

USING POLICY SIMULATION ANALYSIS
TO GUIDE CORRECTIONAL REFORM

THE UTAH EXPERIENCE

Submitted by:

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CHAPTER ONE

INTRODUCTION

State legislators across the nation are continually faced with proposals to modify existing dispositional, release, and classification guidelines. These proposals are a direct outgrowth of budgetary constraints, public safety concerns, community values, sentencing disparity issues, and most importantly, the growth in prison population (and consequently, prison overcrowding).

Legislators increasingly are turning to correctional administrators for estimates of the potential short and long term impact of sentencing reforms on the size and nature of correctional populations. Yet, the correctional staff of many states are financially and technologically ill-equipped to accurately estimate the impact of alternative guidelines. Inadequate data bases, unsophisticated statistical tools, and limited staff resources usually hinder valid and reliable predictions.

As a result, policy makers find themselves in a difficult position. The decision to maintain existing policies will simply enhance the growth of financial and correctional strains. Thus, legislators often opt for the passage of legislative bills with little understanding of the consequences on judicial processing, jail, probation, prison, and parole populations, correctional personnel needs, and public safety. An unexpected consequence is the overflow of offenders into certain branches of the correctional system (i.e., prison overcrowding) and the sudden need for short term (and temporary) resolutions (i.e., jailing).

Pressures on the judicial and correctional systems will escalate and shift from branch to branch without a more sophisticated policy simulation analysis. Policy makers must have the necessary resources to accurately estimate the potential change incurred from alternative correctional models

and the impact on public safety and finances. Such resources include on-going policy level research and accurate forecasting models which demonstrate the impact of policy decisions on the current and future judicial and correctional systems.

The Utah Situation

Legislators and correctional administrators in Utah are facing similar problems as those of other states. Perhaps the most urgent problem requiring legislative action is the growth of their prison population. Utah ranked seventh in the nation with the greatest percent change in the number of inmates from 1983 to 1984 (Table 1). Over the last decade, the Utah state prison system witnessed a 52 percent increase in the number of inmates which has led to an overcrowding situation. In an effort to alleviate these conditions, state officials remanded 2.3 percent of the prison population to local jails in 1984 (Table 2).

Legislators and correctional administrators recognize that these short term resolutions will not solve the problems of correctional capacity and public safety. State officials are searching for a more accurate method of assigning offenders to less restrictive alternatives which are consistent with public safety, budget constraints, and overcrowding of the Utah state prison. They are continuously reviewing proposals to modify existing dispositional guidelines. In 1983, a proposal to implement an offender risk assessment model adapted from Iowa's instrument was formulated, but subsequently rejected. In 1985, proposed revisions of existing guidelines which provided stiffer penalties for crimes against persons were approved for testing.

TABLE 1
ANNUAL AND TOTAL PERCENT CHANGE SINCE 1980 IN
THE NUMBER OF PRISONERS UNDER STATE AND FEDERAL
CORRECTIONAL AUTHORITIES, BY REGION, DIVISION, AND STATE

| Regions, Divisions and States | Annual percent change | | | | Total percent change 1980-84 |
|----------------------------------|-----------------------|--------------|--------------|-------------|---------------------------------------|
| | 1980-81 | 1981-82 | 1982-83 | 1983-84 | |
| United States, total | 12.2% | 11.9% | 5.7% | 6.1% | 40.6% |
| Federal | 15.5 | 5.5 | 7.6 | 7.3 | 40.6 |
| State | 11.9 | 12.4 | 5.5 | 6.0 | 40.6 |
| Northeast | 17.7% | 10.0% | 9.0% | 9.1% | 54.0% |
| New England | | | | | |
| Maine | 21.9 | 11.9 | -2.5 | -5.3 | 25.9 |
| New Hampshire | 22.1 | 11.3 | 7.6 | 17.1 | 72.1 |
| Vermont | 11.2 | 12.2 | -17.0 | 3.6 | 7.3 |
| Massachusetts | 22.1 | 11.4 | 3.4 | 9.1 | 53.5 |
| Rhode Island | 19.3 | 7.3 | 11.6 | 5.4 | 50.1 |
| Connecticut | 22.2 | -2.0 | 6.2 | 4.5 | 32.7 |
| Middle Atlantic | | | | | |
| New York | 16.9 | 9.6 | 9.3 | 8.6 | 52.0 |
| New Jersey | 19.2 | 16.8 | 12.2 | 12.7 | 76.1 |
| Pennsylvania | 14.6 | 12.2 | 12.0 | 11.2 | 60.2 |
| Midwest | 10.6% | 7.0% | 4.6% | 4.8% | 29.7% |
| East North Central | | | | | |
| Ohio | 11.0 | 15.7 | 4.0 | 3.8 | 38.6 |
| Indiana | 20.0 | 9.6 | 5.8 | 0.3 | 39.6 |
| Illinois | 20.4 | -0.2 | 9.1 | 10.2 | 44.4 |
| Michigan | 0.2 | -1.6 | -3.6 | 1.5 | -3.4 |
| Wisconsin | 10.2 | 7.5 | 3.2 | 3.2 | 26.2 |
| West North Central | | | | | |
| Minnesota | -1.7 | 5.9 | 1.5 | 2.6 | 8.3 |
| Iowa | 7.6 | 6.0 | -0.5 | 0.8 | 14.3 |
| Missouri | 13.3 | 14.7 | 11.1 | 6.4 | 53.8 |
| North Dakota | 10.7 | 15.0 | 27.3 | 5.9 | 71.5 |
| South Dakota | 9.1 | 14.1 | 4.4 | 11.0 | 44.4 |
| Nebraska | 2.9 | 16.9 | -6.3 | -0.4 | 12.2 |
| Kansas | 11.1 | 11.1 | 20.4 | 14.4 | 69.9 |
| South | 9.0% | 13.8% | 2.3% | 4.1% | 32.1% |
| South Atlantic | | | | | |
| Delaware | 16.1 | 20.8 | 6.3 | 0.1 | 49.3 |
| Maryland | 20.7 | 24.4 | 8.6 | 4.0 | 69.8 |
| District of Columbia | 10.6 | 17.3 | 6.4 | 11.3 | 53.7 |
| Virginia | 5.2 | 7.4 | 0.1 | 5.7 | 19.6 |
| West Virginia | 24.5 | -1.2 | 5.0 | -1.5 | 27.2 |
| North Carolina | 1.7 | 5.1 | -7.1 | 6.3 | 5.5 |
| South Carolina | 8.6 | 7.0 | 4.8 | 4.8 | 27.6 |
| Georgia | 2.2 | 15.8 | 6.6 | 2.4 | 29.2 |
| Florida | 13.8 | 18.0 | -5.4 | 2.9 | 30.7 |
| East South Central | | | | | |
| Kentucky | 11.3 | 1.0 | 17.9 | 0.9 | 33.6 |
| Tennessee | 12.5 | -0.4 | 4.2 | -11.0 | 4.0 |
| Alabama | 17.0 | 20.6 | 6.7 | 6.4 | 60.2 |
| Mississippi | 18.5 | 18.6 | 1.9 | 9.5 | 56.7 |
| West South Central | | | | | |
| Arkansas | 14.3 | 17.8 | 8.2 | 4.9 | 53.0 |
| Louisiana | 5.9 | 16.1 | 17.2 | 8.6 | 56.6 |
| Oklahoma | 10.1 | 23.1 | 14.3 | 6.0 | 64.1 |
| Texas | 5.4 | 14.8 | -2.5 | 4.0 | 22.7 |
| West | 17.1% | 17.3% | 12.3% | 9.4% | 69.7% |
| Mountain | | | | | |
| Montana | 12.4 | 10.0 | -1.2 | 11.3 | 36.0 |
| Idaho | 17.1 | 9.1 | 14.2 | 7.6 | 56.9 |
| Wyoming | 4.1 | 26.3 | 2.7 | 2.6 | 38.6 |
| Colorado | 5.4 | 9.7 | 6.6 | 3.7 | 28.0 |
| New Mexico | 17.0 | 14.8 | 15.1 | 7.7 | 66.5 |
| Arizona | 19.5 | 16.2 | 19.5 | 8.2 | 79.4 |
| Utah | 22.3 | 6.7 | 4.8 | 11.4 | 52.3 |
| Nevada | 15.1 | 30.1 | 15.3 | 10.1 | 90.9 |
| Pacific | | | | | |
| Washington | 21.3 | 17.4 | 6.3 | 2.4 | 55.1 |
| Oregon | 3.7 | 19.4 | 1.1 | 15.3 | 43.6 |
| California | 19.9 | 19.6 | 13.7 | 10.0 | 76.3 |
| Alaska | 24.6 | 29.1 | 23.6 | 22.1 | 142.7 |
| Hawaii | 22.5 | 21.0 | 16.4 | 13.3 | 96.3 |

Source: Bureau of Justice Statistics, April 1985

TABLE 2
 PROFILE OF PRISON CROWDING
 1984

| State | Population as a percent of highest capacity ^a | Population as a percent of lowest capacity ^a | Percent of population in local jails due to overcrowding | Number of early releases due to overcrowding |
|----------------------|--|---|--|--|
| Federal institutions | 110 | 137 | * | 0 |
| State institutions | 105 | 116 | 2.8% ^b | 17,365 |
| Alabama | 109 | 109 | 4.4 | 0 |
| Alaska | 118 | 118 | * | 14 |
| Arizona | 121 | 121 | 0 | 172 |
| Arkansas | 101 | 101 | * | 0 |
| California | 106 | 152 | 3.4 | 0 |
| Colorado | 106 | 106 | 4.5 | 0 |
| Connecticut | 106 | 155 | * | 0 |
| Delaware | 108 | 108 | * | * |
| District of Columbia | 132 | 132 | * | * |
| Florida | 92 | 129 | 0 | 0 |
| Georgia | 101 | 101 | * | 7,425 |
| Hawaii | 134 | 195 | * | * |
| Idaho | 109 | 132 | * | 57 |
| Illinois | 98 | 98 | 0.4 | 0 |
| Indiana | 149 | 149 | * | * |
| Iowa | 101 | 110 | * | 0 |
| Kansas | 104 | 147 | * | 0 |
| Kentucky | 99 | 101 | 12.9 | * |
| Louisiana | 101 | 101 | 20.7 | 0 |
| Maine | 102 | 102 | 5.2 | * |
| Maryland | 99 | 139 | 0.5 | * |
| Massachusetts | 145 | 156 | 0 | 0 |
| Michigan | 113 | 113 | 0 | 4,149 |
| Minnesota | 87 | 90 | * | 0 |
| Mississippi | 99 | 99 | 21.2 | 79 |
| Missouri | 99 | 99 | * | 0 |
| Montana | 99 | 136 | 0 | 1 |
| Nebraska | 104 | 107 | 0 | 0 |
| Nevada | 119 | 119 | 0 | * |
| New Hampshire | 97 | 109 | 0 | 0 |
| New Jersey | 104 | 123 | 12.9 | 213 |
| New Mexico | 89 | 89 | 0 | 0 |
| New York | 95 | 97 | * | 0 |
| North Carolina | 98 | 98 | 0 | 0 |
| North Dakota | 92 | 92 | * | 0 |
| Ohio | 161 | 161 | * | 0 |
| Oklahoma | 109 | 145 | 0 | 487 |
| Oregon | 130 | 196 | 0 | 0 |
| Pennsylvania | 131 | 131 | 0 | * |
| Rhode Island | 91 | 101 | * | 0 |
| South Carolina | 120 | 138 | 4.7 | 459 |
| South Dakota | 92 | 144 | * | 0 |
| Tennessee | 95 | 95 | 17.0 | 3,742 |
| Texas | 90 | 95 | 0 | 0 |
| Utah | 100 | 108 | 2.3 | 0 |
| Vermont | 97 | 105 | * | * |
| Virginia | 105 | 107 | 6.2 | 0 |
| Washington | 108 | 152 | 0.9 | 318 |
| West Virginia | 76 | 78 | * | * |
| Wisconsin | 121 | 121 | 1.5 | 219 |
| Wyoming | 109 | 122 | 0 | 30 |

Note: Explanatory notes for each State are reported in the appendix.
 * Some States prohibit jail backups and early releases or have combined jails and prisons.
^a These percentages are derived from Tables 2 and 10. The highest total capacity reported for States was 403,210 and for the Federal prisons 31,161. The lowest total capacity reported for States was 363,143 and for the Federal prisons 24,922.
^b Seven jurisdictions with combined jail and prison systems are not included.

