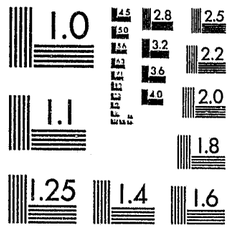

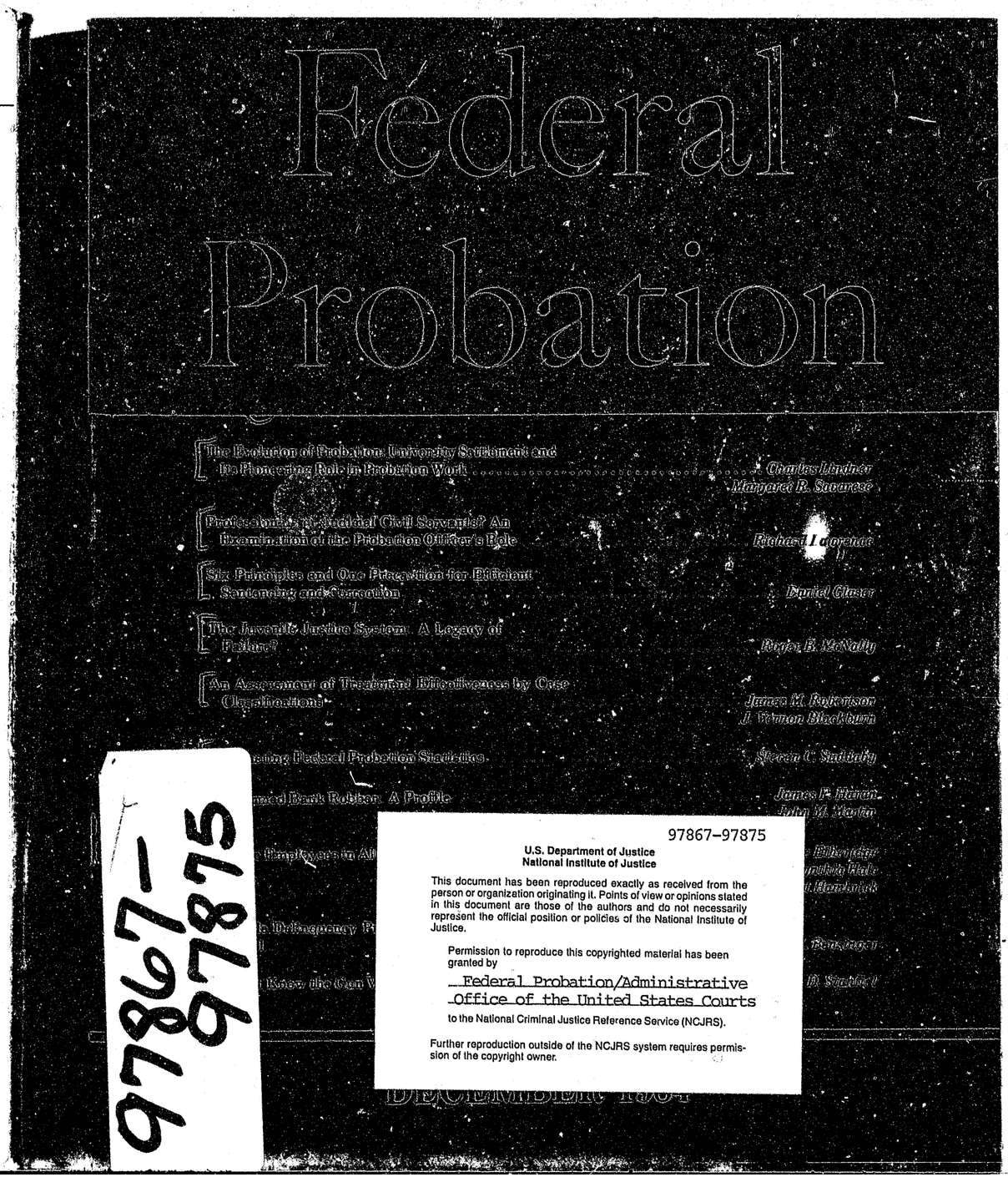

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This Issue In Brief

The Evolution of Probation: University Settlement and Its Pioneering Role in Probation Work.—In the final article of a series of four on the evolution of probation, authors Charles Lindner and Margaret Savarese further explore the link between the settlement movement and the beginnings of probation in this country by focusing on one particular settlement, the University Settlement Society of New York City. Close examination of the University Settlement papers revealed that this settlement, during the late 1890's and early 1900's, expanded its programs and activities to meet the growing needs of the people of the Lower East Side and became very much involved in probation work at the same time. This involvement included experimentation with an informal version of probation prior to the passage of the first probation law in New York State, the appointment of a settlement resident as the first civilian probation officer immediately following passage of this law, the creation of a "probation fellowship" sponsored by one of the settlement benefactors, and the description of this probation work in various publications of the day.

Professionals or Judicial Civil Servants? An Examination of the Probation Officer's Role.—A major issue and question in the probation field is whether probation officers are professionals. In this study, Richard Lawrence examines whether probation officers see themselves as professionals and the extent to which they experience role conflict and job dissatisfaction. The study also looks at how probation officers perceive their roles in relation to the judicial process and the services provided to probationers. Three factors were found to make a difference in officers' role preference and whether they experience role conflict: size of their department (and city), age, and years of experience. A number of recommendations are offered to give probation officers equal professional status with judicial personnel and more autonomy to exercise their professional skills in the court organization.

