

# COMMUNITY CORRECTIONS APPROACHING THE 21ST CENTURY

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**BY**

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## FORWARD

A decade ago, as part of its legislative mandate, the National Institute of Corrections published a promising approach to policy formulation entitled Directions for Community Corrections in the 1990s. Authors Vincent O’Leary and Todd Clear advanced the notion of “limited risk management” as an organizing principle for community corrections. That concept was, and continues to be, influential in shaping the policies and practices of a significant number of agencies across the United States.

The writers were asked to update their original monograph to reflect developments in the last 10 years including a re-emerging interest in treatment for offenders and proposals for intermediate sanctions. Their views were subsequently discussed during three seminars at NIC’s Academy attended by over 100 community corrections representatives from all parts of the nation.

The Institute encourages this type of engagement between researchers and practitioners in the development of materials that can be considered and tested by those in the field. Through this process, model policies are formulated that can be adapted to fit specific local conditions.

Morris L. Thigpen  
Director

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# INTRODUCTION

In 1984, the National Institute of Corrections (NIC) published Community Corrections in the 1990s as a guide to stimulate the philosophy and practice of community corrections. In that paper, we developed the idea of “limited risk control” as a central function of corrections. That concept was both a statement of philosophy and an operational framework for the administration of community corrections agencies. We were gratified to find considerable interest in the approach we proposed.

During the decade since we wrote the first essay on this topic, corrections has had to cope with substantial **changes** in its environment and concomitant demands for new ways of doing business. Among the most important are:

- unprecedented swelling of institutional and community corrections populations;
- severe budgeting restrictions often resulting in curtailment of programs and personnel;
- **growth** of “intermediate sanctions” and the myriad programs reflected by that idea;
- re-emergence of interest in correctional interventions, or “treatment”;
- increased concern about “reinventing” government to achieve more efficient, responsive, and creative services.

In this monograph, we revisit the issues raised in the 1984 work and incorporate what has been learned from the 10 years of experience since that time. It is our belief that much of what has occurred strengthens the wisdom of a risk-management rationale for corrections, one which operates within distinct and clearly articulated limitations.

Much of what we say is a refinement of our original statement of the community corrections agenda; however, the term “limited risk control” has been changed to “limited risk management.” To some, the word “control” gave unnecessary emphasis to surveillance and freedom-restricting strategies although that was not our intention. By changing our terminology, we give heightened recognition to the fact that there are numerous forms of risk management, and “control” is merely one of them. By using the broader term, “management,” we make clear that a variety of strategies are relevant to the model. We then sort out how those strategies relate one to another in a comprehensive framework called “limited risk management.”

It is our purpose in this monograph, as in the first, to describe the directions needed in corrections as we enter the 21<sup>st</sup> century. We elaborate a model that responds to both the philosophical and strategic challenges to be faced in the next decade. Although having applications for the entire field of corrections, we focus most of our attention on community corrections, in particular “intermediate sanctions,” encompassing such community-based efforts as part-time residential centers, home confinement with electronic monitoring, and intensive supervision with drug testing. These programs fall between traditional prison and traditional probation and employ restrictions on freedom that are less than the former and more than the latter. Such programs will play an increasingly significant role in the next decade in developing the distinctive mission of corrections. <sup>1</sup>

Corrections is entering its third major phase of development in the last half-century. The first was founded on an ideal of “rehabilitation,” which reached its fruition after World War II. The second phase began about 30 years later and was based on the philosophy of “punishment.” We are now entering a new phase based on “risk management.” With this work we hope to shape this emerging conceptualization by stating its main principles and its programmatic structure. Coincidentally, as this monograph was being discussed, the American Bar Association promulgated a Model Community Corrections Act that provides a legislative framework quite consistent with the ideas advanced here (American Bar Association, 1992).

We have divided our discussion into three parts. In the first part, we describe the correctional context for risk management, in particular the recent history of legal reform. In part two, we define the principles of limited risk management and demonstrate how they may be arranged in correctional practice. The

third part describes how organizations can approach the problem of designing and implementing risk-management strategies in everyday practice.

Our analysis begins with a review of sentencing reform since the mid-20th century, because the tasks and philosophies of corrections have been largely defined by the history of sentencing reform. Sentencing is the primary means by which correctional resources are allocated and activities significantly determined. It is a judge, for example, who decides through his or her sentencing authority what information is relevant in a pre-sentence investigation; which offenders are assigned to prison, probation, or an intermediate sanction; and, in the case of the last two, what specific conditions a community supervision officer will be obliged to enforce and what is to be done if an offender fails to observe those conditions. To understand the emerging “risk” agenda in corrections, we must trace the evolution of sentencing policies and practices in the United States that has led us to this point.



## PART I: SENTENCING POLICY AND CORRECTIONS

People find themselves under correctional authority because they are being sanctioned for behavior that violates the criminal law. Volumes have been written on the philosophical issues raised by the decision to invoke criminal sanctions. We commence our discussion of the philosophy of corrections with a review of these issues to help us understand some of the powerful forces that have contributed to corrections' current state of disarray.

The function of the penal sanction is twofold: a publicly focused symbol of punishment and offender-directed risk management. The imposition of any sanction symbolizes society's support for the social values that were violated in the criminal act. The particulars of the sanction comprise a strategy to reduce the offender's future criminal conduct.

### **Symbolic Functions of Criminal Sanctions**

People believe that law violators should not "get away" with their crimes, and the symbolic functions of the sanction actualize this belief. Punishment is both socially persuasive and morally educative. The social persuasion aspect of punishment has been referred to as "general deterrence." Penalties are set in such a way as to persuade potential law violators that their crime will not "pay," in the sense that the benefits of the criminal act would be outweighed by the costs of the punishment. The strategy uses the convicted offender to provide a lesson to others -- for example, imposing a relatively severe sanction on an adjudicated drunken driver in an attempt to reduce the number of others who drink and drive a motor vehicle. To measure the effectiveness of this

policy, one would look at the degree to which the public at large subsequently is deterred from driving while intoxicated.

The moral education aspect of punishment has been referred to as "just deserts." From this perspective, it is thought right and fair that a person who victimizes another be penalized for it and such a penalty ought to be devised so as to properly express the community's outrage at the crime and to inform the offender of the moral wrongfulness of the criminal conduct.

In a democratic society, just deserts is an expression of retribution mediated by principles such as harm, culpability, and proportionality of punishment. Stealing an automobile does not call for as great a penalty as committing an armed robbery. Crime control is not desert's purpose. Just deserts is backward looking and purely concerned with finding a proportionate penalty that provides moral education. Research concerned with desert is devoted in the main to determining whether similar persons who have committed the same offense have been punished to the same degree and in the appropriate proportion.

Most feel the symbolic functions of the law are quite important. Society wants punishments to be severe enough to cause the ordinary citizen to pause and think before committing a crime and the penalties to express, within an acceptable range, public disapproval of the conduct.

## **Risk Management Functions of Criminal Sanctions**

Society wants its penal system to “send the right message” but also to prevent additional crimes by those previously apprehended and convicted. It is the increased desire to reduce the risk of repeated criminal behavior that has driven some much of the correctional agenda in the last decade. There are two general risk-management approaches: control and reduction.

Risk control aims to reduce crime by limiting the offender’s capacity to carry out new criminal acts. The main version of risk control is incapacitation, which rests on the notion that while offenders are under the control of the state their ability to commit crime should be curtailed. Crime curtailment comes in many degrees and forms. Commonly it is accomplished through incarceration, but it can also be achieved by techniques such as electronically monitored house arrest to limit the mobility of the offender or urine testing and intensive supervision. Though these strategies may not always work (just as the prison may fail to incapacitate some offenders), their aim is to control the offender’s conduct. Incapacitation is not aimed at changing offenders; it seeks simply to ensure they do not commit crimes while under the state’s control. Recidivism during that period is the criterion of success or failure.

Risk reduction seeks to diminish the likelihood that an offender will elect to commit another crime. This is considered “treatment” -- the purposeful intervention into the life of an offender so that he or she in the future will be more inclined to choose law-abiding rather than criminal behavior. Treatment

may involve various forms of counseling, psychological interventions, or work and educational programs. Conceptually it could also include punishment or specific deterrence as long as its goal is to induce the offender to make law-abiding choices in the future. However, we shall distinguish between treatment and specific deterrence for, while they both aim to reduce crime, the means they employ are typically quite different at least in degree. The test of their efficacy is the same as incapacitation: recidivism. The more risk reduction is successful, the less the need for incapacitation.

There is a natural tension between symbolic and risk-management aims. When the penalty is seen as a symbol, its type and severity are related to the crime for which the person has been convicted. When risk-management issues are considered, the main questions have to do with the offender and his or her problems. These two orientations can often lead to different conclusions. Not infrequently persons who commit serious offenses pose little risk of committing new crimes while some convicted of lesser offenses are persistent offenders. When this is true, the symbolic functions of the law conflict with crime-reduction functions.

