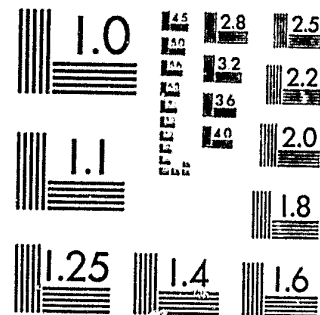


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# Federal Probation

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JUNE 1983

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# Federal Probation

A JOURNAL OF CORRECTIONAL PHILOSOPHY AND PRACTICE

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## This Issue in Brief

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

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

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

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

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

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FEDERAL PROBATION QUARTERLY

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

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

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

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

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

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

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

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

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

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## The "Effectiveness" Issue Today: An Overview

BY TED PALMER, PH.D.

Senior Researcher, California Youth Authority, Sacramento

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

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

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

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

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

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

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

Lipton, D., Martinson, R., and Wilks, J. *The Effectiveness of Correctional Treatment: A Survey of Treatment Evaluation Studies*. New York: Praeger, 1975.

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Wright, W., and Dixon, M. "Juvenile delinquency prevention: A review of evaluation studies." *J. of Research in Crime and Delinquency*, 14(1), (1977): 35-67.

## Targeting Federal Resources on Recidivists: An Empirical View\*

BY BRIAN FORST, WILLIAM RHODES, JAMES DIMM,  
ARTHUR GELMAN, AND BARBARA MULLIN\*\*

### 1. Introduction

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

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

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

\*This article is based on research sponsored by the Department of Justice under contract no. JYFRP-81-C-0126. The authors are especially grateful to Dr. Charles Wellford, the Department's project monitor, for his helpful suggestions throughout the project. The findings, conclusions, and recommendations in this report do not necessarily reflect official U.S. Government policy.

\*\*Messrs Forst, Rhodes, and Dimm are with INSLAW, Inc. Mr. Gelman is with the National Association of Criminal Justice Planners and Ms. Mullin is with the Yale School of Organization and Management.

<sup>1</sup> Alfred Blumstein, Jacqueline Cohen, and Daniel Nagin, editors, *Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates* (Washington, D.C.: National Academy of Sciences, 1978); Leo Sechrest, Susan O. White, and Elizabeth D. Brown, editors, *The Rehabilitation of Criminal Offenders: Problems and Prospects* (Washington, D.C.: National Academy of Sciences, 1975).

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

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

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

### 2. Previous Research Related to Selective Incapacitation

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

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

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

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

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

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

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

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

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

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

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

<sup>8</sup> Paul E. Meehl, *Clinical vs. Statistical Prediction* (Minneapolis: University of Minnesota Press, 1954); Jack Sawyer, "Measurement and Prediction," *Clinical and Statistical, Psychological Bulletin*, vol. 60 (1966); Henry J. Steadman and Joseph Cocozza, "Psychiatry, Dangerousness and the Repetitively Violent Offender," *Journal of Criminal Law and Criminology*, Vol. 69 (1978), pp. 226-31; John Monahan, *Predicting Violent Behavior: An Assessment of Clinical Techniques* (Beverly Hills: Sage, 1981); John S. Carroll, et al., "Evaluation, Diagnosis, and Prediction in Parole Decision Making," *Law and Society Review*, vol. 17 (1982).

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

<sup>10</sup> Williams, *ibid.*, p. 27.

strategies actually used by prosecutors is not plentiful. In an earlier INSLAW study we analyzed the factors that govern prospective case selection and subsequent processing decisions by identifying the case characteristics that best predict the prosecutor's decisions to accept a felony case at screening and then to carry it forward at successive stages of prosecution. Using 1973 data from PROMIS (the Prosecutor's Management Information System) from Washington, D.C., that study found that the cases that proceeded the farthest through the system tended to be those, first, that had the strongest evidence (measured by such factors as number of witnesses, whether physical evidence was collected by the police, and the amount of time that elapsed between the offense and the arrest) and, second, that involved the most serious offenses (measured both by the maximum sentence for the most serious charge indicated by the police or prosecutor and by the Sellin-Wolfgang index, a measure of the amount of harm inflicted on victims by the offense).<sup>11</sup> Cases involving defendants with longer criminal records (measured by number of prior arrests, and controlling for the defendant's age) were not found to be selected at a higher rate or carried forward to a more advanced stage of prosecution than other cases.

These results, describing an office that had no career criminal program at the time the data were recorded, suggest that the prosecutor might not be

<sup>11</sup> Brian Forst and Kathleen B. Brosi, "A Theoretical and Empirical Analysis of the Prosecutor," *Journal of Legal Studies*, Vol. 6 (1977), pp. 177-91. The effect of the evidence variable was 10 times larger, as measured by the elasticity of the variable, than the effect of crime seriousness (pp. 187-90). The Sellin-Wolfgang index is described in Thorsten Sellin and Marvin E. Wolfgang, *The Measurement of Delinquency* (Montclair, N.J.: Patterson Smith, 1974).

<sup>12</sup> U.S. Department of Justice, *Justice Litigation Management* (Washington, D.C., 1977), pp. 42-44; Joan E. Jacoby, et al., *Prosecutorial Decisionmaking: A National Study* (Washington, D.C.: Bureau of Social Science Research, 1980).