Six Principles and One Precaution for Efficient Sentencing and Correction.—According to author Daniel Glaser, more crime prevention per dollar in sentencing and correction calls for: (1) an economy principle of maximizing fines and minimizing in-

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carceration; (2) noncriminalization of offenders who have strong stakes in conformity; (3) crime-spree interruption; (4) selective incapacitation; (5) reducing inmate pressures from other inmates and increasing staff and outsider influences; (6) appropriate vocational training of offenders. These goals require avoidance of sentences based purely on just deserts.

The Juvenile Justice System: A Legacy of Failure?—In a follow-up to his previous article, "Juvenile Court: An Endangered Species" (*Federal Probation*, March 1983), author Roger B. McNally expands the notion that the juvenile justice system is on the brink of extinction. The author identifies five contemporary themes which are jeopardizing the very existence of juvenile justice and strongly suggests that if the present course of events goes unabated, this system—by the turn of the century—may be recorded in the annals of history as a legacy of failure and a system that self-destructed. The article identifies the *need* for a separate system of justice by citing examples of failure when the adversarial model is applied to juvenile matters. The author maintains that the juvenile justice system is at a crossroad which requires an affirmation rather than a condemnation of the notion that youth are more than "short adults" necessitating incapacitation until they "grow-up."

An Assessment of Treatment Effectiveness By Case Classifications.—Authors James M. Robertson and J. Vernon Blackburn studied the effects of treatment upon probationers by formulating three questions which asked if court-ordered treatment had any effect on the revocation percentage of probationers in the minimum, medium, and maximum supervision categories as established by four major base expectancy scales. Summarized, the treatment group had lower revocation percentages in 10 out of 12 supervision categories. These results led to positive conclusions regarding the effects of treatment in reducing probation failures.

Forecasting Federal Probation Statistics.— The procedures used in forecasting Federal probation population totals are explained with the intention of making these techniques available to the individual probation office. Author Steven C. Suddaby discusses long- and short-term projections and difficulties which are peculiar to probation forecasting.

The Armed Urban Bank Robber: A Profile.—An analysis of 500 armed bank robbers revealed that they do not fit the stereotype of sophisticated professional criminals, say authors James F. Haran and John M. Martin. Rather, these robbers are a cohort of young adult, unattached, socially disorganized males, predominately black, poorly educated, and lacking vocational skills; most are unemployed, previously arrested property offenders. Twenty-five percent are drug addicts. They make little profit from their crimes, are swiftly arrested, and receive long jail sentences. A fourfold typology of offenders is developed based on career patterns of prior property crime offenses. The authors propose that selective sentencing, focused more on the career pattern rather than the crime, might render a more effective sentencing formula.

Female Employees in All-Male Correctional Facilities.—Court decisions have opened the doors for women to work in male corrections, but the real struggle to find acceptance and promotion within the system is just beginning. According to authors Rose Etheridge, Cynthia Hale, and Margaret Hambrick, this struggle takes place within the parameters established by inmate, staff, and community attitudes and the attitudes and motivations of the woman herself. Images of women developed long before the working relationships color her interactions with inmates and staff. The authors stress that the woman must understand what is happening and use specific coping strategies if she wants to succeed.

Juvenile Delinquency Prevention and Control in Israel.—The number of youth committing serious crimes in Israel is reaching alarming proportions. After discussing the scope and dimensions of the delinquency problem in Israel, author Gad J. Bensinger describes the Israeli juvenile justice system and explains the prevention and control strategies of the police, the courts, and the juvenile probation department. Although law enforcement and delinquency prevention was never a national priority in Israel, a reallocation of resources may be required to meet the new domestic needs.

I Didn't Know The Gun Was Loaded.—The judgment of criminal intent has become formalized in Western law as a way of appreciating more fully the nature and quality of an unlawful act and, implicitly, assessing the character and social fitness of the accused. However desirable in theory, the evidential determination of intent, a subjective phenomenon, may pose complex problems. Author James D. Stanfiel proposes a revised concept of criminal intent, one less heavily dependent upon rational choice as a precondition of legal accountability.

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The Evolution of Probation

University Settlement and its Pioneering Role in Probation Work*

BY CHARLES LINDNER AND MARGARET R. SAVARESE**

ALTHOUGH THE settlement movement originated in England with the founding of Toynbee hall in 1884, the underlying settlement idea was quickly appropriated by a small band of young, energetic Americans and transported to the United States. Here, it took hold and spread so rapidly that by the turn of the century, there were more than 100 settlement houses, of all types and descriptions, most of them located in the largest, most heavily populated urban centers.