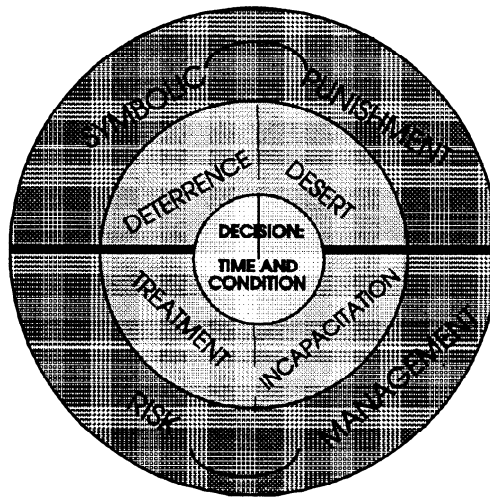
This conflict has been the topic of extended philosophical debate having to do with whether the law should be more concerned with preventing crime or “doing justice.” Eloquent arguments have been developed on each side of the question. The recent experience of sentencing reform in the United States has largely been a product of a struggle for supremacy of one philosophy over another.

It is a struggle focused on two central concerns. The first relates to the appropriate duration of the

state's control over convicted persons and the conditions -- fines, treatment, custody -- imposed on them. The second central concern is expressed in the questions, "Which decision maker -- legislator, judge, or correctional official -- should fix the

specific sentences for offenders and which goals should guide that judgement?" Figure 1, depicts the major elements of the contemporary debate about sentencing reforms in the United States.

**FIGURE 1: MAJOR ELEMENTS IN U.S. SENTENCING**



**The Post-War Discretion Era**

In the years following World War II, it was widely felt that correctional authorities needed broad discretion in order to carry out their functions. In large part, this had to do with the overriding philosophies of incapacitation and treatment in the form of rehabilitation: offenders were to be placed in secure confinement for indeterminate periods; there they would be exposed to programs to help them recover from the problems that caused their offending behavior. Once they had overcome these problems, they would be released back into society.

Because there was no certainty about how long this would take, substantial terms of incarceration were often imposed, with a provision for early release. As offenders might progress at different speeds, individualized programs were established for each client of the penal system.

The Model Penal Code illustrates how sentencing operated under this theory (American Law Institute, 1962). This code, developed by the American Law Institute to serve as a model for penal code reform in state legislatures, allowed the judge to select a minimum and maximum sentence from within a

specified range, but the actual release date would be determined by a parole board within widely separated “bookend” terms fixed by the judge. The judge also had broad discretion in setting the conditions of probation.

By the mid- 1970s, the theory and the practice of these discretion-based systems came under attack by a variety of liberal and conservative thinkers, both inside and outside the system. Scientific claims were advanced that rehabilitation programs had not been effective (Lipton, Martinson, and Wilks; 1975). Social scientists’ critiques of the rehabilitation model were supported by the work of a National Academy of Sciences Panel. Principled objections were raised that the broad discretion under this approach resulted in insupportable sentencing disparity among offenders, prison terms that were either too lenient or too severe and arbitrary decisions justified in the name of treatment but in reality aimed at controlling imprisoned offenders (American Friends Service Committee, 197 1).

#### The Punishment Era

In large part as a result of the arguments against the treatment model, states began to reform their penal codes away from broad indeterminacy toward more tightly structured sentencing systems. These changes, which started in the mid 1970s, took a variety of forms. The most common were mandatory systems that provided specific sentences to be imposed by a judge and presumptive systems that allowed the judge to select a sentence from within a limited range of permissible terms spelled out in a set of guidelines.

A number of these proposed reforms abolished or substantially curtailed release by a parole board. The justification for abolition of parole was tied to a sentencing philosophy that asserted the purpose of sentencing was to punish and, therefore, all relevant information for that purpose was available at the time of sentencing. There were two distinct sources of this emphasis on punishment, one arising from a concern for fairness, the other for crime control.

The emphasis on fairness held that persons convicted of similar offenses ought to receive similar punishments. The rationale for this point of view, just deserts, called for an end to the medical model of penology: coercive treatment and release based on rehabilitation. Under the desert model, sentences would be largely determined by the legislature (or, alternatively, by an independent, non-political commission) based solely on the seriousness of the crime. Judges would have only limited discretion in imposing a sentence.<sup>2</sup>

Conservative political leaders also sought sentencing reform, but their concern was not so much for fairness and equity as for improved crime control. For them, the failure of the penal system was not due to sentencing disparity, but stemmed directly from the system’s propensity for leniency. The sentencing reform agenda was broadened to include prevention of crime through deterrence and incapacitation. Their arguments were buttressed by research showing that a small number of active offenders commit a disproportionate amount of crime.<sup>3</sup> Reformers tried to design laws that identified these offenders and incarcerated them for long periods.

The result was a two-prong impact on correctional policy. The sentencing reforms based on just deserts resulted in fixed penalties established by the legislature and imposed by judges. The desire for better crime control translated into pressure for those sentences to be long, as well as fixed. In order to prevent any judicial discretion from reducing sentences, legislatures began writing mandatory sentencing laws that provided for a specified term of prison without chance of probation or early release.

### **The Emerging Risk Management Era**

Corrections is now entering a new era, one increasingly focused on fair, effective and efficient ways of dealing with the risk posed by an offender. The engine driving the reorientation is fiscal reality: state and local governments cannot afford the growing costs associated with the punitive model. In 1973, the punishment rate (combined incarceration/community corrections rate per 100,000 citizens) in the United States was about 275. By 1992, this rate had increased to about 1,773, a change of over 600% (Clear, 1994). All attempts to develop correctional resources to keep pace with this growth have failed.

The resulting pressure to spend more money on corrections has been astounding: between 1971 and 1990, expenditures on corrections grew by 998% (265% in real dollars) (U.S. Department of Justice, 1992). In the decade of the 1980s real dollar expenditures on corrections grew by about two-thirds over the rate spent by government on education and transportation, which remained stagnant or declined (Austin, and Killman, 1990). Public officials are concerned that dollars for

corrections are being diverted from other crucial services.

Aside from the strain of limited resources, there is growing evidence that the punishment era failed to deliver what many saw as one of its main promises -- crime control. Despite the levels of correctional control increasing by more than sixfold since 1973, until the most recent years crime has either stayed essentially the same or increased by two-thirds, depending on whether one looks at trends in victimization surveys or FBI Uniform Crime Reports.

As with the high-discretion rehabilitation approach before it, the low-discretion punishment approach has proven programmatically troublesome and strategically ineffective. Even at a time of public demand for expanding prisons and enacting draconian laws to fill them, state, local, and federal corrections authorities, and to some extent public officials, are increasingly aware of the limitations of an exclusively punitive approach. Evidence of their concerns can be found in four current developments:

- Almost all correctional systems use “risk” as at least one dimension to classify offenders and assign them to programs,
- Many localities have developed a range of sanctions falling between probation and incarceration, and these new programs are often intended for medium-risk offenders,
- In several states, public authorities (such as blue ribbon commissions) have released policy papers questioning the value of overreaching “get-tough” policies and calling for less-restrictive alternatives for lower risk offenders,

- In many **states** where parole had been restricted or abolished, new **prison release** mechanisms have been developed to augment or replace parole. In Connecticut, discretionary parole release has been reestablished.

Predictably, community corrections has been deeply influenced by these changes, but in ways that are not necessarily consistent. Community corrections began to develop stringent supervision programs for less serious offenders, many of whom were formerly subjected to simple probation supervision. Intensive supervision programs were designed for property offenders, electronic monitoring for drunk drivers, boot camps for first-time youthful offenders. Yet this was accompanied by a sharp increase in the rate at which those on probation and parole were revoked for failing to observe the conditions of their release. Offenders whose probation or parole was revoked now represent more than half of the prison admissions in Oregon, California, and Vermont (National Institute of Justice, 1994). Thus, while most high-risk offenders continue to go to prison and come out on traditional parole supervision, low- and moderate-risk offenders are subjected to increased levels of control through new correctional programs designed to enhance risk management.

### **Values for an Era of Risk Management**

A new era is upon us, but no one would advocate that what we now do in corrections is a fair representation of what we want or expect. It is our purpose to lay out a system of corrections that better meets the demands of fairness and public safety and to provide a framework by which it can specify its

purposes and set about the task of achieving them. First, we must articulate the values that should guide correctional practice.

