, discretion, equity, proportionality, and period of follow-up. It is suggested that R&D-funding agencies encourage professional associations to establish glossaries of common terminology in various special fields. This would facilitate the direct comparison of research findings and, hence, the aggregation of research knowledge.

A second critical step in initiating research is to develop hypotheses for defining the scope of study, the appropriate research design, the data to be collected, and the nature of the data analysis. The process of hypothesis development can be illustrated by focusing on the commitment sentence controversy. In this area, hypotheses are based upon the general theoretical assumption that the judge's implicit goal of sentencing is one of the key variables in the sentencing process, and that it tends to determine the type of commitment sentence. Other hypotheses deal with discretion, equity, prediction, length of stay in prison, treatment programs, and political influence. These hypotheses lead to several fertile research studies, including prediction of dangerousness, comparative analyses, and the relationship between commitment sentences and time served. In general, R&D-funding agencies should make sure that, where appropriate, research studies begin with well-defined and meaningful hypotheses. Studies should be avoided in which hypotheses are merely listed in mechanical fashion and without serious theoretical implications.

Designing the Research

The design of a research study is often a complex affair that cannot be explained by a simple sequential process. However, the formulation of a research design usually should follow the selection of the
research topic, the development of compatible definitions, and the development of hypotheses. The problem of creating the appropriate research design can be illustrated with the topic of the consequences of sentencing. Sentencing consequences include commitment sentences, probation, parole, community-based corrections, milieu therapy, partial custody, casework, individual counseling, skill development, individual therapy, group psychotherapy, group counseling, leisure time activities, and medical methods.

Previous research has been greatly influenced by the works of Robert Martinson, which deal with the impact of various treatment programs on offenders. Tabulations and reanalyses of raw data provided by Martinson's study provide an opportunity to examine certain questions on research design. The findings underscore the importance of tailoring the research design to the action, treatment program, or phenomena under study. Several guidelines concerning the conduct of research are suggested for R&D-funding agencies to consider in reviewing proposals for new research: multiple outcomes should be used for criteria of success/failure, rather than a single one; sample populations should be homogeneous so that the effects of a mixture of characteristics of the study population (age, sex, ethnic background, and type of offender) do not distort the results of the evaluation; research designs should be selected based upon the objective criteria of methodological appropriateness and practical feasibility; the follow-up period should be long enough to assess reasonably whether the subjects violated the success/failure criterion; and the time in treatment should be of sufficient duration to assure that the subjects were exposed to treatment for the minimum amount of time required for it to take effect.

In addition, there are several nonexperimental techniques that may be useful for research on sentencing. These include: the case study, surveys, cohort analysis, cost-benefit analysis, operations research, systems analysis, and computer simulation. One important reason for considering such techniques is that they may often have a greater impact on sentencing programs and problems than controlled or quasi-experiments. The main features of several nonexperimental techniques, together with examples of applications in sentencing and other related criminal justice topics, are thus described.
Developing System Research Perspectives

Our examination of sentencing as illustrative of research on criminal justice organizations suggests that change in any part of the criminal justice system usually will produce changes at other points. Accordingly, research on criminal justice organizations needs to account continually for corollary and, possibly, counterintuitive effects in other parts of the system. Instead of narrowly focusing on single system components, such as law enforcement agencies, prosecutors' offices, courts, and corrections, it is suggested that future research deal with themes--such as discretion in decisionmaking—that cut across component boundaries in the criminal justice system. These systemwide studies would facilitate investigation of unexpected (and compensatory) effects in one part of the system by decisions taken in another part.
ACKNOWLEDGMENTS

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I. INTRODUCTION

Objectives and Scope

During the past ten years, a substantial number of studies has been produced that focus on criminal justice organizations—e.g., police departments, courts, and correctional agencies. Instead of merely emphasizing the causes of crime or the personal characteristics of the offenders, these studies have begun to examine the performance of system components and personnel in criminal justice organizations.

The purpose of this report is to describe the major problems and issues in conducting research on criminal justice organizations and to offer recommendations—as appropriate—as how best to deal with such problems. The sentencing process is used as an illustrative topic; it is our hope that as a decisionmaking process it can represent many similar processes, including arrest, prosecution, and parole, and that the lessons learned may be applicable to a wider range of criminal justice topics. It is further hoped that the material covered is sufficiently informative to assist the R&D policymaker and the broader research community in creating and promoting a system of long overdue research priorities.

An exhaustive treatment of all research issues and problems on either criminal justice organizations or sentencing is a vast undertaking and would fill several volumes. This was not the intent of this report, nor was it to provide a detailed prescriptive package on methodology or research design for those who have already accumulated substantial experience in criminal justice research. Rather, we wish to identify several important principles and guidelines that criminal justice planners, managers, practitioners, evaluators, and researchers may find useful. The main audience among these groups, however, is officials in R&D-funding agencies—i.e., those agencies that support R&D in criminal justice through the awarding of research grants and contracts.

This study is divided into several major sections, each dealing with a general problem in conducting research on criminal justice organizations. Section II focuses on the problems that are common to research on criminal justice agencies. Several major issues in research relating
to sentencing, prosecution, and arrest—all of which are considered key decisionmaking processes within criminal justice organizations—are described in Section III. Sections IV, V, and VI cover the selection of a research topic, the initiation of a research study, and the design of research on criminal justice organizations. Within each of these latter three sections, the discussion draws upon illustrative examples from the sentencing process. For instance, the section on selecting a research topic discusses the problem in terms of disparity in the decisionmaking process; the section on initiating the research deals with the issues surrounding commitment sentences, including the lack of uniform or compatible definitions; and the section on designing research studies incorporates material on the recent controversy over the consequences of various sentences. The goal of these three sections is to indicate the application of general methodological principles to concrete cases. Finally, Section VII provides the overall conclusions for research on criminal justice organizations.

Sentencing as an Illustrative Topic

The primary reason for selecting the sentencing process as the illustrative topic for this study is because sentencing is one of the most vexing and critical current problems for criminal justice organizations. The courts, corrections institutions, diversion programs, and police departments are all affected by the nature of the sentence. Nevertheless, existing research in criminal justice has granted little more than token consideration to the sentencing process and, by and large, has failed to provide guidelines to determine what to do with the offender. Such neglect seems paradoxical when considering the high priority granted to protecting the rights of the accused up to the time of trial (Frankel, 1973, p. vii). The point is not to minimize the importance of these basic constitutional protections, but rather to recommend a shift in the focus of research priorities in favor of a more critical examination of this enigmatic stage of judicial administration: the imposition of sentence. The sentence is, after all, the final decision made by the judge, within the relevant legislative mandate, that determines the conditions under which an offender will live much or all of his remaining life. In
one sense, the sentencing process is the gateway to the entire correctional system; a thorough understanding of penal and treatment methods requires knowledge of sentencing practices.

The significance of research into the sentencing process extends beyond the sentencing topic itself. Sentencing is but one of many decisions that are made within the criminal justice system. Besides judges, other actors within the system with significant discretionary authority are the legislators, police, court psychiatrists, probation and parole officers, and prosecuting attorneys. The criminal justice system may be interpreted as consisting of the collection of these decisionmakers and their decisions, and research that provides insights into the sentencing process may ultimately provide a better understanding of the entire system.
II. PROBLEMS IN RESEARCH ON CRIMINAL JUSTICE ORGANIZATIONS

Research on criminal justice organizations has its unique set of problems. The core of these problems revolves around the relationship between researchers and the criminal justice organizations that are the subjects of the research. The agency is usually a "host" to the researcher or research team in the sense that the research team will spend a considerable amount of time and effort conducting research on that agency. This requires a close relationship between the researcher(s) and host agency, which often involves the development of social relationships.

The importance of these relationships has frequently been overlooked. Often, the outcome of a study is a sense of regret by all concerned—the host agency feels that it has wasted time and had its objectives misrepresented, the research team feels that it has failed to develop an adequate picture of the problem or its solutions, and the funding agency feels that either no visible product may result from the effort or future cooperation may be jeopardized. Thus, researchers who perform this type of research are confronted with a number of important problems. These include access to data, negotiation, research continuity, ethical commitments, types of data, sample design, implementation, and publication of results. The purpose of this discussion is to review these topics briefly as reminders before initiating a new research study on criminal justice organizations. For greater detail, the reader is referred to the many textbooks and handbooks that exist on the topic (e.g., Franklin and Osborne, 1971; Sellin and Wolfgang, 1964; and Selltiz et al., 1967).

A. RESEARCHER AND AGENCY RELATIONSHIPS

Access to Data

One of the major problems in conducting research on criminal justice organizations concerns the accessibility of data. Many criminal justice agencies have traditionally been inaccessible to outside research
efforts. There are several reasons for this situation. First, the fact
that research has been suggested implies some dissatisfaction with exist-
ing policies and practices. Second, research is suggestive of the pos-
sibility of negative findings and subsequent recommendations for change.
Research into sensitive areas, for example, may result in public dis-
closure of mismanagement; waste in manpower, time, and facilities; im-
proper treatment of offenders; or other findings that may cause a
great deal of embarrassment to the agency. There is also the possibil-
ity that research may result in changes in traditional policies which,
by itself, may present a threat to agency personnel in the form of loss
of or diminished status, prestige, and job security. Researchers may
thus receive less than full support from agency staff.

Criminal justice organizations are fearful of what is often labeled
"outside interference" for other reasons as well. Many believe that re-
searchers are generally naive, inexperienced, and uninformed about the
"real" problems facing the agency. The organizations are, in addition,
skeptical and overly suspicious about the value of research and believe
that "outside" groups are often unjustly critical of existing policies
and practices.

Negotiation
To overcome some of these access problems, researchers will probably
have to negotiate with agency personnel at each level in the organiza-
tion. For example, an investigator who wishes to study police arrest
procedures must first gain the support and cooperation of the top ad-
ministrators and commanders for his project. The researcher must then
negotiate at each successive level down the chain of command. Moreover,
he will have to convince personnel at each level how the research will
benefit them. If he finds a hostile environment at the administrative
and managerial levels, he will probably find that this sentiment has
filtered down to the practitioner he wishes to study.

Successful access to agency data may be greatly facilitated if
both the researcher and the host agency develop a sensitivity to each
other's needs. Researchers should be willing to explain the purpose of
the research project, the aspects of the agency they intend to study,
how they plan to go about conducting the investigation, and what benefits 
might be derived from the effort. Extreme care should be taken not to 
misrepresent the design or the objectives of the study. Cooperation of 
staff members may be greatly enhanced if the potential value of the study 
is first demonstrated to those in managerial positions before other mem-
bers of the agency are contacted directly.

R&D-funding agencies could also assist in the total research en-
deavor by helping to establish favorable relationships between research-
ers and host agencies. For example, by ensuring that written agreements 
are strictly adhered to in sponsored projects, funding agencies may 
alleviate the fears that have traditionally hindered successful access 
and negotiation in the past.

Researchers who are investigating some topics in criminology may 
not encounter as frequently the problem of successive negotiations. 
When the research objective is to collect data on victims of crime, de-
linquency, homicide patterns, crimes associated with drug addiction, or 
other areas of criminological concern, the investigator often may not 
even need to negotiate with an agency; much of this information is avail-
able from data sources on the national, state, and municipal levels. In 
those few instances where vital information can be obtained only from 
agency sources, the matter of access may often be handled at the admin-
istrative level without having to negotiate elsewhere.

**Characteristics of the Researcher**

The ultimate success or failure of a research project depends, to 
a great degree, on many personal and practical considerations, one of 
which is the willingness of the researcher to sensitize himself to the 
needs and objectives of the organization. For example, administrators 
will frequently insist that the researcher work within the general frame-
work of traditional policies. On the other hand, researchers may want 
to challenge these established policies. A balance must eventually be 
struck, and this may mean that, in some instances, the researcher will 
have to be flexible in return for acceptability.

Personal values and the ideological views of the researcher toward 
a specific agency or client group are also important dimensions to be
considered. For example, a researcher may hold biased views toward specific agency or client groups. There is the strong possibility that these sentiments will adversely affect the researcher's measurements and, thus, the research findings. It is important, therefore, that research administrators establish the importance of neutral roles among all research practitioners involved in the project. Those personnel who evidence signs of extreme loyalty or hostility toward groups who are the objects of the study (e.g., police, offenders) may have to be taken off the project unless it can be clearly demonstrated that their attitudes will not significantly affect the validity or integrity of their measurements.

The appearance and demeanor of the researcher may also constitute critical intervening factors in promoting viable relationships and valid research findings. It may prove unwise, for example, to send a researcher dressed in patched dungarees and sporting shoulder-length hair to interview and observe police, and expect to gather reliable and impartial data. It is quite possible, however, that this type of appearance may be more acceptable when dealing with other agency or client groups (a possible topic for research).

Finally, although it is important to ask what the researcher can do to help establish an effective relationship, it is equally important to ask what the host agency can do in terms of assisting the research team. Agency personnel should be expected to approach the research situation and the involvement of the researcher from an objective position rather than allowing predisposed attitudes and personal predilections to enter the situation and possibly to invalidate the study's findings.

Continuity

Research in criminal justice organizations generally involves substantial contact between researcher and subject. One reason is that much of the time spent by the criminal justice investigator is devoted to gaining the cooperation, confidence, and trust of agency members. Only then can he begin the task of learning the informal operations and "real" problems associated with the administration of criminal justice.
One useful approach is that serious consideration be given to the establishment of workable relationships with agency personnel who are also students working toward graduate and doctoral degrees in criminal justice and related fields. For example, officers who hold administrative or supervisory positions within criminal justice organizations could serve as assistants and collaborators in funded and non-sponsored research. By being part of the research team, such practitioners would come to view both the project and the goals of the research staff from a dual perspective and may provide the necessary continuity.

**Ethical Commitments**

Several major ethical issues in research involving human subjects include confidentiality, subjects' rights and welfare, the risks and potential benefits of the experiment, informed consent, and scientific integrity. Although these issues apply to many research projects in the behavioral sciences, they are particularly salient in criminal justice, where human subjects are often prisoners—who have less power and control than ordinary citizens—or practitioners—who may have unusual power. Prisoners, for example, may be viewed as unable or unwilling to consent to experiments because of their situation. Prisoners' decisions to participate in a research study may be made based upon their belief that involvement will favorably influence their futures, where, in fact, no such promises have been made.

The researcher may also find that he is highly dependent upon practitioners for continued cooperation and support. Moreover, the persons who control data access may themselves be the subjects of the study. In sentencing, for example, judges may not only have influence over who can obtain data, but they may also be the research subjects. They may not cooperate unless they can structure the research plan or exercise control over the research program. The researcher, in good conscience, may be forced to revise certain parts of the study in order to obtain permission to conduct the investigation.

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1. This topic has been covered in greater detail in National Advisory Committee on Criminal Justice Standards and Goals (1976).
A researcher or research team might also encounter ethical problems resulting from confusion over research and non-research roles. For instance, criminal justice researchers who are funded by, work closely with, or are employees of agencies whose functions include law enforcement, can encounter ethical problems when they appear to assist enforcement of the law against a particular individual or organization. While most researchers should support the objectives of enhancing the effectiveness of the criminal justice system, and recognize their constitutional duties to do so, the progress of research may be undermined by failure to distinguish between their roles as researchers and other roles of criminal justice agency personnel. Although the burden of maintaining this distinction falls on both researchers and agencies, researchers who study any type of organization (not just criminal justice agencies) should guard against having to take on any non-research roles or even appearing to do so.

Jerome Skolnick (1966) has described some of the ethical dilemmas faced by a researcher engaged in participant-observation in a police department. On one occasion, a researcher was asked to drive a stake-out van because it was unlikely that he would be recognized. For similar reasons, he was asked to walk into a bar to determine whether a certain suspect was present. On other occasions, detectives asked for his judgment as to whether the evidence at hand was adequate to justify arresting a certain suspect, or suggested that he offer himself for solicitation by a prostitute.

Criminal justice researchers, especially those engaged in participant observation, case studies, and surveys, are more likely than other researchers to come into possession of evidence that a crime has been committed or is about to be committed, or that a certain person has violated a serious agency regulation. Such situations pose extremely delicate issues of ethical conduct that cannot be resolved by any set of rules.

Nevertheless, there are general guidelines that could assist the researcher in resolving some of the basic issues discussed in this section. First, research that may violate the rights of client groups
(e.g., offenders, inmates) should be conducted only with the explicit approval of the subject and according to the guidelines set by professional organizations established for this purpose. Researchers should be aware of new regulations and developments concerning the subject's "privacy" or "protection" so that they can know what is expected of them. Second, agencies that sponsor studies or that work with researchers who have received outside funding should respect the ethical principles under which the investigators must operate; this includes protecting their sources of information from disclosure. Criminal justice practitioners, especially, should not expect researchers to serve as agents or in any other non-research capacity. Researchers and host agencies should, however, review the methodological approach of proposed studies where such problems may arise and introduce techniques that, consistent with the research objectives, minimize the chances for obtaining knowledge of specific acts. For example, statistical methods have been developed to obtain valid conclusions from a survey in which a subset of respondents, selected at random but with known probability, is instructed to answer a specific question falsely, or to answer an irrelevant question rather than one on the survey instrument (Boruch, 1971). In this way, it is possible for the researcher to estimate the fraction of a sample that committed a certain crime without knowing whether any particular respondent did so.

B. METHODOLOGICAL CONCERNS IN RESEARCH ON CRIMINAL JUSTICE ORGANIZATIONS

Types of Data

There is generally a choice among methods that can be used in conducting research on criminal justice organizations (Cuttentag and Struening, 1975). In choosing the most appropriate design, the researcher should consider the following factors, each of which may exert considerable influence on the final decision: (1) validity and reliability of the data, (2) cost, and (3) length of time required to complete the study.

Nature and Limitations of Official Data. The use of officially recorded data in the conduct of crime-related research has been the
subject of considerable controversy among criminal justice researchers (e.g., Lejins, 1967). Of particular concern to those who have criticized the use of official data is the "questionable" validity (and reliability) of this source of information.

The assumptions underlying these criticisms are based upon the "relativistic" approach to the understanding of social phenomena. This model supports the notion that social meanings (e.g., given events, definitions of criminal categories) are not "absolute," but rather "situationally" determined, and cannot be adopted equally across society. For example, a criminal offense defined as a felony in one jurisdiction might be labeled a misdemeanor in another. Similarly, for some members of the criminal justice system, an event may be a crime (e.g., murder), while for others defining the same act, it may be an accident or even a suicide. Supporters of the "relativistic" model claim that officially controlled data reflect the problematic nature of official definitions, which mirror differences in the official labeler's perceptions of social events. Consequently, the use of these data without first critically examining them may result in conceptual definitions, theoretical models, and statistical inferences that may be invalid and unreliable.¹

Other criticisms focus on the "selective" nature of official data. For example, the American Bar Foundation argues that "accommodations in police and court practices adversely affect the reliability and validity of criminal statistics. Some offenders are excluded from official reports even though known to be guilty" (Kitsuse and Cicourel, 1972, p. 251).

Perhaps a more serious charge concerns another type of bias in "officially recorded" crime figures—the implication that they fail to present a true picture of the criminalization in our society since they constantly underrepresent the total amount of crimes—the so-called "dark numbers"—at any one time.

In spite of the warnings concerning the use of official data, crime-related research still relies heavily on information that has

¹For an excellent discussion of the "relativistic" approach, see Douglas, 1971.
been officially collected and recorded. Some advantages may be readily apparent, others may not. For example, the use of official data constitutes a relatively inexpensive approach, because the researcher is able to bypass much preliminary fieldwork and proceed directly to the data analysis stage. Official data may also be useful as a supplement to other research techniques and may serve to fill in gaps in existing knowledge. Perhaps the most important reason for using official data is that, in studying certain types of problems related to criminal justice systems, the researcher may have no other choice. For example, time series studies or cross-cultural analyses of sentencing procedures usually will require data that may be inaccessible through new research.

Data Collected at the Agency Level. In much research related to the administration of criminal justice, investigators must eventually turn to local agencies for their data. In addition to the problems described earlier, retrieving usable data from operating agencies can present other problems.

Research proposals are sometimes based on the assumption that agency data are easily located and collected for analysis. Quite often, however, the researcher will find required data are not as readily available as he believed. Locating data files may present a difficult problem in itself. Even when files are located, persons in charge may deny access to the researcher, stating that the information is too "sensitive" to be released under any circumstances. If access to the files is granted, the researcher may still be confronted with problems concerning the nature of the data. In some instances, the circumstances under which the information was collected may not be known to the fileholder or he may be unwilling to specify them. The researcher may also discover that certain files are missing, altered, or incomplete—factors that may seriously affect the findings.

Operating agencies frequently fail in their attempts to define terms clearly. Records and reports may contain conceptual terminology that is ambiguous and unusable. Or, coding operations utilized in recording original data may have obscured variable distinctions required for the study. In addition, coding manuals may have undergone several revisions, and the present holder of the file may have retained only the latest copy.
In many instances, the researcher may be forced to use whatever sources of data are available or to consider alternative approaches in securing the required information. It is recommended, nevertheless, that some of the problems presented in this discussion can be resolved if the researcher first prepares a list of all required data and submits this list to appropriate agency personnel for consideration. R&D-funding agencies sponsoring studies that clearly intend to utilize data obtained directly from operating agencies could ensure that this step is carried out as part of the research design.

**Data From Other Sources.** Questionnaires and interview schedules that are characterized by well-developed principles of design have come to be associated with theory building and hypothesis testing. While the two are considered similar in underlying logic, they differ in that each may be more appropriate in examining different issues and each has its own distinct limitations.