There were many similarities between the English social settlement movement and its American cousin. Both had come about as a response to the ever-growing tide of urbanization and industrialization, and both were envisioned as one possible remedy for the social rifts and disorganization which inevitably accompanied these two processes. Thus, the settlement movement on both sides of the Atlantic attempted to repair these rifts and "sought to reconcile class to class, race to race, and religion to religion."[1] The English and American settlement movements were also very much alike in that both tended to attract clergymen, professors, writers, and, more than anyone else, young men and women eager to serve their fellow man in some socially useful way. In America, the pioneering settlement residents were, invariably, not only young but also well-educated, usually with some post-graduate training, from solidly middle or upper-class backgrounds, and of old, Anglo-Saxon, Protestant stock.

In addition to the similarities, there were also differences between the English and American versions of the settlement movement. Unlike their English counterparts which were often church-affiliated, most of the American settlements were deliberately nonsectarian and devoid of any formal adherence to doctrine or ritual, although the individual founders and leaders were often deeply religious themselves. An even more significant difference was the involvement of many of the American settlements in a wide variety of reform measures designed to improve the lot of the thousands of impoverished immigrants who were pouring into the already congested, tenement neighborhoods. Their continuous day-to-day presence in these neighborhoods brought the early settlement residents face-to-face with a bewildering array of problems that cried out for attention and amelioration and turned many of them into political activists. Jane Addams, of Hull House, touched on just a few of the problems which galvanized settlement residents into fighting for social change when she wrote:

> Insanity housing, poisonous sewage, contaminated water, infant mortality, the spread of contagion, adulterated food, impure milk, smoke-laden air, ill-ventilated factories, dangerous occupations, juvenile crime, unwholesome crowding, prostitution, and drunkenness are the enemies which the modern city must face and overcome would it survive.[2]

Thus, settlement workers became deeply involved in a broad range of reform activities aimed at eliminating these conditions, and one of the many reform measures which attracted their support was an innovation known as probation. The active role played by a number of very influential settlement leaders in helping probation become an accepted practice has been virtually ignored, although the part they played was a truly critical one. This article continues to explore the link between the settlement movement and the beginning probation movement by focusing on one particular settlement, University Settlement of New York City, and by examining its active involvement and support of probation during its infancy around the turn of the century.

The Early Years of University Settlement

University Settlement, which went on to become one of the most influential of all the settlements, began rather inauspiciously, as the Neighborhood Guild, in a dilapidated tenement on the Lower East Side of Manhattan. The founder was Stanton Coit, a moody, idealistic intellectual who had spent some

*This is the final article in a series of four.

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[1] Clarke Chambers, *Seedtime of Reform: American Social Service and Social Action, 1918-1933*. Minneapolis: University of Minnesota Press, 1963, p. 14.

[2] *Ibid.*, p. 16.

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Six Principles and One Precaution for Efficient Sentencing and Correction

BY DANIEL GLASER, PH.D.
Professor of Sociology, University of Southern California

HOW CAN any nation achieve, in its sentencing of offenders, a maximum of crime prevention for a minimum of cost? This is a question of efficiency, of how to get the most public benefit per dollar spent. Six principles for an optimum answer to this question will be expounded here, as well as one caution against too much reliance on a popular alternative principle. This complex answer reflects both research and international comparison, the latter mainly from my round-the-world travel throughout 1983 to study criminal justice innovations in developed countries.

1. The Economy Principle

An obvious first rule for economic efficiency in sentencing is: *Maximize fines and minimize incarceration.* Jail and prison costs are enormous, but fines, if collected cheaply and if they are as effective as alternative penalties for preventing crime, are the opposite of costly; they are government income. In Britain fines pay all expenses of the Magistrate's courts, which collect both their own fines and those of higher courts. About a dozen countries now employ the day-fine system, pioneered in Scandinavia, whereby judges impose penalties of a given number of days' income, so that the amount actually paid depends upon the earnings of the offender. In Sweden these are not collected by the courts, but by the equivalent of our Internal Revenue Service, which also collects taxes. A minimum amount needed by the offender and his or her dependents for living expenses, and an extra amount in cases of unusual hardship, are deducted from the taxed income, but everyone pays something, even those on welfare. If immediate payment cannot be made, installment plans are arranged, with interest charges. If payment still does not occur, wages are garnisheed or property seized, but if offenders simply cannot pay, the state waits. Only about 50 persons per year are jailed for nonpayment of fines, and this is primarily for concealing assets.

As far as I was able to determine, in no other nation is fine collection nearly as efficient and equitable as in Sweden. Also, no other government follows Sweden's example of avoiding incarceration for nonpayment except for a minute fraction of 1 percent of the many thousands of persons fined. However, more research is urgently needed in the United States (and in most other countries) on variations in the use of fines, on collection rates, on penalties for nonpayment, and on the effectiveness of fines as deterrents for specific types of offenders. Wiser use of fines may well be a way of reducing jail populations, thereby saving county funds. For many offenders, fines may also be more deterrent and less criminalizing than jails. Research on variations in experience with fines in different jurisdictions, and on their net cost and their recidivism impact, may suggest experiments with new sentencing policies that can prove much more efficient than traditional penalties for specifiable categories of convicted persons.

There are many lawbreakers for whom fines are inappropriate, but for some of these there may still be penalties cheaper and more effective than incarceration. Probation and parole are usually estimated to cost one-tenth as much as prison or jail, but this ratio in their costs varies greatly with the staffing and facilities of each. (Also, prison cost estimates usually do not fully cover the price of prison land, buildings, financing charges, and the early-age pensions of staff.) Sentencing and parole guidelines provide the best currently available scientific basis for deciding when nonconfinement would be a net benefit to society, but they are based on research that was insufficiently directed to probing the economic efficiency of alternative sentences for long-run crime prevention.