<sup>13</sup> We can assume that crime reduction is produced from a strategy of targeting on repeat offenders primarily by way of incapacitation rather than deterrence. In fact, these incapacitative effects may be at least partly offset by lost deterrent effects associated with the failure to convict less active offenders whose current offenses are more serious. It is possible, however, that the deterrent effect of a strategy of targeting on repeat offenders may approximate that associated with a strategy of targeting on the most serious current offenses. We know little about the differential crime control effects of sanctions applied to various classes of offenses and offenders, and even less about the decomposition of those effects in terms of deterrence and incapacitation. Limits to this knowledge are discussed in Blumstein, et al., *op. cit.* (note 1).

<sup>14</sup> Eleanor Chelimsky and Judith Dahmann, *Career Criminal Program National Evaluation: Final Report* (Washington, D.C.: U.S. Department of Justice, 1981), pp. 87, 127.

<sup>15</sup> William M. Rhodes, "Investment of Prosecution Resources in Career Criminal Cases," *Journal of Criminal Law and Criminology*, vol. 71 (1980), pp. 118-23. The study noted that the targeted cases may have been more difficult to prosecute in the first place than the other cases (p. 122).

<sup>16</sup> In San Diego, for example, the charges in the current case are critical to selection for career criminal targeting; those charges are irrelevant to the program in New Orleans. Chelimsky and Dahmann, *op. cit.* (note 14), pp. 63-73. A survey of the selection criteria used in 140 different career criminal programs in jurisdictions throughout the United States confirms the variety of case selection criteria found by Chelimsky and Dahmann. Institute for Law and Social Research, *National Directory of Career Criminal Programs* (Washington, D.C.: Department of Justice, 1980).

inclined to target on the more crime-prone offenders—especially at the screening stage, where most cases drop out of the system—in the absence of such a program. This inference was corroborated in 1977 by evidence produced from a survey of Federal prosecutors, and from a survey of 855 prosecutors in 15 non-Federal jurisdictions in 1980.<sup>12</sup> While consistent with the deterrence aspect of crime control, the findings of those studies suggest that the prosecutor does not automatically target on cases with the idea of realizing the incapacitative effects associated with the conviction and incarceration of the most criminally active offenders.<sup>13</sup>

More recent research by Eleanor Chelimsky and Judith Dahmann, conducted in offices with career criminal programs, produced quite different findings: Attorney time given to cases that are processed by career criminal units may actually be excessive. In a survey of four jurisdictions, the number of cases assigned to those units was found to be only about one-fourth of that for the other prosecutors in each of the offices studied, and the career criminal cases were found to be no more likely to end in conviction.<sup>14</sup> Similar results were obtained in research conducted at INSLAW by one of the authors. Measuring the number of attorney hours allocated to each felony case in the main office and four branch offices of the Los Angeles County District Attorney, Rhodes found that the amount of attention given to robbery and burglary cases in the career criminal unit was about five times the amount given to robbery and burglary cases that were processed conventionally, with results in terms of conviction rates that appeared no better.<sup>15</sup>

The accumulated evidence, in short, suggests that too little attention may be given to cases involving chronic offenders in an office with no special targeting program, and too little attention may be given to other cases in offices that do have such programs. It is possible that simply flagging cases involving criminally active offenders to remind the prosecuting attorney, sentencing judge, and correctional officials that the case warrants special consideration may produce a more balanced, if not more efficient, allocation of resources than the alternatives of either processing such cases through separate career criminal units or ignoring them altogether.

**2.3 Empirically Derived Case Selection Strategies.**—In their survey of four jurisdictions with career criminal programs, noted above, Chelimsky and Dahmann also found four entirely different sets of career criminal targeting strategies.<sup>16</sup> While such

differences may be attributable to the prospect of recidivism predictors varying from place to place, it is safe to conjecture that the criteria vary primarily due to arbitrariness; few people know what actually predicts recidivism in any particular jurisdiction. Such variation in targeting criteria imposes avoidable crime costs on society to the extent that the criteria used do not result in a strategy of targeting on those offenders who are predictably the most crime-prone.

Room for improvement in the choice of selection criteria for career criminal programs is further indicated in a 1980 INSLAW study by Kristen Williams. She found that the estimated incapacitation effects of empirically derived targeting criteria in fact surpass, by from 10 to 50 percent, those associated with criteria developed by the Law Enforcement Assistance Administration: current case a serious felony and one prior conviction. These estimates were based on a variety of assumptions about the size of the group of cases targeted, the conviction rate increase associated with the program, and the sentence that followed.<sup>17</sup> Similarly, Roth and Wice's model of crime on bail, when used to predict the most recidivistic of a sample of 424 defendants who were required to post cash or surety bond, revealed that the number of persons jailed in that sample could have been reduced from 170 (those who failed to make bond) to 98 (those predicted to be the most recidivistic) without any increase in the expected rate of pretrial rearrest.<sup>18</sup> And according to Fischer, the Iowa Statistical Analysis Center has demonstrated

that an Iowa parole policy based strictly on predictive restraint could enhance the crime prevention power of imprisonment—via incapacitation—by as much as 36 percent with no increase in the prison population. If both sentencing and parole release were to be based strictly on predictive restraint, then this figure would increase to 70 percent.<sup>19</sup>

These studies suggest that our ability to improve on current patterns of case selection and handling may be substantial. Opportunities to make such improvements at the Federal level will be discussed in sections 4 and 5.