Source: Bureau of Justice Statistics, April 1985

To gain fuller understanding of the implications of these various proposals, state officials obtained grant funds from the National Institute of Corrections (NIC), and requested the National Council on Crime and Delinquency (NCCD) to complete the following research tasks:

- To analyze their current sentencing practices and dispositional guidelines for probation, prison, and parole caseloads.
- To compare these current practices with other well established correctional screening tools through statistical simulation analysis.

This study is intended to provide legislators with estimates of the impact of proposed policy modifications on sentencing, classification, and correctional population size. In turn, future policy planning may then be formulated with a precise understanding of the implications of the proposed changes and its consequences on public safety and correctional population growth and expenditures.

CHAPTER TWO

METHODOLOGY

A description and analysis of Utah's current sentencing guidelines and correctional policies as well as simulations of alternative policies required an information system which captured the key decision making points of the judicial and correctional process. NCCD, in collaboration with the Utah Division of Corrections developed an information system containing social, legal, and criminal data on several correctional populations: (1) probation admissions, (2) prison admissions, and (3) inmates appearing before the parole board.

A sample of offenders sentenced to probation or prison allowed for the simulation of alternative sentencing criteria and their potential effects on the growth of future prison populations. In addition, prison admissions sample groups enabled an analysis of Utah's classification systems. Alternative classification model was applied to the Utah correctional population. A comparison of the different model's could prove useful in the refinement of existing classification methods, and lead to assessments of current and future security level needs.

A sample of prisoners going before the parole board provided an analysis of existing correctional parole board practices. Computer simulations of risk assessment models were conducted to assess the potential changes in the size and nature of prison admissions and parole populations.

Description of the Samples

The data collected for the Utah Information System were drawn from the files of 1,485 convicted felony offenders sentenced to probation, prison, or

parole eligible during fiscal year 1982-83. The sample sizes and correctional populations they represent are summarized in Table 3 and described in more detail in this chapter. A single data instrument was constructed to collect pertinent information on the profiles of the three correctional populations: probation and prison admissions, and inmates appearing before the Parole Board.* Detailed data was gathered on the personal and social characteristics, drug and alcohol usage, court dispositional factors, and prior criminal involvement and conduct of all sample groups. (Exhibit 'A')

The probation cohort, consisting of 502 cases, was obtained by a systematic sampling procedure. The cases were drawn from a computerized master list of probationers sentenced between June 1, 1982 and July 31, 1983. The data for this sample group were manually coded from the probation files at the various adult probation units and courthouses across the state. These files contained pre-sentence investigations, client risk and needs assessment scores, family and employment histories, and aggravating/mitigating worksheets. These sources of data provided the most complete information on social and legal factors such as family support, employment status at time of arrest, residency, attitudes toward change, administration of 90 day evaluation, special circumstances involved in the offense, charges at disposition, conviction and sentencing dates, previous juvenile and adult convictions, jail terms, probation, prison, and parole sentences and failures. In order to analyze current sentencing guidelines, data was obtained on the length of probation and additional sanctions attached to probation (i.e., drug/alcohol programs, restrictions, and fine/restitution payments).

* Some overlap exists between the prisoner and parole hearing samples as cases can reside in both of these samples.

TABLE 3

PERCENTAGE OF CONVICTED FELON POPULATION
IN FISCAL YEAR 1982-83 USED IN NCCD
POLICY SIMULATION ANALYSIS

| Sample Group | Sample Size | Total Eligible Population | Percentage |
|-----------------|-------------|---------------------------|------------|
| Probation | 502 | 1,439 | 34.8% |
| Prison | 512 | 604 | 84.8% |
| Parole Hearings | 471 | 999 | 47.1% |
| TOTAL | 1,485 | 3,042 | 48.8% |

COURT DISPOSITIONAL DATA

SECTION C

CHARGE 1: [74][75][76][77][78][79] PLEA: [80] DISPOSITION: [81][82] 1=CC [83] 2=CS [84]

CHARGE 2: [84][85][86][87][88][89] PLEA: [90] DISPOSITION: [91][92] 1=CC [93] 2=CS [94]

CHARGE 3: [94][95][96][97][98][99] PLEA: [100] DISPOSITION: [101][102] 1=CC [103] 2=CS [104]

35) TOTAL NUMBER OF CHARGES AT DISPOSITION: [104][105] (43) 90 DAY EVALUATION ADMINISTERED?: [107] 1= Yes 2= No

36) DATE OF CONVICTION: [106][107][108][109][110][111] (44) FINE/RESTITUTION AMOUNT: \$ [128][129][130][131][132]

37) PLEA BARGAINING INVOLVED?: [112] (45) JAIL TIME IMPOSED:(days) [133][134][135] 1= YES 2= NO

38) SENTENCE DATE: [113][114][115][116][117][118] (46) PROBATION LENGTH: (months) [136][137]

39) COUNTY: [119][120] (47) PRISON LENGTH: [138] 1= 3rd Degree Felony/0- 5 years 2= 2nd Degree Felony/1-15 years 3= 1st Degree Felony/5-life 4= Life 5= Death 6= Other(specify)

40) JUDGE: [121][122] (48) JAIL CREDITS:(days) [139][140][141]

41) DISTRICT COURT: [123][124] (49) PRISON ADMISSION DATE: [142][143][144][145][146][147]

42) CRIMINAL STATUS AT TIME OF ARREST: (Circle all that apply): [125][126] 1= New Court Commitment 2= Probation Violator 3= Parole Violator - Technical Violation 4= Parole Violator - New Commitment 5= Escapee 6= Current hold or detainee

AGGRAVATING CIRCUMSTANCES MITIGATING CIRCUMSTANCES

1= Yes 2= No 1= Yes 2= No

(40) Offender presents serious threat of violent behavior [] (61) Offender's criminal conduct neither caused nor threatened serious harm []

(41) Victim was particularly vulnerable [] (62) Offender acted under strong provocation []

(42) Injury to person or property was unusually extensive [] (63) There were substantial grounds to excuse or justify criminal behavior, though failing to establish a defense []

(43) Offense was characterized by extreme cruelty or depravity [] (64) Offender is young []

(44) Verified instances of repetitive criminal conduct [] (65) Offender assisted law enforcement in resolution of other crimes []

(45) Has pending charges or is currently under supervision [] (66) Offender will make restitution []

(46) Multiple charges or victims [] (67) Offender's attitude suggests amenability to supervision []

(47) Offender's attitude is not conducive to supervision in less restrictive setting [] (68) Domestic crime-victim doesn't desire incarceration []

(48) Offender continued criminal activity subsequent to arrest [] (69) Offender has exceptionally good employment and/or family relationships []

(49) Available military records show considerable criminal involvement [] (70) Imprisonment would entail excessive hardship on offender or dependents []

(50) Other(specify) [] (71) Other (specify) []

(148-158) (159-169)

***IF PAROLEE, PLEASE COMPLETE SECTIONS D AND E. IF PROBATION OR PRISON, (X) TO SECTION F.

SECTION D

RELEASE DATA

2) HEARING NUMBER: [] (170-171) (78) SECURITY LEVEL AT RELEASE: [] (Code 01-10) 192 193

3) LAST HEARING DATE: [] (172-177) (79) SPECIAL CONDITIONS?: (specify) _____

4) CURRENT HEARING DATE: [] (178-183)

5) PAROLE DECISION: [] (80) 1= No Action 2= Parole Denied/Next Hearing 3= Parole Denied/Expiration 4= Parole Denied/Inmate's Request 5= Parole Granted/Consecutive Sentence 6=Parole Granted/Other State 7= Parole Granted/Hold-Detainer 8=Parole Granted 9= Amended Order 184

6) IF PAROLE GRANTED, DATE EFFECTIVE: [] (81) 185 186 187 188 189 190 IF PAROLE DENIED, NEXT DOCKET DATE: [] 196 197 198 199 200 201

7) FACILITY RELEASED FROM: [] (82) 1= Maximum 2= Medium 3= Minimum 4= Special Services Dorm 5= 2RR/YAOP 6= Women's 7= Community Center 8= Other(specify)

REASONS FOR DENIAL:(specify) _____

202 203

(A) PROGRAMS 1= Yes 2= No

(B) DISCIPLINARY HISTORY

| | PREVIOUS | CURRENT |
|---------------------|-------------------------------|-------------------------------|
| ACADEMIC | (82) <input type="checkbox"/> | (83) <input type="checkbox"/> |
| VOCATIONAL TRAINING | (84) <input type="checkbox"/> | (85) <input type="checkbox"/> |
| DRUG COUNSELING | (86) <input type="checkbox"/> | (87) <input type="checkbox"/> |
| ALCOHOL COUNSELING | (88) <input type="checkbox"/> | (89) <input type="checkbox"/> |
| OTHER COUNSELING | (90) <input type="checkbox"/> | (91) <input type="checkbox"/> |
| WORK | (92) <input type="checkbox"/> | (93) <input type="checkbox"/> |
| OTHER (specify) | (94) <input type="checkbox"/> | (95) <input type="checkbox"/> |

(204-217)

(96) MAJOR DISCIPLINARY VIOLATIONS?: 218
1= Yes 2= No

(97) IF YES, SPECIFY: _____

(98) TOTAL NUMBER OF MAJOR DISCIPLINARY VIOLATIONS: 219 220
 221 222

SECTION F

CRIMINAL HISTORY DATA

ADULT

(99) DATE OF FIRST ADULT ARREST:
223 224 225 226 227 228

(100) NUMBER OF PRIOR ARRESTS:
229 230

(101) NUMBER OF PRIOR FELONY CONVICTIONS:
231 232

(102) NUMBER OF PRIOR MISDEMEANANT CONVICTIONS:
233 234

(103) NUMBER OF PRIOR JAIL SENTENCES:
235 236

(104) NUMBER OF PRIOR PRISON SENTENCES:
237 238

(105) NUMBER OF PRIOR PROBATIONS:
239 240

(106) NUMBER OF PRIOR FAILED PROBATIONS:
241 242

(107) NUMBER OF PRIOR PAROLES:
243 244

(108) NUMBER OF PRIOR FAILED PAROLES:
245 246

(109) NUMBER OF PRIOR ESCAPES:
247 248

(110) MOST SERIOUS PRIOR ASSAULTIVE VIOLENT CRIME: (specify)
249 250

(111) CONVICTION OR JUVENILE ADJUDICATION FOR ASSAULTIVE OFFENSE WITHIN LAST 5 YEARS (involved the use of a weapon, physical force or the threat of force):
1= Yes 2= No 251

(112) HISTORY OF INSTITUTIONAL VIOLENCE WITHIN THE LAST 5 YEARS:
1= None
2= Assault and battery, no weapon usage and/or resulting in no serious injury
3= Assault and battery, weapon usage and/or resulting in serious injury 252

(113) SALIENT FACTOR SCORE:
1= No prior commitment of more than 30 days or released to community from facility during the last 3 years
2= Otherwise 253

(114) IOWA OFFENDER TYPE:
1= Intensive Offender
2= Intermittant Offender 254
3= First Time Offender
4= Violent Offender

JUVENILE

(115) DATE OF FIRST JUVENILE ARREST:
255 256 257 258 259 260

(116) TOTAL NUMBER OF JUVENILE ARRESTS (REFERRALS):
261 262

(117) TOTAL NUMBER OF JUVENILE PROBATIONS:
263 264

(118) TOTAL NUMBER OF FAILED JUVENILE PROBATIONS:
265 266

(119) TOTAL NUMBER OF JUVENILE COMMITMENTS:
267 268

(120) TOTAL NUMBER OF JUVENILE PAROLES:
269 270

(121) TOTAL NUMBER OF FAILED JUVENILE PAROLES:
271 272

(122) TOTAL NUMBER OF PRIOR JUVENILE ESCAPES:
273 274

(123) SALIENT FACTOR SCORE:
1= No prior commitment of more than 30 days or released to community from facility during the last 3 years
2= Otherwise 275

FORM COMPLETED BY: _____

DATE: _____

A sample of 85 percent of all prison admissions during the fiscal year of 1982-1983 resulted in 512 cases. Cases eliminated from the sample included 90 day evaluations, interstate transfers, and federal commitments. Prison admissions data were located in inmate jackets at the administrative office of the main prison in Salt Lake City. Sources of data in the inmate jackets included pre-sentence investigations, community placement risk scores, admittance worksheets, program involvement, psychological evaluations, and incident reports. Data collected for the probation sample were similarly obtained for the prison admissions sample. However, the data contained in the inmate jackets offered a more extensive account of prior criminal activities, prior assaultive/violent behavior, prior incarceration behavior, and drug/alcohol dependency. Additional data including prison length and prison admission date were required for the analysis of different classification models. An analysis of the various types of incoming prisoners -- new commitments, probation and parole violators -- are also critical to the simulation of alternative classification systems.