One should also note that there has not yet been adequate evaluation of many sentencing and correctional innovations. One example of these is Georgia's Intensive Probation Program, on which John Conrad reported so favorably, but cautiously.[1] Another is what the Australians, in the Melbourne

[1] John P. Conrad, "Research and Development in Corrections," *Federal Probation*, 47, December 1983, pp. 54-55.

area, call "Attendance Centers," where young lawbreakers living at home report daily for intensive schooling, work, and counseling, and about which criminologists "down under" are enthusiastic. These places resemble the centers that my colleague LaMar Empey pioneered, which he described and evaluated in his books *The Provo Project* and *The Silverlake Project,*[2] as well as in an unpublished report on a 1980's experiment, the Monrovia Project in Los Angeles County. All these enterprises, community service penalties, and numerous others, are either actually or potentially less costly than confinement, and at least as effective in crime reduction for some types of offenders. Of course, apart from the issue of whether they are economical, they reflect another consideration in the search for the most efficient sentence for each case.

2. The Noncriminalization Principle

Correctional institutions, especially for youths, are long known as "schools for crime." Of course, they usually do not teach much that is new to those who have been extensively incarcerated before, or who have been intensely involved in highly criminal groups in the community. Inmates who are not very criminally oriented, however, must often become as aggressive in talk and behavior as the most criminal individuals with whom they are confined, to avoid being pushed around. If they do not yet have a violence- or deceit-oriented mentality, they often develop it in our correctional institutions, and this impairs their bonds with conventional society. Therefore, a second rule in sentencing, and a first rule for correctional administration, should be: *Minimize criminalization.*

Early in the 1960's, the California Youth Authority launched its famous Community Treatment Project. In this controlled experiment, all those sentenced to its custody from Sacramento and Stockton counties were first screened to eliminate the small percentage whose prompt release was believed to be unacceptable to the community, but the rest were then classified into categories by the Interpersonal Maturity Scale, and a random half were paroled within a month of their institution reception, receiving intensive postrelease supervision. The remainder, as control group, spent the average, at that time, of about 8 months in confinement before parole, then received the standard type of supervision. The approximately half of these offenders who were classified before randomization as "neurotic" had much less recidivism if in the promptly paroled experimental rather than the longer-confined control group. This lesser recidivism was not just a consequence of the experimentals, as compared to the controls, being allowed more misconduct without getting their paroles revoked (as some critics have alleged), because the lesser recidivism was verified by followup for several years after discharge from these paroles.[3]

The "neurotics" seemed conflicted about crime from having enough bonds with noncriminal family, friends, employers, or others to have a "stake in conformity." It is for them, especially if youthful, that a first experience at lengthy incarceration seems most likely to be criminalizing. But this does not mean that they should immediately go "scot free," for another consideration must be borne in mind.

3. The Crime-Spree Interruption Principle

Immediate release of convicted persons back to the circumstances of their prior lawbreaking is likely to foster a quick relapse to crime, especially if the releasees are either: (a) highly successful in most of their offenses, (b) socially much involved with other delinquents or criminals, or (c) with little stake in conformity to the law from work, school, or bonds with law-abiding persons. To impede such influences and to highlight whatever penalty is imposed or threatened, an important rule in sentencing is: *Interrupt crime sprees.*

This principle is supported by a variety of evidence and inference. For example, those in the California experiment described above who were classified initially not as neurotic, but instead, as highly enculturated in delinquent groups or highly manipulative towards authority figures, had somewhat less recidivism if they were in the control group that was confined for an average 8 months than if in the experimentals who were released within a month. Similar crime reduction from some months of confinement was reported for criminally enculturated youth by Murry and Cox in their analysis of a Chicago experiment with alternative dispositions for older teenagers who averaged eight prior arrests and were from a highly delinquent neighborhood. When comparing the number of arrests of these youths in the year before a given arrest with the number in the year after release from that arrest, the greatest average reduction in arrests occurred for those confined up to 6 months

[2] Lamar T. Empey and Maynard L. Erickson, *The Provo Experiment* Lexington, Mass.: Heath, 1972; LaMar T. Lubeck and Steven G. Lubeck, *The Silverlake Project.* Chicago: Aldine, 1971.

[3] Ted Palmer, "The Youth Authority's Community Treatment Project," *Federal Probation*, 38, March 1974, pp. 3-20; Ted Palmer, *Correctional Intervention and Research.* Lexington, Mass.: Heath, 1978.

before release rather than for those given immediate probation. However, it is noteworthy that about as much reduction of arrests occurred in youths sent by contract to a work-and-study farm in Texas as in those confined in Chicago-area correctional institutions.[4]

What seems to be necessary in these cases is to interrupt a crime spree by drastically removing the lawbreakers from the setting of their offenses. Several states have found that sending even fairly advanced young offenders to work farms or camps, usually in rather remote locations, is at least as crime-reducing as institutional confinement, and appreciably cheaper. A briefer interruption, even a prompt conditional release, may suffice for persons who previously have neither been much incarcerated nor in extended serious criminal activity, especially if they have a strong stake in conformity or will have close controls in the community. For the most dangerous predators, however, a more long-term intervention may be appropriate.