The questionnaire has several advantages over other data gathering techniques. It is generally less expensive, requires less skill to administer, and can cover more topics than other methods. Of equal importance to the criminal justice researchers are the limitations associated with this method. For example, questionnaires submitted to criminal justice practitioners frequently suffer from high rates of non-response--a problem that can be most serious in those inquiries in which "representativeness" is essential;\(^1\) on the other hand, this problem may be less significant if the objective of the study is hypothesis development or if the researcher simply wants to gain some insights into the problem area under investigation. In any event, criminal justice researchers should be aware of those factors that promote high rates of non-response, such as (1) appearance of the questionnaire (e.g., too lengthy), (2) lack of conceptual clarity in the use of terminology, (3) lack of interest in the subject matter, and (4) fear of reprisal should the respondent's identity become known. Although the latter problem may be somewhat more difficult to overcome when dealing with criminal justice operatives, other instrumental problems may be

\(^1\)For a discussion of this see Hagan, 1974a and 1974b.
resolved if the researcher develops a sensitivity to and understanding of the practitioner's role within the organization and structures the questionnaire accordingly.

Unlike the questionnaire, the interview is easily adapted to different situations; it allows probing and may be especially advantageous in exploring sensitive areas in which little formal knowledge has been gained (e.g., the present state of relations between black and white police officers). However, as with the questionnaire, the interview has limitations. For instance, it is a far more costly and time-consuming technique than the questionnaire. And, perhaps more important from the standpoint of reliability and validity, biases may be unconsciously—or even purposely—projected in the interview situation. For example, the interviewer may deliberately or unintentionally attempt to manipulate the respondent into answering in a desired manner. In addition, responses may be significantly influenced by the social status of the interviewer (e.g., sex, color) (Williams, 1971, p. 387).

Researchers should be cautioned beforehand about the likelihood that there is no strong incentive for agency personnel to provide information. Forthright responses could even serve to initiate or promote precisely those changes in procedures and policies that agency members have fought to protect. Indeed, practitioners at all levels may be less than candid if they believe that their behavior or responses may alter established practices or affect the security of their positions.

When using interviews or questionnaires in the research design, criminal justice investigators should be sensitive to those factors that produce bias, distort results, and invalidate the scientific usefulness of the study.

Participant-Observation Data. In criminal justice research, as in other areas of social inquiry, information that may affect the validity of a study's findings is often hidden from or inaccessible to the investigator utilizing traditional quantitative research techniques. Participant-observation is an advantageous approach that allows the researcher to uncover latent factors by participating in or spending time observing the normal flow and sequence of events in social interaction. For example, existing evidence is unclear as to the extent to which
personal or extra-legal factors influence the decisionmaking process at each level in the criminal justice system. Statistical procedures that control for legal factors still leave the researcher with much to explain in terms of the effect of extra-legal variables (e.g., self-serving interests). By utilizing the research strategy of participation, observations can be made and interpreted at the time decisions are actually made. Hidden factors may be uncovered, accounted for in terms of some theoretical model, and then subjected to more rigorous testing.

The criminal justice researcher who intends to use participant-observation should be cautioned that gaining direct access to observe the behavior of practitioners may present a formidable obstacle. Should permission be granted to observe practitioners in their working environment, the researcher must be extremely careful to maintain some balance between total involvement and extreme detachment. Adherence to one position or the other may result either in considerable loss of perspective or in severed ties between observer and practitioner(s). Also, the mere presence of the observer may itself alter the behavior of the subjects.

Sample Design

Sampling. A proper sample should reflect the precise and systematic formulation of the objectives of the study. Although decisions necessarily reflect both cost and time factors, samples should be chosen so that they yield the necessary information with the required reliability.

The probability sample is a fundamental property of inferential statistics. That is, if the purpose of the study is to engage in generalizations, the researcher must attempt to meet the sampling assumptions implied in such inferences. Generalizations are based upon the assumption that some form of random selection was employed in choosing the cases under study. Random selection makes it possible to calculate the probability that the sample will reflect characteristics of a specific population (Franklin and Osborne, 1971, pp. 161-162).

Non-probability designs include convenience, availability, quota, judgment, and snowball sampling. While the researcher might argue that these samples are just as representative of the universe as are samples
that are drawn in random fashion, there is no way of knowing with any probability how correct this argument is. It would be inappropriate, therefore, to attempt to establish relationships between universe characteristics based solely upon non-random selections.

Sample Size. The following general principles may be useful in selecting the most appropriate sample size. First, there is no economy in drawing a sample that is too large, nor is it wise to take one so small that it does not yield the required precision. Although small samples have a larger margin of error, as sample size increases, there is a declining marginal utility in terms of accuracy (Finsterbusch, 1976). Small samples can also be used as a quick and inexpensive method for checking the accuracy of the judgments of agency personnel. Moreover, a small sample can be used for pilot studies or as a sequel to a large project to explore interesting hypotheses. Several statistical procedures may be used with small samples, including the t-test and non-parametric tests, and the researcher should consult the relevant sources to determine the appropriateness of a particular technique (Anderson and Zelditch, Jr., 1968; Federighi, 1950; Finsterbusch, 1976; Siegel, 1956; and Blalock, 1960).

Second, the researcher should carefully examine the characteristics of items in the population he wishes to study. One general rule to follow is: the more homogeneous the items, the smaller the sample needed. Conversely, large variations in universe values require correspondingly larger samples to ensure representativeness. Thus, if the sample items are to be broken down into smaller categories, the sample size will have to be increased to ensure subgroups that are large enough for separate analysis.

A final consideration regarding sample size should be the level of accuracy required in the study, mainly as weighed against the cost of having a large sample. The size of the sample may be decided by defining how large a sample error can be tolerated. As the sample size

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1When using information interviews, the researcher may decide to stop interviewing additional persons when he finds that little or no new information is being added to that which he has already collected.
increases, sampling errors decrease, and the estimated sample values tend to approach true population values. This principle generally holds only with random samples, however; for non-random, biased samples, there is no safety in numbers.

**Implementation**

One of the main assumptions underlying support for studies in criminal justice is that new research will promote new knowledge concerning the offender and the criminal justice system. It is hoped that this knowledge will lead to more effective programs and policies. Yet, in spite of the fact that much knowledge has been gained, many agencies still pursue policies that are essentially anachronistic and ineffective. One explanation for this state of affairs lies in the failure of many criminal justice organizations to adopt and implement potentially useful research recommendations. Some factors that interfere with this process include: poor communications between researcher and agency, research results that have low immediate utilization potential, high cost and impracticality of adopting alternative programs, and untimely presentation and publication of findings that are critical of existing agency practices.

**Communication.** Failure to implement research recommendations frequently arises from poor communication between researcher and host agency. There are several broad aspects to this problem. First, agency problems and goals are often unsuccessfully transmitted to researchers. Similarly, researchers often fail in their attempt to articulate the objectives and logic behind the research effort. As frequently happens in these instances, findings and recommendations bear little or no relation to immediate operational issues. Second, there may be an absence of "common technical language" between researcher and agency administrators, which may prevent recommendations from being utilized. Many reports, for example, are overly theoretical and abstract, making it difficult for administrators and practitioners to understand, let alone utilize the reports' findings. Third, "report titles" often do not suggest any direct connection with specific agency problems. These studies are
frequently overlooked or disregarded by administrators. Of greater importance, perhaps, is the fact that some studies have simply failed to discuss in sufficient detail how recommendations could be implemented. In fact, many reports have ignored the utilization process entirely.

Criminal justice researchers could individually assist in the implementation process by avoiding overly theoretical reports when addressing operational issues. They should be capable of generating understandable, feasible recommendations that can be utilized and later evaluated. Researchers should, in addition, make some effort—where possible—to direct reports dealing with specific agency-related issues (especially operational issues) to those administrators and practitioners who would best be served by the reports' findings.

An alternative approach might be to place more emphasis on communication media other than final written reports. Some options open to researchers include periodic briefings, demonstrations, workshops, and conferences where findings and implementation strategies can be discussed and evaluated by both researcher and practitioner. A final strategy is to promote the development of research and implementation capabilities within local organizations. R&D-funding agencies might sponsor the further training of agency members who have acquired the appropriate academic credentials in the areas of research methods and theory.

Objectives of Research. Although the immediate goal of some studies dealing with system-related problems is utilization, the objective of other research is simply to understand some system or structure. This latter type of research, although legitimate from a scientific standpoint, may in fact have little practical utility for the practitioner. One solution would be to encourage researchers to design studies that not only would preserve the researcher's basic interest in understanding social phenomena, but would also satisfy an agency's needs. R&D-funding agencies should insist that proposals submitted for consideration indicate how the researcher plans to address the specific operational problem in question, to ensure that sponsored studies are in a form that can be used by criminal justice organizations.
Cost and Political Feasibility. Researchers should be open-minded when addressing the issue of cost, inasmuch as considerable time and money may be invested in developing what appears to be an effective program, only to find that the cost to the public in terms of implementing such a program is prohibitive. For example, it may be shown that one of the most effective means of deterring specific types of criminal behavior is to modify the existing plea bargaining system so that more suspected offenders are tried in an adversary manner. The resulting cost to the public in terms of additional manpower and facilities may be so high, however, as to render such an implementation unfeasible.

Similarly, the political feasibility of adopting specific changes in agency policies should be addressed prior to undertaking any major research endeavor. Innovations that involve substantial changes in existing systems or which, if implemented, might pose a threat to established policies and practices may raise complex issues involving unions and collective bargaining. In the end, the researcher must face the fact that many issues are bound together by scientific and political considerations and he should be prepared to deal with any problems resulting from this fact.

Publication

A problem common to much research dealing with service organizations is the possibility that the findings will run counter to agency expectations or be severely critical of existing agency policies and practices, or both. By publishing these findings, the researcher runs the risk that the agency concerned will publicly challenge the findings, criticize the research staff, and refuse to accept any recommendations or implement any suggested programs. This problem can become severe in those instances where the researcher anticipates severely critical findings and fails to inform the agency prior to publication. If informed, agency administrators are given the chance to deal with the problem or, at least, offer an explanation for some situation. The researcher also runs the additional risk that access to agency data will be denied to himself or any future researchers.
It is strongly suggested, therefore, that prior to initiating any study involving criminal justice agencies, written agreements be prepared between researcher and agency administrators concerning matters of publication and dissemination. Furthermore, it should be an obligation on the part of the researcher to inform members of an agency under study as early and as frequently as possible, through interim reports, as to the study's progress, direction, and findings to date.

Although researchers may have an obligation or right to publish findings that may be in the best interest of society, they also have a responsibility to the agency who sponsored or hosted the study and to their colleagues. It is further recommended that the publication of critical findings even be delayed until the agency has had a chance to take some positive steps to implement alternative programs or policies, or at least to determine a future plan of action. Sensitivity on the part of the researcher as to the timing of publication may go a long way toward promoting utilization. One alternative strategy that may offer a practical solution to the above problems is to disguise the identity of the agency under study. However, this may be impossible if the locale of the study is commonly known or can easily be inferred from the data.

C. SUMMARY DISCUSSION

Many of the difficulties discussed in this section might be mitigated if researchers were sensitized to the operational constraints of the criminal justice agencies they study. In many ways, it is this sensitivity that distinguishes an experienced researcher from a novice.

In order to ensure that researchers are competent, experienced, and informed, existing educational programs for researchers should be broadened to include relevant courses, on-site projects conducted in cooperation with an operating agency, internships, and exchange programs. These programs should stress the necessity of developing a viable relationship with the host agency during the planning, conduct, and follow-up of a research study.
The host agency also plays a significant role in the research relationship. Host agencies should develop a more sensitive posture toward research, in which the objectives of the research and the credentials of the researchers are not stereotyped, but are evaluated for each new proposed study.

Even after there has been an initial acceptance of some proposed research project, there is an important role for the host agency to play. One approach is to make explicit, before work begins, the guidelines that each party intends to follow. These guidelines should address specific matters regarding the research, such as the data to be collected and the procedures to be used, and the extent to which data may be regarded as confidential by the researchers (to be withheld even from agency administrators). Agreements should also be reached at the outset of the study regarding the extent of the agency's participation in the project, and the implications such participation may have on its available resources. The point is that there should be a clear understanding on the part of the researcher and the host agency on these and other issues of mutual concern before work gets under way. Host agencies should be sensitive to the fact, however, that obtaining assurances from the researcher at this time could also have the effect of modifying either the scope or nature of the proposed research. For example, by insisting that no data obtained in the course of the investigation be held confidential from the agency, the very purpose of the research could be undermined simply by making such data impossible to collect.

In the final analysis, virtually no research that involves a criminal justice organization is possible without the implicit consent and cooperation of the host agency. Both the quality of the research effort and the usefulness of the results depend in large measure on the receptivity and sensitivity of the agency to the researchers. While there is no panacea to resolve the many differences that exist between researchers and host agencies, both parties should take the opportunity at the outset of the project to clear up any misconceptions and to establish important guidelines and requirements. This negotiation can form the basis of a productive and mutually satisfying partnership for the duration of the project.
III. ISSUES IN RESEARCH ON SENTENCING, PROSECUTION, AND ARREST

This section deals with a brief analysis of eight major research issues in sentencing. Since sentencing is only an illustrative topic, the discussion is intended to be applicable to other functions of criminal justice organizations—e.g., arrest and prosecution. The eight issues are: aims of sentencing, discretion, attitudes, prediction of dangerousness, disparity, corollary system effects, locus of decision-making, and accountability.

Aims of Sentencing

The question of what to do with the offender is one of the most volatile issues in American society today. At present, we are confronted with conflicting theories of punishment and corrections.\(^1\)

Despite its obvious importance, there is no agreement as to the social goals of sentencing. While some argue for retribution or incapacitation, others insist deterrence or correction should be the major purposes of sentencing. The absence of consensus as to the social goals of sentencing is one of the major problems of the judicial decision-making process. Even if we were to identify the purposes of sentencing, we still would not have the knowledge to estimate the impact of the sentence on the offender or potential offenders. In other words, little evidence, if any, exists as to the effectiveness of penal and correctional measures to achieve sentencing goals, and judges rarely learn about the consequences of their decisions.

Because policies have so far failed to define clearly the purposes of sentencing, a judge may select what he personally feels is the most worthy goal. He may opt for rehabilitation, in which case he may choose a sentence that he believes will promote future integration into the community. He may seek vengeance and retribution and, thus, impose lengthy mandatory sentences—in spite of the fact that these dispositions may be harmful to the offender. Or, he may select a disposition that he feels will serve to deter others from committing similar crimes.

\(^1\)A brief recent review of the controversy is found in Lejins, 1976.
A related problem is that different aims of sentencing have not been considered together with regard to the effects that they have on each other (Lejins, 1974). Major sentencing aims include punitive sanctions (e.g., vengeance, retribution), special deterrence (i.e., deterring the offender from subsequent crime), general deterrence (i.e., deterrence of potential criminals), incapacitation (i.e., removing the offender from society), and correction (e.g., cause-removing).¹ Current practice is to consider each of these goals one at a time. Also, different agencies of the criminal justice system are oriented toward accomplishing only one of these five objectives, rather than promoting rational coordination of these aims. Research should be undertaken to determine the effects of achieving each of these objectives separately and in combination, so that each agency will know how its actions ultimately affect other parts of the system. Most existing research has dealt with evaluation of cause-removing procedures, but little research has been conducted to determine the effects of various sentences.

Discretion

Discretion refers to the amount of freedom or latitude afforded a decisionmaker in making a particular decision. The exercise of discretion at each stage in the criminal justice system has been recognized for some time (Dawson, 1969, p. xix). It has not always been exercised with equity and fairness. It is essential to know what abuses exist in which parts of the system, why they exist, who stands to gain or lose (e.g., practitioner, system, offender, community), and what, if anything, can be done to control or eliminate abuses.

Due to the wide discretion that is inherent in their official positions, law enforcement agencies can choose among alternative actions with regard to the offender. For example, police departments have broad powers in handling the accused. At the street level, the police can either arrest or release the individual, mete out their own brand of informal justice, or ignore the matter completely. Also, after the suspect has been booked, he may be placed in detention or released with a citation or summons.

¹There are other sentencing aims (e.g., denunciation and expiation), but the ones described here are considered among the most important.
The courses of action open to prosecutors resemble, in many ways, those of the police, except that prosecutors cannot simply overlook the matter. They can, however, drop charges, determine charges, divert subjects, apply various techniques to dissuade prosecution, and influence how the case will be handled in court. They can also recommend dispositions to the sentencing authority.

Judges similarly exercise broad discretion with regard to alternative sentences and length of commitment. Yet, this discretion is partly limited by the fact that they, like prosecutors, cannot simply ignore a case, nor can they dispose of a matter as the police sometimes do.

Whether discretion is being studied in light of arrest, prosecution, sentencing, or parole, there are several factors related to the discretion with which the decision is made. These factors include the social context in which the discretion is exercised, the nature of the offense, administrative accommodation, opportunism, and the quality and amount of information deemed relevant for the particular decision.

Social Context. The social context in which decisions are made is a significant element of discretionary power. For example, police generally operate in the informal atmosphere of the street, where decisions are almost always made privately, rather than publicly.¹ These decisions often involve immediate assessments of a situation and it is generally believed that the officer's definition of the situation establishes the boundary between legal and illegal conduct. Because police, for the most part, operate on the street, rules that govern their behavior often assume greater flexibility and become subject to less intense scrutiny by superiors and the public than if they worked within the close confines of a precinct or courthouse. Should a police officer decide to overlook or ignore a criminal occurrence, there may be little risk that anyone will be the wiser.

In contrast, decisions by prosecutors are made in more formal, confined public settings, where behavior can be potentially monitored and

¹Decisions are "private" in the sense that they are reached alone or between two members of the same organization. Police officers generally share similar values and attitudes and feel that they can trust each other not to divulge police business to outsiders. A "private" decision may never be disclosed to the public.
scrutinized and where rules can be more easily enforced. Owing to the nature of the social setting in which prosecutors operate, a case usually cannot be overlooked. A charge can be dismissed through lack of evidence, on the grounds of improper search, or because witnesses or victims fail to appear, but it cannot be ignored.

Decisions regarding the sentencing of convicted offenders are made in formal, public settings, where judicial behavior is more visible and, therefore, more accountable. A judge's decision is always made public. The judge must consider the facts supplied not only by the prosecutor, but also by the arresting officer. Judges cannot ignore a case or dispose of it informally in "back alley" fashion. Even plea bargaining involves interactions with other people, and a judge cannot act alone in making a decision. The social setting in which judges and prosecutors exercise discretion is indeed a limiting factor in how they may deal with an offender; yet, despite this limitation, much discretionary power remains.

Nature of the Offense. There is little doubt that the seriousness of the offense plays a major role in most sentencing decisions. Generally, serious offenses incur severe sentences. As offenses increase in seriousness, judicial discretion often decreases. For example, it is not likely that offenders convicted of armed robbery, kidnapping, or assault with intent to kill will be dealt with leniently or granted probation in most courts. In like manner, it can be argued that in establishing priorities of police enforcement and considering dispositions for offenders at the charging stage, more severe penalties are generally accorded to more serious offenses.

Administrative Accommodation. One of the major problems facing most American communities today is the overworked, understaffed criminal court system. Statistics indicate that, although crime and arrest rates are rising, the public is unwilling to divert the necessary resources to criminal justice agencies to keep up with these increases. The result is a mounting backlog of cases, overburdened court systems and personnel, and prisoners confined to detention facilities awaiting trial for as long as a year. Moreover, this backlog of cases may not be due to
the fact that most cases are handled in an adversary manner; in fact, in
many courts, only one of ten defendants demands and receives a court
trial by jury. The remaining nine cases are disposed of through plea
bargaining, in which reduced charges and lighter sentences are imposed
—at great budgetary savings to the state. What would happen if we were
to reduce this 90 percent figure by persuading more defendants to take
their cases to trial? Chief Justice Warren E. Burger gives us some in-
dication of the increased cost when he suggests that "a reduction in
guilty pleas from 90 percent to 80 percent would require the assignment
of twice the judicial manpower and facilities and would throw the system
into chaos" (American Friends Service Committee, 1971, p. 139). It is
not surprising, therefore, that judges and prosecutors are under tremen-
dous pressure to exercise discretion by handling the majority of cases
that come before them as expeditiously as possible—even if it means
sacrificing the ideals of due process and justice.2

Opportunism. Personal considerations may also influence decisions
made by judges, prosecutors, and police. Magistrates are elected or
appointed officials and, as such, are probably keenly aware of the in-
terests of their political sponsors in utilizing discretion in sentencing.
The extent to which political favoritism influences judicial decisions
is not clear and requires careful research. Smith and Blumberg (1971,
p. 486) comment on this form of judicial discretion by suggesting that
a judge

may not wish to offend those who have contributed to his past,
or may control his future when he comes up for reappointment
or renomination. . . . Inasmuch as judgeships are often likely

1 In some courts, 20 percent of the defendants receive a trial by
jury. See the President's Commission on Law Enforcement and Adminis-

2 In some juvenile courts judges mete out dispositions according to
available space in correctional institutions. Once the quota has been
reached for the day, judges are likely to dispose of the remaining cases
with nothing more severe than a warning to the offender. Unfortunately,
most cases involving indigent juveniles are assigned legal aid and are
generally the first to be called on the calendar. Private attorneys,
on the other hand, are aware of this system and can postpone cases until
the afternoon when there is a very good chance that the vacancies in
correctional facilities will have been taken (Dawson, 1969, Chapter 6).
to be political rewards, there is likely to be an assumption of repayment by the judge for the reward. . . . Appropriate repayment may be in the form of judicial sympathy for the interests of the sponsor or former associates of the judge. . . . In point of fact, the "easy decision" is the only one that is politically inspired in terms of a visit to the judge's chamber by the politically visible lawyer who represents a defendant awaiting pleading or sentence.