We begin by reasserting our position that an explicit purpose of sentencing should continue to be the reduction of the probability of future crime by convicted persons. The protection of the public is not only an inevitable role of the criminal law but a proper one. Government has a right, indeed a fundamental duty, to protect its citizens from criminal acts. It is entirely appropriate for government to impose greater limitations on those convicted of a crime when they pose more of a risk to the community than on others convicted of the same crime who pose less risk.

We assert this while recognizing that in a society committed to fairness, risk cannot be the sole determinant of the sanction imposed by the state. A penalty must not be disproportionate to the seriousness of the offense; it must not be excessive or overly lenient. The seriousness of the offense for which a person is convicted fixes the upper and lower limits of permissible punishment, but decision makers may not arbitrarily select specific punishments within those limits. Equity requires that similarly situated individuals be treated similarly. It is therefore necessary to develop a process by which those whose crimes are of similar seriousness and who pose similar risks are treated approximately the same. Our fundamental aim in articulating a limited risk-management rationale is to develop a fair system of community protection in which incapacitative and treatment measures fit together and are employed fairly and rationally, and

together and are employed fairly and rationally, and appropriate account is taken of prudently applied symbolic sanctions.

As we design a risk-management system, we should take care to ensure several matters. First, change efforts must be directed toward controlling the net of formal social control. There is no objective evidence that expanding social control through criminal justice agencies increases safety, stability, or societal fairness. Second, a defining quality of the United States criminal justice system is its provision of fundamental rights to all people. The aims of reform must include the protection of those rights and the development of meaningful policies that reinforce due process. Third, whatever is attempted must be feasible. Programs must be designed in such a way that they are likely to enjoy public acceptance. Likewise, there must be an appreciation of how individuals and organizations will perceive changes directed toward them. Any change undertaken should recognize the necessity and inevitability of future modification. Improving the criminal justice system is a developmental process; any change must be designed to facilitate future reforms that will necessarily follow. Change must also be informed by three principles or values: humaneness, knowledge utilization and cost containment.

### **Humaneness**

Humaneness guides both what should and should not be done by correctional decision makers. It means that interventions into offenders' lives must be limited to intrusions necessary to achieve the legitimate purposes of the criminal sanction. A

sentence is not a blank check for correctional administrators to implement favorite or convenient controls over offenders. Humaneness limits discretion, particularly with regard to treatment and incapacitative interventions, and constantly tests decisions against potential alternative methods that are less intrusive.

Humaneness also requires that, wherever possible, the correctional administrator takes actions that improve, or at least maintain, the personal and social capacities of offenders who have been subject to the control of the state. Punishment cannot be augmented by failure to provide basic services such as medical and mental health programs or opportunities to preserve social skills.

### **Knowledge Utilization**

An emphasis on knowledge requires that those who make decisions regarding correctional measures recognize that risk management is a complicated matter. At a minimum, decisions must reflect an understanding of the effects of various options, current knowledge about corrections, and a willingness to implement appropriate changes to improve effectiveness. Too frequently, correctional managers spend precious resources of time, money, and community credibility implementing new programs that, when attempted and evaluated in other settings, were only marginally effective. Moreover, valuing knowledge requires undertaking correctional actions in way that improve our understanding of the impact of correctional policies.

**Cost Containment**

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

There is also a tendency to adopt too narrow an interpretation of cost, using dollars as the only

measure. A sufficiently broad definition takes into account the unknown cost of failing to attempt new approaches that might improve both effectiveness and efficiency, and the costs involved in overextending state control over offenders' lives. Difficult as it may be to quantify these considerations, they should not be underestimated when attempting to keep costs to a minimum.



## PART II: LIMITED RISK MANAGEMENT

It is our belief that the central function of corrections is to manage risk consistent with basic notions of justice, fairness, and equity. We envision a system of punishments that establishes a reasonable proportionality of penalty severity, within which risk management operates. This would be a system in which the symbolic aims of the law -- to communicate social disapproval of a law violation -- are pursued, while the practical concerns of corrections -- to effectively manage risk -- are promoted.

Correctional managers should develop sanctioning systems that:

- (1) Use reliable means for scaling the seriousness of the offense and the risk posed by the offender;
- (2) Provide a structure of correctional program options that widen choices for risk control and risk reduction within constraints of crime seriousness;
- (3) Establish principles of sanction interchangeability by which differences in risk may be accommodated in correctional programs without inequities in degree of sanction.

Our proposal is based on two lessons from history. First, eliminating risk-management influences in penal sanctions has not been possible. They simply become submerged and less visible (Griset, 1992). Second failure to place limits on the degree to which an offender's potential risk is allowed to determine the length and character of sentences has been an important part of the recent excessive growth of the American corrections system. If we are to take seriously the obligation that penal sanctions be imposed fairly, we must openly

acknowledge that offenders risk is a central concern of our sentencing systems and allow explicit expressing of that concern to play a limited, structured role within those systems.

Achieving that goal requires that we operationalize our terms. Until we define how we measure risk, we can hardly manage it. Until we specify how we scale symbolic purposes, applied justice and equity remain a chimera. One of the most useful ways of approaching the task of measuring symbolic risk is to examine systems of structured discretion that have been developed in the areas of sentencing and correctional decision making. Among these are grid or matrix models under which, during the last 20 years, a great deal of useful and imaginative work has been done in addressing issues of measurement. This type of model is not the only form of structured discretion, but it deserves attention because of its capacity to make visible the underlying values vital to understanding the emerging character of community corrections.

### Scaling Seriousness: The Symbolic Dimension

Originally designed by Leslie Wilkins, Don Gottfredson, and their colleagues in the early 1970s to improve decision making by the U.S. Parole Commission, the grid system begins by specifying two scales that create the framework of the matrix: offense seriousness and the risk.<sup>4</sup> The scales were identified through a series of joint studies with parole commission members that revealed them as two major, but by no means exclusive, factors in

deciding whether to parole an inmate. The first task was to rank the various types of crimes on a scale from the most to the least serious and to specify the penalty proportionate to each, as illustrated by the

“penalty level” column in the hypothetical example provided in Table 1.

**Table 1: Hypothetical Ranking of Crime Seriousness and Relevant Penalties**

<b>Crime</b>	<b>Seriousness Ranking</b>	<b>Penalty Level</b>	<b>Penalty Range</b>
Murder 2	I	100 Months	90 - 110 Months
Rape	II	60 Months	54-66 Months
Assault	III	48 Months	44-52 Months
Robbery	IV	30 Months	21-37 Months
Burglary	V	15 Months	12-17 Months
Theft	VI	12 Months	10 -14 Months

The task of deciding which crime is more serious than another and what punishment is deserved is difficult enough when dealing with the six common felonies in the example. But when we consider that some criminal codes list up to 1,000 different offenses including such crimes as jail break, various forms of consensual but illegal sexual behavior, and the criminal sale or possession of drugs or other regulated substances, the prospect of establishing fixed commensurate penalties for an entire penal code is daunting.

Beyond this, there is the problem of dealing with the individual offender. No matter how detailed policies may be, in a fair system one must take into account the facts of a specific case. Without some discretion, injustice would inevitably result. The “penalty range” column of Table 1 illustrates how a decision maker might be permitted to fix a sentence within 10% of the prescribed penalty level.

The amount of discretion allowed in order to deal properly with individual cases will inevitably be a point of disagreement. The more discretion allowed, the greater the opportunity to cope with the full complexity of a specific case and offender, yet the greater also the possibility of inappropriate disparity. Two means exist to ameliorate this problem. The first is to provide narrow ranges of discretion, as in the example. The second is to create “departure rules” under which a term might be fixed at other than the penalty level, provided that the reasons for this action are specified in writing and subject to appeal. Typically acceptable departure criteria are spelled out in advance, often in the form of aggravating or mitigating factors related to the instant offense. For example, gratuitously harming a victim might be an aggravating circumstance, cooperating with the police a mitigating one.

An offense seriousness scale arrays crimes on the basis of their gravity, but the seriousness of a given offense can also reflect a variety of other dimensions, including the desirability of incapacitation and the need for deterrence. There is a hidden danger in the apparent, precise quantification of such scales, what Justice Holmes once called “delusive exactness,” that can imply an accuracy that is unwarranted.<sup>5</sup> To apply the scale rigidly, as if it were an exact calibration, would almost surely produce more injustice than a system that has a reasonable amount of play in it.

### **Scaling Recidivism: The Risk Dimension**

The second major element associated with fixing the duration and conditions of a sentence is the estimated threat of future crimes posed by convicted individuals. Will this offender be less likely to commit further crimes if he takes part in a drug treatment program? Can we release this woman from an institution under moderate supervision without exposing the public to undue risk? Can this person convicted of robbery be placed on parole safely if he lives with his family, works at a job, and attends Alcoholics Anonymous? These are difficult questions to answer with certainty but are similar to those asked and answered every day in thousands of cases by judges and correctional authorities. Such questions inevitably involve forecasts of the likely future behaviors of offenders under various conditions.