### 3. Surveys of Criminal Justice Agents

Improvements in case selection and handling procedures are not likely to be effectively implemented

<sup>17</sup> Kristen M. Williams, "Selection Criteria for Career Criminal Programs," *Journal of Criminal Law and Criminology*, vol. 71 (1980), pp. 89-93.

<sup>18</sup> Roth and Wice, *op. cit.* (note 9), pp. 63-64. They also showed that jail populations could be reduced if the primary goal of pretrial detention were to reduce the rate at which defendants fail to appear in court (pp. 63-64).

<sup>19</sup> Fischer, *op. cit.* (note 9), p. 3.

by people who do not see them as improvements. An important precondition to the successful implementation of a strategy of selective incapacitation is an understanding of the perceptions of the agents responsible for carrying out such a strategy. Accordingly, we surveyed Federal investigators and prosecutors, as well as prosecutors experienced in the operation of career criminal programs at the local level. In this section we describe the principal results of those surveys.

**3.1 Federal Investigators.**—Four Federal investigative agencies that account for the vast majority of cases prosecuted by Federal attorneys participated in the survey: the Federal Bureau of Investigation, the Secret Service, the Postal Inspection Service, and the Bureau of Alcohol, Tobacco, and Firearms. A total of 26 inperson interviews with agents of those organizations were conducted in seven cities: Chicago, Detroit, Houston, Los Angeles, Miami, New York, and San Francisco. (Federal prosecutors were also interviewed in those sites.) Because the number of interviews ranged from five to seven for the individual agencies, it was not possible to draw reliable inferences about the attitudes of agents of any particular agency; hence we report results for the 26 agents as an aggregate.

The issue of central interest was the extent to which an offender's prior record influences Federal investigation and prosecution. Most agents expressed the belief that prior record influences the decision to investigate; half said that it influences the decision to prosecute (See exhibit 1). Most doubted that the charges filed by the Federal Prosecutor are affected by the offender's criminal history.

With respect to the prospect of a more explicit Federal career criminal program, most investigative agents seemed positive. They strongly supported the idea of increasing both the incarceration rates and average sentences of recidivists. Specific recommendations included the "flagging" of cases for special attention, assignment of cases to experienced attorneys, and the institution of special screening and review procedures. Only two agents expressed a preference for a special prosecution unit to handle such cases.

**3.2 Federal Prosecutors.**—A total of 26 inperson interviews were conducted in nine Federal districts: Central California (Los Angeles), Northern California (San Francisco), Southern Florida (Miami), Northern Illinois (Chicago), Eastern Michigan (Detroit), Eastern New York (Brooklyn), Southern Texas (Houston), and Western Washington (Seattle). We

EXHIBIT 1  
*Survey of Federal Investigators*

Does an offenders's history of prior  
criminal activity influence:

	Agency's decision to initiate investigation	U.S. at- torney's decision to accept case	Seriousness of charges filed
Yes	16	13	7
No	6	4	15
Depends	4	9	3
No response	0	0	1
N	26	26	26

interviewed from two or four people in each office—typically, the head of the criminal division, the head of a special prosecution unit, and another senior attorney. Additional interviews were conducted in 18 other districts by telephone.

The interview started with a question about the Federal attorneys' knowledge of local career criminal programs and views about their effectiveness. Of the 19 attorneys who expressed a view, 9 thought the programs were either "quite effective" or "extremely effective," 5 thought they were "moderately effective," three "marginally effective," and 2 thought that they were not effective at all.

While the attorneys interviewed acknowledged current Federal emphasis on cases involving repeat offenders, they indicated (using a 10-point scale of importance) that the strength of the evidence and the seriousness of the current offense weigh a bit more heavily than prior record in their decisions to accept or decline cases at the screening stage. To the extent that they do consider prior record in their screening decisions, they indicated that they base their assessment of recidivism on at least one of three sources of information: FBI criminal histories, local agency sources, and investigative information that reveals an offender's current activity to have the characteristics of a sophisticated, often long-term operation. Prosecutors in two of the nine jurisdictions indicated that they rarely have prior criminal history records available at screening.

Looking ahead to the prospect of a Federal career criminal program, Federal prosecutors identified several goals for the program, ranging from increased incarceration rates and sentence terms for repeat offenders to such side benefits as improved coordination with local prosecutors. They indicated that such benefits could be achieved through the flagging of cases involving repeat offenders and increased use of pretrial detention and special sentence enhancement statutes for those cases.