Prosecutors may also exercise discretion from a personal point of view. The plea bargaining system serves to expedite the handling of numerous criminal cases, thereby allowing the courts and prisons to be operated with more assumed efficiency. There is, however, another consideration that must be taken into account in explaining the prosecution's "unofficial" stance on bargain justice. This is the "negotiability" of a high conviction record. Prosecutors, like judges, are selected or appointed agents who are often politically mobile. They may seek voter support for legislative posts or judicial appointments and want to cite superior conviction records for their supporters (Bloch and Geis, 1970, p. 412). In some jurisdictions, individual success may be measured in terms of the number of convictions the incumbent official has managed to obtain. In other communities where re-election and political appointment are based on one's record of achievement, convictions take on central importance.¹

Police also operate, at times, under the influence of personal motivations in which decisions regarding an offender are affected by career factors, including the possibility of remuneration in one form or another. Most officers look forward to the day when they will "get out of the bag" (i.e., get transferred to an assignment or detail in plainclothes). In some agencies, a "good arrest record" may serve as an important determinant by which eligibility for promotion to the detective bureau or transfer to a "choice assignment" is based. And, a "good record" generally contains more arrests, most of which are felonies. Consequently, many aspiring

¹Recent evidence (Felkenes, 1973, p. 158; and Haskel and Yablonsky, 1975, p. 49) tends to support the theory that prosecutors are "out to win" in spite of the professional ethic which dictates that their major responsibility is to separate the guilty from the innocent; and winning means securing a mounting conviction record--preferably, by way of negotiating pleas.
young officers may seek out criminal behavior that might otherwise go unattended. Moreover, police officers may frequently "overcharge" crime, stretching misdemeanors into felonies, to improve their records. This is far different from the practice of most judges and prosecutors, who may generally reduce charges in considering future personal goals—reduced charges increase conviction rates. These practices reflect the often contradictory values and goals of police, prosecutors, and judges.

Information Input. Finally, discretion may be affected by the amount and type of information provided to the decisionmaker. For instance, in many sentencing decisions involving felony charges, background information concerning the defendant is generally supplied to the judge by the probation department in the form of pre-sentence reports. Although these reports vary in quality and recommendations according to the individual probation officer (Dawson, 1969, pp. 35-36), and many contain private information that may be inappropriate to be displayed in public documents (e.g., certain medical and psychological data), they nevertheless serve the purpose of providing the judge with some insight and information concerning the offender and assistance in the choice of sentence. Important policy research issues include the type of information contained in the pre-sentence report and the extent to which judges should utilize this information.

In contrast, the prosecutor usually has little information prior to the charges being drawn up except that which the arresting officer may supply (Felkenes, 1973, p. 156). Because effective decisionmaking

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1 Many of these arrests are for crimes that are of relatively low visibility in certain low-income areas of the city. Raids on known drug addict hangouts (shooting galleries) frequently result in a considerable number of arrests for possession of illegal drugs and related paraphernalia. In some shooting galleries, 20 or more addicts may be found congregating at any one time.

2 Arrests may also be made in anticipation of gaining overtime, for which, in some cities, an officer is paid at time-and-a-half in compensatory time. An officer who is working an eight-hour shift stands to gain considerably if he should make an arrest near the end of his tour of duty, as it is not uncommon in several jurisdictions to spend up to 20 hours in processing and arraigning the prisoner.
may well be hampered at the arrest and charging stages by a lack of background data (which, according to some commentators, should be limited to the instant offense), it is important for researchers to promote methods by which the necessary information can be provided to practitioners at these stages. In several jurisdictions, programs exist where offenders are released on their own recognizance or on token bail after a cursory investigation is made to verify certain basic information. One consideration, however, is the time element. Time may be too short for research to meet the strict requirements of laws enacted by the legislature (Miller, 1969, p. 349).

Attitudes

The attitude of the sentencing authority toward the offender may well influence the severity of the disposition. The measurement of attitudes, therefore, is an important research objective.

Type and length of sentence are related to the extent to which judges rely on legal factors as compared with extra-legal variables. For example, in a study of sentencing procedures, it was found that a guilty plea, prior criminal record, extent of economic loss and personal injury sustained by the victim, motive, the attitude of the judge, and the anticipated decisions of the parole board were considerations in sentencing dispositions (Dawson, 1969, Chapter 7). In a study of judicial procedures, Nagel (1962) noted that the social backgrounds of some judges had an effect on their decisions.

The effect of the offender's race and socioeconomic background on judicial decisionmaking has similarly received research attention. Lemert and Rosenberg (1948) and Martin (1934, p. 530) both argue that blacks receive considerably harsher sentences than whites. Yet, Martin did not consider the fact that defendants in lower status groups committed a greater proportion of crimes entailing more severe penalties. Another study (Green, 1961, p. 530) initially disclosed that there were general differences in sentencing that appeared to favor whites over blacks. Upon closer analysis, however, legal variables were found to have contributed to the more severe dispositions accorded blacks. Similarly, Hagan (1974a and 1974b) found that the seriousness of the
offense was a mediating variable in the more severe dispositions received by minority and lower socioeconomic groups. On the other hand, Thornberry (1973), investigating sentencing dispositions among juveniles, found that race and socioeconomic status were related to the severity of disposition even when legal variables were held constant.

With respect to prosecutors and police, the issue is similarly clouded by conflicting reports (Thornberry, 1973; Goldman, 1973, p. 157; Smith and Pollack, 1973, pp. 43-68; Chambliss and Seidman, 1971; and Newman, 1956). There have been few studies on how to assess the effects of extra-legal variables on official decisions by the police or prosecutor. Consequently, there are two choices: either to conduct further research on the topic, with the hope of providing information for sensible decisionmaking, or to proceed on the assumption that personal factors do in fact influence decisionmaking to a great degree and develop methods to reduce or eliminate the undesirable effects of these variables.

**Prediction of Dangerousness**

One aim of criminal justice systems is to identify those individuals who are perceived as excessively dangerous and to separate them from the overall pool of criminals. This aim leads to several research questions: (1) Is there a common definition of "dangerousness?" (2) If not, how does the term "dangerous" differ among legislatures and judicial agents? (3) Is the term situationally defined? If the length of sentence is any indication of offenses that are considered dangerous by both lawmakers and judges, then it becomes clear that no single definition is equally shared. For example, in at least one state the sale of one marijuana cigarette entails the risk of a prison sentence of thirty years (Drew, 1973, p. 864). Similarly, in some jurisdictions, a person who has sexual intercourse with a willing female who is under age 16 may be subjected to a prison sentence five times as great as someone who physically assaults the same female with a deadly weapon (Green, 1961, p. 511).

The same issues may be stated with respect to prosecutors and their function. Although many prosecutors are reluctant to forego convictions of persons who may be extremely dangerous (Miller, 1969, p. 348), what may constitute a sound definition of dangerousness to some may not be
acceptable to others. One source of confusion is that law and social
science use different characteristics in defining dangerousness. The
legal approach defines dangerousness in terms of past involvement in
crime, which is usually measured by past convictions for felony offenses.
The behavioral approach emphasizes attitudinal and sociological charac-
teristics, including the circumstances associated with: the offense;
the social context of the act; and the offender's self-perception of his
criminality, peer group relations, family background, and motivation.
The psychological approach can also utilize measures of mental stability:
Dangerousness is defined in terms of a severe emotional or mental dis-
order, indicating a propensity toward persistent dangerous criminal acts.

Disparity

Disparity (e.g., inequality) is manifested at each stage of the
criminal justice process.\(^1\) It may be a realistic goal to eliminate or
control the degree of disparity in sentencing and charging by providing
procedural guidelines for judges and prosecutors. It may be much more
difficult, however, to eliminate or reduce disparity in the arrest stage
by providing police with rules on how to arrest. Even with changes in
substantive and procedural law and police rules and procedures, police
officers in the street may ignore or circumvent these mandates. They
tend to view these guidelines as inappropriate or incompatible with
their personal and occupational needs. It may very well be that, unless
we have the resources to assign observers to each and every radio car,
we could never guarantee that these rules will be strictly obeyed.

In sentencing, the disparity issue may be debated along two lines
--uniform vs. individualized approaches. Advocates of the uniform ap-
proach are concerned with the possible abuses inherent in the present
system: the belief, for example, that personal factors (e.g., race and

\(^1\)Disparity refers to inequality or unfairness in dealing with the
offender, as in the situation of two offenders with similar backgrounds
who commit the same type of crime under similar circumstances, yet re-
ceive different punishments. Equity refers to fairness in dealing with
the offender, but it does not necessarily imply uniformity. Thus, two
offenders who commit the same type of crime under different circumstances
may receive different penalties.
socioeconomic status of offender, sociobiographic background of the judge) may have an untoward influence on sentences. Moreover, they argue that individualized dispositions may undermine public confidence in the system and have demoralizing and anti-rehabilitative effects on convicted offenders and inmates who receive harsher sentences in comparable situations (Dawson, 1969, p. 216).

Supporters of the individualized approach argue that the needs of the offender must be considered in the sentencing. They, in turn, point to abuses in the uniform treatment method. In any event, differential treatment of offenders is intolerable when it is influenced by other than legal factors. And, if we find that the uniform treatment approach is unacceptable or ineffective, then we must attempt to reduce the disparity that exists or to minimize its effects on suspects, convicted offenders, or prison inmates.

Corollary System Effects

We know that decisions made at one point in the criminal justice process have an important impact on decisions made at other stages (Dawson, 1969, p. xvii). For example, if the police were to limit their use of discretion, there probably would be more arrests—which, in turn, would have a major impact on the decisions made by prosecutors and judges in terms of how they would deal with the offender. Equally important are the effects on the police and prosecutors of changes in the use of discretion by judges.

In other words, truly effective policy implementation at any one point in the criminal justice system demands that we have foreknowledge of just how such a change will affect the system elsewhere. These observations suggest that research on criminal justice organizations needs to account continually for corollary and, possibly, counterintuitive

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1 For example, a theft may be the work of an organized group of professional thieves or it may be the act of a juvenile offender attempting to impress his peer group. If the offenders should have different backgrounds, the chances are good that the sentences, under the uniform approach, may be similar.

2 For some suggestions on how to deal with disparity, see Dawson, 1969, Chapter 8.
effects in other parts of the system. Unfortunately, most research is narrowly focused on traditional system components—i.e., police, prosecution, courts, and corrections. This usually means that police studies rarely are concerned with the possible effects of police work or corrections policies (or vice versa). One alternative that should be considered in relation to this traditional division of research is to have some new studies focus on key issues that cut across the entire system (e.g., discretion, accountability, etc.)

**Locus of Decisionmaking**

It is generally believed (and legislatures have so provided) that sentences should be imposed by judges. However, it is also true that the majority of cases that come before the courts have been settled between the prosecutor, defense attorney, and sometimes even the judge, in private conference. In many instances, especially where pre-sentence reports are not required,\(^1\) the judge’s role in sentencing is minimal because he may cooperate with the prosecutor. Because a reduction in charges also means a reduction in maximum penalty, and because it is the prosecutor who initially decides whether to accept a guilty plea, it is the prosecutor who controls, to a great extent, the length and type of sentence the offender will receive (Motley, 1973).

A major task for research on criminal justice organizations is to identify the complex network of decisionmaking effects in order to determine the actual locus of decisionmaking.

**Accountability**

Abuses may exist in the exercise of discretion by decisionmakers. Determinants of sentence type and length, as well as decisions to prosecute or dismiss a charge, may be based on any number of factors deemed relevant by the practitioner. Moreover, there are few effective controls over the improper use of discretion. Sentencing decisions, except where legal and procedural questions are involved, are generally not subject

\(^1\) In many lower courts, sentences are dispensed without benefit of a presentence report.
to review or control. It is important, therefore, that research be devoted to the consideration of a review and monitoring system.\footnote{For some comments on sentence review, see Frankel, 1973.}

Review and monitoring of prosecutor discretions may similarly be required, for many prosecutors are probably subjected to the same influencing factors as are judges. Frank Miller (1969, Chapter 20), in a report on decisionmaking among prosecutors, suggests that abuses may be mitigated by the institution of legal controls, by the intervention of higher officials, by giving private citizens power to insist on prosecution, and by granting judicial control over prosecutors.

It is much more difficult to control arrest decisions effectively, chiefly because the officer's work context is different and behavior is not easily monitored. Selection and removal procedures could, however, be made more effective, although these are also needed for judges and prosecutors.\footnote{For an excellent policy study on arrest, prosecution, and sentencing in Los Angeles County, see Greenwood et al., 1973. This report also contains useful recommendations and guidelines for system improvement, including ways for monitoring the police, prosecutors, and judges.}

Summary Discussion

The issues discussed in this section illustrate problems in conducting research not only on arresting, prosecuting, and sentencing, but also on other functions of criminal justice organizations (e.g., patrolling, classification, etc.). Researchers should be cognizant of this fact when they conduct research on a single agency or topic because the methodology and principles of one study may be applicable to similar problems in other criminal justice agencies.

It is further suggested that R&D-funding agencies initiate systematic studies into the decisionmaking process at each stage in the criminal justice system, especially by supporting research that focuses on the interactive effects among these components. Studies such as these could concentrate on those key issues that cut across traditional system boundaries. Some objectives might be to gain a more perceptive insight into: the nature of abuses in the decisionmaking process, the
effect these abuses have on various client groups, and finally, what can be done to correct them from a "systems" perspective.
IV. SELECTING A RESEARCH TOPIC

A. INTRODUCTION

Illustration: Disparity in Sentencing

Selecting a specific topic for study is an essential decision confronting the researcher. Much thought and preliminary analysis are required to ensure that the final choice has been based on an adequate consideration of the study's feasibility vis-à-vis a variety of criteria. Such criteria range from the researcher's own interests, values, and pragmatic limitations to a perceived objective research need. These criteria apply not only to research on sentencing, but also to other criminal justice practices, including arrest, prosecution, and parole.

The choice of research topic will also be strongly influenced by the following considerations:

- Gaps in criminal justice theory where there exists a paucity of research;
- The feasibility of conducting research;
- Whether or not areas of ambiguity and conflicting results exist that demand further clarification; and
- Social relevance.

A brief review of the literature would reveal that one of the most enigmatic problems confronting the judicial system today involves the source and basis of disparity in sentence imposition. Disparity concerns the general lack of uniformity that characterizes the use of discretion at each stage in the criminal justice process. The initial trend of thought on this topic tended to focus upon the officially recognizable characteristics of the defendant—e.g., how much an offender's race actually influences the judge's final determination, and the extent to which we can attribute differing sentences of institutionalization vs. parole (for the identical felony) to the offender's prior record. Both race and prior record are prime examples of the type of factors we call sentence determinants.
Historically, analysts studying the role of sociological and legal sentencing variables have undertaken their work from a variety of perspectives.\(^1\) Thorsten Sellin was one of the first to initiate the topic of sentencing disparity as a bona fide field of research. In his analysis of "The Negro Criminal" (1928), Sellin was ultimately interested in discerning any kind of pattern of punishment or corrections that differentiated the minority defendants' treatment within the judicial system from the white offenders' treatment. Subsequent studies (e.g., Martin, 1934; Johnson, 1941; Garfinkel, 1949; Bullock, 1961; and Partington, 1965) emphasized race as well as educational level, occupation, sex, and age of the offender as important variables. It should also be noted that while Sellin (1928) and Martin (1934) focused largely on non-capital offenses, Johnson (1941), Garfinkel (1949), and Partington (1965) dealt primarily with capital cases. The size of the samples used by the researchers ranged from 122 cases (Johnson) to 18,239 (Sellin).

In contrast, Edward Green (1961) expanded the use of "legal" variables to its most extensive application. In his study of the Philadelphia Court of Quarter sessions, Green examined the effect of sociodemographic characteristics, such as sex, age, and place of birth, while controlling for such legally oriented factors as the type and severity of the crime, the number of criminal acts charged, and the offender's past record. It was Green's conclusion that, when such legal variables are taken into account, some of the apparent variations in sentencing disappear. As such, Green was instrumental in calling to the attention of prospective researchers the importance of legal considerations in the sentencing decision. Such a focus was reflected in the subsequent studies of Nagel (1969), Judson et al. (1969), and Wolfgang and Reidel (1973), all of whom included legal variables, primarily as controls, in their studies.

However, the complexities of research on sentencing did not stop with analyses of official court statistics.\(^2\) The first recognition of

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\(^1\)The research and review of the literature on sentencing disparity was primarily prepared by Emily Steinberg and it relies heavily on literature reviews and excerpts from Hagan (1974), Hood and Sparks (1970), and Hogarth (1971).

\(^2\)Although Green entitled his book *Judicial Attitudes in Sentencing*, he actually conducted little research that provided direct evidence of
the need for a decisionmaking model of judicial behavior was observed once again by Sellin, who compared sentences given to natural-born whites, foreign-born whites, and blacks, and found discrepancies that he attributed to "the human equation in judicial administration" (Sellin, 1935). McGuire and Holtzoff (1940) examined disparity among judges in the United States in sentencing liquor and narcotics offenders. They concluded that the differences were primarily due to the diverse attitudes among judges toward various crimes, and the severity of the sentence mainly depended on the personality of the trial judge (Hogarth, 1971).

British researchers in the field of sentencing, such as Mannheim et al. (1957) and Hood (1962), as well as the Israeli sociologist Shoham (1959), recognized the "human factor" as one of the most important sources of judicial decisionmaking. However, most studies conducted prior to Hogarth's (1971) analysis have only indirectly covered the problem of judicial decisionmaking.¹ (We shall discuss Hogarth's study in greater detail below.)

Any review of previous research on disparity in sentencing generally will reveal that theories of disparity revolve around several major themes: sociodemographic determinants, legal factors, and human and personal determinants.

Sociodemographic Determinants

The "sociodemographic school" subscribes to the hypothesis that the causes of sentencing disparity or the sources of differential sentencing can be found in the extra-legal attributes of a defendant. The independent variables most often emphasized in studies of this type are race, sex, age, occupation, and socioeconomic status. Analyses of the victim's characteristics have also been included in some of these studies. The sociodemographic studies vary, however, in the extent to which judicial attitudes. He mainly inferred such information from consistencies (or inconsistencies) in judicial behavior (Hogarth, 1971).

¹Admittedly, both Pritchett (1969) and Schubert (1959) utilized a decisionmaking model in their works, but such studies confined their focus to the more specific sphere of the Supreme Court and Constitutional law, rather than the trial level of adjudication.
each analysis actually controlled for legal considerations. In spite of this variation, the general consensus of opinion is that other factors are of equal importance as race, socioeconomic, age, and sex variables in the sentencing decision (Wolfgang and Reidel, 1973).

Legal Factors

In one of the most sophisticated sentencing studies yet completed, Green (1961) showed that when such factors as the type and severity of the crime, the number of criminal acts charged, and the offender's past record are taken into account, some of the apparent variation in sentencing disappears. Green also included the recommendations of auxiliary agencies of the courts contained in reports of pre-sentence investigations and neuropsychiatric examinations in this category of "legal" factors, along with the influence of the prosecutor and the type of plea (guilty-not guilty) made by the defendant. The non-legal or legally "irrelevant" facts, such as sex, age, race, and place of birth, were found to be of little influence in sentencing.

The most important legal factors were the seriousness of the offense and the previous convictions of the offender. In correlating the severity of the offense with predicted sentence disposition, Green found that in cases of serious or minor gravity, there seemed to be a reasonable amount of consistency, although not complete uniformity. "However, as cases move from the extremes of gravity or mildness towards intermediacy, judicial standards tend to become less stable and sentencing increasingly reflects the individuality of the judge" (Green, 1961, p. 69).

In criticizing the approach utilized by Green, the point has been made that this research did not attempt to assess judicial attitudes in sentencing. For example, Hogarth (1971) argues that

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Hagan (1974) reviewed 20 studies on sentencing that attempted to correlate the differing levels of variables. He related the variation in the studies' conclusions to the degree to which each one controlled for and covered legal considerations. In his opinion, confusion as to methodological technique has tended to blur the researcher's vision, encouraging invalid conclusions.
the use of the concept "attitude" to explain consistency among judges without supporting evidence is vulnerable to the same criticism made by Green of those studies that employ this concept to explain inconsistency between judges. The establishment of a statistical relationship between factors such as the severity of the crime and criminal record to the pattern or sentencing decision made does not mean that these factors were consciously or even subconsciously in the minds of the judge at the time of sentence (p. 8).

Human and Personal Determinants

In contrast, other studies have found that sentence determination may arise from considerations outside the realm of legal and extra-legal variables. In England, Mannheim et al. (1957) studied the sentencing disparities in the London Juvenile Courts. They concentrated their analysis on the dispositions imposed on 400 boys, aged 14 to 17, who were found guilty of larceny in eight London juvenile courts in 1951. Analysis revealed that the proportion of youths placed on probation ranged from 18 to 66 percent and those discharged, from 18 to 48 percent. The researchers examined all the information available in the files of the police and probation service and social indices of the districts served by the courts. They even took the sex of the Chairperson into account. Yet, none of these factors, by itself, explained the different sentencing patterns of the court. They concluded:

The classification of data which were used for the purpose of comparison was thought to cover most of the possible variations which could relate to the individual case. It appeared to include those aspects of cases which experts were likely to report on or courts to inquire about. However, if consistency exists in the treatment policies of these courts, it seems that the factors producing such uniformity are not derived from the data examined in this study nor recorded in the files.