The parole board hearing data set, containing 471 cases, was obtained from a computerized master list of all inmates appearing before the board during June 1, 1982 and July 1, 1983. Approximately 23 percent of these inmates were also included in the prison admissions data file. However, additional data was collected for this correctional population focusing on parole board activities and institutional behavior. Important factors to be considered in the simulation analyses of parole board decisions include the total number of hearings, dates of last and current hearing, parole decisions (i.e., denials, grants, amendments and special conditions), security level at release, parole date, reasons for denial, date of next hearing, involvement in institutional programs, and disciplinary violations. These data were collected from inmate jackets and parole board files.

Structure of This Report

The following chapters systematically detail sentencing, parole, and classification analyses. Chapter 3 provides an overview of the social and legal characteristics of Utah's felon population. Chapter 4 includes a comparative analysis of current sentencing practices and two alternative models. Chapter 5 presents an analysis of current risk assessment instrument and parole board actions. Chapter 6 provides prison classification simulation analyses. Chapter 7 summarizes the major findings of the study and concludes with suggestions for future research needs for Utah.

CHAPTER THREE

SOCIAL AND LEGAL CHARACTERISTICS OF UTAH'S FELON POPULATIONS

As stated above, the samples consist of felon probation and prison admissions and prisoners eligible for parole hearings in fiscal year 1982-83. The bivariate analysis that follows seeks to identify those factors that significantly differentiate these populations. More importantly, data presented in this manner provide administrators with important basic information about the types of offenders under their jurisdiction. For example, Table 4 shows that 41 percent of probation admissions have drug use problems. Administrators can use this information to determine whether adequate drug treatment programs exist for their probation caseloads, and whether clients are receiving these programs.

Prison and parole populations, as expected, appear quite similar in terms of their personal, legal, and prior criminal history profiles. Since prisoners eligible for parole represent generally persons admitted to prison in the past, these data indicate stability in the types of offenders sentenced to prison over time. On the other hand, probation admissions are quite different from their prison and parole counterparts as one would anticipate.

Personal Characteristics

In terms of their personal characteristics, probationers tend to be younger (average age of 26 years) than prisoners (28 years). A higher percentage of probationers are female (15 percent) than prisoners (5 percent). Prisoners, on the other hand, are more likely to belong to minority groups

TABLE 4
PERSONAL CHARACTERISTICS OF
PROBATION, PRISON, AND PAROLE SAMPLES

| | Probation | Prison | Parole |
|---|-------------------|-------------------|-------------------|
| Total Cases in Sample | N=502 | N=512 | N=470 |
| Sex : | | | |
| Male | 84. 7% | 95. 5% | 95. 1% |
| Female | 15. 3% | 4. 5% | 4. 9% |
| Race: | | | |
| White | 85. 7% | 74. 2% | 73. 4% |
| Non- White | 14. 3% | 25. 8% | 26. 6% |
| Marital Status: | | | |
| Single | 46. 0% | 47. 9% | 44. 5% |
| Other | 54. 0% | 52. 1% | 55. 5% |
| Family Relationships: | | | |
| Strong | 21. 6% | 8. 9% | 4. 3% |
| Stable | 36. 4% | 35. 1% | 31. 1% |
| Stressful | 42. 0% | 56. 0% | 64. 6% |
| Residence: | | | |
| In State | 92. 7% | 84. 7% | 83. 7% |
| Out of State | 7. 3% | 15. 3% | 16. 3% |
| Employment: | | | |
| Employed/Student | 52. 9% | 34. 1% | 42. 5% |
| Unemployed | 47. 1% | 65. 9% | 57. 5% |
| Alcohol Use | | | |
| No Problem | 56. 5% | 21. 3% | 21. 6% |
| Problem | 43. 5% | 78. 7% | 78. 4% |
| Drug Use: | | | |
| No Problem | 59. 3% | 33. 5% | 32. 1% |
| Problem | 40. 7% | 66. 5% | 67. 9% |
| History of Opiate Dependence: | | | |
| Any | 3. 2% | 17. 0% | 25. 3% |
| None | 96. 8% | 83. 0% | 74. 7% |
| Average Age at Arrest | 26. 5 yrs. | 28. 0 yrs. | 28. 0 yrs. |
| Average Number of Children | 0.9 | 12 . | 11 0 |
| Average Education | 11. 6 | 11. 0 | 10. 9 |
| Average Employment Last 12 Mnths | 5. 5 mos. | 2. 3 mos. | 3. 0 mos. |

than probationers. More than half the probationers were employed full-time while the majority of prisoners were unemployed. In fact, probationers were employed more than twice as many months in the last year 6 months as prisoners (2 months). Family relationships among probationers were stronger than prisoners, however, all groups showed significant percentages of stressful relationships in their lives.

One strong area of difference between probationers and prisoners was substance abuse. Forty-four percent of the probationers were alcohol abusers, which is quite high compared to the general population. However, 79 percent of the prisoners were alcohol abusers. Similarly, 41 percent of the probationers were drug abusers while 66 percent of the prisoners abuse drugs. One out of four eligible parolees had a history of heroin dependence, compared to 17 percent of the prison admissions and 3 percent of probation admissions.

Legal Characteristics

Probation and prison populations differed significantly in the types of offenses committed. Prison admissions and parole eligibles were much more likely to have committed crimes against persons (33 percent) than probation admissions (-12 percent). On the other hand, probationers were much more likely to have committed drug related offenses (18 percent) than prisoners (5 percent). A majority of all three groups were convicted of property crimes. However, prison and parole populations were more likely to have committed the property crime of burglary, while probationers were more likely to have committed theft and forgery/fraud crimes.

The vast majority of probation admissions were new court commitments. Among the prison admissions, significant percentages were probation and parole violators, and a small percentage of eligible parolees were escapees. There.

TABLE 5
LEGAL CHARACTERISTICS OF
PROBATION, PRISON, AND PAROLE HEARING SAMPLES

| | Probation | Prison | Parole Hearings |
|---|--------------|--------------|-----------------|
| Total Cases | N=502 | N=512 | N=470 |
| Most Serious Commitment Offense: | | | |
| Murder | 0.0% | 2.2% | 3.3% |
| Manslaughter | 0.6% | 2.0% | 2.2% |
| Rape | 4.6% | 7.9% | 8.3% |
| Armed Robbery | 2.2% | 6.7% | 8.5% |
| Robbery | 1.8% | 8.3% | 5.0% |
| Assault | 2.8% | 4.0% | 4.1% |
| Other Crimes Against Persons | 0.4% | 1.6% | 2.1% |
| TOTAL Person Crimes | 12.4% | 32.7% | 33.5% |
| Burglary | 15.3% | 21.0% | 26.5% |
| Theft | 26.3% | 20.6% | 18.9% |
| Motor Vehicle Theft | 2.6% | 1.6% | 0.9% |
| Forgery/Fraud | 15.1% | 9.7% | 8.0% |
| Other Property Crimes | 3.2% | 2.6% | 2.6% |
| TOTAL Property Crimes | 62.5% | 55.5% | 56.9% |
| TOTAL Drug Crimes | 18.1% | 4.6% | 3.5% |
| TOTAL Other Crimes | 7.0% | 7.2% | 6.1% |
| Degree of Crime: | | | |
| 3rd Degree | * | 49.7% | 49.2% |
| 2nd Degree | * | 31.4% | 30.6% |
| 1st Degree | * | 7.4% | 12.2% |
| Life/Death | * | 0.6% | 1.1% |
| Other | * | 10.9% | 6.7% |
| Criminal Status at Arrest: | | | |
| New Court Commitment | 91.4% | 58.5% | 63.3% |
| Probation Violator | 7.0% | 16.8% | 12.8% |
| Parole Violator/New Court Commitment | 0.9% | 21.5% | 18.6% |
| Escape | 0.0% | 0.6% | 2.6% |
| Hold/Detainer | 0.6% | 2.5% | 2.6% |
| Plea Bargained? | | | |
| Yes | 49.9% | 51.8% | 63.6% |
| No | 50.1% | 48.2% | 36.4% |

* Degree of crime not coded for probation sample.

also appears to have been a significant decline in the use of plea bargaining. Among probation and prison admissions, about half the offenders plea bargained. However, among the parole eligible population, 64 percent plea bargained.

Prior Criminal Hi story

Once again, prison admission and parole eligible populations look quite similar in terms of their prior criminal histories. Both had high numbers of prior adult and juvenile arrests, both averaged nearly one prior prison sentence, and more than one prior juvenile commitment. However, probation admissions averaged far fewer arrests and commitments (Table 6). A quarter of the prison and parole samples had been convicted of an assault in the last five years, compared to only 4 percent of the probation sample. Finally, nearly half the probation and prison samples had a prior commitment within the last 3 years compared to only 6 percent of the probation sample.

Summary

- Probationers were more likely to be younger and employed, and less likely to have alcohol or drug use problems than prisoners.
- Prisoners were more likely to commit crimes against persons and serious property crimes (i.e., burglary). Probationers, on the other hand, committed less serious property crimes (i.e., forgery, fraud, theft).

Prison admissions and parole eligibles have far higher numbers of prior juvenile and adult arrests, convictions, and prison sentences.