4. The Incapacitation Principle

The damages to society that are inflicted by some highly intensive predators, expressed in monetary terms, average several thousand dollars per month. This figure counts not only the value of the goods they steal, but the much higher monetary charges that could be reasonably assessed for the personal injuries they inflict by serious assaults, and for their violations of the privacy of homes in burglaries. Although imprisoning someone in secure custody now often costs the state over $25,000 per year, an efficient rule is: *Lock up tightly those who, if released are likely to inflict public damages at a rate that can reasonably be assessed at much more than the cost of their confinement.* This is the purely economic justification for the policy of "Selective Incapacitation" by imprisonment advocated by Peter Greenwood, which Brian Forst suggests is "an idea whose time has come."[5]

The obvious objection to this policy is the fact that we cannot predict with certainty who will commit crimes at a high rate if released. However, decades of recidivism prediction research by many investigators, and more thorough studies now by the Rand Corporation, indicate the characteristics likely to identify the most intensive and persistent predators. These so-called "career criminals" are persons who started both crime and heavy drug or alcohol use in their early teen years; who were incarcerated in state correctional institutions as juveniles; who subsequently continued in expensive drug or alcohol use paid for by crime; and who were seldom or never in school or legitimately employed during their late adolescence or adulthood.[6] Persons with most of these characteristics, for whom Greenwood advocates the longest prison terms, are only a small percentage of inmates, and they are not necessarily the ones with the longest sentences. Greenwood estimates that more attention to these traits in fixing length of confinement could result in a lower robbery rate in California, yet fewer robbers in prison at any given time.

Critics still object to this idea. Some statisticans argue that Greenwood exaggerates the precision with which the highest-rate offenders can be identified, although all agree that very contrasting risks of recidivism for broad categories of offenders can be demonstrated with much reliability. Lawyers and others point to the false positives, those who might be confined because statistics place them in a category in which a majority would commit new felonies if released, but who may happen to be in that minority of the category who would not recidivate.

There are four important responses to such objections:

A. Assessing the risk of an offender's recidivating when released has always been a routine part of deliberation on the appropriate sentence for most cases, and probably always will be. Judges are generally inclined to imprison longest those who they believe are likely to commit new serious crimes and to be more lenient with those who they think are unlikely to break the law again. Of course, such assessments of convicted individuals result from the judges' subjective impressions (usually reached after they receive the case studies of probation officers, and sometimes of psychiatrists or others), rather than by compiling statistics on recidivism rates for various types of offenders.

B. Statistical estimation of the actuarial risk of recidivism has almost invariably proven more accurate than case study prognoses in careful comparisons for large numbers of cases. The risk categories into which statistical research on past recidivism classifies offenders have repeatedly been shown to predict recidivism for new cases more accurately than the prognostic assertions of psychiatrists, sociologists, prison officials, parole board members, and other presumed experts.[7]

C. If selective incapacitation by making sentences proportional to the statistical risk of recidivism were adopted as the official policy of a state or nation, it would probably have to be done by incorporating this policy in the recommendations of sentencing or parole guidelines. Indeed, these devices already do this to some extent, relying on salient factor scores or other sets of actuarial prediction categories, but none now recommend sentences with as much emphasis on incapacitation as Greenwood urges. However, no guidelines ever adopted are rigid prescriptions that completely eliminate judicial or parole board discretion; they all recommend a range of penalties for the offenders in each of their categories. They permit officials to decide on a specific penalty within this range for each particular case, or even to go outside the recommended range for anyone whom they consider very exceptional, since they may impose any legally permissible penalty. When the sentence is outside the recommended range, however, the officials are asked to record their reasons for such disregard of the guidelines. These decisions are periodically reviewed in special conferences of the decision maker which sometimes leads to revision of the guidelines.[8] With such procedures, any move towards selective incapacitation would be gradual, would create a progressive increase in the rationality and consistency of penalties, and would be periodically evaluated.

D. The safeguard against excessive penalties when either case study or statistical prediction determines how long someone is confined, is the maximum penalty that the criminal code permits for the offense. Even if a recidivism prediction for someone justifies a longer period of incapacitation, the legal sentence cannot be longer than the law allows for the offense on which this person is currently convicted. The criminal code's maximum penalties are intended only for the worst cases for each offense; judicial sentencing and parole board discretion are provided to determine which offenders merit less than the severest permitted penalty.

It should also be noted that legislatures in many states and countries have repeatedly tried to create the equivalent of selective incapacitation by enacting habitual offender laws which permit extremely long or even unlimited confinement upon the second or third conviction for a serious crime. Such laws have repeatedly been discredited, however, because they resulted in many instances of long incarceration for persons whose offenses, although numerous, were not extremely serious. Also, in the United States especially, the habitual offender laws tend to be haphazardly applied. They serve mainly to induce guilty pleas in cases of lesser charges for which the evidence is weak; the offender will plead guilty if promised that, in exchange for such a plea, a habitual offender charge will be dropped. Thus, just deserts for the current offense, as the upper limit of permitted penalties, is our protection against excess punishment for false positives, and is preferable to habitual offender laws. Yet this essay conveys one warning, if either efficiency or fairness in crime prevention is sought:

Avoid Sentencing Solely by Just Deserts!