Another British study of the Adult Magistrates Court by Roger Hood (1962) also uncovered disparity in sentencing policy. Once again, a variety of information relevant to the crimes committed and personal histories of offenders was gathered and correlated with the proportion receiving a sentence of imprisonment. Hood interpreted his findings
by attributing disparities in sentencing policy to differences in the philosophies of sentencing policy and to disagreements about the actual effectiveness of alternative sentences open to magistrates. The analysis also suggested that there may be different traditions on "benches" or courts transmitted by the older members of the court, as well as varying social structures in which the courts are situated. For example, Hood concluded that the most severe sentences were given by middle-class magistrates situated in small, non-industrial communities (Hogarth, 1971).

In another study, Shoham (1959) reported an evaluation of the sentencing policy of the criminal courts in Israel. The material was drawn from sentences imposed by nine judges in three district courts of Israel during the year 1956. Although he confined his analysis to offenses against property and the person, Shoham found considerable variation when comparing the actual sentences imposed and the reasons given for the judgments. He concluded that the variation was not attributable totally to factors relating to the offense and offender, but rather to the attitude and disposition of the individual judge himself. Recognition of the existence and pervasive influence of this "personal factor" in judicial decisionmaking means little without an attempt to define its meaning more specifically (Hogarth, 1971).

More recently, Wheeler (1968) appears to have taken a step in this direction. He conducted a study on agents of delinquency control, including the police, probation officers, and judges. Although the major part of the study dealt with the differences between delinquency control agents in their attitudes and orientations toward each other and toward delinquency, some exploratory questions were raised about the ways in which different theories of sentencing held by judges are reflected in their judicial decisions.

Wheeler interviewed 27 judges who most frequently processed juvenile delinquents in the Boston metropolitan area. One objective of the study was to determine the ways in which theories and opinions pertaining to sentencing determine judicial actions. The interviews consisted of open-ended questions and structured attitude and opinion items designed to identify attitudes and feelings believed important to a judge's
orientation toward delinquency and its control. A "punitive index" was constructed to reflect a judge's sentencing theory or philosophy. The judges were asked for their opinions of the following types of statements (Wheeler, 1968, pp. 45-46):

- "Spare the rod and spoil the child" is too frequently forgotten in the modern home.
- "Get tough" policies for dealing with delinquency are not likely to be effective.
- Many current programs for delinquents amount to coddling the delinquent.
- More emphasis should be placed on discipline in treating delinquents.
- Adolescents are unlikely to be deterred from crime by heavy penalties.
- Punishment should be accorded a very minor place in programs for delinquency control.

The scores on the scale of punitiveness were correlated with institutional commitments and a scale measuring severity of dispositions, in order to determine the extent to which the sentencing theory held by the judge affects the final sentencing disposition.

The data showed that the scale of punitiveness was negatively correlated with the commitment index and the general index of severity of dispositions: Judges endorsing a traditional punitive philosophy were less likely than their lenient counterparts to impose severe dispositions. The study found that the more severe judges were those who did not wear their robes in court, who did more reading of higher quality, and who held a permissive philosophy. Severity was positively related with the extent to which the judge held a professional, humanistic, social welfare ideology. One possible interpretation of these findings is that the more permissive and less punitive judges may believe that correctional institutions are relatively benign, humane, and therapeutically, compared with the family and neighborhood settings from which delinquent youth come. The correctional experience, in their eyes, will be beneficial for these youths and, consequently, they are more likely than traditional, punishment-oriented judges to impose a commitment sentence.
Wheeler admits that his findings are of partial and tentative character because the study sample was small and drawn from a very limited geographic region within the United States and may not be generalizable to other areas. Also, the correlations linking ideology to outcome are fairly low, explaining little variation in the dispositions.

B. A NEW FOCUS

An Illustrative Approach

None of the studies we have discussed has been designed specifically to provide detailed information about the judges themselves or to show how these individual differences are related to sentencing decisions. Even Wheeler's study, which utilizes a scale of punitiveness, only touches on the problem of how sentencing theories serve as determinants of judicial decisions. His study does not show how different theories of sentencing, based upon punishment, incapacitation, deterrence, and corrections, affect the judicial decision.

The broadening of sentencing research to cover the characteristics, perceptions, and theories of the judge would require a different research approach. One basic problem with studies in the past has been their self-imposed restriction to an examination of sentencing as revealed from official statistical records, particularly police and court sources. The usual procedure has been to use these official sources to collect as much information as possible concerning the type and severity of the offenses committed, the backgrounds and characteristics of the offenders concerned, and the nature of the sentencing decision imposed. According to Hogarth (1971):

This type of research has often been called an "input-output" or a "stimulus-response" model of judicial decisionmaking, as the facts of the case constitute the input or stimulus and the sentencing behavior of the judge, the output or response. It has also been called a "black box" model, as nothing is known about the judges or magistrates apart from the decisions they make.

Although the limitations of the "black box" model have finally been recognized, it appears that many analysts in the field of sentencing
have nonetheless failed to understand the greater ramifications of re-
search on judicial decisionmaking. The main point to be made is that
there is a spectrum of information (other than official records) that
does, in effect, have a decisive influence on the final sentencing out-
come. The researcher's responsibility at this phase of sentencing re-
search is thus twofold. First, the analyst must assess the type and
extent of influences that are part of the day-to-day experience of de-
fendants passing through the criminal justice system. Thus, attention
could be given to such factors as the circumstances of police-suspect
encounters, arrest procedures, charge considerations, plea bargaining,
bail arrangements, and pre-sentence investigations. Second, as long as
discretion remains a part of the sentencing process, an attempt must be
made to probe the attitudes of those doing the judging to ascertain the
differences in the way such information is perceived and categorized by
the judge himself, based on an individual sense of experience and legal
and social priorities.

At first glance, the construction of such an innovative research
design appears to present a variety of practical problems, with the
question of accessibility to court information figuring prominently.
Yet, this type of research study has already been completed with a rather
high degree of cooperation and success. This study will be discussed in
some detail because it is useful for drawing conclusions on how to select
a topic for research.

The Canadian Project

Hypotheses. A study of sentencing in Canada (Hogarth, 1971) probed
the possible internal and external influences on the magistrate's world.
Despite certain methodological problems, this study illustrates well the
manner in which human and personal factors can be examined. While ex-
amining the obvious variables of the magistrate's personal background--
-i.e., political affiliation, religion, education, age, and the like--
the study also went much further than most other judicial decisionmaking
studies, attempting to recreate the conditions of the sentencing question
as the judge experiences it in everyday practice. The basic assumption
underlying the Hogarth research design is that a direct and causal
relationship does exist between a magistrate's personal characteristics and his resulting decision. In order to predict a pattern of sentencing behavior, Hogarth attempted to understand the varying ways in which magistrates themselves perceive each of the factors listed below:

- The philosophy or theory behind sentencing;
- The facts of the case before them;
- The issues and conflicts surrounding the final sentencing decision; and
- Their own relationship to other actors involved in the decisionmaking process.

Methodology. The study consisted of two basic components: cases and magistrates. Cases were selected according to the type of offense with which they dealt. It was necessary to select offenses that occurred relatively frequently so that a sufficient number of each type would be dealt with by each magistrate. Hogarth also considered it necessary to choose cases that represented different kinds of decision problems faced by magistrates, in terms of moral and theoretical considerations. The offenses finally chosen for detailed analysis included: breaking and entering, robbery (of a motor vehicle), assault, indecent assault on a female, and dangerous driving. The main sources of information on these offenses and offenders were supplied by police and probation officers whose descriptions were utilized as a means of assessing the severity of each offense and assessing the categorical "type" of offender.

Hogarth used three instruments to measure the impact of judicial attitude and personality on the decisionmaking process. He initiated the research study with a general interview\(^1\) whose primary purpose was to gather information about each magistrate's personal background and opinions regarding a number of criminal and legal subjects.

\(^1\)As far as possible, questions were formulated in words similar to and habitually used by magistrates. The questions related to social background ranged from the individual judge's own class orientation to demographic factors of age, birthplace, education, and marital status. Other areas of initial interest included the extent and type of prior work experience, pattern of military service, and political affiliations.
The seventy-one magistrates included in the study were interviewed during the spring and summer of 1966. Each interview took place in the local community where the magistrate lived and worked. Most of them took place in the magistrate's office immediately after court was adjourned for the afternoon. The purpose of this procedure was to interview magistrates in familiar surroundings closely associated in both time and space to their work environments. Usually the interviewer would observe in the court during the morning, have lunch with the magistrate and conduct the interview in the afternoon. The average length of the interview was approximately three hours, but they ranged from one and a half to five (p. 9).

The degree of cooperation from magistrates was excellent, raising the possibility, contrary to past belief, that other American judges might participate in similar research.

Based on knowledge derived from the interviews and the findings of previous research, two more focused instruments were designed. One was a self-administered questionnaire, probing certain dimensions of the attitudes that magistrates appear to hold toward crime, punishment, and related issues, and the other was a decisionmaking guide that was used by each magistrate in a sample of cases coming before his court. The purpose of the latter document was to probe the mental processes involved in sentencing decisions.

Hogarth's first actual measurement was of the sentencing philosophy. His hypothesis was concerned with the way general, abstract philosophical theories on sentencing may consciously or subconsciously be translated into specific concrete, sentencing decisions.

Magistrates were asked a series of questions that attempted to reveal their underlying feelings regarding the importance and usefulness of classical sentencing theories and their relevance to different sentencing alternatives.

When the data collected on sentencing theory were actually compared with the magistrate's final sentencing behavior, it became clear that the ordering of philosophical priorities is actually more directly related to the way the judge selectively interprets the facts of each individual case coming before him. Thus, while a judge or magistrate may claim to have a reform-oriented view of sentencing, this is no assurance
that he will not send offenders to prison. On the contrary, the reformist magistrate will tend to adjust his view of institutionalization to conform to his particular penal or correctional philosophy. In an effort to conform to his self-image of the demands of the judicial role, the magistrate will see the "correctional" facility as being therapeutic and beneficial to the offender's needs.

Perhaps the most important fact to emerge from the data was the rationality of the answers given. Although there were wide variations in penal philosophy between magistrates, it was apparent that most individual magistrates had a fairly consistent and coherent set of beliefs bearing on their personal sentencing philosophy. However, Hogarth's major thesis is that the magistrate's great need for consistency and confidence in his final sentencing decision is maintained through a selective interpretation of the facts of the case. Therefore, as rational as a decision might appear to be, it may derive from a variety of irrational motives. Hogarth went on to explore the possible reasons underlying differences in magistrates' decisions by probing the question of judicial attitudes toward crime and social deviance.

Measurement of Attitudes. The concepts of "attitude" and "attitude measurement" are the most significant innovative aspects of the Hogarth study. Hogarth devised his own form of "attitude scale" to measure the degree of favorableness or unfavorableness experienced by magistrates in a particular subject area. The major sources for discussion were reported cases in which magistrates themselves stated the sentencing principles they adhered to in dealing with particular cases. Articles written by magistrates and reports of magistrates' study groups were other important sources. The decisions of appeal courts, the writings of legal scholars, and the published reports of speeches made by judges, magistrates, and others were sources from which further data were collected.

Findings. Correlation scores between the individual's response and a perceived factor were made for six different sets of criminal justice participants. They include magistrates, law students, police, and probation officers.

Magistrates tended to score highest on the "punishment for correction" and "social defense" scales. The data are revealing in terms of
the magistrates' dual concern for the protection of the community and the correction of offenders. Such an analysis goes far toward explaining the reasons underlying the imposition of severe penalties. However, Hogarth further analyzed the correlation between attitudes with several types of offenses, pointing to the fact that many different combinations of attitude may be related to the behavior of magistrates in specific situations. Hogarth's findings revealed a definite and consistent relationship between judicial attitudes and behavior. The strength and direction of this overall correlation seem to suggest an influence on judicial decisionmaking of as great importance (if not more so) as the facts of the case themselves.

The discovery that variation in sentencing behavior is associated with the variation in attitude on the part of the individual magistrate clearly undermines any view of a judicial process based on uniformity and impartiality. Such conclusions have been put forth before in many of the studies of disparity, but none has reached so deeply into the actual decisionmaking process itself to arrive at this finding. Needless to say, acceptance of the Hogarth thesis implies a whole range of political consequences.

It appears from Hogarth's data that the constraints operating as part of the social world of magistrates can only assume meaningful statistical or theoretical significance when the attitudes of magistrates have been considered. Such a combination of factors interacts in varying ways to produce types of sentencing decisions. For example, it was found that those magistrates who claimed to rely heavily on institutional sentences in indictable cases tend to be traditional in outlook, concerned for social defense, have positive relationships with the prosecuting attorney, perceive magistrates as generally too lenient, and respect all other participants in the criminal justice system who express concern for the concept of "justice."

Conclusion. The major conclusion of Hogarth's study is that magistrates do indeed select a sentencing disposition that reflects their own pre-conceptions of the case. Once such a point of view becomes assimilated into a magistrate's own personality, there is a greater than average chance that he will continue to select the same type and length of
sentence in other cases that fit into his personalized set of categories. The difficulty that arises in terms of the criminal justice system's claim to "equity" is that, in the face of inadequate legislative guidelines, different magistrates do perceive and will continue to perceive the same case or types of cases differently. Hogarth's most revealing finding was that approximately half of the total variation in all sentencing decisions could actually be accounted for simply by knowing certain information about the judge himself. Thus, it is only when the researcher incorporates into his analysis the magistrate's own definition of the situation, from as wide a variety of perspectives as possible, that the inner workings of the judicial process may begin to come to light.

C. SUMMARY OF RESEARCH ISSUES

Conflicting Results and Ambiguous Findings

In asking the right questions and choosing a relevant and workable topic for study, the researcher must accurately assess the present condition of the field. What our own analysis of the sentencing issue has revealed is an ambiguous set of conclusions regarding the probable causes of judicial discretion in sentencing. The initial thrust of sentencing research focused on the problem of disparity in sentences (in terms of type and length). Official court statistics were utilized to gather data on the legal and extra-legal factors surrounding individual cases, which were then compared in varying ways to the final sentencing decision. Although these studies were instrumental in revealing the existence and extent of judicial discretion throughout state and federal systems, they tended to concentrate on the circumstances surrounding the case and/or the offender. Studies dealing with the influence of race or other socioeconomic factors on the sentencing decision were markedly prominent during this earlier period of sentencing study (the 1950s and 1960s), yet they continued to produce conflicting results. Therefore, future endeavors in the field may be more fruitful if they go beyond the official court data and if they focus on the complexities of the actual judicial decisionmaking process.
Sample Research Topics

Several research projects have been suggested by practitioners and scholars alike as particularly useful in assessing the problems inherent in the disposition of sentences. These topics are also applicable to other criminal justice practices, including arrest, prosecution, and parole.

Within the decisionmaking framework, one research project might be aimed at the legislative role in sentencing. Suggestions include an attitudinal study into the decisionmaking processes of legislators in an effort to understand their opinions regarding the role of discretion in sentencing. Another research issue might explore the impact of decisionmaking on the offender and other parts of the criminal justice system. For example, through research we might seek answers to several questions dealing with plea bargaining. Some of these questions are:

- Does the plea bargaining system serve any function other than to move offenders as expeditiously as possible through the courts and prisons?
- Does a charge reduction (e.g., from a felony to a misdemeanor) serve in any way to re-integrate the offender into society?
- Is a commitment sentence of a particular length adequate for a dangerous or repeat offender?
- Does certain treatment ensure that the offender will not commit further crimes when he is released from the prison community?
- Do negotiated pleas, which in many instances result in probation, deter others from committing similar crimes?
- Does plea bargaining serve to protect the community from the threat posed by the convicted offender?

Another research study might be an evaluation of the different processes by which judges actually come to sit on the bench (i.e., popular election vs. political appointment) and/or the methods that might be utilized to monitor their behavior. Many critics of the judicial selection system have maintained that public exposure of the process might result in better judges or more equitable justice.
Still another research issue might deal with the legal imposition (on an experimental basis) of sentencing institutes and sentencing councils. Sentencing institutes are intended to familiarize judges with the purposes, consequences, and effectiveness of sentencing and the sentencing options available to them. Sentencing councils attempt to broaden the range of discretion from one judge to several judges.¹

A related issue might deal with the establishment of review procedures for sentencing decisions. Experiments could be conducted to determine the comparative effectiveness of voluntary or automatic appellate review procedures and sentencing appeal boards within specified jurisdictions. In addition, computer-based systems might serve as a necessary check on the court by monitoring extreme decisions and providing a useful source of information for further research on an individual case. Such an instrument might well enable judicial decisionmaking to occur in a more organized, simplified, and standardized way, minimizing the inconsistency that presently exists in information usage. Of course, necessary safeguards would have to be introduced in order to control problems of confidentiality, the possibility of abuse or misuse by the courts, and the potential dehumanization of the sentencing process.

Criteria for Selecting Topics

In selecting an area for study, an investigator must assess as accurately as possible the previous research on the topic. One of the primary considerations should be "relevance": Will the research on the specific topic contribute toward a better understanding of the problems in criminal justice? R&D-funding agencies should carefully screen out those proposals to study problems that are only situational, short-term,

¹Sentencing councils, for example, have already been put into practice in the U.S. District Courts for eastern Michigan, eastern New York State, and northern Illinois. Some studies have already been completed regarding the impact of the sentencing council, but further research is definitely warranted. Having obtained the cooperation and participation of the court organization, one study, for example, might attempt to compare the decisions of the U.S. District Court of Michigan in robbery or rape cases before the imposition of sentencing councils with those granted after judges agreed to participate in the program.
have little impact on the population in general, or which may not be amenable to research intervention. In other instances, projects are begun without the researcher having sufficiently familiarized himself with prior work in the area. This may result not only in costly and time-consuming duplication of a previous effort, but also in a failure to address those areas where a paucity of information is available. R&D-funding agencies should ensure that familiarity with the proposed topic area is indicated clearly in the research proposal or that the initial stage of the project will include an assessment of available data. Proposals suggesting that the intended study is the first to address a specific issue should be carefully reviewed.

Other criteria in selecting suitable research topics include the present state of theory development and the theoretical orientation most applicable to the study. Prior to undertaking a major research effort, researchers should carefully evaluate the conceptual development in the theory(s) they intend to address in the investigation. Utilization of theoretical models that are difficult—if not impossible—to test empirically because of operational constraints may result both in wasted expenditures and in findings that cannot be subjected to further testing.

Finally, the extent to which research may act as a catalyst to policy change, as well as the feasibility of conducting the research, are also criteria for selecting a research topic. The general topic of judicial decisionmaking meets these criteria. However, it is fair to say that longitudinal decisionmaking studies, such as Hogarth's (1971), will probably require substantial amounts of time and financial support. Moreover, research of this kind is likely to incur sizable informal "costs" in that it will affect the careers of judges chosen for study and the defendants who appear before them. Always to be remembered are those situations in which research might be useful but in which implementation will not occur because of political considerations.
V. INITIATING A RESEARCH STUDY

Illustration: Commitment Sentences

This section attempts to demonstrate how to initiate research on problems in sentencing. While the previous section addressed the question of how to select a topic for research, using disparity as an example, the present discussion focuses on the illustrative topic of commitment sentences. It first deals with the problems of definitions and the development of a theoretical framework, and then suggests how these problems lead to hypotheses for research.

A. DEFINITIONS

This section addresses the narrower issue of commitment sentences imposed on the convicted offender, rather than the broader topic of judicial sentencing. A commitment sentence is a sentencing decision that commits the convicted offender to an institution (e.g., a prison or jail). By definition, it excludes other forms of non-judicial sentencing dispositions, including release, dismissal, acquittal, and diversions from the entire formal sentencing system that occur prior to conviction. The concept of commitment sentences also excludes probation and the various penal and treatment programs that the offender may experience after the pronouncement of sentence, which we refer to as the consequences of sentencing.

In this sense, commitment sentences apply to a very limited and specific target population of all offenders who are apprehended by the police, because only a very small proportion of the total number of persons arrested ever receives a prison sentence.\footnote{In 1972, for example, the California Superior Court felony caseload was 240,000 felonies, of which 49,024 felons were sentenced, but only 28,479 persons (11.8 percent) were sentenced to jail or prison. (Jails are local detention facilities typically used for commitment sentences of less than a year; prisons are used for longer sentences, supported and run at the state level by state agencies, and at the federal level by the U.S. Bureau of Prisons.) The number of commitments to}
it is likely that the more serious offender receives a prison commitment, so that, in terms of cost-benefits, a greater proportionate reduction in recidivism may be achieved from research on commitment sentencing. In addition, a more complete configuration of data and information is usually available for persons committed to institutions, allowing research to be more detailed and complete than for offenders who receive non-prison sentences or who have been diverted prior to judicial sentencing. Perhaps the most important reason for conducting research in this area, however, is that commitment sentencing probably is the most crucial part of the court process in terms of its uniqueness for the offender and society. The commitment sentence, unlike any other type of sentence, removes an individual from society, places him in confinement, and deprives him of his freedom.

Definitions and Their Problems

One major problem in sentencing research, as in other kinds of research on criminal justice organizations, is the absence of uniform and standardized definitions, even for basic terms. For example, there is little agreement over the meanings of disparity, dangerousness, and recidivism, and this absence of consensus has created a serious communication problem in sentencing research. In general, the terms referring to state prisons and reformatories dropped even further, to 7179 persons (3.0 percent). Even a small percentage of the 747,000 persons arrested for misdemeanors were given jail sentences (see Carter et al., 1975).