TABLE 6

CRIMINAL HISTORY OF
PROBATION, PRISON, AND PAROLE SAMPLES

| | Probation | Prison | Parole |
|---------------------------------------|-----------|--------|--------|
| Total Cases | N=494 | N=504 | N=460 |
| Average Number of Adult: | | | |
| Arrests | 2.54 | 7.81 | 7.94 |
| Felony Convictions | 0.51 | 1.66 | 2.09 |
| Misdemeanant Convictions | 1.03 | 2.33 | 2.57 |
| Jail Sentences | 0.37 | 1.22 | 1.23 |
| Prison Sentences | 0.05 | 0.92 | 0.86 |
| Probations | 0.47 | 1.08 | 1.01 |
| Failed Probations | 0.13 | 0.64 | 0.58 |
| Paroles | 0.03 | 0.58 | 0.55 |
| Failed Paroles | 0.02 | 0.40 | 0.35 |
| Escapes | 0.01 | 0.15 | 0.15 |
| Average Number of Juvenile: | | | |
| Arrests | 2.86 | 7.20 | 7.06 |
| Probations | 0.37 | 0.68 | 0.79 |
| Failed Probations | 0.06 | 0.36 | 0.51 |
| Commitments | 0.18 | 1.24 | 1.20 |
| Paroles | 0.03 | 0.18 | 0.19 |
| Failed Paroles | 0.01 | 0.11 | 0.11 |
| Escapes | 0.05 | 0.30 | 0.31 |
| Host Serious Prior Assaultive Crime: | | | |
| Murder/Manslaughter | 0.0% | 2.2% | 2.8% |
| Rape | 0.0% | 4.2% | 4.3% |
| Robbery | 0.0% | 7.9% | 12.2% |
| Assault | 5.3% | 23.0% | 19.3% |
| None/Unknown | 94.7% | 62.7% | 61.4% |
| Convicted of Assault in Last 5 Years? | | | |
| Yes | 3.8% | 24.3% | 27.17% |
| No | 96.2% | 75.6% | 72.3% |
| Salient Factor Score: | | | |
| No Prior Commitment Last 3 Years | 94.4 | 53.8% | 54.5% |
| Otherwise | 5.6 | 46.2% | 45.5% |

CHAPTER FOUR
SENTENCING PRACTICES

The sentencing decision is possibly the most crucial decision making point of the judicial and correctional process affecting the size, growth, and nature of probation and prison populations. The court's sentencing decision in most states is based principally on: (1) the discretionary powers of the judge and (2) a broad range of sentencing alternatives appropriate to specific crimes.

Within the last six years, three states have implemented sentencing guidelines which limit the judge's discretionary power in determining whether a probation or prison term or other alternative shall be imposed. "Minnesota (1980) Pennsylvania (1982), and Utah (1979) have established statewide sentencing guidelines with specific recommendations on the in/out decision as well as the length of prison terms", according to a bulletin released by the Department of Justice (BJS, 1983).

Generally, these recommendations on the in/out decision and the length of prison terms are based on two factors: (1) severity of current offense and (2) criminal history and background of the offender. However, the dispositional guidelines in each of the three states differ significantly in the criteria used in determining the nature and extent of the offender's criminal history and background as well as the range, type and estimated length of the recommended disposition. The differences between various sentencing guideline models is the focus of this chapter.

Current Sentencing Guidelines in Utah

According to Utah's existing sentencing guidelines, the prescribed sentence for any particular offender convicted of a felony or Class A or B misdemeanor is largely determined by the seriousness of the instant offense and the offender's history/risk assessment.

As Exhibit B indicates, the seriousness of the felony offenses are divided into four main categories ranging from capital to third degree. Those crimes falling within first and second degree felonies are further separated into serious and moderate categories. Both serious and moderate first degree and serious second degree felonies consist primarily of crimes against persons. Moderate second degree felonies, on the other hand, include property crimes. These subdivisions of felony offenses are especially critical in determining whether probation, prison or community center care shall be imposed for offenders scoring between fair and excellent on their criminal history risk assessment.

The criterion used to determine the criminal history risk assessment score are based on both social and legal characteristics of the offenders. The three social factors included in this sentencing model determine:

- whether the offender has or has not completed high school as well as any post high school education;
- whether the offender's recent employment or educational record has been poor, sporadic or good;
- whether the offender can be classified as a substance abuser or a non-user based on previous substance related arrests.

EXHIBIT B

UTAH'S CURRENT SENTENCING GUIDELINES

Offender is responsible to provide information or collateral contacts to verify scoring
 Cooperative Uncooperative Degree C 1 2 J A B

Circle the numbers of circumstances that may justify departure from guidelines. Document by listing presence page where supporting information can be found.

HISTORY/RISK ASSESSMENT (To be initiated only at time of conviction for new offense)

V Age at Date of Conviction Under 21 0
 21 - 30 1
 31 - 40 50 2
 Over 40 3

V Age at First Arrest Under 14 0
 (first offender incited non status 14 - 21 1
 arrest as either an adult or juvenile) 22 - 25 2
 Over 25 3

V Prior Juvenile Record Court Institutional Referral 0
 More than four referrals 1
 1 - 4 referrals 2
 No referrals 3

V Prior Adult Arrests (does not include current one) More than 15 0
 9 - 15 1
 2 - 8 2
 None 3

V Current Charges Pending or Dismissed as Plica Bargain More than 1 0
 Otherwise 1

V Prior Adult Convictions (excludes traffic) More than 4 0
 1 - 4 1
 None 2

V Current Conviction is for high recidivism crime Agg. Robbery, Agg. Burglary 0
 Robbery, Forgery, Burglary, Fraud, 63
 Felony Theft, Auto-theft, Forcible 1
 Rape 2
 Otherwise 2

V Correctional Supervision History Currently Supervised 0
 Prior Revocation 1
 Prior Supervision 2
 No Prior Supervision 3

V Supervision Risk Escaped from Confinement 0
 Absconded from Residential Prog. 1
 Absconded from Supervision 2
 None of the above 3

V Preconfinement Work/Education Record (Percent) Poor Sporadic 0
 Good 1
 2

V Education Less than H.S. Grad. 0
 H.S. Grad. or G.E.D. 1
 Post High School Education 2

V Substance Abuse (alcohol & drug) Abuser (has been arrested for a Substance related crime) 0
 User 1
 Non-user 2

Score: _____

Disposition: Prison 72
 Jail 73
 Probation 74
 CCC 75
 Fine/Rest. 76
 Other 77 Specify: _____

Exit type 78 79

Circle the numbers of circumstances that may justify departure from guidelines. Document by listing presence page where supporting information can be found.

AGGRAVATING CIRCUMSTANCES

- Page _____
- Firearm was used (if not implicit in crime definition) _____
- Offender presents serious threat of violent behavior
 - Victim was particularly vulnerable
 - Injury to person or property was unusually extensive
 - Offense was characterized by extreme cruelty or depravity
 - Verified instances of repetitive criminal conduct
 - Has pending charges or is currently under supervision
 - Multiple charges or victims
 - Offender's attitude is not conducive to supervision in less restrictive setting
 - Offender continued criminal activity subsequent to arrest
 - Available military records show considerable criminal involvement
 - Other (specify) _____

MITIGATING CIRCUMSTANCES

- Offender's criminal conduct neither caused nor threatened serious harm
- Offender acted under strong provocation
- There were substantial grounds to excuse or justify criminal behavior, though failing to establish a defense
- Offender is young
- Offender assisted law enforcement in resolution of other crimes
- Offender will make restitution
- Offender's attitude suggests amenability to supervision
- Domestic crime—victim does not desire incarceration
- Offender has exceptionally good employment and/or family relationships
- Imprisonment would entail excessive hardship on offender or dependents
- Other (specify) _____

Guideline Recommendation _____

Community Demand _____

AP&P Recommendation _____

SUGGESTED DISPOSITION MATRIX
 (Based Only on History/Risk Assessment and Seriousness of Offense)

| HISTORY RISK ASSESSMENT | FELONIES | | | | | MISDEMEANORS | | |
|-------------------------------|----------|---------------|--------------|---------------|---------------------------------------|--------------|------------------------|--------------------------|
| | Capital | FIRST DEGREE | | SECOND DEGREE | | THIRD DEGREE | Class A | Class B |
| | | Serious | Moderate | Serious | Moderate | | | |
| POOR | Life | 96 - 108 mos. | 60 - 72 mos. | 36 - 48 mos. | 24 - 36 mos. | 15 - 21 mos. | 8 - 12 mos. | 4 - 6 mos. |
| FAIR | 25 yrs. | INCARCERATION | | 24 - 36 mos. | Community Center or 90 Day Evaluation | | 4 - 8 mos. | 2 - 4 mos. |
| MODERATE | 20 yrs. | 60 - 72 mos. | 36 - 48 mos. | 18 - 24 mos. | 12 - 18 mos. | 6 - 12 mos. | 2 - 4 mos. | 1 - 2 mos. |
| GOOD | 15 yrs. | 48 - 60 mos. | 30 - 36 mos. | 12 - 18 mos. | 8 - 12 mos. | 3 - 6 mos. | PROBATION Days Days | |
| EXCELLENT | 15 yrs. | 36 - 48 Mos. | 24 - 30 mos. | 8 - 12 mos. | 4 - 8 mos. | 1 - 3 mos. | Days | Only Fine or Restitution |

Time in each square is recommended amount of time if incarceration is judged appropriate.

The nine legal factors used in determining the offender's risk assessment score consist of:

- prior juvenile referrals,
- prior adult arrests,
- prior adult convictions,
- age at first non-status arrest,
- age at date of current conviction,
- correctional supervision history,
- correctional supervision risk,
- charges pending or dismissed as a result of plea bargaining,
- determination of whether the current conviction is for a high recidivism crime.

These twelve factors are presumed to be indicative of the potential risk of any particular offender while under correctional supervision in the community, and have been empirically validated.

However, it is essential to note the manner in which these factors are scored. The cutoff points used for each category and for the total risk score are based primarily on the advice and experience of correction staff, and have not been empirically tested. For example, prior juvenile referrals consists of four categories -- none, one to four, more than four, and court institutional. On the other hand, prior adult arrests includes five categories -- none, one, two to eight, nine to fifteen, and more than fifteen.

Under the court's existing guidelines, 26 percent of all felony cases resulting in a conviction in a Utah court were sentenced to state prison during the fiscal year of 1982-83 (Table 7-A). A comparison with data obtained from five other states reveals that Utah's prison disposition rate is comparatively low (Table 7-B).

TABLE 7

A. DISPOSITIONS OF FELONY CONVICTIONS DURING FISCAL YEAR 1982-1983

| | N | % |
|---------------------|-------|-------|
| State Prison | 512 * | 26.2% |
| Probation | 1,439 | 70.4% |

* Cases excluded from this admissions population are 90 day evaluations, interstate transfers, and federal casks (N=92)

B. PROPORTION OF FELONY CASES SENTENCED TO PRISON FOR SELECTED STATES

| | | |
|-------------------|------------|-----------------------|
| California | 33% | (1982) |
| Utah | 26% | (1982-1983 FY) |
| Minnesota | 22% | (1983) |
| Washington | 20% | (1983) |
| Nevada | 42% | (1983) |
| Illinois | 38% | (-1982) |

ALTERNATIVE SENTENCING GUIDELINES

1. The Minnesota Model

The reform of sentencing guidelines can have a major effect on the number of nature of convicted felons sentenced to prison and their length of incarceration. Utah's correctional administrators expressed interest in Minnesota's sentencing guidelines model. This model has received wide recognition within the criminal justice community for its success in controlling prison population growth and reducing sentencing disparity.

The sentencing structure of Minnesota and Utah are similar to the extent that both models are based on criminal history scores and severity of offense. However, the similarity ends there (Exhibit C). First, Minnesota's criminal history score is derived solely from prior adult felony convictions. Risk factors such as supervision history and risk, current conviction is considered high recidivism crime and social characteristics such as employment and educational history are not employed in the calculation of the offender's criminal history score. Second, the severity levels of conviction offense are scaled into ten major crime categories, ranging from motor vehicle theft to simple robbery to second degree murder. Third, the type and estimated length of the recommended sentence for each model differs in significant ways. For example, a probationary sentence of twelve to twenty four months is usually recommended for property crimes when the offender has relatively few felony convictions. In Utah, the recommended probationary period for an offender convicted of a property crime with a good to excellent history risk assessment would be eight to eighteen months. While a prison disposition is always recommended for sexual assault crime (i.e., rape) in Minnesota regardless of the extent of the offender's criminal history, a non-prison sentence for the same crime can be recommended for an offender with a good to excellent history risk assessment.