We found surprisingly little support (only four respondents) for the establishment of separate career criminal prosecution units within the office. This lack of support is consistent with the lack of proven effectiveness of such units at the local level noted in section 2. It is also consistent with a tendency for the Federal prosecutors interviewed to express more interest in the offense than in the offender. Nearly all of the respondents expressed opposition to a program that would either alter their present office structure or that would cause a shift from the current emphasis on crime seriousness to an emphasis on offenders. It is not totally clear whether the Federal attorneys' opposition to the creation of career criminal units within U.S. attorney offices stems primarily from a belief that the career criminal units would not be effective or from a preference in focusing on serious offenses rather than serious offenders. The existence and acceptability of special prosecution units in most of these offices (e.g., to target on narcotics and on organized

crime), however, may suggest that Federal prosecutors are not generally opposed to special prosecution units per se, but are opposed primarily to a focus on the offender rather than the offense.

Federal prosecutors appear also to be generally opposed to a set of criteria that would substantially narrow their discretion to select certain types of cases but not others. While about half of the attorneys interviewed thought that some guidelines would be useful to assist prosecutors in identifying the more crime-prone offenders, they also expressed the belief that such guidelines should be broadly defined. Only two attorneys favored point-system or check-list approaches to case selection.

If career criminal guidelines were to be based on the presence of certain factors, the most important factor cited by the sample of Federal prosecutors (41 responded to this question) was, ironically, the seriousness of the current offense. Among 13 factors named on a five-point scale of importance, the following noteworthy results were obtained: offense seriousness (#1) received an average score of 4.37; prior Federal felony convictions (#2), 4.24; indication of high volume of criminal activity (#3), 4.15; prior non-Federal felony convictions (#4), 4.04; prior felony arrests (#6) 2.80; indication of drug use (#8), 2.73; and prior misdemeanor arrests (#13), 1.49.

While offense seriousness appears to remain the more dominant concern of Federal attorneys, they do express support for the inclusion of factors that are statistically related to recidivism among a set of case selection criteria. Of the 31 prosecutors who responded to the question, "Should the case selection criteria for a Federal career criminal program include items that are statistically related to the likelihood of recidivism?" all but three said yes.

Individual respondents also expressed support for ways of dealing with repeat offenders other than with the use of empirically derived case selection criteria: new legislation to facilitate the prosecution of recidivists, cross-deputization of Federal and local prosecutors, less emphasis on cases involving the sophisticated white collar offender, and the provision of more complete criminal history information in time for the bail hearing.

For the most part, Federal prosecutors feel that their current policies are adequate for dealing with repeat offenders. They expressed the view that substantially larger gains could be realized from tougher sentencing of repeat offenders than from different prosecution strategies or from new prosecution programs that would only duplicate current ones.

*3.3 Local Prosecutors.*—The third major group of

practitioners surveyed was prosecutors responsible for local career criminal programs. The purpose of this survey was threefold: to learn the basic features of local efforts to target on repeat offenders, to learn the extent and nature of the interaction of local prosecutors with Federal investigators and prosecutors, and to learn their views on the concept of a career criminal program at the Federal level. Representatives of over 80 active career criminal programs were interviewed in person or by telephone.

The programs surveyed had been in operation for an average of 42 months at the time of the interview (summer 1981). Most of the local career criminal programs experienced a substantial shift in funding during this period: Federal funding, which was largely responsible for the initiation of these programs, fell from 68 percent of total program funds at the start to a level of 10 percent by the summer of 1981; state governments filled much of the void, increasing from 21 to 48 percent of the funding; and local governments assumed the remainder, increasing from 11 to 43 percent of the funding of career criminal programs.

Career criminal programs vary substantially in size, based primarily on the size of the jurisdiction. Los Angeles County, the largest jurisdiction in the study, also has the most attorneys (24) in its career criminal unit. Ada County, Idaho, and Black Hawk County, Iowa, jurisdictions of less than 150,000 residents, each have only one attorney assigned to their units. The average number of attorneys in the 82 units sampled was 3.8.

The career criminal units attorneys are typically more experienced than other attorneys in the office—they have an average of over 7 years of prosecution experience, nearly twice that of the others. The minimum amount of prosecution experience in the vast majority of these units is 3 years.

Recognizing the importance of "case building" in many cases involving repeat offenders, these units usually have experienced investigators added to their staffs of experienced lawyers. About two-thirds of the units have such persons assigned to their staffs; of the 14 units surveyed operating in jurisdictions with over one million residents, 13 have investigators assigned to their staffs, and most of these units have two or more such people. Over 75 percent of all career criminal investigators were previously employed as police officers or detectives. Local career criminal unit staffs often also include paralegal assistants, secretaries, and clerks.

Local career criminal units are not distinctive only for their staffs of experienced lawyers and investigators. They are also characterized by a system

known as "vertical prosecution." Rather than being passed "horizontally" from one attorney to another in a production line manner common in urban prosecutors' offices, career criminal cases are typically handled by a single attorney from the screening stage through indictment and on to final case disposition. While this enables each prosecutor to devote more attention to each case handled, it also results in fewer cases processed per attorney than in conventional case processing systems. Whereas felony caseloads typically run in the neighborhood of 100 per attorney in conventional settings, career criminal unit attorneys usually handle fewer than 50 cases per year, and in a number of offices, including Los Angeles, the Bronx, and Indianapolis, fewer than 20 are processed per career criminal unit attorney annually.