The proportion of offenders arrested for felonies in southern California for 1974 who received either jail or prison terms was also quite small. The accounting below indicates the disparities per 1000 adult felony arrests in southern California: 575 were not convicted (of these, 109 were released by the police; 164 were released because the prosecutor refused to file a complaint; and 302 were dismissed, acquitted, remanded to a juvenile court, charge reduced to a misdemeanor and not convicted in lower court, dismissed on a felony complaint in lower court, or the like. Only 32 of these 302 defendants not convicted fell out in the superior court); and 425 were found guilty by plea or trial (236 of these were sentenced in the lower court on misdemeanor complaints; 52 were disposed of in the lower court on felony complaints; 147 were convicted of felonies and sentenced in the superior court.) In other words, only about one in seven persons arrested for felonies ever reached the point of conviction and sentence in the Superior Court. These data are based upon dispositions taken from the California Department of Justice, 1975.
various forms of commitment sentences are opaque and confusing. In several states, *definite sentence* refers to a prison term that may not be more than the maximum term provided by statute for a specific offense and the term *indeterminate sentence* is used when a judge fixes a minimum and maximum term within the limits of a given statute, or in which the parole board fixes the term within the statutory limits (Washington and California). However, in other states, this common usage is partially reversed. For example, in New Jersey, the judicially determined minimum-maximum term is referred to as the definite sentence. Moreover, the state of Pennsylvania refers to the minimum-maximum sentence as indefinite and applies the term indeterminate to a minimum-maximum imposed automatically by statute. Similar confusion reigns in federal reports, where indeterminate sentence and definite sentence refer to a range of different sentences (Rubin, 1973).

Unfortunately, the scholarly community dealing with commitment sentences has not been exempt from this confusion over definitions. For example, there is little clarity in the use of the phrase *flat sentence*. Sometimes it is defined as a fixed mandatory sentence where there is no discretion; in other instances, it is referred to as a prescribed sentence, but one that allows limited discretion (Fogel, 1975). Perhaps the greatest confusion involves the *fixed sentence*. Some commentators use this phrase as a type of commitment, while others use it to describe the procedural aspect of fixing the release date for a sentence. In the latter instance, the fixed "sentence" cuts across several sentences insofar as it indicates whether the release date was or was not set at

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sentencing. Norval Morris, for example, argues against fixed sentences, but advocates the fixing or setting of sentences immediately or soon after the offender has been imprisoned. Similar instances of ambiguity characterize the definitions and usage of other forms of sentences, including mandatory, minimum-maximum, and determinate.

Definitions that Could be Used

The very first step required on this topic of commitment sentences is the establishment of a set of common definitions. This is a task for a specific research project, but we have selected the most representative types of commitment sentences and define them briefly for illustration purposes.¹ We refer to three broad forms of commitment sentences—non-discretionary, limited discretionary, and discretionary—and provide at least one example of each.

Nondiscretionary Commitments. In these sentences, the individual or group that does the sentencing has virtually no discretion or flexibility in determining what the sentence ought to be. The sentences are fixed by legislative statute and their application is rigid and automatic. The most common nondiscretionary commitment is the mandatory sentence; this is determined by statute, with a fixed and specific term of imprisonment that must be imposed on certain offenders for specific crimes. The mandatory sentence allows no discretion to the authority imposing the sentence.

Limited Discretionary Commitments. These forms of commitment include the mandatory minimum and presumptive sentences. The mandatory minimum sentence requires that offenders convicted of certain crimes serve at least a set and specific minimum time period in prison. The upper boundary, however, is left open. This sentence tends to limit discretionary authority primarily by not permitting probation, the imposition of a lesser sentence, or invocation of parole prior to expiration of the minimum bound of the sentence.

¹For example, other commitment sentences include the extended sentence, consecutive sentence, and split sentence. In the split sentence, or two-part sentence, the offender is sentenced to jail rather than to prison. The second part of the sentence occurs after release from jail, when the offender is placed on probation (McGee, 1974).
The *presumptive sentence* has not been used in the United States, but there is serious debate over its possible adoption in the near future. In this sentence, the legislature would determine the typical sentence for a specific crime, fix a narrowly defined minimum and maximum, and allow the sentencing authority to raise or lower the sentence by a specified percentage based upon the presence of specified mitigating or aggravating circumstances. Only in extraordinary cases could the sentencing authority impose the minimum or maximum—in which case a written explanation would have to be provided (Dershowitz, 1975, p 26; and 1976a and 1976b).

Another form of the presumptive sentence is what some commentators have referred to as the *fixed sentence*. In this case, the minimum and maximum boundaries of confinement are derived from the "best" and "worst" crime scenarios of the particular offense category within very narrow limits, so that some discretion is provided to the sentencing authority who fixes the term of commitment at sentencing (O'Leary et al., 1975, p. 569). As previously stated, much confusion reigns over the fixed sentence and it is our opinion that its usage in this context should be abandoned. Instead, a fixed sentence should refer to the procedure where the exact time of release is determined at sentencing or immediately afterwards by a sentencing authority. In contrast, an *open sentence* would refer to a form of commitment where the exact time of release is left undetermined at sentencing. According to this usage, the fixed sentence would refer to the process of setting the sentence and not to a form of commitment.

**Discretionary Commitments.** This class of sentence allows the most discretion to sentencing authorities. Its major forms are the definite and indeterminate sentences. With the *definite sentence*, the sentencing authority sets the term of years, which may be less, but not more, than the maximum penalty allowed by statute for a specific crime. The definite sentence is, in some ways, the opposite of the mandatory minimum sentence because the maximum rather than the minimum limit of confinement is specified by statute. Usually the offender becomes eligible for parole after serving a fixed fraction of the sentence. In the federal system, for example, this period is one-third the term fixed by the judge.
This should not be interpreted to mean that the definite sentence allows somewhat less flexibility than the indeterminate sentence. In some states, the range between the minimum and maximum for the indeterminate sentence is narrower than for the definite sentence (Rubin, 1973).

The *indeterminate sentence* usually imposes a very low minimum and very high maximum term, both of which are set by statute. Between these extremes lies a wide range of determinate terms which thereby allow substantial discretion either by a court or a parole board. As noted previously, there has not been a truly indeterminate sentence in the United States that theoretically would have a minimum of zero and maximum of life (McGee, 1974).

Confusion over definitions of terms has not only impeded communication among investigators of criminal justice systems, it has also hindered comparative as well as replicative studies in the area. As a major step toward resolving this problem, R&D-funding agencies could promote the development and use of common sets of definitions. Researchers should also be sensitive to the ways in which terms are employed in their studies. In instances where research terminology has not been or cannot be standardized, variable terms should be clearly defined so that other researchers and practitioners can easily understand their meanings. Standardized or easily interpreted definitions can facilitate and even encourage the direct comparison of research findings and, thus, add to the existing aggregate of research knowledge.

**B. CREATING A THEORETICAL FRAMEWORK**

After setting definitions, one of the next steps is to create a theoretical framework within which to conduct the research. Up to the present, correctional theory has not gone far beyond the conceptual structures originally developed by Beccaria in 1764 and Lombroso in 1911, which now form the basis for the classical and positive theories of corrections (Monachesi, 1955; Wolfgang, 1961). We are still steeped in the arguments of whether punishment should be based upon the offense or the offender, whether free will or determinism predominates, and whether punishment or rehabilitation should be the primary aim of sentencing. These positions have been part of a cyclical process where
first the classical school dominated, then the positive school took precedence, only to give way once again to classicism.

The theoretical underpinnings of the current controversies over commitment sentences are deeply rooted in this historic argument. The debate over whether to impose a mandatory sentence system or an indeterminate sentencing system is directly related to the basic issue dividing the classical and positive schools. The mandatory sentence is closely associated with the classical position that free will predominates and the offender should be punished for pleasures derived from committing the crime. Thus, a specific, statutorily defined penalty should be assigned to each crime. The indeterminate sentence grows out of the positive school, in which determinism predominates and, consequently, the appropriate sentencing disposition must account for the mitigating factors and the circumstances that led the offender to commit the crime. The aim of sentencing should be rehabilitation and a sentence that ties the release date with successful treatment. Except for this polemic between classicism and positivism and, more recently, the neoclassical approach (which does not require free will and can accept much of positivism while still calling for the punishment to fit the crime), there has been little new theory to guide research in the area of commitment sentences.

One different approach might be to integrate etiological theory on the causes of crime with correctional theory dealing with the consequences of crime. For the limited purpose of commitment sentences, this integration would attempt to determine the relationships between various forms of commitment and those factors that account for criminal behavior. The theory would hypothesize, for example, how the mandatory sentence or indeterminate sentence affects the reasons for committing crime.

C. ISSUES ON COMMITMENT SENTENCES: THE COMMITMENT CONTROVERSY

The theory on commitment sentences relates to several positions involving numerous judicial and penological issues, which are summarized in Table 1. The present discussion does not include all possible positions
Table 1

MAJOR POSITIONS ON COMMITMENT SENTENCES

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on issues, but only those related to the most significant aspects of commitment sentencing.\textsuperscript{1} The most debated issues on commitment sentences include the aims of sentencing, the extent of discretion, the prediction of dangerousness, and treatment coercion.

Aims of Sentencing

The evidence indicates that, at present, one major tendency of academicians and practitioners is to consider retribution and deterrence to be among the main aims of sentencing. The most fervent proponents of this philosophy include Norval Morris, Leslie T. Wilkins, Marvin E. Wolfgang, Andrew von Hirsch, and David Fogel, who all argue that past and present rehabilitation efforts have failed. Instead of aiding prisoners, rehabilitation has been transformed into a politically abusive and punitive instrument that has brought them greater harm than good.\textsuperscript{2} Moreover, they claim that rehabilitation has resulted in uncontrolled discretion and gross inequities of justice by parole authorities. Therefore, the proponents of the position that retribution and deterrence should play a predominant role in determining punishment contend that such a policy will at least minimize the inequities and discriminatory practices characterizing the current sentencing process. The main arguments among the proponents of retribution revolve around how to determine

\textsuperscript{1}It may be that adherents of a particular position hold definite views on a particular issue, but no entry was made for them in Table 1. This is because the sources used in this study did not provide sufficient information to infer their position on a specific issue. There were also a few instances where the proponents of a position did not explicitly state their views on a particular issue, but we have nevertheless taken the liberty to infer what their position would be from the information available. This procedure was the exception rather than the rule.

the maximum limits of punishment for a particular crime, what factors should enter into this decision, and what weight should be given to these factors.

The position that retribution should serve as the main aim of punishment does not exclude properly implemented rehabilitation, once the offender is sentenced. For example, Morris (1974, pp. 14-15) states:

"Rehabilitation," whatever it means and whatever the program that allegedly gives its meaning, must cease to be a purpose of the prison sanction. This does not mean that the various developed treatment programs within prisons need to be abandoned; quite the contrary, they need expansion. But it does mean that they must not be seen as purposive in the sense that criminals are to be sent to prison for treatment. There is a sharp distinction between the purposes of incarceration and the opportunities for the training and assistance of prisoners that may be pursued within those purposes. The system is corrupted when we fail to preserve this distinction and this failure pervades the world's prison programs.

In contrast, legislators and representatives of the legal profession are among the most strenuous advocates of the retention of rehabilitation as the main aim of sentencing. Their major arguments include claims that: (1) rehabilitation has not been given a proper chance to prove itself due to faulty implementation; (2) some evidence exists that certain forms of treatment for specific offenders are successful; (3) the evidence against rehabilitation has been overstated; and (4) removal of treatment as a primary goal of imprisonment will transform prisons into holding centers or human warehouses.

Neither of these positions directly addresses the remaining alternative—incapacitation. The single issue that most clearly highlights the differences between these two positions is the type of commitment that should be imposed on the offender. The current trend among academics and practitioners is away from indeterminate sentences in favor

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1Witness several recent reports on sentencing by various Bar Associations and also current legislative efforts to structure a meaningful and unified criminal code. These include the "Criminal Justice Reform Act of 1975" (U.S. Senate, 1975) and the "Report and Recommendations on Sentencing and Prison Reform" (State Bar of California Committee on Criminal Justice, June 1975).
of some form of fixed or presumptive penalty with strict limitations on the use of discretion. Few, however, would argue for a system where the mandatory sentence would predominate.

Extent of Discretion

The problem of discretion is related directly to the issue of types of commitment sentences. Nearly everyone appears to agree that a sentencing authority should be allowed some discretion in the sentencing disposition. However, there are questions concerning how much discretion should be allowed and to whom. Those who argue against the indeterminate sentence would still allow limited discretion as long as it is exercised primarily by the judiciary and subject to review. On the other hand, the proponents of the indeterminate sentence call for broad discretion rather than its limited forms, and they would place this power under the authority of the parole board.

Prediction of Dangerousness

The issue of prediction revolves around the question of whether it is feasible to determine the level of dangerousness of a prisoner and to prognosticate subsequent criminal behavior. Morris, Fogel, and Wolfgang argue against this form of prediction because a person should not be punished for what he may do rather than for what he has done. They also believe that the prediction approach results in too many errors in the direction of false positives (i.e., more prisoners are predicted to be dangerous than is the actual fact), with the consequence that many non-dangerous persons must remain in prison. In general, the majority position is in favor of some attempt to use prediction data (e.g., for other than research purposes), although Wilkins and, especially, von Hirsch would limit its use. The legislators and authors of the California Report, however, advocate broad use of prediction by the parole board. Of all those who are against the indeterminate sentence, Wilkins takes the most liberal view, arguing that it is justifiable to incarcerate an individual, based upon the prediction of future criminality (utilizing prior record or any other factors that might increase the precision of prediction).
Treatment Coercion

The practice of treatment coercion in corrections was borrowed from the mental hygiene field, where involuntary treatment is based on the belief that the patients are dangerous to themselves and others. Most positions either specifically argue against coercive treatment in corrections or do not explicitly deal with this issue. The rationale behind these positions is that successful rehabilitation cannot be forced or imposed on a prisoner and, unless one volunteers for programs, treatment may even have dysfunctional consequences. Research is needed to examine the relationship between voluntariness in treatment and effectiveness. Based on the "Criminal Justice Reform Act of 1975" 2302(2D), it appears that coercive treatment is sanctioned (U.S. Senate, 1975). The final set of criteria for a prison sentence is "to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner" (2303(2D)). The same criteria are provided for probation, but coercive treatment is also specified. Article 2103(b10) states [the probationer must] "undergo available medical or psychiatric treatment and remain in a specified institution, if required for that purpose."

D. HYPOTHESIS DEVELOPMENT

The previous section summarized the better known positions on the commitment controversy. This section discusses in detail the major research hypotheses arising from this controversy. These hypotheses are based upon the general assumptions that the aim of sentencing is one of the critical variables in the sentencing process, and that it tends to determine the type of commitment sentences.

Sentencing Goals

(Illustrative Hypothesis: The specific aim of sentencing will influence the type of commitment sentence. Retribution tends to result in nondiscretionary commitments; incapacitation and deterrence in limited discretionary commitments; and rehabilitation in discretionary sentences.)
When retribution is considered the primary goal of sentencing, the mandatory sentence is presumably the logical consequence. According to the retribution argument, each criminal offense results in a specific quantum of harm to the community, which, in turn, should lead to at least an equal measure of punishment to the offender. In this way, society exacts a negative sanction from the offender for the risk taken to commit the crime.

The mandatory minimum sentence and presumptive sentence also reflect certain elements of retribution, but because they allow a limited amount of discretion, it appears that aims other than retribution are associated with these commitments. Consequently, the aims of incapacitation and deterrence are probably also counted among those sentences where a certain quantity of discretion is allowed. Commitment sentences most likely to be consistent with the philosophy of rehabilitation are the indeterminate sentence and the definite sentence. The rather low minimum and high maximum boundaries associated with the indeterminate sentence and the open lower limit that characterizes the definite sentence provide the option to release the offender when it is assumed by the parole board that he has been rehabilitated.

Discretion

(Illustrative Hypothesis: The specific aim of sentencing tends to determine the type of commitment sentence, which, in turn, fixes the locus of discretion. As one proceeds from mandatory commitment sentences to indeterminate commitments, the authority to exercise discretion shifts from the legislature to the courts and, finally, to the parole administration.)

The locus of discretion is thought to vary with the sentencing aim and each type of commitment sentence. For the mandatory sentence, in which the sentencing aim usually is retribution, sentencing discretion is presumed to be exercised by the legislators in the enactment of law, although, in practice, much of it is transferred to the prosecutor who determines the charge. The legislature also exercises substantial discretion in the enactment of the mandatory minimum sentence, since
the legislature determines the lower limit; but sentencing discretion is now also exercised by the judiciary and the parole administration. Limited judicial discretion is also allowed by the presumptive sentence. This commitment provides some slack for the sentencing authority, usually the judiciary, within the limits of the narrowly defined minimum and maximum.

For the definite and indeterminate sentences in which the sentencing aim usually is rehabilitation, the locus of sentencing discretion is transferred from the legislature and the judiciary to the parole board. The legislature determines the statutory minimum and maximum limits for the indeterminate sentence within a very broad range, and it defines a relatively high upper limit for the definite sentence but leaves the bottom end of this sentence open. The parole board thus has enormous discretion to fix the prisoner's release somewhere within a broad range. It is presumed that the parole board usually tries to set the release date at the point it deems the offender to be rehabilitated or cured, so in effect, the release date is tied to rehabilitation.

**Equity**

(Illustrative Hypothesis: The specific aim of sentencing tends to determine the type of commitment sentence, which in turn, fixes the level of equity. As one proceeds from commitment sentences with limited discretion to commitment sentences with broad discretion, the degree of equity decreases.)

An argument in favor of a totally fixed mandatory sentencing system is that it not only provides certainty of punishment (in theory), but also assures greater equity. The absence of discretion inherent in the mandatory sentence is assumed to result in less sentencing disparity. This assumption may be valid, but an argument can be made that a mandatory sentencing system would shift the locus of discretion to the prosecutor. This process would increase negotiations for charge reduction which, in turn, could contribute to greater sentencing disparity than that existing under other commitment sentence systems. This argument notwithstanding, the general assumption is that inequity increases as
the power to exercise discretion expands. Accordingly, the greatest disparity in sentencing should result from a system based upon rehabilitation, and utilizing either the indeterminant sentence or the definite sentence.

Prediction

(Illustrative Hypothesis: The specific aim of sentencing tends to determine the type of commitment sentence, which, in turn, regulates the need for scientific prediction in the sentencing decision. Prediction in the sentencing decision is associated more with discretionary commitment systems than with nondiscretionary commitments.)

Scientific prediction is closely related to the sentencing process, but predictive techniques are seemingly only consistent with certain sentencing aims and commitment sentences. The mandatory sentence, primarily retributory, obviates the need for predicting potential dangerousness (except for research) because the prisoner must remain confined until the sentence expires. Prediction is more important in a presumptive sentencing system, where there might be some pressure on the judge to consider potential dangerousness in determining the sentence within the limited bounds of the statutory-defined minimum and maximum.

The role of prediction is mainly enlarged, of course, by the indeterminate and the definite sentence, behind which rehabilitation is a dominant force. The broad discretion allowed by these sentences encourages the parole board to contemplate the future dangerousness of the offender and to tie a release date to a reduction in his potential for future crime. This fact perhaps explains why more prediction devices have been developed for parole decisions than in other areas of criminal justice.

Length of Stay in Prison

(Illustrative Hypothesis: The specific aim of sentencing tends to determine the type of commitment sentence, which, in turn, regulates the length of stay in prison.)
Discretionary commitments tend to increase length of prison stay, while nondiscretionary commitments tend to be associated with short periods of imprisonment.

The exact length of the prison term served will depend upon the sentencing aim and the type of commitment sentence that is imposed. Most, although not all, writers on this subject have assumed that more rigid commitment sentence structures based upon a theory of retribution result in less actual time served (Drew, 1973). Accordingly, relatively shorter periods of incarceration should be associated with nondiscretionary and limited discretionary commitments, such as the mandatory sentence and presumptive sentence, whereas the lengthiest terms should result from indeterminate and definite commitments.

Treatment Programs

(Illustrative Hypothesis: The specific aim of sentencing tends to determine the type of commitment sentence, which, in turn, regulates the treatment programs. Treatment programs are more likely with discretionary commitment sentences than with nondiscretionary commitments.

The typical position taken by commentators is that a system of mandatory sentences might trigger the abandonment of rehabilitation and treatment as sentencing goals (O'Leary et al., 1975, p. 584). This, in turn, would result in a general overall decrease in the quality of the prison staff, because professionals and other educated personnel will be reluctant to assume functions characterized as custodial. Moreover, the mandatory sentencing system, they argue, would result in the reduction of risk-taking programs, including work release and furloughs. Perhaps even community-based programs including the use of probation would decrease. On the other hand, it is assumed that the indeterminate and definite sentences lead to a greater incidence of treatment and community-based programs that stress the aim of rehabilitation.
Political Influence

(Illustrative Hypothesis: The specific aim of sentencing tends to determine the type of commitment sentence, which, in turn, regulates political influence. Nondiscretionary commitment sentences are least vulnerable to political interference after enactment; discretionary commitment sentences are most vulnerable.)

The commitment sentence that is least susceptible to political influence after its enactment is the mandatory sentence. Obviously, its enactment itself is primarily a political decision, but once the statute is enacted, the judge or parole board can do little to alter it. On the other hand, limited discretion is allowed and, hence, political factors can enter into the decision of the judge in the presumptive sentence or the decision of the parole board in the indeterminate sentence. Judges and parole board members may be especially attuned to public opinion and their decisions might partially reflect an attempt to placate different political constituencies. Furthermore, judges may desire to display the necessary level of cooperation with law enforcement agencies and offices of the prosecution (Foote, 1973, p. 30).

E. ISSUES TO BE STUDIED

The discussion of hypothesis development pointed toward major issues and topics worthy of research. We have selected three of these topics for illustration. They include length of sentence, prediction of dangerousness, and comparative studies.