EXHIBIT C

MINNESOTA SENTENCING GUIDELINES

Presumptive Sentence Length in Months

Italicized numbers within the grid denote the range within which a judge may sentence without the sentence being deemed a departure.

| SEVERITY LEVELS OF CONVICTION OFFENSE | CRIMINAL HISTORY SCORE | | | | | | |
|--|------------------------|----------------|----------------|----------------|----------------|----------------|----------------|
| | 0 | 1 | 2 | 3 | 4 | 5 | 6 or more |
| Unauthorized Use of Motor Vehicle Possession of Marijuana I | 12* | 12* | 12* | 15 | 18 | 21 | 24 |
| Theft Related Crimes (\$150-\$2500) Sale of Marijuana II | 12* | 12* | 14 | 17 | 20 | 23 | 27 25-29 |
| Theft Crimes (\$150-\$2500) III | 12* | 13 | 16 | 19 | 22 21-23 | 27 25-29 | 32 30-34 |
| Burglary - Felony Intent Receiving Stolen Goods (\$150-\$2500) IV | 12* | 15 | 18 | 21 | 25 24-26 | 32 30-34 | 41 37-45 |
| Simple Robbery V | 18 | 23 | 27 | 30 29-31 | 38 36-40 | 46 43-49 | 54 50-58 |
| Assault, 2nd Degree VI | 21 | 26 | 30 | 34 33-35 | 44 42-46 | 54 50-58 | 65 60-70 |
| Aggravated Robbery VII | 24 23-25 | 32 30-34 | 41 38-44 | 49 45-53 | 65 60-70 | 81 75-87 | 97 90-104 |
| Assault, 1st Degree Criminal Sexual Conduct, 1st Degree VIII | 43 41-45 | 54 50-58 | 65 60-70 | 76 71-81 | 95 89-101 | 113 106-120 | 132 124-140 |
| Murder, 3rd Degree IX | 97 94-100 | 119 116-122 | 127 124-130 | 149 143-155 | 176 158-184 | 205 195-215 | 230 218-242 |
| Murder, 2nd Degree X | 116 111-121 | 140 133-147 | 162 153-171 | 203 192-214 | 243 231-255 | 284 270-298 | 324 309-339 |

1st Degree Murder is excluded from the guidelines by law and continues to have a mandatory life sentence.

*one year and one day
 **the dark heavy line is the dispositional line, above the line indicates probationary sentences (OUT), under the line indicates sentences of incarceration (IN).

An analysis of the impact of Minnesota's model on Utah's sentencing structure was conducted by applying the model's factors to Utah's convicted felons. In order to simulate the actual admissions to probation and prison, the probation sample was weighted by a factor of 2.87. This factor was derived from the inverse of the sampling percentage (Table 8).

Perhaps the two most important aspects of this simulation analysis is the estimation of change in Utah's prison disposition rate of 26 percent under Minnesota guidelines and the differences in sentencing recommendations within each of Utah's correctional populations -- probation and prison -- under this alternative model.

Simulations were performed separately on the two correctional populations (Table 8). The results from these simulations indicate that fewer felons would be admitted to prison if Utah adopted the Minnesota sentencing guidelines model (the prison disposition rate would decline to 20 percent).*

An examination of Utah's probation population under Minnesota criterion reveals that there are no substantial differences in sentencing recommendations for this felon population. Only 12 percent of Utah's probationers would receive a prison sentence. Three fourths of these offenders had no prior convictions but were convicted for crimes against persons.

The major difference between the sentencing guideline models of Utah and Minnesota becomes evident when focusing on the discrepancies in sentencing Utah's prison admissions. Fifty-nine percent of Utah's prisoners would have been placed on probation under Minnesota's guidelines. Of this group, more than one-half of these felons had less than two prior convictions and were

* This figure was derived by taking the total felon population (1,956) divided by those felons who would be committed to prison under Minnesota's model. (386).

Table 8

TERNATIVE SENTENCING GUIDELINES
THE MINNESOTA MODEL*

Utah's Probation Population

SEVERITY LEVELS OF CONVICTION OFFENSE

| | 0 | 1 | 2 | 3 | 4 | 5 | 6 |
|----|-----|----|----|----|---|---|---|
| 1 | 54 | 14 | 3 | 9 | 0 | 0 | 0 |
| 2 | 356 | 39 | 29 | 9 | 0 | 0 | 3 |
| 3 | 270 | 52 | 37 | 6 | 6 | 0 | 6 |
| 4 | 169 | 43 | 29 | 14 | 3 | 0 | 3 |
| 5 | 52 | 11 | 3 | 0 | 0 | 0 | 0 |
| 6 | 11 | 6 | 0 | 0 | 0 | 0 | 0 |
| 7 | 49 | 9 | 0 | 0 | 0 | 0 | 0 |
| 8 | 75 | 6 | 0 | 3 | 3 | 0 | 0 |
| 9 | 9 | 0 | 0 | 0 | 0 | 0 | 0 |
| 10 | 3 | 0 | 0 | 0 | 0 | 0 | 0 |

Total** %
1266 87.8%
178 12.3%

Utah's Prison Population

CRIMINAL HISTORY SCORE

| | 0 | 1 | 2 | 3 | 4 | 5 | 6 |
|----|----|----|----|----|----|---|---|
| 1 | 8 | 3 | 7 | 3 | 3 | 3 | 3 |
| 2 | 14 | 23 | 14 | 9 | 9 | 1 | 2 |
| 3 | 16 | 30 | 19 | 13 | 3 | 5 | 8 |
| 4 | 17 | 45 | 31 | 11 | 11 | 7 | 6 |
| 5 | 5 | 10 | 8 | 3 | 4 | 2 | 0 |
| 6 | 1 | 1 | 0 | 0 | 2 | 0 | 2 |
| 7 | 15 | 32 | 16 | 4 | 2 | 1 | 7 |
| 8 | 21 | 18 | 3 | 6 | 1 | 0 | 2 |
| 9 | 4 | 1 | 1 | 0 | 2 | 2 | 0 |
| 10 | 4 | 4 | 1 | 0 | 2 | 0 | 1 |

Total*** %
304 59.4%
208 40.6%

* Cells above the dark line reflect convicted offenders sentenced to probation. Cells below the dark line reflect convicted offenders sentenced to prison.
 ** Computer simulation based on a sample of 34.8 percent of total felon probation population. Figures adjusted with weighting factor of 2.87 to reflect the estimation of total felon probation population.
 *** Figures based on 31.5 percent of total prison population. 90 day evaluations, interstate transfers and federal cases excluded from this analysis.

convicted of property or drug crimes. Although sentencing guidelines used in one state are unlikely to be universally adopted, however, these data suggest that Utah may be incarcerating higher percentages of felons than Minnesota's judges.

2. The Revised Utah Sentencing and Release Model

As mentioned earlier, a proposal to revise existing sentencing guidelines has been approved, and is currently being tested to determine the validity of the factors and scores used to derive the recommended sentences. These modifications are a product of the policy and philosophy concerns that have surfaced during this evaluation of current policies.

The most significant modifications of the existing guidelines (Exhibit D) are:

- The increase in the weighting of crimes against persons relative to other crimes. Offenders convicted of person crimes with poor to moderate criminal history assessment are likely to receive an incarceration sentence. In addition, separate dispositional guidelines stating the mandatory minimum time to be served for all offenses against children, sex offenses, and DUI offenses have been developed (Exhibit E).
- The elimination of the social factors (educational and employment histories and substance abuse) as well as five of the legal risk factors (age at first nonstatus arrests and at date of conviction, charges pending or dismissed, adult arrests, and current conviction is for high recidivism crime) from the criminal history assessment. The revised criminal history assessment is based on six legal factors which do not have prediction of recidivism as a major objective. These six legal factors have somewhat less arbitrary cut-off points for each category. Prior adult convictions has been separated into misdemeanors and felonies. Each additional felony conviction is weighted almost twice as heavy as misdemeanor convictions. Different categories have been constructed for prior juvenile referrals. The most important difference is the breakdown from one to four under the existing guidelines to one and two to four under new guidelines. Supervision history and risk has been expanded to include prior juvenile supervision. The new factor, weapon used in current conviction offense, distinguishes between none, firearm/explosive and other.

EXHIBIT D

UTAH'S REVISED SENTENCING GUIDELINES

NAME _____

DATE _____

CRIMINAL HISTORY ASSESSMENT

| | | | | |
|--|-------------------------|---|--|------------------------------------|
| PRIOR FELONY CONVICTIONS (SEPARATE CRIMINAL INCIDENTS) | 0 2 4 6 8 | NONE ONE TWO THREE MORE THAN THREE | SUBTRACT 1 POINT FOR EACH CONSECUTIVE YEAR OF ARREST-FREE STREET TIME SINCE LAST ARRESTED REDUCTION LIMITED TO TWO OF TOTAL POINTS | NUMBER OF YEARS _____ |
| PRIOR MISC CONVICTIONS (SEPARATE CRIMINAL INCIDENTS) (INCLUDES DUI & RECKLESS) (EXCLUDES OTHER TRAFFIC) | 0 1 2 3 4 | NONE ONE TWO TO FOUR FIVE TO SEVEN MORE THAN SEVEN | | FINAL PLACEMENT SCORE _____ |
| PRIOR JUVENILE REFERRALS (FINDINGS OF DELINQUENT FOR INCIDENTS THAT WOULD HAVE BEEN FELONIES IF COMMITTED BY AN ADULT) [3 NON-STATUS MISC. = 1 FELONY] | 0 1 2 3 4 | NONE ONE TWO TO FOUR MORE THAN FOUR SECURE PLACEMENT | | CRIMINAL HISTORY CATEGORY _____ |
| SUPERVISION HISTORY (ADULT OR JUVENILE) | -0 -1 2 3 4 | NO PRIOR SUPERVISION PRIOR SUPERVISION PRIOR RESIDENTIAL PLACEMENT PRIOR REVOCATION CURRENT SUPERVISION OR PRE-TRIAL RELEASE | POOR FAIR MODERATE | 16 - 27 12 - 15 8 - 11 |
| SUPERVISION RISK (ADULT OR JUVENILE) | 0 1 2 3 4 | NO ESCAPES OR ABSCONDINGS FAILURE TO REPORT (ACTIVE OFF.) ABSCONDED FROM SUPERVISION ABSCONDED RESIDENTIAL PROG. ESCAPED FROM CONFINEMENT | GOOD EXCELLENT | 4 - 7 0 - 3 |
| WEAPONS ENHANCEMENT (ACTIVE OFFENSE) | 0 2 3 4 | NONE OTHER KNIFE FIREARM OR EXPLOSIVE | | PLEASE CIRCLE THE CORRECT CATEGORY |

TOTAL PLACEMENT SCORE: _____

GENERAL DISPOSITION MATRIX

CRIME SEVERITY

| | CAPITAL | FIRST DEGREE | | PERSON CRIMES | | | OTHER CRIMES | | MISDEMEANORS | |
|------------------|-----------|--------------|-------|---------------|----------|---------|--------------|---------|--------------|---------------------------|
| | | MURDER 2 | OTHER | 2ND SEX | 2ND DEG. | 3RD DEG | 2ND DEG. | 3RD DEG | CLASS A | CLASS B |
| CRIMINAL HISTORY | POOR | | | | | | | | | JAIL |
| | FAIR | | | | | | | | | PRISON ALTERNATE |
| | MODERATE | | | | | | | | | |
| | GOOD | | | | | | | | | FINE or RESTITUTION |
| | EXCELLENT | | | | | | | | | PROBATION |