One of the main criticisms about using such forecasts is our historically limited ability to predict human behavior. Predictions will inevitably result in errors of at least two types: false negatives that occur

when a person who is predicted to be safe commits a crime and false positives that occur when an offender who is predicted to commit a crime does not.

False negatives tend to be quite visible, taking the form of headlines about recidivist offenders and system failures. By comparison, false positives tend to be of low visibility -- inmates are kept in prison long after they could safely have been released or probationers are given more strict supervision than is warranted. The pressure on decision makers is to place more importance on avoiding potential false negatives than on ferreting out false positives. One of the reasons prisons are so full is that the system is often necessarily conservative in deciding who receives reduced levels of control.

Some oppose the use of risk estimates because of false positives. It is improper, they say, to punish some people more because of a prediction about their probable future conduct, especially when we know that these estimates will be incorrect to some degree. Yet there is no obvious practical way to keep such predictions out of correctional or other criminal justice decisions. Not only do prosecutors, sentencing judges, wardens, and parole officials contemplate the risk that an offender may present, but legislators and society demand that they do. In fact, the U.S. Supreme Court has ruled that even a citizen who has not been convicted of a crime can be held in jail under certain circumstances pending trial based on a prediction of likely future behavior (U.S. v. Salerno, 1987).

An important way to reduce the level of error is to adopt a classification system founded on statistically based risk assessment in which

individual predictions play a specific role. The distinction between the two is subtle but important. In statistical risk assessment, people are grouped according to probabilities they will engage in a certain behavior, and they are assigned to correctional programs based on those probabilities. In individual predictions, decisions are made whether to confirm or alter those assignments for a particular person.

A risk-assessment approach, when properly done, takes account of the inevitability of errors and takes steps to minimize their negative impact in two ways. First, a validated risk-classification device is used; second, the resultant classification leads to systematic correctional programming decisions based on principles of risk management that set limits on the way corrections works with offenders.

### **Validated Risk Assessment Systems**

A well developed technology now exists to calculate the probability of offenders failing under correctional supervision.<sup>6</sup> It involves four steps:

- (1) Selection of a definition of “risk” (the criterion), such as new arrest for a felony or conviction of a new offense;
- (2) Statistical identification of variables (predictors) associated with the risk criterion, such as previous convictions or substance abuse history;
- (3) Use of predictors to identify homogeneous risk groups, often called “high,” “moderate,” and “low” risk;
- (4) Determination of actual risk levels for each homogeneous risk group through a validation process in a given jurisdiction.

Table 2 shows failure rates for 2,339 federal offenders, arrayed according to their parole risk (salient factor) scores and their actual failure rates. This table demonstrates the statistical validity of a risk instrument used by the U.S. Parole Commission (Hoffman, 1983).

**Table 2: Failure Rates and Salient Factor Scores**

Total Salient Factor Points	Number of Offenders	Percent Failed
10	286	6
9	244	12
8	205	20
7	253	25
6	249	24
<b>5</b>	271	36
4	271	42
3	218	45
2	164	49
1	137	52
<b>0</b>	41	59
Total	2339	30

The failure rate associated with the 11 categories of offenders ranges from a low of 6% to a high of 59%. Failure includes both being convicted of new crimes and violating the rules governing supervision in the community. The latter is typically the larger group.

**Problem of Error**

A “correct” score for an offender on either the seriousness or risk-control dimension is crucial to a fair and effective sentence, but both scales must confront the problem of error. The crime seriousness scale includes errors because of its multidimensional character and the variations in

crimes as they are actually committed. Thus far it has been difficult to calculate the scope of these errors. We are in a better position to estimate the amount and effects of likely errors on the risk dimension because of the long history of research in this area.

For example, let us assume, based on the data described in Table 2, we released to community supervision all inmates with a risk score of 6 and above and held all those with a score of 5 and below. Table 3 shows the resulting distribution.

**Table 3: Hypothetical Release Policies Based on Salient Factor Scores**

<b>Release Decision</b>	<b>Failure</b>	<b>Success</b>	<b>Total</b>
Hold	486	616	1102
Release	212	1025	1237
<b>Total</b>	<b>698</b>	1641	2339

In this instance, we would have held in prison 486 persons who would have failed in the community if released (83%) and unavoidably released 212 (17%) “false negatives,” predicted to succeed but who failed in the community. At the same time we would have correctly released 1,025 offenders who were predicted to succeed, while mistakenly holding in prison 616 “false positives” who were predicted to fail but who would have succeeded if released. For every four offenders correctly held, more than five were not. This ratio would even be even more dramatic depending upon how often the event we are predicting (e.g., homicide) actually occurs in our population.’

The problem of false positives is a troubling one that needs to be understood in the context of the system proposed here. No offender should be subjected to the state’s control beyond the time and conditions deserved for the crime committed. Within that boundary, we employ prediction to decrease the onerousness of that control for selected offenders to the extent allowed by the requirements of symbolic punishment and public safety. In so

doing, we are mindful that we will inevitably permit some offenders to remain under unnecessary levels of control, which poses questions of fairness and costs. Thus, we are deeply concerned about improving prediction techniques, employing effective treatment programs, and requiring continuous evaluation processes, all of which can help reduce the proportion of false positives.

**Individual Prediction**

Statistical probabilities are **useful** for policy purposes -- for example, placing probationers in various risk categories and congruent levels of supervision -- but we still wish to know whether a particular individual is among the 70% who will succeed or the 30% who will fail. When we try to match specific individuals with probable success in various types of programs, our problems are compounded. For these purposes, another approach -- known as judgmental (or clinical) -- must be added to our actuarial (or statistical) method.

Paul Meehl conducted one of the earliest and still most widely cited comparisons of statistical and clinical studies and concluded that the preponderance of evidence indicated the superiority of statistical methods, a conclusion undisturbed by subsequent research. However, he also pointed out that statistical methods assume no changes in personal or social conditions that might alter a prediction (Meehl, 1954).

This is an important point to underscore, for decision makers are more concerned with predicting the effectiveness of various methods of control for specific offenders than with forecasting whether, in general, they are likely to commit new offenses. For example, suppose an offender has exhibited a long pattern of assaultive behavior and is in a class of offenders of which 40% are likely to commit crimes again. Suppose further that it appears the offender has gotten into trouble when drinking excessively but not when he is abstinent. Two predictions beyond the general probability of recidivism become central: the precise relationship between this particular offender's behavior and drinking, and the likelihood of controlling that drinking pattern.

Unfortunately, most studies employing statistical predictions have been concerned simply with whether given classes of offenders would succeed or fail. Very few have dealt with the type of contingencies suggested in our example. One reason is that the case records on which most research depends provide very little reliable information about these kinds of relationships. Second, contingency estimates are difficult to calculate reliably without a sufficient sample. And third, the tremendous variety and combinations possible make

systematic predictions of this type exceedingly difficult to make in simple statistical terms. This type of prediction must rely on clinical judgments. Such predictions are made and acted upon daily in correctional settings, where the ability to manage events through risk-control measures is greater than is the case with predictions of general recidivism. Moreover, to the extent that the risk level and type of error are known in such cases, the probability increases that decisions will be more accurate, more effective (in terms of minimizing error), and more reliable.

Some argue that employing person-specific predictors, such as the extent of a person's drug use, is inherently discriminatory against the poor and minorities because they do not have the same opportunities of being raised in a neighborhood where drugs, for example, are not endemic. Morris and Tonry dispute this view, arguing as a matter of principle that

to insist on equal steering by Criminal B because of the harsh conditions of Criminal A is to purchase an illusory equality at too high a price. It is a leveling down and benefits neither Criminal A nor the community (Morris and Tonry, 1990).

On pragmatic grounds, the harsh truth is that our correctional systems are overwhelmingly populated by persons from unfavorable social and economic circumstances, whatever sentencing system we use. It is also true that the number of those young adults who have no employment history, are members of criminally oriented gangs, or use drugs heavily is disproportionately large among this group. However, a policy which, on the basis of equity, uniformly forbids considering such crime-related personal characteristics when choosing who is to be placed on

probation or when fixing community control levels simply means that a relatively few middle-class whites will be adversely affected, while the larger impact will be felt by the many more convicted poor who have made substantial efforts to find some kind of employment or avoided crime gangs or resisted the prolonged use drugs. It is they who would be also denied opportunities for greater amounts of freedom. Ironically, we would then significantly increase the number of poor and minority false positives, all in the name of equality.