Commitment Sentences and Time Served

A major effort should be made to determine the relationship between types of commitment sentences and actual length of time served in prison. Several scholars differ in regard to whether the indeterminate sentence actually results in a decrease in actual time in prison (Drew, 1973; Rubin, 1973, p. 137). Although there has been some empirical research on this question, many of these studies either lead to inconclusive
results or are unreliable. For example, Rubin's (1973) analysis of the median number of months actually served for definite and indeterminate sentences shows that for sentences of ten years and under, the median time served for commitments was 21.4 months for the definite sentence and 23.6 months for the indeterminate sentence (see Table 2). However, the statistics also show that, for commitments of ten or more years, the median time actually served was 41.6 months for the indeterminate sentence and 97 months for the definite commitment. At the same time, 70 percent of the prisoners given definite sentences actually served two years or less, whereas only 57 percent of the prisoners who received the indeterminate sentence served this relatively short prison term. Another complicating fact is that, when total time actually served is considered, definite sentence prisoners served 26.5 months as compared with 27.5 months for indeterminate sentence prisoners. Obviously, these data are difficult to interpret and they are susceptible to ambiguous and conflicting interpretation. Other studies are needed to clarify the relationships between prison time actually served and different commitment sentences.

A related question is the impact that different commitment sentences have on different offenders. There may be more racial and sex discrimination under indeterminate sentences, for instance, resulting in blacks and males serving longer periods in prison than whites or females. Similarly, different commitment sentences may be more suitable for different types of offenders. For example, indeterminate sentences may be more suitable for young, violent offenders, whereas the minimum mandatory sentence may be the most suitable type of commitment for older embezzlers or burglars. Further research could investigate these issues, especially in terms of their relationship to sentencing ethics and principles of equity.

Prediction of Dangerousness

One factor that may be considered in deciding which type of sentence would be most effective for different types of offenders is the level of dangerousness. The concept of dangerousness immediately invokes the problem of prediction of future criminal behavior in order to select for
Table 2
MEDIAN TIME SERVED BY TYPE OF SENTENCE

<table>
<thead>
<tr>
<th>Type of Sentence</th>
<th>Time Served</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Definite Sentence</td>
<td>Indeterminate Sentence</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Median Months</td>
<td>Number of Commitments</td>
<td>Median Months</td>
</tr>
<tr>
<td>10 Years or Less</td>
<td>21.4</td>
<td>19,138</td>
<td>23.6</td>
</tr>
<tr>
<td>10 Years or More</td>
<td>97.0</td>
<td>2,025</td>
<td>41.6</td>
</tr>
<tr>
<td>Total Time Served</td>
<td>26.5</td>
<td>21,163</td>
<td>27.5</td>
</tr>
</tbody>
</table>

SOURCE: The median months were compiled from data provided by Rubin, 1973, p. 138.

imprisonment the most dangerous offenders from among those convicted of serious crimes. Although there is extensive literature on these interdependent questions, very little concrete and reliable information is available in discerning who is and who is not a dangerous offender. There has been some progress, however, in increasing the accuracy of prediction models if one takes into account the type of offender and the appropriate interim variables (which may differ for different types of offenders—see Wolfgang et al., 1972). This type of research may deserve to be encouraged in the future.

Comparative Studies

Ideally, in initiating research on several sentencing issues, it would be best to conduct a carefully designed experiment where the sentencing authority could randomly sentence convicted offenders who committed the same type of offenses, and who appeared to them to have identical backgrounds. But it is doubtful, as well as undesirable, to think judges or any court could be persuaded to carry out its sentencing practices on a random basis. One way of overcoming this problem is to undertake comparative research. One technique would be to identify individual
states that may have several forms of commitment sentences for the same type of crimes, and to analyze each of the hypotheses previously presented. It may also be useful to identify different jurisdictions in the same state that disproportionately utilize one specific commitment sentence form and to attempt to determine the reason for this. At the same time, the research can determine the consequences of using a particular commitment form.\footnote{A related discussion on comparative research for sentencing consequences appears in Section VI.}

Another technique is to compare different commitment systems from two or more different states that are roughly equivalent in social, economic, and cultural conditions. This technique would also be useful in addressing most of the hypotheses raised. A comparative program also could include several countries. There are certain features of sentence commitments, for instance, that are either not part of the American system or that have not been fully implemented. One example may be a detailed enumeration by the penal code of the mitigating and aggravating circumstances a judge must consider in sentencing the convicted offender. Much can be learned about these special approaches by comparing foreign sentencing procedures with the system we have in the United States.
VI. DESIGNING A RESEARCH STUDY

A. INTRODUCTION

Illustration: Sentencing Consequences

The present section attempts to describe how to conduct research on sentencing, with special emphasis on research design and on measures of program success or failure. When a criminal justice program is the subject of research, special care must be taken not to mistakenly confirm or deny the effectiveness of the program. The occurrence of erroneous findings has implications far beyond the research community. Adequate research designs can minimize the occurrence of such erroneous findings.

As an illustrative example, we will deal primarily with one aspect of sentencing: its consequences. The consequences of sentencing refer not only to the effects of commitment sentences, probation, and parole, but also to the effects of other types of actions, such as milieu therapy, partial custody, and community-based corrections. In addition, this topic covers different forms of treatment, including casework, individual and group counseling, skill development, individual and group psychotherapy, leisure time activities, and medical methods.

This section draws heavily on the works by Robert Martinson that deal with the impact of treatment programs on offenders. First, we will discuss the controversy over his study on the overall impact of penal treatment and practices. Then, we summarize briefly the significant findings and conclusions concerning individual treatment programs. Afterwards, we tabulate and re-analyze raw data provided by Martinson to answer certain questions of interest on research design dealing with the consequences of sentencing. Finally, we provide a brief description of various nonexperimental techniques useful for research on sentencing.

The Controversy Over the Impact of Treatment

No single study has created so much debate in the last few years as that on the effectiveness of correctional treatment reported by
Robert Martinson in an article (1974) and afterwards in greater detail in a book co-authored with Douglas Lipton and Judith Wilks (Lipton et al., 1975). This study has been selected for analysis not only because it contains more useful information than any other source on the impact of penal and treatment practices, but also because it has generated considerable debate and controversy.

One major criticism of Martinson related specifically to a series of conclusions on the effectiveness of penal and treatment practices, as reported in his article (1974). The following quotes are typical of these conclusions:

"With few and isolated exceptions, the rehabilitative effects that have been reported so far have had no appreciable effect on recidivism" (p. 25)

"What we do know is that, to date, education and skill development have not reduced recidivism by rehabilitating criminals" (p. 28)

"But by and large, when one takes the programs that have been administered in institutions and applies them in a non-institutional setting, the results do not grow to encouraging proportions" (p. 38)

"The results are similarly ambiguous when one applies this intensive supervision to adult offenders" (p. 46)

"... I am bound to say that these data, involving over two hundred studies and hundreds of thousands of individuals as they do, are the best available and give us little reason to hope that we have, in fact, found a sure way of reducing recidivism through rehabilitation" (p. 49)

Ted Palmer (1975), in his analysis of Martinson's article, disagrees with Martinson's overall conclusion that treatment and rehabilitation have failed. Palmer attempts to prove that either Martinson did not mean what he said or that he misinterpreted his own data. Palmer asks, "Does a careful reading of this challenging and influential article really warrant the pessimistic forecast which has been made, especially by individuals who have drawn upon it to support their suspicions regarding the futility of intervention in general?" Palmer goes on to show that a substantial number of studies reviewed by
Martinson yielded positive or partially positive results (about 48 percent). Palmer adds that Martinson himself stated this in his description of several individual studies, but he never systematized or concentrated in one place all those findings dealing with program success. Palmer explains that this was due to Martinson's interest in assessing the efficiency of each given penal and treatment method as a whole and identifying a treatment that worked on an across-the-board basis. Because Martinson did not find one treatment method that was always or nearly always successful, he reached the overall conclusion that rehabilitation has failed. Palmer speculates that had Martinson taken into account the differential value and degree of effectiveness of various penal and treatment methods, and also which methods worked best for which type of offenders and under what conditions, he would have reached a different conclusion—namely, that specific penal and treatment programs indeed worked for selected offenders.

Palmer's argument was based upon Martinson's article. However, a careful reading of Martinson's study, published later in book form, reveals that Palmer was on the right track and that Martinson's evaluation of evaluations did indeed identify several individual penal and treatment programs that did work. Why then was Martinson so pessimistic in light of the evidence suggesting that a substantial portion of the evaluation studies indicated program success? One possible answer (in addition to Palmer's explanation) is that Martinson's single criterion of success was rehabilitation or client improvement. Had he utilized other criteria, then Martinson might have reached a more positive conclusion.

Perhaps another explanation lies in the fact that Martinson did not sufficiently analyze the data in his study and only presented broad impressions of the studies. In fact, much of the raw data presented by Martinson still remains to be tabulated and analyzed and a separate research effort is required for this purpose. For the limited objectives of this report, we have tabulated and analyzed the portion of this information that is useful for determining how to conduct research on the consequences of sentencing. Before proceeding to this data analysis, we will present a brief overview of the most significant findings and conclusions dealing with the impact of sentencing consequences on the
offender as reported by Martinson. (His survey covered 231 treatment evaluation programs conducted from 1945 through 1967. A substantial number of programs has been undertaken since that period. Martinson is currently conducting a similar survey of these programs.)

Martinson's Evaluation of Consequences

The following is a summary of Martinson's major findings and conclusions for each treatment program covered by his survey.

Probation. The studies showed that probation appeared to be a more successful treatment than either imprisonment or parole. First offenders placed on probation had a significantly lower violation rate than first offenders on parole. However, there were no significant differences in violation rates among parolees and probationers for offenders with a prior felony conviction. When the probation officers' caseloads varied, smaller caseloads were associated with lower rates of recidivism for males and females under 18 years of age, with no difference in cost. There were no significant differences in variation of caseloads for adult federal probationers, although 15-man caseloads were associated with a high rate of technical violations. In general, those who were eligible for probation and were fined instead had a lower recidivism rate than those who were placed on probation. This finding was consistent for first offenders and recidivists of all ages. The evidence also showed that a much greater proportion of offenders could be placed on probation instead of being imprisoned without any substantial effect on recidivism.

Imprisonment. In general, lower rates of recidivism were related to either very short sentences of one to three months or lengthy sentences of more than two years. It appears that male juveniles under age 16 benefited from fairly long-term sentences, as opposed to shorter periods of confinement, while youths aged 16 to 21 without prior commitment were less likely to recidivate when given shorter terms. Adult

\[1\] In several of these studies, subjects were neither matched nor randomly allocated. Consequently, selectivity of offenders placed on probation compared to those on parole or in prison may have accounted for the higher success rate exhibited by probationers.
state offenders seemed to be less likely to recidivate when given relatively long sentences, whereas adult federal offenders benefited most from shorter sentences.

Parole. It appears that age was positively related to success on parole. Accordingly, males aged 36 or older had a higher rate of success on parole regardless of length of confinement, while males aged 24 to 36 were next in order of success. Younger adult first offenders showed higher rates of success when paroled after serving fewer than two years in prison.

Most studies assessing the effects of parole dealt with the effects of systematically varying certain standard parole procedures, including caseload size, quality of parole supervision, requirements for release, and nature of the parolee caseload. For instance, it appeared that group parole supervision resulted in a reduction of recidivism and improvement in social adjustment. There was no evidence that definite assurance of employment prior to release on parole improved parole performance. However, parolees who received jobs arranged by the parole authority experienced a greater failure rate on parole than parolees whose jobs were arranged by themselves, friends, or relatives.

Casework and Individual Counseling. Studies have shown that the setting in which counseling occurs is important in determining its effects on recidivism. Counseling that is offered in a community setting rather than in an institution and that is designed to meet the immediate needs of the offender (such as housing, employment, medical services, and family services) appears to lead to a reduction in recidivism, decreased criminality, and vocational adjustment.

Skill Development. Skill development, including vocational and educational training, tended to be related to somewhat lower recidivism rates, but the findings were not significant. The effect of skill development on recidivism was highly dependent on age, sex, and type of skill transmitted. For example, skill development was more effective for older male prisoners and also for youths who received training in operation of data processing equipment.
Individual Psychotherapy. Studies have shown that the effectiveness of individual psychotherapy is determined by its orientation, the age of the offender, the amenability of the offender to treatment, the presence of concurrent treatment, and the attitude of treatment staff. Psychotherapy that focuses upon immediate personal vocational and social issues and other pragmatic aspects results in a greater reduction of recidivism than traditional psychoanalytic treatment.

The evidence showed that a reduction of recidivism occurred for youths aged 16 to 20, but individual psychotherapy appeared to be associated with an increase of recidivism for offenders under 16 (especially females) and also for offenders termed "non-amenable." There were few, if any, studies showing the effects of individual psychotherapy on adult offenders, male or female. When individual psychotherapy was combined with group psychotherapy, the greatest reduction in recidivism occurred. Success also increased in situations where the treatment staff was enthusiastic, dedicated, and had a personal interest in their subjects.

Group Methods. The effects of group methods tended to depend upon the type of group treatment that was administered. Institutional group counseling did not appear to reduce recidivism substantially, but it did result in more favorable institutional adjustment for males. There was some evidence that this same treatment administered in the community to young male offenders tended to reduce recidivism. Group counseling also had a positive effect on personality and attitude change insofar as it was associated with a reduction in antisocial attitudes.

Milieu Therapy. In general, neither residential nor non-residential milieu therapy appeared to have consistent effects on recidivism, although residential milieu therapy was a less expensive treatment method than regular institutional care.

Partial Physical Custody: Halfway Houses. Some evaluation studies have shown that higher failure rates were associated with halfway house programs than total imprisonment, but only when the time spent in halfway houses was in addition to the period of time required by the sentence. Other studies have shown that when the halfway house period did not constitute added time, the recidivism rate was lower than expected.
Work Release. There was no evidence that work release programs had an impact on recidivism, vocational adjustment, community adjustment, work attitude, or family attitude.

Medical Treatment. Tranquilization coupled with psychotherapy was effective with disturbed male offenders, although the effect disappeared within a 12-month period. This same form of treatment produced higher recidivism rates among disturbed female subjects. The use of tranquilization drugs alone was found to be clearly inferior to other forms of treatment with respect to recidivism. The use of various drugs, including dextroampheta mine, triptyline, protriptyline, and nortriptyline, similarly appeared to help control the behavior of offenders in an institutional setting, but the drugs did not appear to have lasting effects beyond institutionalization.

Plastic surgery combined with vocationally oriented private casework services resulted in lower recidivism for disfigured adult misdemeanants. However, the use of surgery alone or private casework services alone had no significant impact on recidivism.

Treatment for Narcotics Addicts and Drunkenness Offenders. Several of Martinson's findings refer specifically to narcotics addicts and drunkenness offenders. For narcotics addicts, variation in caseload size did not appear to have affected their parole performance. But a program of accurate detection of narcotics abuse coupled with either certainty of incarceration or an intensive program of "authoritative casework" and toleration of occasional minor drug abuse was associated with reduction in recidivism during the parole period. The evidence also showed that individual psychotherapy, when administered in the community and combined with other treatment, increased the vocational adjustment of adult male narcotics addicts. Finally, surgery combined with private casework services resulted in significantly lower recidivism rates for narcotics addicts.

For chronic drunkenness offenders, a graduated schedule of treatment and punishment was associated with high success rates. There were no significant differences in success rates among offenders who were randomly assigned to Alcoholics Anonymous, Alcoholic Rehabilitation, and "no treatment." In addition, a program of intensive supervision combined with
intensive support, antabuse therapy, and the threat of certain re-incarceration appeared to increase the success of parole treatment and post-parole performance. A combination of tranquilization and antidepressant treatment resulted in controlled drinking behavior for adult male alcoholics, although this form of treatment was no more effective than psychotherapy or milieu therapy.

B. DATA ANALYSIS

This section reanalyzes and tabulates some of the data provided by Martinson to deal with problems on methodology, research design, sample size, and follow-up measures. This information may be used as a guide by the research team and the R&D-funding agency for identifying major lacunae in research on the consequences of sentencing, but the principles are generalizable to other areas of criminal justice organization research, including arrest, prosecution, and parole.

Outcome Measures

In order to conduct meaningful research, the research team must determine which types of treatment have been the subject of evaluation and which outcome measures were used for this purpose. It may be that the majority of studies have attempted to measure the impact of probation on recidivism, but that there is a paucity of studies assessing the effects of probation on community adjustment. This conclusion would be one argument for conducting research in the latter area. Statistics showing the frequency and percentage of studies relating specific penal and treatment programs to specific outcome measures are presented in Table 3. (The percentage distributions were computed from raw data provided by Martinson.)

Variety of Outcomes. The statistics show that the outcome measure most frequently used in evaluating treatment programs was recidivism. Recidivism was used to assess program success in 48 percent of the studies (the second most common outcome measure was personality and attitude change—23 percent). The use of recidivism as an outcome measure varied with the form of treatment: for instance, only 23 percent of the studies on medical methods and 35 percent of the studies
Table 3  
DISTRIBUTION OF SELECTED TREATMENT METHODS BY OUTCOME MEASURE*

<table>
<thead>
<tr>
<th>Outcome Measures (Dependent Variables)</th>
<th>Treatment Methods (Independent Variables)</th>
<th>Probation</th>
<th>Parole</th>
<th>Imprisonment</th>
<th>Group Methods</th>
<th>Milieu Therapy</th>
<th>Partial Physical Custody</th>
<th>Medical Methods</th>
<th>Leisure-Time Activities</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recidivism</td>
<td></td>
<td>18 78 19 61 18 72 7 39 15 37 12 44 19 35 20 53 4 67 5 23 1 50 138 48</td>
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<tr>
<td>Institutional Adjustment</td>
<td></td>
<td>-- 2 7 1 6 3 7 4 15 6 11 5 13 2 3 2 9 1 50 24 9</td>
<td></td>
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<tr>
<td>Vocational Adjustment</td>
<td></td>
<td>1 4 2 11 5 12 3 11 2 4 1 2 1 5 14 5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Educational Achievement</td>
<td></td>
<td>1 4 9 22 1 4 1 2 1 5 12 4</td>
<td></td>
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<tr>
<td>Drug and Alcohol Readdiction</td>
<td></td>
<td>-- 3 12 3 17 1 2 1 4 2 4 1 3 1 17 4 18 16 6</td>
<td></td>
<td></td>
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<tr>
<td>Personality and Attitude Change</td>
<td></td>
<td>3 13 10 32 4 16 3 17 4 10 5 19 21 39 8 21 9 41 67 23</td>
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<td></td>
<td></td>
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<tr>
<td>Community Adjustment</td>
<td></td>
<td>-- -- 2 11 4 10 1 4 3 6 4 11 1 17 1 5 16 6</td>
<td></td>
<td></td>
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<tr>
<td>Total</td>
<td></td>
<td>23 100 31 100 25 100 18 100 41 100 27 100 54 100 38 100 6 100 22 100 2 100 287 100</td>
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</tr>
</tbody>
</table>

NOTE: Percentages may not add to 100 due to rounding.
1 This table was excerpted from Lipton, Martinson, and Wilks, The Effectiveness of Correctional Treatment, 1975.
2 This is a unique entry since feasibility or demonstrated studies have not ordinarily been included in the survey.
3 The original table had a total of 40 studies for skill development. The corrected total is 41.
on group methods used recidivism as an outcome measure. On the other hand, studies of these two forms of treatment used outcome measures of personality and attitude change more frequently than other studies (41 percent and 39 percent, respectively). Educational achievement and vocational adjustment were the outcome measures least used (4 percent each), and drug and alcohol readdiction and community adjustment were used only slightly more (each 6 percent).

Recidivism. Since recidivism has been the most common outcome measure and entails many different measurement problems, we will discuss it here in greater detail. The dictionary defines recidivism as "habitual or chronic relapse, or tendency to relapse, into crime or antisocial behavior patterns." It is no wonder that such a broad meaning has resulted in several different operational measures of this concept. These measures include police arrests, proportion in custody at end of follow-up, number of convictions, time to first arrest, seriousness of offense, or violation of the rules of probation or parole and reincarceration. Some commentators, including Marvin Wolfgang, have even suggested that a reduction in seriousness of an offense pattern or an increase in the period between offenses should be incorporated into a measure of recidivism. Moreover, it has been pointed out that many of the measures for recidivism focus on collective or system rates, such as the total crime rate or overall parole violation rate. A program of imprisonment, for example, is said to be successful if the crime rate in the community or state decreased.

Careful examination of each of the separate criteria for recidivism further reveals the complexity of establishing outcome measures. For example, crime seriousness may be determined in several ways, including the application of legal categories, differentiating among crimes on the basis of sentence received, or even measuring the attitudes toward different crimes of a representative sample of people from the community as illustrated by the Sellin-Wolfgang scale (Sellin and Wolfgang, 1964). For policy research, the need for a common definition of recidivism is not so much to arrive at a definitive conclusion as to establish a common standard so that various treatment programs can be compared with each other.
Similar problems of definition and standardization pertain to other outcome measures, including attitude change, personality improvement, community adjustment, and alcohol abstinence. For example, alcohol abstinence can mean total abstinence, or reduction in alcohol consumption after treatment, or possibly a reduction of alcohol consumption to socially acceptable standards within the subculture in question.

The analysis of Martinson's evaluation points to a need for researchers to clearly state in operational and meaningful terms all of the sets of techniques whose effectiveness is being measured, and all of the outcome goals of the project, including the cost of the program vs. its effects on the treatment group. Both the treatment techniques and the "success/failure" criteria should be capable of standardization; that is, wherever possible they should be susceptible to replication by different researchers.

Sample Population

In any new study, the population to be studied should be the group that is the target of the treatment or intervention. This population should be characterized by type of offender, sex, and age. When the study population contains a mixture of these characteristics, any analysis of the effects of treatment on the population should include separate analysis according to each such characteristic.