The aspect of career criminal units that one might expect would set these units most clearly apart from conventional prosecution is the case selection process, designed to produce a systematic focus on those offenders most likely to recidivate. While the focus of case selection in local career criminal programs does appear to be on the repeat offender, it is in fact anything but systematic. Fewer than one-fourth of those surveyed use a scoring system to select cases. Most programs use criteria that allow for more cases than the unit can actually prosecute. Over two-thirds target on specific offenses; while prior record is regarded as "very important," crime type and degree of harm to the victim rank close behind among the criteria used to select cases as worthy of career criminal prosecution. State criminal history information is usually available to support the systematic selection of cases involving active offenders, as is information about parole or probation status and other pending cases, but information about bail status is available only about half of the time and juvenile records and FBI data on offenses committed in other states are rarely available to local jurisdictions that wish to target resources on repeat offenders.

Because a strategy of selective incapacitation at the Federal level would need information about both Federal and non-Federal prior offenses, and hence would have to rely on information sources at the local level, we surveyed local prosecutors about their coordination with Federal agents. Most units (92 percent) do have occasion to contact Federal agents. Such contacts are more likely to be monthly, however, than weekly or daily. Those contacted most frequently are agents of the FBI, Bureau of Alcohol, Tobacco and Firearms (BATF), and the Drug Enforcement Administration. In response to

an open-ended question, the attorneys were inclined to regard BATF agents as especially cooperative.

The interview closed with some general questions about the overall success of the career criminal program and about the prospect of such a program at the Federal level. The persons interviewed expressed a belief that the program locally has been a success overall, especially because incarceration rates increased and because attorneys were given more time to work on each case. While not generally enthusiastic about the concept of a Federal career criminal program, nearly three-fourths of those interviewed thought that it would be better to have one in their Federal district than not to. Many prosecutors stressed the need for a Federal career criminal program to coordinate closely with local efforts to target on repeat offenders; many expressed a concern, based on their previous experiences with Federal agents and prosecutors, that Federal authorities would not in fact coordinate sufficiently with local authorities.

#### 4. Recidivism Patterns of Federal Offenders

We turn now to an investigation of the extent to which a program that attempts to reserve Federal Prison space for the most criminally active offenders could in fact be expected to reduce crime or reduce prison populations, or both, by way of a strategy of incapacitation. Obviously, there can be no opportunity to incarcerate the most active offenders and release the least active one, except by chance, if we cannot identify each group with some degree of accuracy prior to the decision to incarcerate.

**4.1 Retrospective Analysis of Recidivism.**—To do this, we analyzed a data base describing a 5-year followup period for 1,700 offenders convicted of a cross section of Federal offenses and released from prison or other Federal custody in 1970. The data base was constructed from a variety of sources, including presentence investigation reports provided by the Probation Division of the Administrative Office of the U.S. Courts (for detailed information about offenders and their prior records), FBI rap sheets (information about arrests during the followup period), local jails and prisons (information about intervals in the followup period during which it was not possible for the offenders to commit crimes "on the street," and the U.S. Parole Commission (additional information about the offenders released from Federal prisons).

The analysis of this data base has confirmed earlier findings that previously convicted Federal offenders, on the whole, are more recidivistic than local offenders and that some are substantially more

recidivistic than others.<sup>20</sup> The 1,700 offenders committed an estimated average of 7.8 nondrug offenses per year (or 36 per year, including drug offenses) on the street; about 1,000, however, were not known to recidivate during the followup period, while the other 700 committed an estimated average of 19 nondrug offenses per year.<sup>21</sup> Of those who recidivated, 71 percent did so within 2 years of their release.

**4.2 Predicting Recidivism for Federal Offenders.**—Looking back on the followup period, as we do above, has only limited policy relevance. Of particular significance for a strategy of selective incapacitation is our ability to identify prospectively, or predict, which offenders are the ones most likely to recidivate. To develop such a capability, we estimated the statistical association between the factors that were known about the 1,700 offenders at the time of their release from Federal custody in 1970 and the likelihood that an offender was rearrested within 60 months after release. This analysis revealed four sets of factors as especially strong predictors of recidivism: prior record (including length of criminal career, number of arrests within the past 5 years, longest term of incarceration previously served, and number of prior convictions); youthfulness; use of drugs (including heroin use or heavy use of alcohol); and the nature of the current offense (especially, whether or not a bank robbery or other violent offense). These findings are consistent with earlier research on recidivism.<sup>22</sup>

We then established the following hypothetical career criminal targeting criterion: Select a case for special handling if the model identifies the offender as being more likely than not to recidivate within 40 months. This criterion identified 200, or 12 percent, of the 1,700 offenders as "career criminals."

**4.3 Accuracy of Prediction.**—How accurately does this model identify repeat offenders prospectively? The importance of this question derives primarily from our concern about "false positives," persons identified as recidivistic offenders prospectively but not retrospectively. In fact, the model predicts fairly accurately, with true positives outnumbering false positives by nearly six to one. Of the 200 identified as career criminals, 170 (85 percent) were rearrested during the 5-year followup period. Ninety-nine (50 percent) of the 200 were

rearrested within 12 months of release, and 138 (69 percent) were rearrested within 24 months. In contrast, only 36 percent of the 1,500 offenders not identified as career criminals were rearrested during the 5 years following release from Federal custody. The 200 offenders identified prospectively as recidivists committed an estimated average of 38 nondrug crimes per year, while the other 1,500 committed an estimated average of less than 4 per year; although outnumbered by 7.5 to 1, the 200 as a group committed an estimated 1,900 more crimes per year than the 1,500.