Readers may have noted that the foregoing sections of this essay repeatedly refer to making the sentence fit the offender, not the offense. This contrasts with the just-desert approach to sentencing, which aims to "make the punishment fit the crime." Just deserts is a very old idea revived periodically when officials are desperate for a simple solution to the crime problem. It swept the United States with some success in the 1970's because a few articulate professors and others, when disillusioned with the rehabilitation emphasis of the preceding decades, momentarily overlooked the realities of our criminal justice system. They were charmed by the simplicity of prescribing the same penalty for everyone convicted of the same offense, and their rhetoric implied that this would somehow maximize both fairness and crime prevention. They persuaded many legislatures to reduce or eliminate the sentencing discretion of judges and parole boards, but the consequences of these changes were far from the state of grace that was anticipated. The following are four delusions of the just-deserts advocates which are most relevant to the concerns of this essay:

Delusion A. They erroneously assume that legislatures or other representative bodies of citizens can decide on a just-desert penalty for each type of offense

[4] Charles A. Murray and Louis A. Cox, Jr., *Beyond Probation*. Beverly Hills, Calif.: Sage, 1979.

[5] Peter Greenwood, with Alan Abrahamse, *Selective Incapacitation*. Santa Monica, Calif.: Rand Corporation, 1982; Peter Greenwood, "Controlling the Crime Rate Through Imprisonment," in James Q. Wilson (Ed.), *Crime and Public Policy*. San Francisco, Institute for Contemporary Studies, 1983; Brian Forst, "Selective Incapacitation: An Idea Whose Time Has Come," *Federal Probation*, 47, September 1983, pp. 19-23.

[6] Lloyd E. Ohlin, *Selection for Parole*. New York, Russell Sage, 1951; Daniel Glaser, "A Reconsideration of Some Parole Prediction Factors," *American Sociological Review*, 19, June 1954, pp. 335-341; Peter B. Hoffman and Barbara Stone-Meierhoefer, "Post-release Arrest Experiences of Federal Prisoners: A Six Year Followup," *Journal of Criminal Justice*, 7, Fall 1979, pp. 193-216; Jan M. Chaiken and Marcia R. Chaiken, *Varieties of Criminal Behavior*. Santa Monica, Calif.: Rand Corporation, 1982.

[7] Hermann Mannheim and Leslie T. Wilkins, *Prediction Methods in Relation to Borstal Training*. London: HMSO, 1955; Daniel Glaser, "The Efficacy of Alternative Approaches to Parole Prediction," *American Sociological Review*, 20, June 1955, pp. 283-287; John S. Carroll, et al., "Evaluation, Diagnosis, and Prediction in Parole Decision Making," *Law and Society Review*, 17, 1982, pp. 199-228.

[8] Michael R. Gottfredson and Don M. Gottfredson, *Decisionmaking in Criminal Justice*. Cambridge, Mass.: Ballinger, 1980; Leslie T. Wilkins, *The Principles of Guidelines for Sentencing*. Washington: National Institute of Justice, 1981.

precisely, and with enduring confidence in their decision.

Both surveys and everyday discussion soon reveal that there is much disagreement on the appropriate penalties for most crimes. Furthermore, if people state what they think should be the penalty for a type of crime and then have the great variations in criminal behavior and criminals within that category of offense pointed out to them, they usually make a continuing series of qualifications; once better informed on individual cases they show much less confidence in their responses than they did initially. In addition, the legislatures that express their collective views as to the just desert for each crime by enacting determinate sentence laws, regularly amend many of the penalties upward in each successive session. This occurs because few of the lawmakers are willing to vote against any such increase for fear of being branded in their next election campaign as "soft on crime."

Delusion B. They overlook the fact that penalties which most people prescribe as just deserts for felonies, if imposed on everyone convicted of these crimes, would require prison systems several times as large as those now overcrowded, and have to be paid for by more taxes than the public is willing to pay for such purposes.

The average citizen usually recommends imprisonment for every serious offense, rather than fines or probation, and calls for terms of incarceration much longer than the actual period of confinement given most prisoners. Even with the present prison overcrowding, efforts to have bonds approved or taxes raised to pay for building new institutions have had mixed outcomes. Raising the money would be much more difficult if the amount requested were drastically increased.

Delusion C. They also overlook the fact that firmly rooted customs of our courts regularly prevent enforcement of laws that mandate sharply increased penalties for major categories of offenses.

Laws prescribing Draconian penalties for drug crimes in New York state during the 1970's, Michigan's 1977 statute requiring added years in prison for every offense in which a gun is used, and many other legislative efforts to make penalties suddenly more severe, have not markedly affected the punishments they were intended to increase. These laws are vitiated by charge bargaining or other firmly established courtroom customs that make traditional penalties change only slowly. Also, when confronting actual cases, courts maintain consideration of the offender as well as the offense, regardless of what the statutes direct.

Delusion D. They misleadingly imply that the total lawbreaking which an offender commits is well indicated by the crimes for which he or she is convicted, and hence, that the just-desert penalty for these crimes would be proportional to the danger of the offender to society.