Classification of Offender. Table 4 is another reanalysis of the Martinson data, by the frequency that different types of offenders were the subject of different types of evaluations. (Martinson himself did not tabulate these or the remaining data presented in subsequent tables in this chapter.) The overwhelming proportion of evaluation studies was conducted for mixed youth and mixed adult offenders. Only 16 percent of all studies dealt with what may be termed special types of offenders. Further, only two studies used recidivists, while nine focused upon youths eligible for a first institutional commitment. Other offender types were not represented at all, such as violent offenders, rapists, burglars, white-collar and corporate criminals, terrorists, criminals associated with organized crime, professional thieves, prostitutes,
Table 4
TYPES OF OFFENDERS UTILIZED IN SELECTED EVALUATION STUDIES OF TREATMENT PROGRAMS

<table>
<thead>
<tr>
<th>Offender Type</th>
<th>#</th>
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<th>#</th>
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<th>%</th>
<th>#</th>
<th>%</th>
<th>Total</th>
<th>%</th>
</tr>
</thead>
<tbody>
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<td>1</td>
<td>3</td>
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<td>12</td>
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<td>---</td>
<td>---</td>
<td>9</td>
<td>3</td>
</tr>
<tr>
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<td>11</td>
<td>35</td>
<td>4</td>
<td>16</td>
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<td>61</td>
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<td>1</td>
</tr>
<tr>
<td>Mixed adult offenders</td>
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<td>58</td>
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<td>4</td>
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<td>Narcotics addicts</td>
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<td>--</td>
<td>6</td>
<td>24</td>
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<td>Sex offenders</td>
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<td>Total</td>
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<td>25</td>
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<td>6</td>
<td>100</td>
<td>22</td>
<td>100</td>
</tr>
</tbody>
</table>

NOTE: Percentages may not add to 100 due to rounding.

1This table is based on data presented in Lipton, Martinson, and Wilks, *The Effectiveness of Correctional Treatment*, 1975.
shoplifters, and automobile thieves. Perhaps the most important lesson from these statistics is that they point up the need to construct systematic and orderly typologies of offenders. Even an approach using a classification of multiple offenders may be useful, but broad categories, such as youths eligible for first institutional commitment, recidivists, and mixed adult or juvenile offenders, may be too vague and may have serious consequences in designing research and treatment programs.

Sex. The data revealed that the vast majority of evaluation studies (82 percent) covered the impact of various treatment programs only on males, while 7 percent of the studies had male and female subjects. The R&D policymaker or research team might conclude that more evaluation studies are required for treatment programs involving female subjects, especially since the proportion and rate of female arrests has been increasing steadily during the last few years (Adler, 1975; Simon, 1975). Also, it may be that treatment programs with subjects of both sexes result in different effects than similar treatments exclusively for either males or females.

Age. Relatively few evaluation studies were restricted to young adult offenders aged 18 to 25 years (7 percent). On the other hand, a substantial proportion of studies was conducted with juveniles under 18 years of age (32 percent) and adults aged 26 years and older (25 percent). Most studies involving juveniles under 18 years old attempted to evaluate the impact of milieu therapy (26 studies, or 29 percent of the total) and group methods (16 studies, or 18 percent of the total). At the same time, few studies for this age group focused on medical methods (3 studies or 3 percent), or casework and individual counseling (2 studies or 2 percent). There were only two studies (3 percent) that measured the impact of milieu therapy on adult offenders aged 26 and older, but a relatively high number of studies on medical methods (13, or 18 percent) and individual counseling (9, or 13 percent).

Research Design

A research design consists of a plan of investigation. One of its primary purposes is to achieve internal validity, which refers to the degree of confidence that it was the experimental stimulus that caused the measured impact on the experimental group. The problem of selecting
a research design for determining the consequences of sentencing is very complex. Even authorities in the field cannot agree on what is considered the best or most appropriate experimental design for this form of research. Martinson argues that only the most sophisticated and tight research designs produce valid results. The best known of these is the classical design that uses carefully selected experimental and control or comparison groups of subjects. On the other hand, Stuart Adams (1975) argues that nonrigorous, quasi-experimental research designs have provided more useful information in research on sentencing consequences than poorly implemented experiments utilizing the classical design. Moreover, these quasi-experimental designs were found to be more credible and influential, and they have had a greater impact on major decisionmaking situations than rigorous designs. Adams speculates that this may be due to several factors: (1) quasi-experimental designs conform more to decisionmaking styles and administrators' needs; (2) they provide a rationale for system change; and (3) the classical design is rarely implemented properly by corrections administrators.

Table 5 shows the different types of research design as classified by Martinson. The different levels of research design depend first on whether or not they use control or comparison groups, which are subjects who were not treated by the specific program under investigation. The three levels of research design in Table 5 are arranged according to sophistication and rigor. They include: (1) "true" experiments—i.e., the pure experimental design, (2) ex post facto designs, and (3) simulated designs.

"True" Experiments. In this design, the researcher has the greatest amount of control over the experimental procedures, including the selection of treatment and control subjects, the administration of treatment, the measurement of variables, and the reduction of or compensation for interference by extraneous variables.

Ex Post Facto Research Designs. Using this design, the researcher begins the experiment only after treatment has been administered and thus is not able to control every phase of the experiment. To compensate for this, he attempts to reduce possible errors statistically. Consequently, this procedure may not be as powerful as the pure experimental design.
Table 5

RESEARCH DESIGNS USED IN SELECTED EVALUATION STUDIES OF TREATMENT PROGRAMS

<table>
<thead>
<tr>
<th>Treatment Methods (Independent Variables)</th>
<th>Probation</th>
<th>Imprisonment</th>
<th>Parole</th>
<th>Casework and Individual Counseling</th>
<th>Skill Development</th>
<th>Individual Psychotherapy</th>
<th>Group Methods</th>
<th>Milieu Therapy</th>
<th>Partial Physical Custody</th>
<th>Medical Methods</th>
<th>Leisure-Time Activities</th>
<th>Total</th>
</tr>
</thead>
<tbody>
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<td>Research Design</td>
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<tr>
<td>Control (or Comparison Group)</td>
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<tr>
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<td>8 26</td>
<td>12 48</td>
<td>13 72</td>
<td>20 49</td>
<td>24 89</td>
<td>45 83</td>
<td>28 74</td>
<td>5 83</td>
<td>13 59</td>
<td>184 64</td>
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<tr>
<td>Ex Post Facto</td>
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<td>14 45</td>
<td>9 36</td>
<td>2 11</td>
<td>11 27</td>
<td>3 11</td>
<td>7 13</td>
<td>6 16</td>
<td>4 18</td>
<td></td>
<td>63 22</td>
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</tr>
<tr>
<td>Simulated</td>
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<td>3 12</td>
<td>3 17</td>
<td>5 12</td>
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<td></td>
<td>2 5</td>
<td>1 17</td>
<td>1 5</td>
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<td>21 7</td>
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<tr>
<td>No Control (or Comparison Group)</td>
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<tr>
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<tr>
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<tr>
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<td>1 1</td>
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</tr>
<tr>
<td>Total</td>
<td>23 100</td>
<td>31 100</td>
<td>25 100</td>
<td>18 100</td>
<td>41 100</td>
<td>27 100</td>
<td>54 100</td>
<td>38 100</td>
<td>6 100</td>
<td>22 100</td>
<td>2 100</td>
<td>287 100</td>
</tr>
</tbody>
</table>

NOTE: Percentages may not add to 100 due to rounding.

1 This table is based on data presented in Lipton, Martinson, and Wilks, The Effectiveness of Correctional Treatment, 1975.
Simulated Research Designs. Unlike the two preceding designs, the simulated design consists of pretests on one group of subjects who have not received treatment and post-tests on another group who have. This type of design is not as effective as the "true" experiment or the ex post facto design because many aspects of the experimental situation cannot be controlled.

Reanalysis of Martinson's data in Table 5 reveals the extent to which different types of research designs were adopted in research evaluating the consequences of sentencing. The vast majority of evaluation studies used control or comparison groups (93 percent), but we must bear in mind that Martinson, in his initial screening of which studies to include in his assessment, omitted those that had very weak research designs. The data also show that the proportion of pure research designs used in studies of imprisonment was only 6 percent, of parole, 48 percent, and of medical methods, 59 percent. These proportions compare to an average of 64 percent for all treatment programs. The three treatments where most sophisticated research designs were employed were individual psychotherapy (89 percent) and group methods and partial physical custody (83 percent each).

An overview of the analysis of Martinson's data suggests that different research designs may be appropriate for different problems. These designs should be tailored to meet the various limitations and objectives of the study. It is essential that the researcher examine carefully the appropriateness and feasibility of the design that he intends to use. If a choice exists among alternative designs that are approximately equal in terms of cost, length of time required for completion, and feasibility, the most scientifically exact design should be chosen. R&D-funding agencies should require that proposals for new research include, wherever feasible, a comparison of the designs chosen with possible alternatives. Before funding a major research project in which design selection is a complex issue, a separate feasibility study might even be commissioned.

Sample Size

Information on the sample size used in evaluative studies on the consequences of sentencing is presented in Table 6. The data show that
Table 6
SAMPLE SIZE USED IN SELECTED EVALUATION STUDIES OF TREATMENT PROGRAMS

<table>
<thead>
<tr>
<th>Sample Size</th>
<th>Treatment Methods (Independent Variables)</th>
<th>Probation</th>
<th>Imprisonment</th>
<th>Parole</th>
<th>Casework and Individual Counseling</th>
<th>Skill Development</th>
<th>Individual Psychotherapy</th>
<th>Group Methods</th>
<th>Milieu Therapy</th>
<th>Partial Physical Custody</th>
<th>Medical Methods</th>
<th>Leisure-Time Activities</th>
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</table>

NOTE: Percentages may not add to 100 due to rounding.

1 This table is based on data presented in Lipton, Martinson, and Wilks, The Effectiveness of Correctional Treatment, 1975.
68 percent of the studies had at least 100 subjects. However, 15 percent of the evaluation studies used samples of fewer than 50 subjects, and in 16 percent of the studies, the sample was between 50 and 99. In many evaluation studies, although the researcher used all the subjects in the treatment program, the sample size may have been small.

Length of Follow-Up

The length of follow-up is a critical part of a research design aimed at evaluating sentencing consequences. A particular program with a short follow-up period may have been termed successful even though a relatively high proportion of subjects may have violated the success-failure criterion after follow-up (obviously, the reverse can also happen, whereby a program that may have been successful in the long run is judged ineffective on the basis of a short follow-up period).

In practice, the length of follow-up should cover the time period in which there is a reasonable likelihood that subjects may violate the criterion for success or failure. For instance, the Corrections Task Force of the National Advisory Commission on Criminal Justice Standards and Goals recommended a three-year follow-up period. According to the Task Force's report (1973), recidivism studies that followed offenders more than three years did not reveal a significant difference between recidivism before or after the three-year period. The report made it clear, however, that even more important than fixing a specific length of time is using some standardized period so that it is possible to compare the results and conclusions of different studies.

Although the length of follow-up should be determined partially by the likelihood of offenders to desist from criminal behavior, other factors should also be taken into account, including the amount of time the treatment or penal effects are expected to last and the exact time when the effects of the treatment or penal practice are activated.

Table 7 presents the distribution of follow-up time by treatment or penal programs. The data show that, for the vast majority of studies, not only was the follow-up fewer than three years (85 percent), but for 25 percent of these, the follow-up period was equal to or less than the time covered by the treatment or penal program. These types
Table 7
LENGTH OF FOLLOWUP PERIOD USED IN SELECTED EVALUATION STUDIES OF TREATMENT PROGRAMS

<table>
<thead>
<tr>
<th>Length of Followup</th>
<th>Probation</th>
<th>Imprisonment</th>
<th>Parole</th>
<th>Casework and Individual Counseling</th>
<th>Skill Development</th>
<th>Individual Psychotherapy</th>
<th>Group Methods</th>
<th>Milieu Therapy</th>
<th>Partial Physical Custody</th>
<th>Medical Methods</th>
<th>Leisure Time Activities</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>9</td>
<td>29</td>
<td>7</td>
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<td>6</td>
<td>9</td>
<td>22</td>
<td>6</td>
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<td>23</td>
<td>43</td>
</tr>
<tr>
<td>&lt;6m</td>
<td>2</td>
<td>9</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>4</td>
<td>1</td>
<td>6</td>
<td>4</td>
<td>10</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>6m &lt;1y</td>
<td>5</td>
<td>22</td>
<td>4</td>
<td>13</td>
<td>3</td>
<td>12</td>
<td>5</td>
<td>28</td>
<td>10</td>
<td>24</td>
<td>5</td>
<td>19</td>
</tr>
<tr>
<td>1y but &lt;2y</td>
<td>9</td>
<td>39</td>
<td>3</td>
<td>10</td>
<td>10</td>
<td>40</td>
<td>3</td>
<td>17</td>
<td>6</td>
<td>15</td>
<td>5</td>
<td>19</td>
</tr>
<tr>
<td>2y but &lt;3y</td>
<td>2</td>
<td>9</td>
<td>7</td>
<td>23</td>
<td>3</td>
<td>12</td>
<td>3</td>
<td>17</td>
<td>7</td>
<td>17</td>
<td>6</td>
<td>22</td>
</tr>
<tr>
<td>3y but &lt;4y</td>
<td>2</td>
<td>9</td>
<td>3</td>
<td>10</td>
<td>1</td>
<td>6</td>
<td>1</td>
<td>3</td>
<td>4</td>
<td>7</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>4y but &lt;5y</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>4</td>
<td>1</td>
<td>6</td>
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<td>3</td>
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<td>5y or +</td>
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<td>3</td>
<td>10</td>
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<td>4</td>
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<td>1</td>
<td>4</td>
<td>3</td>
<td>6</td>
<td>1</td>
<td>5</td>
</tr>
</tbody>
</table>

NOTE: Percentages may not add to 100 due to rounding.

1This table is based on data presented in Lipton, Martinson, and Wilks, The Effectiveness of Correctional Treatment, 1975.

2m = months, y = years.

3A period of time less than or equal to time in treatment.
of studies can thus only inform us about the effects of the program on the offender while in treatment, rather than about the effects of the program subsequent to its termination.

Period of Treatment

The period of treatment\(^1\) is also important because some evaluation studies may have arrived at negative results simply because the subjects were not exposed to treatment for the minimum amount of time required for it to take effect. Research is needed to determine the length of time required for each form of treatment. Also, the policymaker should make it a prerequisite before research is undertaken that the specific time in treatment be justified for the program under study.

The data in Table 8 show that, in 35 percent of the studies, subjects spent fewer than six months in treatment. The data also show that, in 6 percent of the studies, different subjects were exposed to treatment for varying lengths of time. This finding could have a confounding effect on the data. It is surprising that all of the imprisonment studies in which treatment was not a variable concentrated on offenders who spent fewer than two years in prison. Thus, the impact of long prison sentences has rarely been investigated. Also, in 76 percent of the parole studies, the time on parole was fewer than two years. This finding should be considered when interpreting the results of these studies, especially where negative findings have been reported. Several of the studies on probation also used short treatment periods. For example, in 23 percent of these studies, the probationers spent fewer than six months under supervision before evaluation.

Nonexperimental Evaluation Techniques

In addition to the evaluation designs considered by Martinson, there are several nonexperimental techniques that need to be discussed. One important reason for considering such techniques is that they may have a

\(^1\)The term "treatment" is used in the broad sense to include penal practices, such as probation, imprisonment, and parole. A substantial proportion of convicted offenders who experience these penal practices do not enter special treatment programs.
## Table 8
LENGTH OF TIME IN TREATMENT FOR SELECTED EVALUATION STUDIES OF TREATMENT PROGRAMS

<table>
<thead>
<tr>
<th>Time in Treatment²</th>
<th>Probation</th>
<th>Imprisonment</th>
<th>Parole</th>
<th>Casework and Individual Counseling</th>
<th>Skill Development</th>
<th>Individual Psychotherapy</th>
<th>Group Methods</th>
<th>Milieu Therapy</th>
<th>Partial Physical Custody</th>
<th>Medical Methods</th>
<th>Leisure Time Activities</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;6m</td>
<td>6 23</td>
<td>9 29</td>
<td>2 8</td>
<td>5 28</td>
<td>15 36</td>
<td>4 15</td>
<td>23 43</td>
<td>18 47</td>
<td>4 67</td>
<td>15 68</td>
<td>101 35</td>
<td></td>
</tr>
<tr>
<td>6m but &lt;1y</td>
<td>3 13</td>
<td>9 29</td>
<td>6 24</td>
<td>11 61</td>
<td>10 24</td>
<td>16 59</td>
<td>19 35</td>
<td>11 29</td>
<td>1 17</td>
<td>5 23</td>
<td>91 32</td>
<td></td>
</tr>
<tr>
<td>1y but &lt;2y</td>
<td>7 30</td>
<td>7 23</td>
<td>11 44</td>
<td>7 17</td>
<td>10 19</td>
<td>8 21</td>
<td>1 5</td>
<td>51 18</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2y but &lt;3y</td>
<td>2 9</td>
<td>3 12</td>
<td>4</td>
<td>4 15</td>
<td>1 2</td>
<td>1 5</td>
<td>7 2</td>
<td>5</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>3y but &lt;4y</td>
<td>1 4</td>
<td>1</td>
<td>4</td>
<td>1</td>
<td>1 4</td>
<td>2</td>
<td>1</td>
<td>6</td>
<td>2 100</td>
<td>17 6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4y but &lt;5y</td>
<td>2 9</td>
<td>6 19</td>
<td>1 4</td>
<td>5 12</td>
<td>1 4</td>
<td>1 4</td>
<td>2</td>
<td>14</td>
<td>1 5 5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Variable</td>
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<td>4</td>
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<td>11</td>
<td>4</td>
<td>10</td>
<td>2</td>
<td>7</td>
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<td>3 17</td>
<td>19 5</td>
<td></td>
</tr>
<tr>
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<td>1 4</td>
<td>2 11</td>
<td>4 10</td>
<td>2</td>
<td>7</td>
<td>1 2</td>
<td>1 3</td>
<td>6 100</td>
<td>2 100</td>
<td>14 5</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>23 100</td>
<td>31 100</td>
<td>25 100</td>
<td>18 100</td>
<td>41 100</td>
<td>27 100</td>
<td>54 100</td>
<td>38 100</td>
<td>6 100</td>
<td>22 100</td>
<td>287 100</td>
<td></td>
</tr>
</tbody>
</table>

**NOTE:** Percentages may not add to 100 due to rounding.

¹ This table is based on data presented in Lipton, Martinson, and Wilks, *The Effectiveness of Correctional Treatment*, 1975.

² m = months, y = years.
greater impact on sentencing programs than controlled experiments or quasi-experiments. The nonexperimental technique is more easily and quickly implemented and it is useful in times of rapid change, whereas an experiment that is complex and demands time loses some of its utility. Nonexperimental techniques also tend to be less expensive than controlled experiments, and the techniques are less likely to intimidate the operating staff because they are usually easier to understand. One strategy may be to approach new problem areas in sentencing with a nonexperimental study and then, afterwards, by an experimental technique.

The major disadvantage of nonexperimental techniques is that they lack standardization, and they are not as reliable as experimental methods. The techniques are also more difficult to interpret. However, these problems are likely to trouble researchers more than administrators, because the latter must frequently make decisions on the basis of even less reliable and relevant information.

The remainder of this section consists of brief descriptions of several nonexperimental evaluation techniques that may be useful for research on sentencing.¹

The Case Study. The case study consists of an intensive examination of a single case (which may be a prison, a group, a phase, an event, a program, a procedure, or an experience). The aim is to gather as much relevant information as feasible in order to learn as much as one can about the case. This type of method is useful for acquiring information about a particular treatment program or perhaps the dynamics that explain how a court operates.

This approach is illustrated by Finkelstein et al.'s study of prosecution in the Boston Juvenile Court (1973). The researchers' objective was to study the existing system of prosecution in an urban juvenile court through an in-depth examination of the prosecutorial role in juvenile delinquency proceedings in Boston. The research strategies employed in conducting the analysis included reviews of legal and other related literature, extensive observations and interviews, and statistical and

¹Parts of the following discussion are based upon Adams (1975).
case file analysis. Within the court, all components of the juvenile justice system believed to be somehow related to the prosecution function were examined, from initial handling by police through dispositional stages. All docket entries and court papers relevant to the court's 1971 caseload were scrutinized and recorded to enable computer analysis. Daily observations of entire sessions of court proceedings for a six-week period were conducted by a single note-taking individual. Supplementary information was obtained from informal conversations with court personnel and others and from 30 hours of extensive interviews with 20 individuals, including the court's presiding justice, chief clerk, and probation officer, and police prosecutors and members of the Massachusetts Defenders Committee.¹

In an effort to determine the general applicability of the research findings and recommendations to a variety of juvenile courts throughout the United States, research results were tested in six other communities. Based on these data, the researchers asserted that, despite significant differences among the courts reviewed, the findings and recommendations derived from the Boston Juvenile Court were directly applicable to other courts as well.

A second application of the case study methodology is Greenwood et al.'s (1973) analysis of the prosecution of adult felony defendants in Los Angeles County. The primary objective of the project was to determine policy differences between the individual District Attorney's offices through the County and the effects such differences have on the outcome of prosecution cases. Each defendant was followed through the criminal justice process from the time of arrest until exit from the adjudicatory system or sentencing.

Surveys. Surveys are procedures for eliciting similar data and information from several sources or individuals. There are numerous approaches for conducting surveys. Interviews may be undertaken to determine the reason why judges impose particular sentences in particular cases, a questionnaire may be mailed to prosecutors in order to determine how they perceive the benefits and disadvantages of the plea bargaining process, or a telephone survey may be conducted to question

¹Sharon Weber helped prepare the literature review for the remainder of this section.
employed ex-inmates about the present job classification. Also, carefully prepared forms can be distributed to prison inmates requesting information about their perceptions of equity in sentencing procedures.