It is not even necessary to use the full detail of a sophisticated statistical prediction model to produce targeting criteria that accurately identify recidivists. We have developed a simple nine-factor score sheet (exhibit 2) that produces results closely approximating those of the more elaborate prediction model: as with the exact model, true positives outnumber false positives by six to one, and only 36 percent of the offenders not identified as career criminals were rearrested during the followup period.<sup>23</sup> It is important to note that because the population of cases screened by prosecutors is different from the population of offenders that we analyzed to generate this scoring system, a real world application of these weights at the screening stage is likely to be somewhat less accurate than the results obtained here.

Ideally, of course, we would like to be able to predict recidivism perfectly. It is occasionally said that anything short of that ideal standard is unjust, therefore statistical prediction models should not be used. Career criminal targeting decisions are regularly made, however, on the basis of nonempirically derived criteria. *More* false positives are almost certain to result from those conventional targeting strategies than from one based on empirically derived criteria, with all of its shortcomings.<sup>24</sup> False positives are not unique to empirically derived targeting criteria, they are common to all career criminal targeting programs; criteria derived from the application of sound statistical procedure *reduces* the rate of false positives.

#### 5. Policy Implications

The study described here confirms the notion that the widening of a strategy of allocating scarce Federal resources disproportionately to cases involving the most active and dangerous recidivists offers the potential for both crime reduction and reduction in prison and jail populations, in both Federal and local jurisdictions. Federal offenders, on the whole, are fairly active—the offenders studied committed

<sup>20</sup> See note 3.

<sup>21</sup> The number of offenses per year free was estimated by dividing the number of observed arrests per year free by the rate at which the offense results in an arrest.

<sup>22</sup> See note 9 and accompanying text.

<sup>23</sup> Rhodes, et al., op. cit. (note 9).

<sup>24</sup> See note 8 and accompanying text.

## EXHIBIT 2

## PROPOSED POINT SCORES FOR SELECTING CAREER CRIMINALS

Variable	Points
Heavy use of alcohol	+ 5
Heroin use	+10
Age at time of instant arrest	+21
Less than 22	+14
23 - 27	+ 7
28 - 32	0
33 - 37	- 7
38 - 42	-14
43+	
Length of criminal career	0
0-5 years	1
6-10	2
11-15	3
16-20	4
21+	
Arrests during last 5 years	4 per arrest
Crimes of violence	3 per arrest
Crimes against property	4 per arrest
Sale of drugs	2 per arrest
Other offenses	
Longest time served, single term	4
1-5 months	9
6-12	18
13-24	27
25-36	36
37-48	45
49+	
Number probation sentences	1.5 per sentence
Instant offense was crime of violence*	7
Instant offense was crime labeled "other"***	-18

Critical Value to Label of Offender  
As a Career Criminal:  
47 points

\*Violent crimes consist mostly of bank robberies, but also include homicide, assault, sexual assault, and kidnapping.

\*\*Other crimes include military violations, probation, parole, weapons and all others except arson, burglary, larceny, auto theft, fraud, forgery, drug sale or possession, and violent crimes.

an estimated average of eight nondrug offenses per year free. The majority, however, were not rearrested, while the 42 percent who were rearrested committed about 20 nondrug crimes per year. And many, if not most, of these crimes were committed at the local level. We found that one-fourth of all persons arrested by Federal agents had prior records that included five previous arrests at the local level.<sup>25</sup>

Our ability to separate the recidivists from the nonrecidivists prospectively by using statistically

<sup>25</sup> Analysis of a random sample of 9,205 persons arrested by Federal agents in 1976.

derived criteria appears substantially stronger than doing so by using either a random selection process or conventionally derived criteria. Those prospectively identified as the 12 percent most crime-prone offenders committed an estimated 10 times as many crimes per person as the others. While Federal prosecutors may currently devote more attention to those offenders than to others, the absence of a career criminal program at the Federal level, together with previous research findings on case selection patterns in the absence of career criminal programs (see notes 11 and 12, and the accompanying text), suggests that career criminal targeting by

Federal prosecutors at present may be nil. The use of a model to assist in the case selection process for a Federal career criminal program does not ensure perfect prediction of recidivism, but it does provide an opportunity to base case selection on the most accurate prediction system available at this time.

The study's surveys of Federal prosecutors indicate that the routine use of empirically derived cases selection criteria is not likely to be accomplished smoothly unless certain prevailing attitudes are taken into consideration. One is a predominant tendency for Federal attorneys currently to focus almost exclusively on elements of the offense rather than information related to the offender's propensity to commit further crime. Another is resistance to narrowing their exercise of discretion. While Federal prosecutors view local programs that target on the most criminally active offenders as generally effective, and while they support the notion of case selection criteria that are statistically related to recidivism, they are opposed to a program that would narrow their discretion to select certain types of cases but not others. The concept of a point system or use of a check list to assist in the case selection and targeting process was not generally regarded as an attractive alternative to current procedure. On the whole, Federal prosecutors are comfortable with their current case selection policies. Career criminal targeting is basically a good idea, but one whose time has not yet come for U.S. attorneys.