We know that less than one-tenth of felonies result in arrests, a smaller fraction result in convictions, and for highly active career criminals, both fractions are markedly lower.[9] Also, the plea-bargain process often makes the crimes for which an offender is convicted differ greatly from the crimes that actually occurred. Since the government is also operationally and financially unable to impose on all convicted persons what the public considers just-desert penalties, why not reserve such maximum punishment primarily for those whose known criminal records and lifestyle (e.g., a drug habit or other expenses or wealth incompatible with their legitimate income) indicate that they have done many more crimes than their conviction offenses. Whether offenders have such recidivism-predictive attributes can be subjected to adversary debate in sentencing hearings.

In summary, insofar as courts try to make the punishment fit the crime rather than the criminal, they make penalties less proportional to the offenders' crimes, hence less fair. Also, just deserts for the offense, as the primary determinant of sentences rather than the basis only for the maximum permitted penalty, impedes application of the Economy, Noncriminalization, Crime-Spree Interruption and Selective Incapacitation sentencing principles set forth here as maximizing public protection in relation to costs.

It is noteworthy that the Netherlands have a minimun sentence of one day's confinement or one guilder (about 30 cents) fine for all felonies. They impose some confinement on about as large a proportion of felons as other countries, but mostly for short terms. They formerly had about 20 jail and prison inmates, sentenced and unsentenced, per 100,000 population, but it rose to about 30 through selective incapacitation of those large-scale professional criminals, especially drug dealers, who have no firm roots in any country. The Scandinavian countries have about 60 prisoners per 100,000 population, Britain and West Germany about 90, and the United States over 200. The Dutch also have selective incapacitation for a few hundred so-called psychopaths, mostly youth 18 to 23 with records of intense crime and drug use beginning as juveniles, who are held for indefinite terms (usually 4 years) in so-called psychiatric clinics that are custodially-secure closed institutions. It is these clinics especially, but also the other Dutch prisons, that carry out with the greatest distinction the next principle to be considered.

[9] Jan M. Chaiken and Marcia R. Chaiken, "Crime Rates and the Active Criminal," in James Q. Wilson (Ed.), *Crime and Public Policy*. San Francisco: Institute for Contemporary Studies, 1983.

5. *The Differential Association Principle*

An efficient correctional agency makes its penalties less likely to be criminalizing by adopting the rule: *miminize the unsupervised involvement of offenders with each other, and maximize their bonds with nonoffenders.* When incarceration occurs, this principle is expressed in three sub-rules:

a. *Have small institutions and small residential units within them.* Rigorous research, routinely ignored by many American prison architects, and by correctional leaders with an edifice complex, shows that the smaller the number of inmates in a residential unit, the fewer are their disciplinary incidents and the lower their recidivism rates.[10] Sweden and the Netherlands not only have relatively small institutions, but most importantly, they compartmentalize them into units holding only 8 to 20 inmates, and each inmate has a separate room, to which he or she often is given a key. These prisoners eat, play, and often work and study only with those from their residential unit.

b. *Maximize collaborative involvement of staff with prisoners rather than a highly regimented and impersonal authoritarianism.* This is achieved by having the same staff work with the same limited number of inmates, in which all share the objectives of getting their tasks done satisfactorily, and having their relationships reflect friendship and mutual respect.

The Dutch accomplish this better than any other nation, I believe, partly by keeping the same staff regularly assigned to each small inmate residential unit, workshop, or schoolroom, but mostly by an extraordinary investment in selection and training of staff. The National Prison Staff Training Center in the Hague devotes many weeks to initial and review training in human relationships, using videofeedback equipment to analyze performance in practice sessions, and rotating new recruits from classes to trial experience in the institutions. The Dutch do not seem to seek psychotherapeutic institutions that foster permissiveness and emotional catharsis; they want places where the inmates assume responsibility for their own conduct, and cope constructively with misconduct by peers. Discipline is made a problem for the inmate group as much as possible, rather than a war of the offending inmate against against a staff disciplinarian.

c. *Maximize contacts of prisoners with noncriminal persons from outside the institution, and as the end of confinement nears, provide trial release of inmates to the community.* Personal visits of family, friends or volunteers to individual inmates in institutions, and to prison interest groups of various sorts (religious, hobby, study, and so forth), reduce the isolation of prisoners from conventional social life. Furloughs, work and school release, and halfway houses can intensify outside contacts. These measures may also help to maintain, revive, or build personal bonds between offenders and law-abiding persons. They often also lead to personal assistance or support and can give the prisoners a stake in conformity after release. The Massachusetts Department of Corrections has demonstrated that all such reintegration measures reduce recidivism rates.[11]

6. *The Retraining Principle*

For prisoners confined for all but the shortest terms, a practical rule is: *Provide intensive vocational education and realistic work experience, with incentives for good performance, at occupations that both appeal to them and have good postrelease job possibilities.* In hundreds of ex-offender careers that I systematically studied (a now too-neglected type of research), the most frequent apparent major turning point from a criminal to a legitimate way of life was the acquisition of a satisfying job.[12] McKee showed that 1,000 or more hours of auto repair, welding, or other mechanical trade training in California prisons in a few years repaid the State its cost by increasing the postrelease earnings of

[10] C. Clements, "Crowded Prisons: a Review of Psychological and Environmental Effects," *Law and Human Behavior*, 3, 1980 pp. 217-225; C. Jesness, *The Fricot Ranch Study*. Sacramento: California Youth Authority, 1965; E. Duxbury et al., *Institutional Violence Reduction Project: The Impact of Changes in Living Unit Size and Staffing*. Sacramento: California Youth Authority, 1980; G. McCain et al., *The Effect of Prison Overcrowding on Inmate Behavior*. Washington: National Institute of Justice, 1980.