To present judgmental and statistical prediction as one-or-the-other alternatives is simplistic. Both approaches provide benefits. The optimal model will rest on both, enabling decision makers to use validated prediction scales as aids to making probability judgments. When a clinical judgment leads to a risk assessment different from the one suggested by a statistical device or involves a situation for which statistical data are not available, an appropriate official must decide whether to accept that judgment. The soundness of that decision will depend on the reputation and experience of the person making the clinical assessment, the circumstances under which it was made, and the specific factors considered.

Another crucial consideration is the potential scope of a decision. It is one thing to place offenders under intensive supervision for six months for violating a probation condition, quite another to send them to prison for that infraction. Limits can be placed on the scope of decisions, for example, by requiring administrative approval before placing an offender in intensive supervision or judicial approval for any incarceration in excess of a few days. An

advantage of a clinical assessment is its ability to employ recent information about the offender's behavior in circumstances resembling those in which he/she will again be placed. Most statistical data are not helpful in this respect because risk scores are based on known historical variables. Knowing that an offender during the last two years successfully completed a work release program, followed by a series of increasingly longer furloughs in a specific community situation, is more useful in deciding whether to transfer this person to full-time supervised release than the fact that he had a conviction five years prior to his current conviction.

### **Integrating the Scales**

It has become common practice to integrate the crime seriousness and risk dimensions of a sentence by developing a decision making matrix that allows the two dimensions to interplay in ways that produce a guideline sanction. The matrix approach is illustrated by Figure 2, excerpted from the 1981 Minnesota Sentencing Guidelines. These scale offenses into ten levels of seriousness and break risk into six levels of criminal history. The criminal history scale has been the subject of much discussion. The horizontal axis of the grid began as a straight forward risk assessment for parole decision-makers (see Gottfredson, Cosgrove, Wilkins, and Rauh, above), and included such predictors as age, drug dependence, and prior criminal record. This was changed by the Minnesota Sentencing Commission so that only prior record variables were employed -- more consistent with a just deserts rationale. Even so the new scale approximated a risk measure very closely.



**Figure 2: Minnesota Sentencing Guideline Grid  
(1981 Version)**

CRIMINAL HISTORY SCORE

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 23-25
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	176 168-184	205 192-215	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. Cells above the heavy line call for a presumptive non-prison sentence. The number in these cells indicates the duration of confinement if probation is revoked or denied.

The line that cuts diagonally across the matrix defines those offenders for whom prison is an appropriate sanction level but who, at a judge's discretion, may be granted probation instead. Here, risk considerations inevitably influence the nature of the sentence. It is the management of risk, from judicious advice to the court or other decision makers about the character and level of that risk to programming for its control and reduction, that constitutes the unique mission of corrections.

This is not an unrestrained responsibility. Important limitations are imposed by the laws of a jurisdiction, the resources provided, the skills and knowledge of personnel, and the specific determinations made by a sentencing judge. The court, for example, fixes the duration of a sentence and the general conditions under which it is to be served (i.e., prison or the community) and determines any special requirements that must be observed by the offender, such as paying a fine or taking part in a substance abuse treatment program. The special requirements are typically imposed based on the recommendation of a correctional agent. But however shaped, it is within these constraints that corrections carries out its responsibilities of controlling the risk represented by offenders and seeking ways of modifying their inclination toward future criminal behavior.

### **Risk Control**

Inherent in the task of effective, efficient, and fair risk control are two elements: 1) a control hierarchy -- a continuum of methods for controlling the behavior of the offender and 2) a systematic means of assigning offenders to appropriate controls consistent with the principle that the "least restrictive" method necessary to achieve the legitimate purposes of the state is used.

When a judge sentences an offender to prison, correctional authorities have considerable discretion to decide the specific circumstances under which that term will be served. Generally, the risk-control hierarchy of a prison, with some additions, consists of maximum, close, medium, and minimum security categories that are defined by a variety of physical and programmatic features. A similar type of control hierarchy is now commonly used in community corrections programs, whereby high-risk offenders are seen more frequently in the office and the field than are moderate- and low-risk offenders.

Multiple levels of custody and supervision is one of the familiar ways correctional officials manage and control differences in offenders' risk. Their use requires a systematic process of initial offender classification and subsequent reclassification. Generally, offenders are moved from one risk level (or program) to another, less-restrictive level based on their behavior and previously established policies. Variations in rates of movement are accepted as long as they are not excessive and are justified in writing. Some offenders move more quickly through control levels, while others might move slowly, particularly if their behavior clearly indicates that a given level of control does not ensure adequate public protection. Offenders can also be reassigned to more controlled settings if warranted by their behavior.

Correctional officials have a responsibility to design risk-management programs at every level so that offenders have a chance to demonstrate their ability to live in less-restrictive settings without undue risk to the community. Corrections cannot simply rely on long past behavior to make irrevocable decisions about an offender's risk. Instead, decisions should depend increasingly on recently demonstrated offender behavior with an eye to reducing, as much as possible, the intrusiveness

and cost of interventions, consistent with public safety.

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

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

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

## **Risk Reduction**

An offender's inclination to commit further crimes can diminish over time for many reasons -- a change in family circumstances, a new job, maturation, a religious renewal -- that may have little to do with correctional programs designed to alter criminal proclivities (Sampson and Laub, 1993). Changes in risk can also be promoted by reliable, effective and proper correctional interventions that influence offenders to choose law abiding behavior in the future and that are capable of being tested by empirical means; we call these "treatments."

It is common to think of treatment in terms of techniques widely advocated in corrections before and after World War II. At bottom those techniques were premised on the need to tap into and acknowledge the offender's feelings so their influence in the offender's contemporary life could be explored and modified. Although environmental conditions and the concrete needs of the offender - a job, social respect and a decent place to live -- were salient and became even more so in the late 1960s, the emotional state of the offender was the major force shaping much of corrections' actions and aspirations. Labeled as "rehabilitation", this general counseling approach was the focus of much of the evaluation research conducted on the efficacy of treatment. The results were not encouraging (Bailey, 1966).

As a consequence, newspapers, legislators, and crime-fighting organizations argued that society should stop "coddling" offenders. More onerous sentences and other forms of punishments were advocated on the assumption they would teach offenders that crime does not pay. Yet research

provides little evidence that **simply** imposing punishment by itself has an effect in reducing subsequent law violations.\*

Research has established that other types of interventions are capable of reducing future crimes for specific types of offenders. For example, studies have shown that improvements can be achieved with substance abusing offenders through drug testing, a strict supervision regime and appropriate counseling (Pearson, 1991). Similarly, controlled experiments with higher risk offenders using cognitive techniques have produced measurable gains (Gendreau, Cullen, and Bonta, 1994). Behavioral, cognitive-behavioral, life skills or skill oriented, multi modal and family interventions have been shown in a recent comprehensive research review to have positive effects in the treatment of juveniles (Palmer, 1994).

Debate continues about the efficacy of treatment in corrections--some based on scientific differences, some on ideological grounds and some on the relative weight given to specific research findings. In the last few years, several of the summaries published about correctional treatment efforts used a technique called meta-analysis, which aggregates studies and establishes the statistical significance of specific treatment effects across those studies. Positive interpretations of these analyses have been criticized, but after taking those into account, a fair reading would conclude that specific treatment programs have demonstrated a capacity to reduce recidivism by 20% to 30%, even higher with well-defined offender categories.<sup>9</sup>

Those interventions that show a measure of success generally have certain characteristics in common: 1) the program is carried out in a professional manner and is sustained over a period of time consistent with the treatment modality being used, 2) there is a differentiated response to different types of offenders in the program, 3) the objective of the program is specifically crime reduction rather than such-generalized aims as self-esteem, 4) the program tends to target higher risk clients, and 5) account is taken of the social network in which the offender lives (Andrews, 1994).

While some writers dismiss the significance of treatment interventions because they are only partially successful, it is a mistake to ignore the potential value of risk reduction efforts. To illustrate, let us assume through treatment we reduce the recidivism rates shown earlier in Table 2 by 25% in categories 5, 6, and 7, with the rates in the other eight categories remaining the same. This produces a modest reduction of about 3% in the overall failure rate, one half of that involving failing to observe parole rules rather than committing a new crime. Let us further assume that all offenders in Table 2 have 24 months to serve on their terms and new prisons will be required to handle the increase in population **caused** by the addition of those who will be held in prison custody. If we elect to parole all inmates in categories 5 and above, instead of six and above as illustrated earlier in Table 3 and provided the limited treatment specified, we would secure the results in Table 4 over two years.

**Table 4: Estimated Cost Savings With Treatment**

Option	Recidivism Rate	Number of False Positives	Yearly Operating costs	Potential Construction costs
No Treatment	17.1	616	\$86,511,000	\$144,840,000
Treatment	16.7	443	\$75,927,000	\$114,800,000

With no increase in risk to the public, the number of false positives would be reduced by over 28%, annual operating expenditures cut by 10.5 million and 30 million in new construction avoided. Cost estimates assume \$60,000 for each cell, \$20,000 a year for prison operations costs for each offender, \$1,350 for each prisoner in the target groups for additional treatment, and \$2,500 a year to supervise a parolee. In terms of potential savings, fairness, and public protection, the results are not inconsequential.