Like Federal prosecutors, the Federal investigators and local prosecutors interviewed were supportive of the general concept of a Federal career criminal program and somewhat skeptical about various specific aspects of such a program. Federal investigators join with Federal prosecutors in favoring a system of flagging cases for special attention over a system of creating a special career criminal unit to handle cases involving repeat offenders. Local prosecutors expressed concern, based on previous experience, that a Federal career criminal program would fail to coordinate adequately with local efforts to target resources on repeat offenders.

A Federal career criminal program, if one is to be created, should be sensitive to these concerns. It should also include the setting and monitoring of specific objectives: increasing conviction rates in cases involving repeat offenders, increasing pretrial detention rates and trial rates in such cases, and ob-

taining longer sentences for repeat offenders (and shorter ones for other offenders).

Conviction rates for career criminal cases investigated by Federal agents can be increased in several ways. First, the U.S. attorney and the local prosecutors in each Federal district should develop a coordinated policy for the prosecution of dual jurisdiction offenses (e.g., bank robbery, drugs, interstate theft, forgery), which more often involve repeat offenders. Law Enforcement Coordinating Committees, instituted in 1981, may serve as an effective vehicle for such coordination. Dual jurisdiction cases represent the majority of the Federal criminal caseload; policy relating to those cases, developed jointly, should be communicated to Federal investigators and local law enforcement officials. Room for improvement in the handling of dual jurisdiction cases generally, and those involving repeat offenders in particular, appears to be substantial.<sup>26</sup>

Second, cases involving the most crime-prone offenders can now be predicted with a sufficiently high degree of accuracy to warrant the use of statistical prediction to support (not supplant) the exercise of discretion in selecting cases and targeting resources on them. Many cases that are currently declined for prosecution because they are somewhat unattractive (for example, because of the nature of the offense or a correctable evidentiary problem), may be found worthy of prosecution when the offender's profile of crime proneness is given more systematic attention.

Third, Federal investigative agencies could share in the responsibility and accountability for the eventual outcomes of career criminal cases. It is not clear that each Federal agency provides sufficient inducement for its agents to present cases for prosecution and provide followup investigation in such a way that brings about the conviction and incarceration of criminally active offenders.<sup>27</sup>

Fourth, opportunities can be exploited by both Federal and local prosecutors to increase conviction rates in cases involving the most crime-prone offenders after these cases have been accepted for prosecution. Proper management of victims, witnesses, and evidence is crucial to successful prosecution and need not consume lavish prosecution resources. Paralegal staff trained in victim-witness management could make certain that victims and witnesses are given proper information and encouragement in cases involving more criminally active offenders. Paralegals might even outperform the harried attorney in this role. Prosecutors can also see to it that the investigators have obtained and properly processed all of the evidence available

<sup>26</sup> Jack Hauener, Barbara Mullin, and Amy Moore, *The Investigation and Prosecution of Concurrent Jurisdiction Offenses* (Washington, D.C.: INSLAW, 1982).

<sup>27</sup> *Ibid.*



to support the successful prosecution of cases involving repeat offenders.

Reducing crime and jail and prison populations by way of a strategy of selective incapacitation can be achieved in other ways as well, especially in the areas of pretrial release, plea bargaining, and sentencing. The prosecutor at either the Federal or local level can serve both the judge and the community by providing the judge with information about an offender's crime proneness, to support the pretrial release decision. While the constitutional issues involved in the ongoing pretrial detention debate are not likely to be resolved soon, one dominant practical consideration tends to moot that discussion: Few judges care to read in the newspaper that a defendant they released on bail committed another serious crime. Judges are inclined to find a legitimate reason for locking up the most dangerous defendants (and releasing ones who are not dangerous), hence they are interested in knowing which ones are in fact the most recidivistic and dangerous.

Prosecutors can also use information about an offender's crime proneness to increase or shorten sentence terms. One way is to take more cases involving chronic offenders to trial rather than offer a sentence or charge concession to induce a guilty

plea. Another way is to recommend to the judge a longer sentence in such cases.

Current procedures for dealing with repeat offenders at the local level—including the use of arbitrary case selection criteria and the career criminal unit as centerpieces—may be largely ceremonial, ineffective, and costly. A Federal career criminal program can, instead, exploit simple, unobtrusive procedures such as those described above to effectively incapacitate offenders who are criminally active at both the Federal and local levels, and to seek alternative sanctions for those who are not.

The concept of a Federal program that targets resources on cases involving recidivists is not new. The FBI's list of the 10 persons most wanted by that agency exemplifies a long-standing focus on dangerous recidivists by Federal criminal justice agents. The implementation of such a program among other Federal investigative agencies and in the offices of U.S. attorneys—and support of such a program by the Federal Judiciary—is warranted by the public concerns about crime and the high costs of prisons and jails. Because the stakes are high, it is important that the institution of a Federal career criminal program proceed in an orderly yet expeditious manner, with explicit goals and procedures for ensuring that those goals are achieved.