DRUG DISTRIBUTION OF OVER \$500 & RESIDENTIAL BURGLARY SHOULD BE CONSIDERED PERSONS CRIMES

EXHIBIT E

MANDATORY IMPRISONMENT OFFENSES

NAME _____

DATE _____

MANDATORY MATRICES

DRIVING UNDER THE INFLUENCE

MANDATORY ADDITIONS TO SENTENCE

| | | |
|---|--|---|
| 1ST VIOLATION 2ND VIOLATION WITHIN 5 YEARS 3RD VIOLATION WITHIN 5 YEARS OF 2ND VIOLATION | 2 - 6 MONTHS JAIL \$299 FINE OR BOTH 12 MONTH & \$1000 MAX. IF OTHERS ARE INJURED | \$100 RESTITUTION 2-10 DAYS IN JAIL OR COMMUNITY SERVICE |
| | | \$100 RESTITUTION 2-10 DAYS IN JAIL OR 10-30 DAYS COMM. SERVICE |
| | | \$100 RESTITUTION 30-90 DAYS IN JAIL OR COMMUNITY SERVICE |

PORNOGRAPHY

\$500 MINIMUM FINE
 AND
 30 DAYS IN JAIL MINIMUM... W/O EXCEPTION

MANDATORY SENTENCES (HB 209)

CHILD RAPE & ATTEMPTS
 CHILD OBJECT RAPE & ATTEMPTS
 CHILD KIDNAPPING
 CHILD SODOMY
 AGG SEX ASSAULT
 AGG KIDNAP. AGG CHILD SEX ABUSE

| | | | | |
|--|------------------|---------|---|--|
| ADD 3 YEARS FOR EACH PRIOR CONVICTION FOR THESE CRIMES (LIFE IF MORE THAN 2) | 15 YEARS | 9 YEARS | SUBSTANTIAL BODILY INJURY | |
| | PRISON | | | NO AGGRAVATING OR MITIGATING CIRCUMSTANCES |
| | 10 YEARS | 6 YEARS | | |
| | 5 YEARS | 3 YEARS | SINGLE INCIDENT | |
| | PROBATION | | VOLUNTARY SURRENDER & DISCLOSURE | |

- The recommended ranges of time to be served is no longer the basis of the dispositional guidelines. Instead, the revised guidelines are based on recommended minimum times, or in the case of offenses against children or drunk driving, mandatory minimum times to be served. A separate time matrix (Exhibit F) has been developed for determining the minimum time to serve.
- Inclusion of an alternate sentencing disposition. This category is to be used for cases scoring in cells between prison and probation levels and represent such sanctions as intensive supervision, 90 day imprisonment for purposes of diagnostic evaluation, residential placement, and even electronic supervision.
- Criteria are provided to allow judges to depart from the guidelines. These criteria are separated according to aggravating and mitigating circumstances.

Computer simulations of these sentencing guideline criteria were then done separately for both the felony probation dispositions and the felony prison dispositions sample as shown in Table 9 and 10. Before we proceed with a discussion of the results, it must be emphasized that the computer simulations are, in part, approximations of the proposed specific guideline criteria. Since the data elements available from the study files are not always exact replications of the guideline scoring element, it was necessary to use a variety of scoring techniques to approximate scores for each element. A detailed discussion of these scoring techniques used for the computer simulations is presented in Appendix A. In general, we attempted to make conservative assumptions when in doubt on how to score a particular item. This was especially true for the "supervision risk" and "weapons enhancement" items. Despite these limitations, we do feel this analysis represents a reasonable approximation of the effects of the proposed guidelines should they be adopted by the courts in the future.

The results are indeed quite interesting. If we look first at the likely effects on probation dispositions (Table 9) one observes that 68 percent of the current probation dispositions also would have received probation if they had been sentenced under the proposed guidelines. Only 15 percent would have

EXHIBIT F

MINIMUM TIME TO SERVE MATRIX

NAME _____ DATE _____ HISTORY CATEGORY _____

TIME MATRIX

USED TO CALCULATE MINIMUM TIME IF SENTENCE IS INCARCERATION

| CRIMINAL HISTORY | CRIME SEVERITY | | | | | | | | | |
|---|----------------|--------------|-----------|---------------|------------|------------|--------------|------------|--------------|----------|
| | CAPITAL | FIRST DEGREE | | PERSON CRIMES | | | OTHER CRIMES | | MISDEMEANORS | |
| | | MURDER 2 | OTHER | 2ND SEX | 2ND DEGREE | 3RD DEGREE | 2ND DEGREE | 2ND DEGREE | CLASS A | CLASS B |
| POOR | | 12 YEARS | 10 YEARS | 6 YEARS | 36 MONTHS | 24 MONTHS | 24 MONTHS | 18 MONTHS | 12 MONTHS | 6 MONTHS |
| FAIR | | 10 YEARS | 7 YEARS | 5 YEARS | 30 MONTHS | 21 MONTHS | 21 MONTHS | 15 MONTHS | 10 MONTHS | 5 MONTHS |
| MODERATE | | 7 YEARS | 5 YEARS | 4 YEARS | 24 MONTHS | 18 MONTHS | 18 MONTHS | 12 MONTHS | 8 MONTHS | 4 MONTHS |
| GOOD | | 5 YEARS | 5 YEARS | 3 YEARS | 21 MONTHS | 15 MONTHS | 15 MONTHS | 9 MONTHS | 4 MONTHS | 3 MONTHS |
| EXCELLENT | | 5 YEARS | 5 YEARS | 2 YEARS | 18 MONTHS | 12 MONTHS | 12 MONTHS | 6 MONTHS | 3 MONTHS | 3 MONTHS |
| CONSECUTIVE ENHANCEMENTS | | | | | | | | | | |
| | | 36 MONTHS | 30 MONTHS | 24 MONTHS | 18 MONTHS | 12 MONTHS | 12 MONTHS | 6 MONTHS | 3 MONTHS | 3 MONTHS |
| CONCURRENT ENHANCEMENTS ADDED BY B.O.P. | | | | | | | | | | |
| | | 18 MONTHS | 15 MONTHS | 12 MONTHS | 9 MONTHS | 6 MONTHS | 6 MONTHS | 3 MONTHS | 3 MONTHS | 3 MONTHS |

DRUG DISTRIBUTION OF OVER \$500 AND RESIDENTIAL BURGLARY SHOULD BE CONSIDERED "PERSON" CRIMES.

ACTIVE CONVICTIONS

| | DEGREE | YEARS | MONTHS |
|-------------------------|--------|-------|--------|
| MOST SERIOUS _____ | _____ | _____ | _____ |
| NEXT MOST SERIOUS _____ | _____ | _____ | _____ |
| OTHER _____ | _____ | _____ | _____ |
| OTHER _____ | _____ | _____ | _____ |

SENTENCES SHOULD GENERALLY BE CONCURRENT. HOWEVER, THE EXISTENCE OF THE FOLLOWING AGGRAVATING CIRCUMSTANCES SUGGEST CONSIDERATION OF CONSECUTIVE SENTENCES.

1. ESCAPE OR FUGITIVE
2. UNDER SUPERVISION OR BAIL RELEASE WHEN OFFENSE WAS COMMITTED
3. UNUSUAL VICTIM VULNERABILITY
4. INJURY TO PERSON OR PROPERTY LOSS WAS EXTREME FOR CRIME CATEGORY
5. OFFENSE CHARACTERIZED BY EXTREME CRUELTY OR DEPRAVITY

TOTAL _____

DAYS JAIL CREDIT _____

IF THE SENTENCES ARE TO BE CONSECUTIVE, USE THE CONSECUTIVE ENHANCEMENTS PORTION OF THE "TIME MATRIX" FOR ALL CONSECUTIVE SENTENCES EXCEPT THE "MOST SERIOUS" CONVICTION

TABLE 9

**IMPACT OF PROPOSED SENTENCING GUIDELINES
ON CURRENT PROBATION DISPOSITIONS***

| Criminal History Score | O f f e n s e S e v e r i t y | | | | TOTALS |
|-----------------------------------|--------------------------------------|---------------------|---------------------|---------------|---------------|
| | Capital | First Degree | Person Crime | Other' | |
| Poor | 0 | 6 | 9 | 6 | 21 |
| Fair | 0 | 3 | 43 | 60 | 106 |
| Moderate | 0 | 20 | 83 | 109 | 212 |
| Good | 0 | 43 | 184 | 247 | 474 |
| Excellent | 0 | 6 | 215 | 410 | 631 |
| TOTALS | 0 | 78 | 534 | 832 | 1,444 |

Percent to Receive Probation 68.4% (N=987)
Percent to Receive Alternate 16.9% (N=244)
Percent to Receive Prison 14.8% (N=213)

* Figures based on systematic random sample of probation dispositions.
 Sampled weighted at 2.81 level to reach estimates shown here.

received prison terms and an additional 17 percent would receive the alternate sanction. Most of the alternate sentences (63 percent) are offenders who have committed a violent person crime but have a minimal criminal history score. It thus appears that the major impact on probation would be greater use of intensive probation supervision or, perhaps, 90 day diagnostic evaluation and electronic supervision in tandem with standard probation supervision.

Table 10 -repeats this analysis but only for the prison admission sample and using more refined crime severity categories. Here one sees that only 51 percent of those now going to prison would continue to do so. Significant proportions of the current prison admission population would be diverted to probation or alternate probation. The primary factor driving this trend is the criminal history score which shows that 22 percent (N = 77+21) of the prison admissions received "Good" or "Excellent" scores on the criminal history score axis.

If we combine both samples (the weighted probation admissions and prison admissions), we can then calculate the total impact of the guidelines on prison disposition rates as follows:

| | |
|--|----------|
| Total Probation Dispositions (N=1,116) | = 58.2% |
| Total Alternate Dispositions (N=335) | = 17.5% |
| Total Prison Dispositions (N=465) | = 24.3% |
| Total Dispositions (N=1,916) | = 100.0% |

If one compares these rates to current court practices and the simulated Minnesota Guideline Criteria (Exhibit G), it becomes clear that the overall impact of the proposed guidelines largely would be greater use of the intermediate alternate disposition which is not being use presently.

This finding parallels recent research by Petersilia (1985) and Baird (1984) which argue strongly for creation of intermediate sanctions instead of the current simplistic dichotomy of prison versus probation. An associated task for Utah will be not only to adopt such a guideline structure, with