Does this mean that given enough resources and by placing all offenders in the right programs we can lower our overall recidivism rate today by 40% or more? We cannot. The treatments that have been shown to work in controlled experiments are limited both in terms of the number of offenders amenable to them and the degree of improvement they

demonstrate. But research shows a significant number of offenders can be influenced toward law abiding behavior. We should take advantage of this knowledge not only for short termed risk management but also for the long term when sentences are served and offenders are no longer under the control of the state.

Policy makers must also decide how to handle the proportion of offenders for whom no careful research findings are available to guide them. A substantial number of those offenders are quite unlikely to commit more crimes. It is neither necessary nor efficient to subject them to costly correctional programs when some form of sanction proportional to their offense and appropriate to their circumstances is all that is required to satisfy the ends of justice.

We can also identify fairly well offenders who have a high probability of committing new crimes and for whom we have no proven effective treatment. For them our responsibility is to provide the measures required to protect the public's safety as long as they are under the state's control and attempt to find ways of influencing them towards law abiding behavior.

With respect to the remaining offenders, risk-reduction programming is still relevant despite our lack of firm knowledge about its effectiveness. In everyday life, precious few decisions, even the most grave, are based exclusively on the results of careful research. We depend on the evidence that is available, on our experience and that of others whom we respect, and on our reasoning framed by a constellation of values. It is not necessary to wait for the results of a controlled experiment before we help a probationer learn to read, for example, when his illiteracy blocks his employment at a decent job. What is required is that we clearly identify the problem we are addressing and its relationship to further criminality and that we secure the offender's genuine concurrence that the problem is his and that a given solution is credible. Crucially important is an information system that helps us learn from our practices. Such a system should routinely collect and store pertinent data and give us a continuous capacity to conduct research on the problems identified, the methods employed to solve them and their outcomes. It is through this kind of research that our base of knowledge about effective treatments will be expanded. This is a point to which we will return later.

An objection is sometimes raised against offenders being granted probation or a reduction in prison security on the basis of programs labeled as "treatment". Critics believe this will lead to coercing other offenders to volunteer for programs, which should be opposed as a matter of principle and because of the ineffectiveness and cost of such coercion. The argument is strained moreover in view of the pervasiveness of coercion throughout the criminal justice system -- from "consent" searches, plea bargaining, and required prison literacy programs, to punitive sentences aimed at changing an offender's subsequent behavior. Moreover, it is questionable whether any "voluntary" program in corrections can escape some element of coercion.

We must be concerned about this issue in the design and availability of treatments, but competing interests also come into play. To illustrate, suppose we had a program for substance abusing offenders that features a series of treatment phases leading to release from a community-based facility somewhat earlier than usual. Suppose further it produces a 30% reduction in subsequent drug-related crimes by these offenders. Would we refuse to offer this program because other offenders might want to get into it motivated principally by a desire for an early release rather than coping with their drug problem? Would we similarly refuse to allow probationers to participate in such programs in lieu of going to prison? Would we not instead seek to improve our screening mechanisms for such programs and conduct research on the question of the degree to which such apparent coercion actually affects treatment efforts?

## **Identifying Offender's Needs**

Treatment depends on identifying variables that are associated with illegal behavior and are susceptible to modification. A criminal history can help identify an offender's risk level but is of little use in showing us how to reduce that risk. One cannot alter a past criminal record, but one can assist an offender in controlling his impulsiveness or curtailing the use of alcohol. In order to focus on such objectives a number of correctional agencies have created need assessment systems, the most credible of which have three distinctive characteristics.

First, they focus on identifying needs that are related to law-abiding behavior. It is important to recognize that offenders have a wide variety of unmet needs, as do non-offenders; however, the justification for correctional attention to a specific need rests on the fact that it is crime related. Improved self-esteem and good health are both desirable traits; however, the unique correctional question is the degree to which their attainment in a specific case is related to reducing the likelihood of recidivism. We accept of course, the general responsibility of corrections for the health and welfare of prison inmates and for assisting offenders securing community services that are available to any citizen.

Second, after a relevant need is identified the means of dealing with it in specific terms is articulated. Account is taken of the individual characteristics of offenders in deciding on the appropriate ways of relating to them and in choosing the specific means to address a need. Important differences must be - skillfully addressed, for

example, when dealing with an offender who is impulsive, limited in problem-solving abilities, and has little work experience in contrast to an anxious, verbal offender who has job skills but experiences difficulty in holding a position after securing it.

Finally, a system of periodic reassessment allows feedback on the affect of addressing one set of needs as opposed to another." We illustrate this aspect of risk management in more detail in Part III.

## **Relating Risk Control And Risk Reduction**

Some jurisdictions have developed methods of combining risk-control and risk-reduction dimensions so that policy choices are clearly articulated and means of monitoring their consistent application and justified variations are provided. One such system was created by the Colorado Office of the Courts for offenders with histories of alcohol or drug abuse. It begins by specifying a hierarchy of seven treatment modalities, which are administered under increasing levels of control ranging from little or no treatment, through intensive outpatient treatment, to various forms of community-based custodial programs. Through the application of a risk-assessment instrument of the type previously **described and validated measures of addiction severity, cases are identified that are appropriate for these various intrusive treatment measures.**

Offenders with high addiction scores but low criminal risk scores are not required to undergo more intensive treatment. Since the probability of further crime is quite low in this group, significant correctional resources would be expended with minimal effect on crime reduction. Directing costly resources toward higher risk offenders with

substantial addiction problems results in more substantial crime reduction. It is also consistent with the principle that treatment, absent compelling risk considerations, should not be used in corrections to increase the level of intrusive measures applied to offenders. Referral to an appropriate community agency is the preferred choice in these cases. High-risk offenders for whom no effective treatment methods appear available are subjected to greater control/surveillance measures.

This approach can be adapted to almost any correctional setting -- prisons, parole, probation, or a half-way house. It builds on a strategy that focuses on offender needs known to exacerbate risk

of new criminal behavior; takes account of current knowledge about the design and delivery of effective correctional interventions; delivers programs in a way that promotes the evaluation of their effectiveness; and, responds to community safety needs but seeks to limit coercive treatment methods to those actually justified.

This strategy applies not only to correctional settings but-to decisions about which are to be used. One possible structured way of doing this is shown in Figure 3, a partial reproduction of the grid found on page 20.



**Figure 3: Hypothetical Sentencing Grid: Criminal History Scores**

SEVERITY LEVEL OF SAMPLE CONVICTION OFFENSES		CRIMINAL HISTORY SCORE						
		0	2	3	4	5	6	7
		EQUIVALENT CORRECTIONAL RISK SCORE						
		11%	18%	24%	34%	42%	50%	65%
		LOW		MEDIUM		MED./HIGH		HIGH
SALE OF MARIJUANA	II	PROBATION		PRISON		PRISON		
THEFT CRIMES	III	PROBATION		PRISON		PRISON		
BURGLARY	IV	PROBATION		PRISON		PRISON		
SIMPLE ROBBERY	V	PROBATION		PRISON		PRISON		
ASSAULT 2ND DEGREE	VI	PROBATION		PRISON		PRISON		
AGGRAVATED ROBBERY	VII	PROBATION		PRISON		PRISON		

  
PROBATION

  
PRISON

A hypothetical equivalent correctional risk score has been added that indicates the probability an offender, with a given criminal history score, if released to community corrections will be subsequently committed to prison for a new crime or for failing to observe a condition of release.

From a risk perspective the scores immediately to the left of the diagonal line represent the highest levels of acceptable risk for persons convicted of specific crimes who could be considered for release to the community. In this example, the highest acceptable level for theft crimes would be 34%. An offender convicted of that crime, with a risk score of 42% might be placed in the community if he or she were assigned to a program that had a capacity to

reduce that risk by more than 8% through treatment and such measures as day reporting or a residential/work release program. A risk score of 50% would require a reduction of at least 16%. Although these risk scores are overly precise, they can be combined into broader categories that would still reflect the underlying rationale.

But as one deals with offenders with higher criminal history scores the claims of desert increasingly emerge. Here the burdens and intrusiveness of such alternatives as day reporting and community residential programs must be taken into account. In the last decade there has been a growing awareness of this link between the risk and symbolic elements of a community based sentence.