[11] Daniel P. LeClair, "Home Furlough Program Effect on Rates of Recidivism," *Criminal Justice and Behavior*, 5, 1978, pp. 249-258; Daniel P. LeClair, *Community Reintegration of Prison Releasees*. Boston: Massachusetts Department of Correction, 1981.

[12] Daniel Glaser, *The Effectiveness of a Prison and Parole System*. Indianapolis: Bobbs-Merrill, 1964, Chapter 4; Abridged Edition, 1969, Chapter 3.

prisoners, hence their tax payments in excess of training costs, in addition to reducing recidivism.[13]

Conclusion

The six principles set forth here to maximize the public's longrun protection from known offenders at minimum cost, all imply penalties sufficient for general deterrence of nonoffenders but diverse reactions to different types of criminals. Successful application of these principles requires careful assessment of both the criminal and the noncriminal past record of each convicted person before sentencing, and if incarceration is deemed necessary, minimum criminalization and maximum retraining during confinement. Continuous statistical monitoring can determine how well the decisions guided by such principles provide cost-effective protection for the public and whether improved guidelines for sentencing and correction could increase this protection.

[13] Gilbert J. McKee, Jr., *A Cost-Benefit Analysis of Vocational Training in the California Prison System.* Ph.D. Dissertation in Economics, Claremont Graduate School, 1972; Gilbert J. McKee, Jr., "Cost Effectiveness and Vocational Training," in Norman Johnston and Leonard D. Savitz (Eds.), *Justice and Corrections.* N.Y.: Wiley, 1978.

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The Juvenile Justice System: A Legacy of Failure?*

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IT HAS been demonstrated by national reports, surveys, policies, scholars, etc., that the juvenile justice system is, in fact, at a crossroad. Some would label this an "identity crisis." As with its big brother, adult system, decisions as to new directions are imminent. If there is a need for a dual system of justice in this country, then it's time to re-examine and re-order priorities as well as adopt measures which will alter the present course of events.

Conversely, others would argue that the juvenile justice system has been a failure and that the present course of events, that is, the development of tougher juvenile codes, holding violent youth more responsible for their behavior, elimination of status offenders from the jurisdiction of juvenile court, etc., is clearly the most appropriate and desirable trend. However, recent data suggest that the assumptions and goals these trends are predicated on are questionable. Hence, they need to be challenged and analyzed if society expects to profit from nearly 80 years of social justice.

Therefore, it is the purpose of this article to identify, analyze, and challenge current issues that are and will be shaping the future of juvenile justice through the end of the century. From this analysis the author will demonstrate that many of these trends reflect *faulty* assumptions and that the end product will have serious policy implications, jeopardizing the entire concept of juvenile justice in America. Lastly, by focusing attention on these trends, it is hoped that policymakers will take heed and reverse this demise; or minimally, will have the courage to develop a course of action that is based upon a sound statistical foundation for juvenile justice.

Themes

The author produced a monograph "Juvenile Court: An Endangered Species" (McNally, 1983) alerting professionals to the fact that our (American) concept of juvenile justice is threatened with extinction and suggesting that if future generations of American youth are to profit from wisdom, then time is of the essence for change. Apparently this forecasting did little to yield the desired results, and the prognosis that we will ultimately have a younger and more voluminous prison population has become reality. Since that publication a series of research articles, Galvin and Polk, Krisberg and Schwartz, Sarri, Ohlin, Forst, et al., have identified prevalent themes that "...should provide lessons which will lead to more effective directions for public policy." (Galvin and Polk, 1983: 331). The irony of these *lessons* is that the future of a system of justice (juvenile) has taken a closer step toward extinction, and the end result is that nearly a century of social justice *may* become only a lingering memory.

This author has identified prevailing themes that are shaping the future of juvenile justice in this country, and they are: 1) identity crisis, 2) criminalization/decriminalization of juvenile codes, 3) public perception and policy, 4) selective incapacitation, and 5) the future of separatism. These themes, without prompt analysis and attention, will shape a system of justice for youth that will yield not only undesirable social consequences but may become the next generation's problem in need of reform.

Identity

The pivotal point of the juvenile justice system can be considered the juvenile court since it is at this juncture where policy, legislation, and wisdom become embodied in decisionmaking. The advent of proceduralism in the sixties, i.e., Kent, Gault, etc., marked the demise of paternalism and the beginning of a new era of justice for youth. "Pressure mounted, demanding justification of a separate court dealing exclusively with youthful misconduct. The Supreme Court would ...bring about the demise of separatism" (Sanborn, 1982: 132). The implications of proceduralism and later the criminalization

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