TABLE 10

**IMPACT OF PROPOSED SENTENCING GUIDELINES
ON CURRENT PRISON DISPOSITIONS***

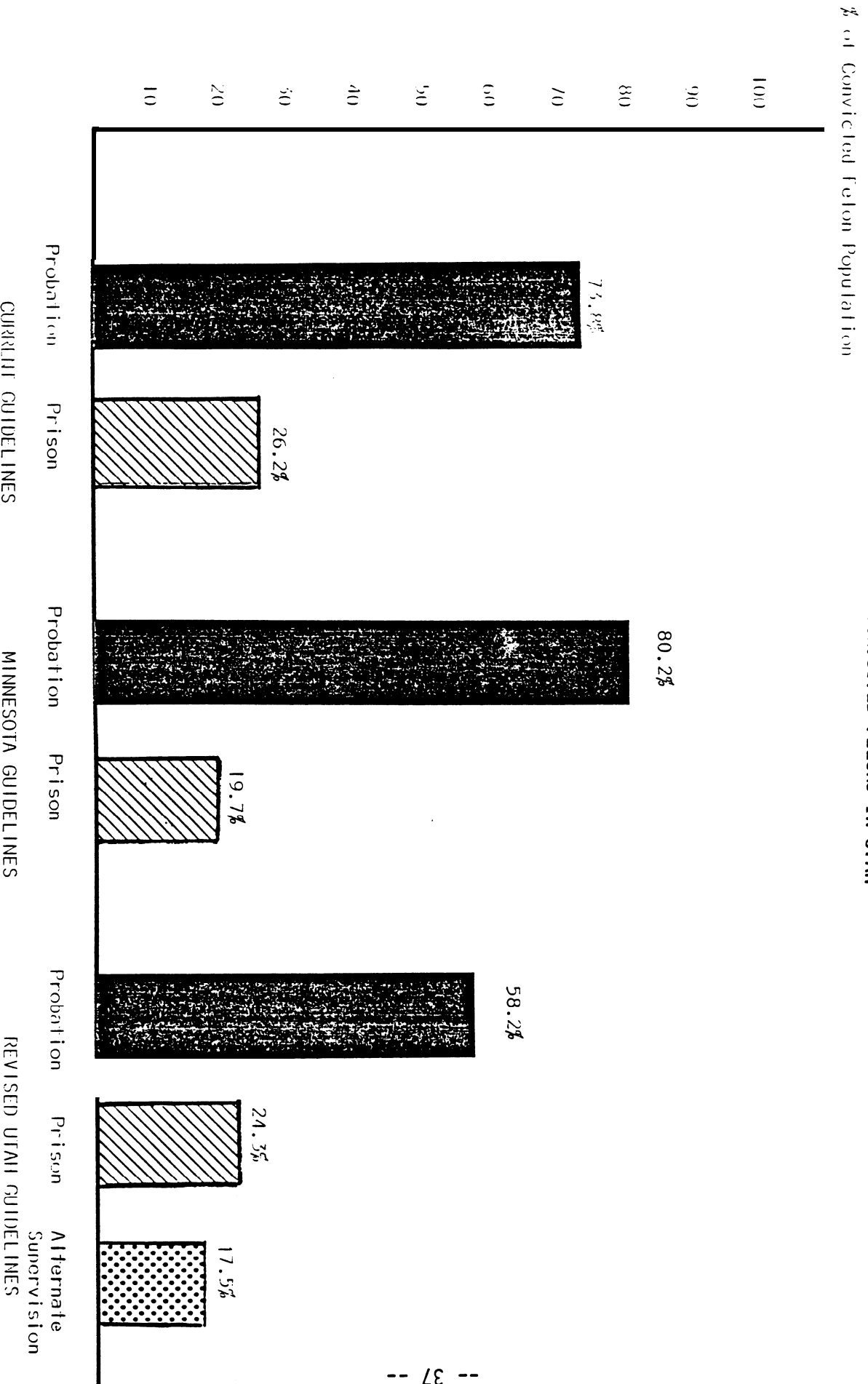
| Criminal History Score | O f f e n s e S e c u r i t y | | | | | | | | |
|------------------------------|---------------------------------|--------------|----------|---------------|-----------|------------|-----------|------------|------------|
| | Capital | First Degree | | Person Crimes | | | Other | | TOTAL |
| | | Murder 1 | Other | 2nd Sen | 3rd Sen | 3rd Deg | 2nd Deg | 3 Deg | |
| Poor | 2 | 2 | 1 | 1 | 9 | 30 | 26 | 25 | 96 |
| Fair | 0 | 1 | 2 | 2 | 14 | 38 | 21 | 29 | 107 |
| Moderate | 1 | 1 | 2 | 6 | 26 | 43 | 22 | 50 | 151 |
| Good | 0 | 0 | 0 | 3 | 14 | 24 | 14 | 22 | 77 |
| Excellent | 0 | 0 | 0 | 1 | 3 | 6 | 3 | 8 | 21 |
| TOTAL | 3 | 4 | 5 | 13 | 66 | 141 | 86 | 134 | 452 |

Percent to Receive Probation - 28.5% (N=129)
Percent to Receive Alternative - 20.1% (N=91)
Percent to Receive Prison - 51.3% (N=252)

* **Figures based on 84.8 percent of total prison admissions for 1983. 90 day evaluations, interstate transfers, and technical violators deleted.**

EXHIBIT G

A COMPARISON OF SENTENCING GUIDELINES FOR CONVICTED FELONS IN UTAH



diverse sanctions, but also to build a capacity to deliver intensive probation supervision to those falling into the alternate care disposition.

Summary

- Utah presently sentences 26 percent of all convicted felons to prison.
- If Utah adopted the Minnesota Guideline Model, this rate would decline to 20 percent.
- If Utah adopted its proposed guideline structure, prison dispositions would remain near the current 26 percent level. The major change would be greater use of the alternate disposition in lieu of standard probation supervision.

CHAPTER FIVE

RISK ASSESSMENT FOR PROBATIONERS AND PAROLE HEARING CASES

All offenders released to community supervision via parole or probation are at risk of committing new crimes or failing to complete their supervision period successfully. Recent studies by Petersilia (1985), Greenwood et al. (1983), and Austin (1985) suggest these rates of failure are quite high for certain offenders and quite low for others. Probation and parole officials need to be able to determine appropriate levels of supervision and services for their caseloads that take into account factors associated with success or failure. Furthermore, these decisions should be made in an objective manner based on empirical data that accurately identifies high and low risks of failure.

One such empirically based measure is a risk assessment instrument which is currently being used in Utah. This is a modified version of the NIC risk assessment instrument which uses 12 factors associated with risk of failure. Items include such objective measures as: age at first arrest, prior juvenile record, prior adult arrests, correctional supervision history, percentage of time employed, alcohol and drug use, and address changes. Other factors, such as "attitude" and "family support" are subjective in nature, requiring supervision staff to make clinical judgements about offenders' psychological state. Offenders are scored on each item and assigned levels of risk based on their total score.

Analysis of the Utah risk assessment instrument was conducted for the probation sample and the parole eligible sample. Given the available data, this analysis only identifies distributions of the risks scores for these two samples. Determining how successful any risk assessment instrument is in

correctly classifying offenders would require a validation sample of cases who completed or failed to complete their supervision periods which was beyond the scope of this initial project.

Parole eligibility dates for incarcerated offenders are determined by the sentencing guidelines matrix (Chapter 4) and this influenced by the severity of offense and risk to the community. However, parole boards retain the power of deciding who will or will not be released.

Using the Utah risk assessment instrument, 27 percent of the probationers are rated as excellent risks, 22 percent as good risks, 19 percent moderate risks, 21 percent fair risks, and 11 percent poor risks. In fact, the failure rate for probationers convicted of new crimes is 17 percent. Far fewer parole eligibles, as expected, fall into the good risk categories (5 percent excellent and 6 percent good risks) while the vast majority are classified as moderate (12 percent), fair (24 percent)) and poor (53 percent) risks. This is not surprising given the 41 percent parole failure rate (those returning to prison). Of a total of 36 points possible on the instrument, probationers averaged -10 points and parolees averaged 17 points.

Clearly, if the risk assessment instrument is empirically associated with risk, probationers have a much higher probability of succeeding on supervision than parolees. Nevertheless, parole boards must constantly make decisions to release incarcerated offenders. The board's decision to grant or deny the release of inmates has a major effect on the nature and size of the prison population as well as public safety.

Parole boards attempt to identify those inmates with the greatest probability of succeeding on parole in order to satisfy their legislative mandate of protecting public safety. Again, these decisions must be empirically based and the instruments used to determine risk levels must

TABLE 11
SIMULATION OF **UTAH'S** RISK ASSESSMENT INSTRUMENT

| Category | Points | Probation | | Parole Hearing | |
|-----------------------|--------------|------------|--------------|----------------|---------|
| | | N | Percent | N | Percent |
| Excellent | 0-6 | 137 | 27.3% | 23 | 4.9% |
| Good | 7-9 | 110 | 21.9% | 28 | 5.9% |
| Moderate | 10-12 | 97 | 19.3% | 56 | 11.9% |
| Fair | 13-16 | 105 | 20.9% | 113 | 24.0% |
| Poor | 17+ | 53 | 10.6% | 251 | 53.3% |
| Mean Score Probation: | | 10.0 | | | |
| Mean Score Parole: | | 16.6 | | | |

TABLE 12
CURRENT PAROLE BOARD DECISION PRACTICES BY RISK ASSESSMENT

| Parole Decision | Risk Assessment | | | | | Total |
|----------------------|-----------------|-------|----------|-------|-------|-------|
| | Excellent | Good | Moderate | Fair | Poor | |
| No Action | 0.0% | 14.3% | 17.9% | 7.1% | 7.7% | 1.8% |
| Denied | 17.4% | 10.7% | 12.5% | 8.8% | 12.6% | 11.8% |
| Granted, No Release* | 4.3% | 3.6% | 8.9% | 8.8% | 3.6% | 5.6% |
| Granted | 56.5% | 64.3% | 44.6% | 66.4% | 66.0% | 63.0% |
| Amended Order | 21.7% | 7.1% | 16.1% | 8.8% | 10.1% | 10.9% |
| Total Cases | 23 | 28 | 56 | 113 | 247 | 467 |

* Category includes: Parole granted to consecutive sentence, parole granted to other status, and parole granted but hold or detainer prevents release.

undergo extensive and continuous validation to ensure that they continue to identify variables which are most associated with success and failure.

If the Utah risk assessment instrument model were used to select inmates for parole, few would ever be released (only 22 percent of the parole eligible sample score moderate or higher on the instrument). However, 63 percent of the parole eligible sample were granted release. Table 12 shows the risk assessment categories crosstabulated with parole decision. One would expect persons with greater probabilities of succeeding to be granted parole at a higher rate than those with poorer chances. Clearly, this is not the case. Persons rated excellent risks are granted parole at comparable rates with persons rated as poor risks.

The above analysis fails to take into account variables associated with institutional behavior. While a parolee may have a poor score on risk assessment based on his/her behavior prior to incarceration, parole boards must be cognizant of how individuals have adjusted to prison and rehabilitative effects of institutionalization. A far better model for parole decision making should include factors associated with success or failure for persons released from incarceration.

NCCD has developed such a model for use in Illinois to determine which inmates could be considered for early release. This model includes ten factors: severity of offense, prior arrests, age at release, juvenile commitments, prior imprisonments, disciplinary grade demotions, prior parole violations, weapon use, history of drug abuse, and security level at release. This model proved to be highly predictive of rearrest in the Illinois study (Exhibit G). Of course, any model needs to be rigorously tested using validation samples, and factors predictive of rearrest in one state may be substantially different in other states.

EXHIBIT H

NCCD Selective Incapacitation Model

Offense Class

Class M = 0
Classes X & 1 = 1
Classes 2-3 = 2
Class 4 = 3

Age at Release

45 + years = 0
30-44 years = 1
24-29 years = 2
18-23 years = 3

Prior Arrests

0 - 3 = 0
4 - 6 = 1
7 - 11 = 2
12 + = 3

Prior Parole Violation

No = 0
Yes = 3

Prior Juvenile Commitment

No = 0
Yes = 3

Weapon Used in Offense

Yes = 0
No = 3

Prior Imprisonment (Jail or Prison)

None = 0
1 = 1
2 = 2
3 = 3

History of Heroin/Barbituate Abuse

No = 0
Yes = 3

History of Disciplinary Grade

Demotion
No = 0
Yes = 3

Security Level at Release

Min/Med = 0
Max = 3

Scale: 0 - 5 Low/Low Risk
6 - 10 Low Risk
11 - 14 Moderate Risk
15 - 20 High Risk
21 & Above High/High Risk

TABLE 13
SIMULATION OF NCCD EARLY RELEASE SCALE
ON PAROLE ELIGIBLE SAMPLE

| Category | Points | UTAH | | ILLINOIS | | Percent Rearrested |
|----------------|--------|------|---------|----------|---------|--------------------|
| | | N | Percent | N | Percent | |
| Low/Low Risk | 0-5 | 41 | 8.8% | 92 | 6.5% | 4.2% |
| Low Risk | 6-10 | 143 | 30.6% | 481 | 34.0% | 23.5% |
| Moderate Risk | 11-14 | 142 | 30.4% | 498 | 35.2% | 46.9% |
| High Risk | 15-20 | 123 | 26.3% | 308 | 21.8% | 67.7% |
| High/High Risk | 21+ | 18 | 3.9% | 37 | 2.6% | 86.5% |

TABLE 14
CURRENT PAROLE BOARD DECISION PRACTICES
BY NCCD EARLY RELEASE SCALE

| Parole Decision | Low/Low | Low | Moderate | High | High/High | Total |
|----------------------|---------|-------|----------|-------|-----------|-------|
| No Action | 7.3% | 10.5% | 7.7% | 8.1% | 11.1% | 8.8% |
| Denied | 26.8* | 11.9% | 7.7% | 13.0% | 0.0% | 11.8% |
| Granted, No Release* | 2.4% | 7.7% | 7.0% | 2.4% | 5.6% | 5.6% |
| Granted | 61.0% | 62.9% | 64.1% | 62.6% | 61.1% | 63.0% |
| Amended Order | 2.4% | 7.0% | 13.4% | 13.8% | 22.2% | 10.9% |
| Total Cases | 41 | 143 | 142 | 123 | 18 | 467 |

The NCCD model, when applied to the parole eligible sample, yielded a different distribution of cases by risk level. Nine percent of the parole eligible sample were scored as low low risks, 31 percent low risk, 30 percent moderate risks, 26 percent high risks, and 4 percent high high risks. These percentages are quite similar to the distribution of cases found in Illinois. In Illinois, these classifications were highly predictive of re-arrests. For example, in Illinois only 4 percent of the low low risk offenders were rearrested within 12 months of release, while 86 percent of the high high risk offenders were rearrested (Table 13).