## **Intermediate Sanctions and Sentencing Structures**

In the sentencing grid shown, two levels of correctional programs were displayed -- probation and incarceration. Although usually less graphically presented, the same dichotomy exists in virtually every jurisdiction. But there is a third, often inchoate, level of programs between prison and probation that takes a variety of forms ranging from part-time release programs to electronically monitored home confinement. This intermediate group is not usually defined and addressed as a separate set of sanction options. However in recent years, fueled in great part by growing institutional populations, there has been a rapid and wider recognition of the potential of these programs as appropriate sentencing measures for many offenders for whom traditional probation seems insufficient yet, who under proper conditions, could be dealt with effectively in the community without appreciable risk to the public.<sup>11</sup>

We have previously pointed out the enormous range of experiences that fall under the rubric of a prison sentence or probation. Such gradations in the restrictiveness of risk-control measures are too often unrecognized, as is the possibility of achieving a proportionate punishment outside of a prison wall. Moreover, because we have developed few explicit principles guiding the use of new programs, there is evidence of substantial net widening as they are imposed on many offenders for whom simple probation was employed formerly.

We need to recognize the many degrees of losses of freedom and burdens and obligations imposed that are not described neatly by the terms

prison or community supervision. The possibility of achieving the purposes of a proportionate punishment outside a prison wall needs to be emphasized as well. As stated by Morris and Tonry as they laid out the basis for the development and use of what they call intermediate punishments:

So far, much prevailing thought and practice concerning the relations between imprisonment and other punishments have been constrained by prison or nothing simplicities.. .A continuum of punishments should range from warnings and restitution through a diversity of community-based punishment,...then moving onto jail and prison terms, the whole to be adjusted to sentencing purposes and the particular conditions of the offender - the threat he presents, the needs he has to minimize that threat...All the pressures and principles that have produced guidelines for the in/out decision and for the decision as to the duration of the term. ..apply with at least equal force to the wise selection of intermediate punishments (Morris and Tonry, 1990).

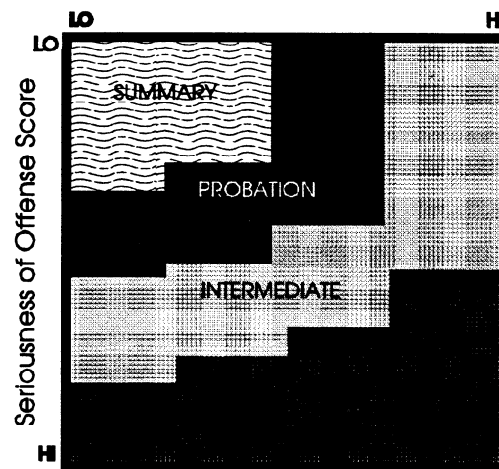
Consistent with this argument, instead of the traditional probation, prison dichotomy we need to think of a graded system of sanctions that, for example, might be conceptualized as falling into several levels as shown in Figure 4. These would be presumed dispositional categories defined primarily by the seriousness of the instant offense and the offender's prior record. Whether a specific individual is assigned by a court to a less stringent category (e.g., probation vs. prison) would depend on risk management considerations limited by those of a fair punishment.

**FIGURE 4: CORRECTIONAL LEVELS OF DISPOSITION**

.....

**Figure 4**

Prior Criminal History/Risk Score



Level I, a Summary Sentence, would be reserved for minor offenders for whom a warning and perhaps a fine or restitution would constitute the total sentence. Level II, Probation, is the commonly recognized form of community supervision which usually includes some limited conditions imposed by the court in recognition that the law was broken and/or to secure law-abiding behavior by the offender. Within those constraints, discretion is granted the probation agency to supervise the offender in the most appropriate manner consistent with policies approved by the court.

Level III, Intermediate Sanctions<sup>12</sup> embrace all the elements of Level II but in addition requires the full application of punitive sanctions sufficient to satisfy the requirement of a deserved sentence. Level IV, Incarceration, is self-explanatory with the

exception of selected inmates found along its upper borders who might be eligible for community supervision if a Court found there were no disqualifying issues of crime seriousness or public safety.

We note the term “probation” is often used to mean the suspension or execution of a prison sentence. In that sense, a person under an intermediate sanction could be said to be under probation as a legal status. We advocate the term “community sentence” for semantic clarity and to emphasize that a criminal sentence served in the community has an affirmative and independent purpose rather than simply substituting for a commitment to prison.

We shall explore this illustrative model further as we identify what we believe should be

incorporated into the sanctioning practices of modern correctional systems. We shall suggest one way that these components might be identified and implemented through a coherent system, though we emphasize at the outset that our purpose is to give a concrete example rather than a precise plan to be duplicated. The ideas embedded in our model need to be engaged in any proposal to incorporate intermediate sanctions into a correctional system, but they can find expression in a variety of forms and processes.

### **Parsing Punitive Sanctions**

One of the advantages, and dangers, of developing sentencing policy focusing exclusively on prison sentences is that different labels can be attached to the same phenomenon. The prison cell can serve simultaneously the purposes of desert, general deterrence, incapacitation, and even at times treatment. Probation, on the other hand, is seen as largely serving the purpose of treatment and, to a much lesser extent, incapacitation as simply giving an offender a second chance.

What intermediate sanctions do is bring to community-based corrections credible elements of punishment and public protection that are accommodated as easily as in a prison cell. But as one moves to community corrections, the sentencing purposes of various forms of sanctions must be distinguished. Community service orders or day fines may carry overtones of punishment, but do little to control or, as important, appear to control the risk of new crimes by the offender. Similarly, probation supervision that requires no more than occasionally mailing in a one page form may be

experienced at times as annoying to the offender, but it is not widely seen as a convincing form of punishment for a crime.

It is possible to grant full discretion to a sentencing judge to decide how much punishment in some specific form is required in a particular case, how much incapacitation however expressed in another, and how much treatment of a given type still another. How indeed are we to decide which of the following examples of intermediate alternatives, many capable of being applied simultaneously, are to be imposed in a case with reasonable assurance of fairness, effectiveness and efficiency?

Day	community	Home
Fine	Treatment	Confinement
community	Day	Part-time
Service	Reporting	Residential
Restitution	Intensive	Full-time
	Supervision	Residential

One might even mix any and all of these into unique compounds. The problem is without a proper framework to guide that discretion, unwarranted disparity, inappropriate use, and waning public support will almost certainly follow.

In order to structure that discretion one confronts the question; What proportion of a sentence is imposed for offender risk management and what for symbolic purposes? Obviously an answer may vary by jurisdiction and indeed from one case to another. For example, in states with parole releasing authorities, a fairly general practice is to

assume the punitive purposes of a prison sentence is satisfied when one third of a sentence has been served, at which point the major concern becomes the potential risk posed by an individual offender. In the federal system, a split sentence of one-half is for incarceration (arguably for punitive purposes) and one-half is for probation (typically a risk-oriented enterprise).

As an illustration, we will assume an equal weighting between symbolic punishment and risk management. Since this balance is offered as a heuristic purpose, we need not lay out a lengthy rationale for the choice made. But let us at least offer two bits of evidence to lend some credibility to

the suggested equation. Over the last four years, a questionnaire called the Sanction Policy Inventory (O’Leary, 1993) has been administered to over 400 persons, among them undergraduate and graduate students, judges, and correctional officials drawn from all parts of the U.S. The respondents were asked to indicate the degree to which they agreed with each of four statements relating to ten short case situations.- Each of the statements reflected a preference for one of the four purposes of sentencing. The weights resulting from an analysis of their replies are shown in Table 5.

**Table 5: Weights Given to Sanctioning Purposes**

Purpose	Mean Score
Treatment	69
Desert	60
Incapacitation	60
Deterrence (general)	44

Summing the risk dimensions (treatment and incapacitation), then desert and deterrence (symbolic punishment), produces a 1: 1.25 ratio between the punitive and the risk dimensions, thereby emphasizing the latter somewhat more heavily than we have posited.

Additional support, although only suggestive, can be found in a number of parole board studies conducted by Wilkins and Gottfredson and their associates to test the utility of a grid approach to parole decision making and judicial sentencing.

From these studies one can fairly deduce that in general a 1: 1 ratio, although slightly overstating the importance of desert, is supportable. The suggestion that a sentence might be divided between punitive and public safety purposes will offend those who believe that desert should enjoy significantly greater prominence in any such equation. That view will be sharply contested by those who would argue for a much greater emphasis on protecting the community. The suggested halving of these concerns is not simply a solomonic compromise. The fact is that a

number of efforts at serious, and for the most part thoughtful reform have been undertaken in the last decade in this country and in almost all of these efforts a balance was struck that allowed a substantial expression of both of these concerns. This may not convince those committed to a different outcome, but it is an issue that needs to be dealt within the context of specific sentencing frameworks when developing intermediate punishment systems.