Partridge and Eldridge (1974) employed the survey approach in an attempt to examine and explain disparities in sentencing among judges of the Second United States Circuit Court, encompassing the federal courts of New York, Connecticut, and Vermont. Thirty probation reports supplying conventional pre-sentence data were prepared. Twenty were selected by actual probation officers and intended to represent typical business of the court. An additional ten were designed to specifically reflect potentially explanatory case characteristics. Each of the 50 district judges then rendered a hypothetical sentence on each case. The major finding of the survey demonstrated significant variations in the sentences rendered by these judges on the basis of the same information. These differences were not merely reflective of differences among districts but occurred within a single judicial district. In addition, there was no evidence to support the belief that experience on the bench tends to reduce the range of disparity.

In a more recent study, Korbakis (1975) reviewed the findings of a national survey comparing state policy on review of sentences imposed by trial court judges. The study, conducted by the American Judicature Society, was designed to determine whether states permit judicial review of criminal sentences and, if so, how the review is conducted. Legal memoranda on the law in each state were prepared and submitted to the chief justice of each of the 50 states for verification of contents and conclusions.

Cohort Analysis. Cohort analysis is a research approach that usually consists of a group of people who experienced a particular event at the same point in time. A study might consist of offenders who were all sentenced to prison by the courts of a particular state and then committed within a specified period. The purpose of this study might be to ascertain the effects of a mandatory commitment versus an indeterminate commitment on the performance of the offender cohort while in prison and subsequent to release.
This type of cohort technique automatically standardizes for the time inmates entered the institution, and it provides assurance that all experienced the same set of correction policies at least during a portion of their confinement. One of the most common cohorts used in sentencing research is the release cohort, and the objective of these studies is to determine the subsequent cohort performance at various time intervals. The analysis of the release cohort is extremely useful in determining the success of various treatment programs. However, it does not provide knowledge about the impact of specific sentencing policies on the performance of inmates because the criterion used to define the cohort was time of release from prison and not time of entry into prison. To determine the impact of varying sentencing policies on offenders, an investigator would have to establish entrance cohorts (or groups of offenders who were sentenced at the same time and who entered prison during a specified time period).

The cohort technique was employed by Sampson (1974) in a study designed to aid in developing a valid predictive measure of the chance of "success" for a prisoner leaving the Florida penal system. Sampson utilized a release cohort, which consisted of a random sample of 200 male prisoners released by either parole or sentence expiration from the Florida Division of Corrections between July 1, 1964 and July 30, 1965. The data collected for each individual consisted of information compiled at the time of processing, information prepared at the time of release (parole or sentence expiration), and date of recommitment, if any, to the State of Florida Correctional System. (Due to financial limitations, the researcher did not conduct a search of out-of-state or local recommitment.) A large number of additional variables, including education, number of prior felony convictions, military service records, religious affiliation, age, and socioeconomic status were also included in the model. Sampson then proceeded to evaluate the predictive success of parole board decisions and to propose a statistical model for increasing the efficacy of these decisionmaking bodies.

One of the most well-known cohort studies was conducted by Marvin Wolfgang et al. (1972). The cohort consisted of males born in 1945 and who lived in Philadelphia between the ages of 10 and 18. The main
objective of this study was to determine the probability of becoming
officially recorded as a delinquent. A cohort of 9945 boys was iden-
tified by school, police, and Selective Service records. Of the total
cohort, 35 percent of the youths were termed delinquent insofar as they
had at least one encounter with the police for an offense other than a
traffic violation. This study analyzed various aspects of delinquency
in considerable detail and it provides much useful information for in-
ferrances about policy decisions in sentencing juvenile offenders.

Cost-Benefit Analysis. Cost-benefit analysis is a technique that
attempts to determine whether a particular procedure or program is
more advantageous than other programs in terms of cost and benefits.
In this type of analysis, each action, service, or program component
is assigned a specific value depending upon its cost to the program,
using accounting procedures. Each component is also examined and
assigned a particular value reflecting its benefits. This type of
analysis facilitates comparisons among alternative programs and then
ordering them by favorability according to a cost-benefit function.
The main advantage of cost-benefit analysis is that it provides per-
suasive information for policy decisions. The major limitation is that
it is not always a simple matter to calculate costs or benefits for
social phenomenon.

One cost-benefit model has been developed by Blumstein and Larson
(1969). The processing of offenders through the criminal justice sys-
tem was conceptualized as a linear function to enable the computation
of costs and workloads at the various stages and the establishment of
manpower requirements to meet projected workloads. Workload was de-
efined as the annual demand for service at the various processing stages
(e.g., total trial-days for judge and jury and man-days for pre-trial
detention). The manpower requirement can be calculated by dividing the
workload by the annual working time per man (or other resource, such as
the required number of prosecutors divided by the annual trial days
available per prosecutor). Total operating costs were allocated to
offenders by standard cost-accounting procedures.

A model of all possibilities of flow through the prosecution and
courts was proposed and the total costs were identified as the product
of the unit costs and the rates of flow. Such costs include pre-trial and trial costs for both court and prosecutor as well as that of pre-trial detention. Despite certain limitations, the model is asserted to enable a fairly accurate estimation of costs, workloads, and flows and to relate these to type of crime and stage of processing. It also permits the introduction of planning variables into the model to facilitate future projections.

Operations Research and Systems Analysis. Operations research is an approach that attempts to describe and analyze an ongoing system in order to optimize the use of personnel and other resources within the system. It is mainly concerned with the measurement of the inputs, processes, and outcomes of a system and a description of their relationships utilizing mathematical techniques and computer technology. Systems analysis is nearly the same as operations research except that it assumes a somewhat broader perspective for studying interrelated systems.

Suppose the particular problem on sentencing systems involves how decisions are made in a particular court over a specified period of time. An operations research perspective would probably be appropriate. In contrast, if the purpose of the research is to determine which methods and consequences of sentencing are the most effective for treating the offender, several systems are involved, including the socialization system (i.e., the family, neighborhood, school, church, and society) and other service systems (i.e., medical care, job counseling, and social work). Under such conditions, a systems analysis perspective would probably be more appropriate.

Nagin's (1975) review of empirical evidence bearing on general deterrence theory provides an interesting discussion of the utility of operations research. Nagin suggested that the incapacitation effect is an increasing function of the probability of imprisonment and the time served. An operations model representing this effect must include such factors as the probability of a person becoming a criminal, length of criminal career, crime rates during a criminal career, probability of apprehension, and length of incarceration. These factors can be represented in terms of algebraic formulae (Shinnar and Shinnar, 1975). Equipped with these mathematical equations and the appropriate data,
the researcher can then calculate the incapacitation effect as well as other phenomena related to deterrence.

**Computer Simulation.** Computer simulation is a technique for representing the conditions of a given operation or system. For example, the decisionmaking process in courts may be transformed into a model where tests could be undertaken to determine relationships among various facts, court actors, and decisions. If hypotheses generated by the model are verified, it indicates that the model is consistent with reality. The decisionmaking model can become more complex by building into it other elements—e.g., litigants, lawyers, prosecutors, penal personnel, and police.

Several models have been developed for the judicial process (Sheldon, 1974). Among the more prominent ones are the decisionmaking role group and traditional models that tend to deal with the core of the judicial process, or the judges, and systems and impact models that focus on the overall dynamics of the sentencing system. The value of the model is that it allows the researcher to specify different kinds of anticipated conditions and, hence, present the likely effects of different policy alternatives. In general, simulation may prove to be one of the most important techniques in future research on the sentencing system.

One such model was developed by the Science and Technology Task Force of the President's Commission on Law Enforcement and Administration of Justice (1967). It consisted of a computer simulation of the processing of felony cases. The model, designated COURTSIM, was designed to study the impact of alternative methods of alleviating delay in these cases without disrupting actual court proceedings. COURTSIM was designed to follow the defendant through the standard sequence of units in the processing of a felony offender. The data were drawn from felony defendants processed through the District of Columbia court system in 1965. The model was first used to yield information on length and location of delays within the adjudicatory process. The program's accuracy was then tested by cross-checking computer predictions with actual court records. On this basis, the simulation was found to reflect actual court operation. Organizational and procedural changes were then
introduced into the system to examine the possible consequences of such modifications throughout the process. The Task Force report concluded that simulation is an effective device for considering both the reallocation of existing resources within the court system and the maximization of efficient allocation of additional resources.

**Comparative Research.** The two major types of comparative research relevant for the consequences of sentencing are cross-program analysis and cross-cultural comparisons (Weiss, 1972). For instance, cross-program analysis might be conducted for a single program that has been introduced on a state or national level but is implemented through local agencies that have local variations and strategies. This situation permits the researcher to determine which program components and strategies are most effective for achieving common goals. Cross-cultural comparisons are similar to cross-program analysis except that the programs under study are in two or more different countries.

The major advantage of comparative research is that we can identify new ideas and concepts that may be applicable to other jurisdictions. Comparative research may also have greater generalizability. If a program works in several places, there is a good chance that it will be effective in other locales as well. Comparative research has several disadvantages, however. First, this type of research is not only expensive, but also takes a long time to complete. Second, due to administrative, operational, and practical reasons, the programs being studied may be too disjointed and complex to make legitimate comparisons. Comparative research might nevertheless be useful for learning more about different sentencing models, sentencing disparity, and forms of sentencing policies.

One recent comparative study by Jacob and Eisenstein (1975) compared the distribution of sentences and other sanctions in the criminal courts of Baltimore, Chicago, and Detroit. The data consisted of information collected on felony charges brought against approximately 1500 defendants in each of the three cities. The primary sources of this data were prosecutor and court files, which were supplemented by observations of courtroom proceedings and informal conversations with court-associated personnel.
The research examined sanctions suffered by the "non-convicted," circumstances affecting the decision to convict or release, and the sanctioning of convicted defendants. The non-convicted included those charged, but ultimately released. In the three cities under study, this was the most likely outcome for a felony defendant. Yet the non-convicted were sanctioned in a number of ways. These sanctions included the stigma of an arrest record, pre-trial detention, economic costs to the defendant and family (e.g., amount of bail required, defense counsel fees), and psychological costs. Circumstances surrounding and correlates of the decision to convict were also considered, including witnesses' refusal to testify and prosecutorial decisions to terminate the case. The researchers found it very difficult to develop a model predictive of this decision. Finally, sentencing outcomes (i.e., prison, probation, suspended sentence, fine, or restitution) and severity of sanction meted out to convicted defendants were compared among the cities. The prediction of length of sentence was not improved by knowledge of the judge's identity, mode of case disposition (plea, jury trial, bench trial), type of defense counsel, or characteristics of the defendant. The single variable that was found to have the greatest impact on length of sentence was the original charge. The judge himself did not have the unlimited discretion that has been suggested by other research. On the contrary, he was greatly constrained by the organizational framework of the particular judicial system within which he worked.

C. SUMMARY DISCUSSION

Several important lessons concerning the design of a research study may be derived from this review of research on sentencing consequences. One important lesson is that conceptual terminology must be shared by all researchers. The same terms have different meanings to different researchers and any attempt to transfer these concepts to other studies carries the risk of confusion and misinterpretation. Even commonly used outcome measures including recidivism, attitude change, and community adjustment clearly suffer from a lack of specificity and precision. A
research study must include clear and precise operational definitions of even the simplest terms so that other investigators can replicate, validate, and assess the findings of a particular research effort.

Second, in selecting criteria of success/failure, a study should rely on multiple rather than single outcomes. Whichever outcomes are finally selected, the researcher should also state beforehand the criterion for success. A rehabilitation program, for example, might have had to succeed in 50 percent of the cases to be termed successful. In contrast, in Martinson's research, the criterion was implicit but was much higher than 50 percent, leading to a very different picture of "successful" programs.

Third, certain treatment approaches are more likely to be successful with some offenders than with others. An assessment of the effects of treatment is therefore likely to be distorted by a heterogeneous study population that contains a mixture of characteristics, including age, sex, ethnic background, and type of offense. In designing a study, the researcher needs to specify the population to be studied. For instance, a classification system of offenders would not only facilitate the development of different treatment strategies for different types of offenders, but it would also lead to the identification of those offender groups that have not frequently been the subjects of treatment or evaluation. Researchers could then focus on these groups in future research.

Fourth, little agreement exists among researchers about what is considered the most suitable research design for studying criminal justice organizations. It is most probable that different methods are appropriate for different research problems. Therefore, experimental and nonexperimental designs must be tailored to meet the needs and constraints of a particular research project. In general, the most rigorous design should be chosen, but it should not be so inflexible that it impairs the research. A research design should only be selected after its methodological appropriateness and practical feasibility have been justified. Where there is doubt, a separate feasibility study should be undertaken to assure that the research design finally chosen can be implemented within the time frame and budget allotted for the project.
Fifth, in evaluating the consequences of any treatment program, the research should assess outcomes only after a reasonable follow-up period. The length of follow-up should coincide with the time period in which there is a reasonable likelihood that subjects may achieve the criterion for success or failure, but it should certainly not be shorter than the treatment period. The nature of the treatment and of the expected outcomes will obviously define the most appropriate follow-up period.
VII. CONCLUSIONS

Conducting research on criminal justice organizations is unusually difficult. The researcher is often confronted with special complex organizational problems in dealing with the host agency. Each research situation will create its own unique set of problems, but most important for overcoming these problems is the establishment of a positive working relationship between the researcher and the host agency.

The manner in which the investigator approaches the research task is most important. Researchers should be sensitive to the needs and objectives of the organization and should also be aware of the importance of establishing a value-neutral position. The host agency also plays a crucial role in the research relationship. The host agency must be encouraged to create a tone of cooperation and support.

Much research on criminal justice involves working with client groups who may be the subjects of study. Although certain demands may be imposed on the research worker, they should not overshadow the importance of adhering to the ethical guidelines concerning the privacy and protection of research subjects, the confidential nature of the data, and the potentially harmful effects of assuming a nonresearch role when dealing with agency members.

Another major problem confronting the research community is the failure of many criminal justice organizations to adopt and utilize potentially useful research recommendations. Obstacles to utilization include poor communication between researcher and agency personnel, research findings that have low utilization potential, unusual expense and impracticality of introducing new programs, and untimely exposure of results that may conflict with existing agency practices. These problems may be mitigated in part by establishing an open and candid communications network between researcher and host agency so that the findings will bear on immediate operational issues and have practical utility. Additional guidelines for utilization include:
Studies should be written so that the findings of the report are clearly and unambiguously conveyed to agency personnel; and

A greater emphasis should be placed on other nontraditional means of communicating the final results, including periodic briefings, demonstrations, workshops, and conferences.

Researchers have an obligation to publish study findings, even when they run counter to agency expectations or are severely critical of existing agency policies or practices. However, the researcher should inform the agency as early and as frequently as feasible through interim reports about the study's progress, direction, and findings to date. This will provide the agency an opportunity to deal with the problems that might arise from public disclosure of adverse findings, or at least offer an explanation for current practices.

One general procedure for mitigating many of the problems described above is to make explicit, at the outset of the research, the guidelines to be followed by the researcher and the host agency. These guidelines should address specific matters regarding the research, including the extent of the agency's cooperation in the project, the study's objectives, the nature of the data to be collected, the procedures to be used, the extent to which data may be regarded as confidential by the agency or the researchers, the expected outputs of the study, and matters of publication and dissemination. This setting of guidelines can clear up misconceptions about the research, and it can form the basis for a productive and mutually satisfying partnership for the duration of the project.

Selecting a Topic for Research

Selection of a topic for research is probably the most important single decision confronting a researcher. The final choice should be made deliberately and only after careful consideration of several criteria. The criteria include a topic's feasibility, social relevance, conceptual clarity, and the state of its theoretical development. Multiple criteria should always be used for selecting a research topic.
No research topic should be initiated solely because it is relevant to current issues or solely because of the state of conceptual underpinnings. Inappropriate considerations for determining a research agenda include fads or a researcher's political, bureaucratic, or ideological position. Every attempt should be made to minimize these effects in setting research priorities.

One topic which fits several of the selection criteria described above is discretion in decisionmaking. A new study on sentencing discretion could begin with an altogether different approach so long as the traditional hypotheses are thus examined as counter-arguments. The new approach would delve into the decisionmaking process itself by examining the attitudes, perceptions, and sentencing philosophy of the judge in an attempt to recreate the conditions of the sentencing process as the judge experiences it in everyday practice. This approach would go beyond the usual procedure of using official sources to collect as much information as possible concerning the type and severity of the offenses committed, and the nature of the sentencing decision imposed. One benefit of this type of study could be the establishment of sentencing guidelines, aimed at reducing disparity in the sentencing disposition.

**Initiating the Research**

**Common Terminology.** In initiating research, one of the very first steps required is to establish a set of common definitions. A major problem in research on criminal justice organizations is the absence of standardized definitions for such terms as dangerousness, recidivism, discretion, and equity. The confusion over definitions not only has impeded communication among researchers and, more importantly, between researchers and practitioners, but also has hindered comparisons and replications of research studies. There is a need for researchers and host or funding agencies to be sensitive to the way in which various terms are used in the research studies being conducted. Where appropriate, the use of common definitions can facilitate the direct comparison of research findings and, hence, the aggregation of research knowledge. For example, the development of standardized definitions has already occurred in the use of some identically worded questions in victimization
surveys. It is important for researchers to develop and use compatible sets of definitions. Even where common terminology is not achieved, terms should be well enough defined so that their meaning can be interpreted by other studies. Toward this end, it may be useful for criminologists to establish a glossary of terms and to encourage its use in research.

Hypothesis Development. A critical stage in conducting research occurs at the outset of a project, when the hypotheses to be studied must be identified. The development and statement of hypotheses are often given only superficial attention in research on criminal justice organizations. An investigator may "throw in" a series of hypotheses just to satisfy the need to have statements that can be labeled as such. Hypothesis development, however, is the major procedure for defining the scope of the study, the appropriate research design, the data to be collected, and the nature of the data analysis. Under some circumstances, as in an ethnographic study of a law enforcement agency in which the main goal of the research is a descriptive one (for example, Rubenstein, 1973), a study need not have any formal hypotheses. However, for most policy-related research, hypothesis development is critical because it represents a strong hunch about a causal sequence of events, and if such a sequence is identified and confirmed in the research, this can be the prelude to policies that can be used to intervene in the future.

Designing the Research

In general, the development of research designs for studies on criminal justice organizations follows the selection of the research topic, and the development of compatible definitions and research hypotheses. Naturally, the design of a research study is often a complex affair that cannot be accounted for by a simple sequential process. However, we assume here that compatible definitions have been developed and that key hypotheses have already been identified, and that the concern is now with designing the research study.

In conducting research on criminal justice organizations, adequate research design has importance beyond methodological considerations.
Special care must be taken not to mistakenly confirm or deny the effectiveness of the program under consideration. The occurrence of erroneous findings has implications far beyond the research community. Adequate research designs can minimize the occurrence of such erroneous findings.

The account of Martinson’s assessment of the effects of treatment programs underscores the importance of tailoring the research design to the action or treatment program under evaluation. The effectiveness of a particular treatment program cannot be measured without considering a complex array of factors: the outcome measures, the characteristics of the sample population, the rigor of the research design in having adequate control groups and pre- and post-testing, the sample size, the length of follow-up, and the period of treatment. For instance, the effectiveness of a treatment program may be apparent shortly after it has been administered to the subjects, or it may be several months or even a year before some positive change is noticed. Therefore, it is incumbent upon the researcher to define the evaluation study as tightly and as comprehensively as possible and upon the R&D-funding agency for assuring this. Unless this is done, there will not be a sufficient basis for choosing the most appropriate research design, nor will the results of the study be able to serve its original intentions. In these respects, an inappropriately designed study can unnecessarily undermine support for the treatment program, even though the study contained a flaw, such as too short a follow-up period.

Developing System Research Perspectives

Criminal justice organizations exist as parts of a complex set of systems commonly known, perhaps misleadingly, as "the criminal justice system." This term implies a logic and rationale that probably do not exist—the system is many systems and their outcomes and interactions are not always consistent.

Nevertheless, it is clear that changes at one point in the system usually produce changes at another point. For example, if police officers rigorously enforced all laws, there would probably be more arrests which, in turn, would have a major impact on the decisions made by prosecutors.
and judges in terms of how they would deal with the offender. Equally important are the effects on the police and prosecutors of changes in the use of discretion by judges. In other words, truly effective policy implementation at any one point in the criminal justice system demands that we have foreknowledge of just how such a change will affect system operations elsewhere.

These observations suggest that research on criminal justice organizations needs to account continually for corollary and possibly counterintuitive effects in other parts of the system. Unfortunately, most research is narrowly focused on traditional system components--i.e., police, prosecution, courts, and corrections. This usually means that police studies rarely are concerned with the possible effects of police work on corrections policies (or vice versa).

The President's Crime Commission advocated one alternative to deal with this problem: an increase in the number of "system" studies, as reflected in comprehensive simulation models of criminal justice systems. Another alternative is to focus on common themes--such as discretion in decisionmaking--that cut across all components in the criminal justice system. Therefore, in addition to traditional studies that tend to treat individual parts of the criminal justice system in isolation, total system perspectives should also be developed. Common themes may be best understood by enlarging the scope of the study across organizational boundaries to include police, prosecutors, judges, corrections, and parole authorities, rather than confining such studies to one particular type of agency. These systemwide studies can also be used to investigate unexpected (and compensatory) effects in one part of the system by decisions taken in another part. Such studies could lead to improvement in our knowledge and understanding of the functions of the criminal justice system as a whole.
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