The crosstabulation of the NCCD risk model by Utah's current parole board decision making practices reveals that there is virtually no difference in parole granting practices among the five risk groups (Table 14). Approximately 60 percent of each risk group was released on parole. In other words, it appears that Utah's Parole Board is not using risk factors to determine release for prison.

It is difficult to determine, given available data, what effect a more structured parole guideline model would have on release rates, and consequently on prison populations. However, if all other factors remained constant and the NCCD model adopted as a form of parole guidelines, the rate of paroling would marginally increase from 63 percent to 70 percent of the parole eligible populations if one released inmates with moderate to low risk levels.

Summary

- Parole release decisions do not appear to be based on factors associated with risk under supervision.
- There are no differences in the risk levels of those granted and denied parole.
- Adoption of empirically based parole guidelines could increase the number of releases from 63 to 70 percent.

CHAPTER SIX
PRISON CLASSIFICATION PRACTICES

Classification of inmates has become increasingly important in recent years as correctional populations continue to rise. Given the limited physical, program, and financial resources of corrections, assignment of inmates to custody levels must be made in a manner that best protects staff and inmates while meeting the primary correctional goal of public protection. Several objective systems of classification have been developed in recent years. One such system, developed by the National Institute of Corrections, is currently being used in seven states.

The major assumptions of the NIC classification model are:

- custody decisions should be based, to the extent possible, on actual past relevant behavior;
- the frequency, recency, and severity of past behavior is the best indicator of future similar behavior; and
- inmates should be classified to the least restrictive custody required to protect society, staff, and other inmates.

The NIC model operationalizes these assumptions by developing an additive two step scoring system. The first step includes factors directly associated with inmates past violent and escape history (history of institutional violence, severity of current offense, prior assaultive offense history, and escape history). Inmates who score high on these items (10 or more points), should be placed in closed custody (Table 15). The remaining inmates are then scored on a series of factors predictive of, but not directly associated with past behavior of violence (alcohol/drug abuse, current detainer, prior felony convictions). Stability factors (age over 26, high school education, employment) can decrease scores. These inmates can only be classified as medium or minimum security based on their total score (Part A and B).

TABLE 15

PRISON CUSTODY CLASSIFICATION LEVEL

A. NIC INITIAL CLASSIFICATION OF PRISON ADMISSIONS SAMPLE

| Level | Total | Percent |
|-------------------------|--------------|----------------|
| Close | 89 | 17.7% |
| Medium | 240 | 47.7% |
| Minimum | 174 | 34.6% |
| Total Admissions | 503 | 100.0% |

B. UTAH'S CURRENT CLASSIFICATION

| Level | Total | Percent |
|--------------------------|--------------|----------------|
| Maximum | 261 | 19.9% |
| Medium | 746 | 56.9% |
| Minimum | 220 | 16.8% |
| Community Custody | 83 | 6.3% |
| Total Residents | 1,310 | 99.9% |

The NIC model could not be exactly duplicated with the data available, however, conservative assumptions were used to score the two items where differences occurred. Escape history was scored as 7 if the inmate was a current escapee, 4 if prior adult escape had occurred, 1 if a prior juvenile escape occurred, and 0 if no history of escapes. Current detainer was scored 4 if any current detainees existed, and 0 if there were no detainees.

If the NIC initial classification instrument was applied to the prison admission sample, 35 percent of the admissions would have been placed in minimum custody, 48 percent in medium custody, and 18 percent in close custody at intake (Table 15). No data were available on the actual placements of the prison admissions sample, nor were there data on the actual initial classification of any group of inmates. However, classification levels of the current stock or resident population is known. Utah was a 10 tiered classification system which can be converted into more standard custody terms. When this is done, it was found that 20 percent of the current Utah prison population are housed in maximum security, 57 percent in medium, 17 percent minimum and 6 percent in community custody.

Comparing admissions and stock populations may be like comparing apples and oranges. However, some conclusions can be made now. First, both Utah's current classification system and the NIC objective initial classification place nearly the same percentage of inmates in the highest security level. However, if the NIC classification system were adopted, a higher percentage of the stock population would be classified into minimum security since reclassification tends to move more inmates into lower security levels after initial classification. Therefore, one could reasonably expect an increase in the number of inmates in minimum and community custody levels and a decrease in the number of inmates, in medium security if Utah adopted the NIC model.

Summary

- **Utah's current institutional classification system may be overclassifying inmates, in the maximum and medium security levels.**
- **If the state adopted a model similar to the NIC prison classification model', one could expect at least 35 percent of the population qualifying for minimum custody.**
- **Great utilization of the minimum custody level could significantly impact current operating budgets as well as plans for future prison capacity expansion or renovation.**

CHAPTER SEVEN

SUMMARY

The primary objective of this report was to illustrate how alternative correctional and sentencing policy could impact both the size and characteristics of probation, prison, and parole populations. If we were to summarize the most significant findings of the analysis, it would be as follows:

- o Prison admissions would decline substantially if Utah adopted the Minnesota sentencing guideline model.
- o Discrepancies in sentencing Utah's prison admissions were found when simulating both the Minnesota and Utah revised sentencing guidelines models. A large number of those admitted to prison would have been placed on probation or intensive supervision.
- o Parole release decisions do not appear to be associated with risk of subsequent criminal activity. Furthermore, the adoption of objective risk assessment models may lead to an increase in the number of inmates released.
- o Adoption of the NIC classification model would result in the movement of inmates into lower security levels.

Future Research Needs

Policy level decisions effecting the correctional and judicial systems should not and need not be made in a vacuum. This research project demonstrated how research data base can be used to base these decisions. Some of these data should be integrated into the management information system so that it is continually updated.

However, this study only represents a point of departure for more refined comprehensive policy studies. Further research efforts should be directed at a review and evaluation of sentencing guidelines which include a rigorous design, and validation samples of supervision risk. Such a design would isolate those factors most associated with risk and determine appropriate cut-

off points for risk scales. Similarly, risk assessment instruments used by probation and parole should also undergo rigorous evaluation and validation.

Current institutional classification practices should be analyzed to determine if there exists a pool of inmates who could be housed in lower security levels without jeopardizing public, staff, or inmate safety. At some point, the Department of Corrections should move toward an objective classification system which, in turn, can be validated and refined. Under current practices, the department may be under-utilizing its minimum security bed capacity.

Finally, the state should soon develop a correctional forecasting model capable of projecting the impact of current and proposed policy decisions on correctional populations. Such a model can then be used to determine the costs associated with decisions that increase or decrease the number and types of facilities and staff required for the future. However, these models will require that the state continually upgrade and refine its data bases to allow accurate projections as well as estimates of alternative sentencing, classification, and release models.

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APPENDIX A

CODING THE UTAH ADULT CRIMINAL HISTORY ASSESSMENT

A two part coding method was utilized to create the general disposition matrix. In the first part, each case in the probation and prison admissions samples received a criminal history score and was placed in a criminal history category. In the second part, crime severity was computed separately for probation and prison admissions. Criminal history and crime severity were then crosstabulated to generate the general disposition matrix.

A. Criminal History Assessment

Six items make up the criminal history assessment: Prior Felony Convictions, prior misdemeanor convictions, prior juvenile referrals, supervision history, supervision risk, and weapons enhancement. These items are summed to create a total placement score. One point is supposed to be subtracted for each year of arrest-free street time. However, since this information was not available, no points were subtracted. In this situation, as in others described below, conservative assumptions have been made that result in the highest possible scores.

1. Prior Felony Convictions

This item was scored as indicated on the criminal history assessment. We were unable to determine whether each conviction was for a separate criminal incident.

2. Prior Misdemeanant Convictions

This item was scored as indicated on the criminal history assessment. We were unable to determine whether each conviction was for a separate criminal incident. We do not know if other traffic offenses were excluded.

3. Prior Juvenile Referrals

If the offender had any juvenile commitments, this item was coded as "4", secure placement. Otherwise, coding was based on the number of juvenile referrals. No distinction was made between status and non-status arrests or misdemeanants and felonies.

4. Supervision History

This item was coded "4", current supervision or pretrial release if offender had any pending charges or was currently under supervision at time of arrest. Item was coded "3", prior revocation, if offender had any prior failed probations or paroles as an adult or juvenile. Item was coded "2", prior residential placement, if offender had any prior jail or prison sentences or juvenile commitments. Item was coded "1", prior supervision, if the offender had any prior probations or paroles as an adult or juvenile. Otherwise, item was coded "0".

5 | Supervision Risk

This item was coded "4", escaped from confinement, if offender had any adult or juvenile escapes. No data were available on absconding or failure to report. However, we were informed that about 13 percent of the offenders are absconders. We randomly assigned 13 percent of the cases as either absconders from residential programs or absconders from supervision. Failure to report was not coded.

6. Weapons Enhancement

Again, these data were not directly available. The item was coded as follows: Offenders with assaultive offenses were separated from other offenders (the offenses included: battery, assault, aggravated assault, mayhem, harrasment, terroristic threat, criminal homicide, murder, manslaughter, other homicide, kidnapping, and other crimes against persons, rape other sexual assault, robbery, aggravated robbery, and aggravated burglary). From prior research, we have determined that about 70 percent of these offenses are committed with firearms, 26 percent with other instruments (knife, blunt object, etc.), and 4 percent other. About 25 percent of the offenses were assaultive in nature. These offenders were randomly assigned scores such that 70 percent received firearm, 26 percent knife, and 4 percent other.

B. Crime Severity

The crime severity portion of the matrix was scored separately for probationers and prison admissions. This was done because crime '**degree*' was only coded for the prison admissions sample.

1. Probation Dispostions

For the probation sample, the general disposition matrix has only three columns: serious offenses, person crimes, and other crimes. Serious crimes include: any homicide (of which there were none), and all the aggravated crimes (i.e., aggravated robbery, aggravated rape, aggravated burglary, aggravated assault, etc.). Person crimes include all crimes against persons, plus burglary and drug sales. Other crimes include all other crimes.

In crosstabulating these three columns with the criminal history categories, we were able to determine the number of probationers who would have remained on probation, been sentenced to prison, or sentenced to alternate placement if the current assessment had been in use.

2. Prison Admissions

Because the degree of the offense was known, it was possible to simulate all columns in the matrix as it appears in the criminal history assessment. Capital offenses were all offenses for which the degree was life or death. Murder 2 includes all first degree murder offenses plus all aggravated offenses (see above). Other first degree includes all other first degree crimes. All other categories are coded as specified on the matrix. For some offenders, the degree was listed as "Other". These included 90 day evaluation and DUI's. They are shown on the right hand column of the matrix, but not included in the totals.