## 90379 A Radical/Marxist Interpretation of Juvenile Justice in the United States\*

BY CATHERINE M. SINCLAIR

*The Brookings Institution, Washington, D.C.*

### Introduction

Juvenile justice in the United States has a history that reflects the concerns of several different groups. In the beginning of the 19th century, the initial concern was to separate the treatment of children from that of adults within the court system. The result of this distinction was the development of a system of

juvenile justice, with its own rules and relationships. By the middle of the 20th century, this parentally oriented system had become a complex network of bureaucracies. As the system's many arms tightened their control over the lives of more and more children, questions were raised about the efficacy and morality of this system. The radical/Marxist view of juvenile crime focuses on the social conditions that define and encourage juvenile crime. According to this view, the problem is with society, not necessarily with the child. The radical/Marxist approach concentrates on changing the juvenile system to eliminate the injustices it perpetuates.

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This paper traces the origins and evolution of the juvenile system in the United States from an alternative viewpoint—that of the radical/Marxist.

### Historical View of the Juvenile Justice System

Viewed in Marxist/radical perspective, the child-saving movement in America, that had its origins in the 1800's, was not the humanistic welfare and reform undertaking that we have heretofore accepted; rather, it was devised by individuals, such as members of the elitist Chicago Women's Club, from the middle and upper socioeconomic classes as a form of social control. The child savers did not save poor, working-class children from the indignities of the criminal justice system. The child savers actually helped to build a far-reaching web of juvenile court systems that tended to subject greater numbers of children to capricious and humiliating punishments. Herman and Julia Schwendinger have traced the origins of the system of juvenile delinquency as far back as the 17th century in capitalist societies.<sup>1</sup> However, it was not until the close of the 19th century that an attempt was made to combine all such reforms as juvenile court, probation, child guidance clinics, and reformatories into an organized system of juvenile justice. This progressive movement was led by the bourgeoisie (middle class) at a time when the newly industrialized nations were in the heart of social and economic change. The Socialist party and other militant movements were demanding changes in society that would improve their lot as worker-producers. This need for more equitable distribution of wealth and control of the means of production was distinctly at odds with the newly evolving capitalist state.

The child-saving movement was seen as but another bourgeois institution in the guise of welfare-state benevolence. The movement created the institutions necessary for greater control of the thoughts and behavior of lower class children. In its drive to institute mandatory education, the child savers were a very significant factor in assisting in the growth and expansion of a specialized and disciplined labor force. It was the mission of the child savers to use the criminal justice system to achieve order and stability while preserving the existing class system and distribution of wealth.

While the child-saving movement was supported and financed by corporate liberals, the day-to-day work of lobbying, educating

the public, and organizing was undertaken by petit-bourgeois reformers, professionals, and special interest groups. The more moderate and conservative sectors of the feminist movement were especially active in antidelinquency reforms . . . it was dominated by the daughters of the old landed gentry and the wives of the industrial nouveau riche.<sup>2</sup>

The practice of the traditional juvenile court was evolved under the concept of *parens patriae* in which the state was assumed to intervene as a parent in the lives of those children brought under its influence. The causes of youthful misconduct were assumed to be scientifically identifiable and treatable; therefore, delinquency was approached as a treatable sickness, thus giving rise to the concept of individualized justice and rehabilitation. Adjudication occurred because the delinquent was in need of help and treatment rather than in need of punishment after a finding of guilt in the adult criminal court. This *parens patriae* approach, with its apparent concern for the individual, enabled the juvenile adjudication process to involve an ever-increasing number of children in the system since it was initially conceived as a helpful, benevolent way of aiding a child in need of care or supervision. The unfortunate child who was processed by the system was not given the constitutional safeguards afforded by our criminal justice system because of the special status of being juvenile.

Certain recurring themes and goals have characterized all juvenile programs and institutions since the original separate system of justice for juveniles, beginning with the establishment of houses of refuge in the 1820's. Most programs have targeted crime reduction, reduced recidivism, and the importance of the integration of the child of the poor working class/minority into the lowest echelon of social and occupational worlds, thereby limiting their hopes and aspirations for a better life.

During the Industrial Revolution, the availability of children for exploitable labor was used by industrialists as a lever to pressure the larger work force to labor for lower wages. As families were broken up by the migration to urban industrial areas, children were forced to migrate to make a wage from industrial jobs. Most major reform of the late 19th and early 20th centuries that concerned children was based on the fear of those who were neither in school nor employed. The focus of reformers and proponents of social control in the late 19th century centered on the lowest socioeconomic class. Essentially delinquency was invented in the 19th century because society wanted to change traditional methods for controlling youthful behavior by instituting the juvenile court system and compulsory education to ensure the perpetuation of the rule of the bourgeoisie and its concept of childhood.

<sup>1</sup>Herman Schwendinger and Julia R. Schwendinger, "Delinquency and the Collective Varieties of Youth," *Crime and Social Justice*, No. 5 (Spring/Summer 1976), p. 11.

<sup>2</sup>Anthony M. Platt, *The Child Savers, The Invention of Delinquency* (Chicago: University of Chicago Press, 1977) p. xxiv.

**END**