### **Equivalencies in Sanctions**

Having parsed grid sentencing, at least in this example, into equal parts of credible punishment and public protection leaves us with the task of measuring them in the universe between prison and probation -- the world of intermediate sanctions. We have discussed at some length the techniques of assessing degrees of risk and how that risk may be managed to a considerable degree equitably and effectively, but what about degrees of punishment? What equivalents of the burdens and obligations suffered by the incarcerated offender are to be found in the community? How are they to be operationalized, scaled, and applied? It is these explicit equivalents of punishment in a community setting combined with the risk management methods described earlier that define "intermediate sanctions." For our purposes we refer here only to full-time confinement, the generally understood meaning of a prison sentence, though we recognize and support pre-release measures.

The first step in developing penalty exchange rates between sentences to prison and intermediate sanctions in the community is to specify what we

mean by a "prison sentence." Among the variety of experiences that might be included under that term, which should be chosen as the standard against which comparisons are to be made?

To answer that question, one must bear in mind that inmates in correctional institutions rarely are placed in particular units or settings because of what they deserve for the crime they committed. They are assigned primarily according to the risk they represent in terms of escape, potential public opinion, institutional control, or their safety and the safety of others. Other operational considerations such as population density and institutional needs also affect assignments but are not germane to this discussion. Decisions are necessarily made by correctional administrators, not by the courts.

Thus two offenders convicted of robbery and given to the same length of sentence could "pay for their crimes" under very different circumstances if they posed different risks to institutional order, security, or safety. One of them could be placed in housing resembling a military barrack, while working at a modest paying job every day with considerable freedom of movement and little supervision, while the other could be, in a sparsely furnished, steel cell most of the time.

Which of these two experiences should represent the "standard" for calibrating the equivalent of a prison sentence? Logic would argue that it should be the least onerous settings under which inmates presently satisfy the punitive requirements of their prison sentences. Any other formulation would inevitably raise questions of unjustified disparity. Second, the principle of parsimony would require that punitive burdens and

obligations be imposed only to the extent necessary. Lastly, the type of prisoners found in less-stringent custodial prison settings most closely resemble those likely to be involved in intermediate sanctions.

One representative facility, among the many other types of minimum custody units, is the forestry camp operated in a number of penal systems. Inmates work on such tasks as cutting fire breaks or replanting forests. Such programs typically involve dormitory living and modest, though continuous, supervision. Some recreational and counseling programs and usually a small library. Inmates may also earn nominal wage. Analogous facilities (e.g., farms) can be found in most correctional systems.

Suppose we compare serving six months in such a camp with a comparable period in the community under “close” supervision with the following characteristics: reporting to a probation office at least once a month; being visited at least once a month at home by a probation officer who can search the probationer and any areas under his control without a warrant; getting permission before moving or traveling out of the jurisdiction; obeying those and other rules, a failure to do so making the probationer liable for a prison sentence; registering with the local police department; and being subject to arrest at any time at the direction of a probation officer based on his or her reasonable suspicion. In terms of its burdens, is 24 months under such probation equivalent to six months in a forestry camp? If not, is 30 months? 40 months? We have no rough common law of equivalencies in most jurisdictions; it needs to be developed.

We asked correctional agents, judges, as well as representatives of the general public the question, “If

a forestry camp is worth 100 points, how many points is the same period of time on probation worth?” We are also asking inmates, as well as probationers and parolees, about their perceptions of the appropriate penalty exchange rates between each of these alternatives. The results may be very useful in informing policies, but for the purpose of scaling deserved punishments (which together with general deterrence- are our chief concerns here) it is imperative that the public through its representatives act as the final raters. Our conclusion is driven not only by logic but an awareness that it is the judgement of the informed community which in fact will determine what are allowable and sufficient penalties.

The “forestry camp” serves as the anchoring point on one end of the penalty scale and “discharged with a warning” on the other. Similarly, the respondents rated, home confinement with electronic surveillance, intensive supervision, and other community-based programs on the same scale. The methodology may not be an exemplar of the best in psychometrics, but it provides a roughly reliable approach to scaling the supply side of punishment (e.g., prison, community service) as contrasted to those that emphasize the consumer side (e.g., harm, intention).<sup>13</sup>

We asked six groups of community corrections specialists from various parts of the nation and 16 state legislative leaders and four of their top staff from nine states to complete the scales. The average scores of the subgroups were surprisingly similar and are reflected in the ratios displayed in Table 6.

**Table 6: Equivalent Punishment Scale for Six Months of Incarceration**

PROGRAM	RATING	RATIO	EQUIVALENT
PROBATION SUPERVISION	20	1 x 5.0	30 MONTHS
TREATMENT PROGRAM	40	1 x 2.5	18 MONTHS
DAY REPORTING	50	1 x 2.0	12 MONTHS
INTENSIVE SUPERVISION	50	1 x 2.0	12 MONTHS
HOME CONFINEMENT	60	1 x 1.7	10.2 MONTHS
RESIDENTIAL FACILITY	70	1 x 1.4	8.4 MONTHS

Though these assumptions, methods, and data are only illustrative, they demonstrate one way of approaching the task of identifying equivalent punishments.<sup>14</sup> However, at least two additional elements need to be considered. The first is the fundamental issue of time. In order to accommodate the slower rate at which symbolic function can be achieved in an intermediate sanction system, it may be necessary to lengthen the period of a term to compensate for that differential. However, a suggested exchange rate of one to five, as in our example above, between a forestry camp and close supervision, or other sanctions, is not fully elastic. We know from experience and research data that as the time under community supervision is lengthened, inmates chose increasingly the seemingly harsher penalty of a prison term because of the shorter time involved (Petersilia, 1990).

Second, a series of additional policies would have to be drafted specifying the ingredients of the alternative sanctions and limitations on the time period each might be employed. For example, one day (8 hours) of community service is often perceived as equivalent to one day of incarceration,

with the outside limit permitted in that status between 240 and 560 hours. The day fine widely used in Germany and Scandinavia, as well as in some parts of England and the United States, works on the principle that the offender may pay a fine equal to one day of his/her salary or wages for each day of incarceration waived. Since community service typically can be used in lieu of a day fine, a similar limitation on the number of days of incarceration that can be waived would need to be considered for that sanction. How restitution and other forms of reparation are to be treated also needs to be specified.

### **Integrating Risk and Punitive Sanctions**

As we have seen, there are various forms of sanctions, alone or in combination, that would satisfy the punitive aspect of a case. How is one to choose among them? One obvious answer is to select those that are most congruent with the risk-management requirements. To do this systematically, we must integrate punitive equivalents with a risk-control hierarchy. One way of doing this is shown in Table 7.



**Table 7: Intermediate Sanction Scale**

Risk-Control Level	Sanctions	I Punitive Equivalent
I	Residential Center	.70
	Home Confinement	.60
II	Day Reporting Center	.50
	Intensive Supervision	.50
III	Treatment Program	.40
	Community Supervision	.20
IV	Day Fine	1.00
	I Administrative Supervision	I 0.00

On the left side of the Intermediate Sanction Scale are shown four risk-control levels, products of the statistical and clinical methods outlined in previous sections. On the right are punitive equivalents of the type described earlier, augmented by additional hypothetical examples.

As with the prison cell, virtually all of the sanctions simultaneously serve risk and punitive ends. However, while there is a parallel between the two dimensions, it is not exact. Thus, a residential center may provide at the same time a relatively high level of risk control and a high punitive equivalent, but a day fine and some forms of community service, while providing a high level of punitive equivalence, yield a low level of risk control.

Whatever the variations of intensity in risk control and punitive equivalences, both dimensions depend on certain key assumptions. First, we assume that sanctions will be provided as specified -- day fine payment schedules will be enforced; community service programs will function as contemplated, and intensive supervision will provide

the level, quality, and consistency of contacts expected. Second, we assume risk control ratings for given sanctions will in fact produce the degree of crime reduction capacity attributed to them. For example, there appears to be increasing evidence that intensive supervision programs that provide only simple surveillance may not be as effective as those that are combined with appropriate treatment interventions (Pearson, 199 1). This leads us to the third and most important assumption: no scale of this type can be assumed to be continuously valid in conception or implementation. It is crucial that there exist a vigorous quality control process, an awareness and use of contemporary research, and periodic assessments to determine which sanctions are credible and which should be discontinued.

### **Applying the Principles**

The approach proposed here contemplates that a court would craft a penalty profile for each case that would incorporate the specific punitive equivalents to be imposed and the duration of each.

The sum of those equivalents would equal the total presumed punishment called for by a given sentence. Offenders could be subjected at most only to those sanctions one level above the Risk Control Level at which they have been classified. Thus a person assigned to Risk Control III, absent compelling reasons, would not experience a term in a community residence facility (a Risk Control I sanction) as part of his or her penalty profile. The community corrections organization would insure that the offender observes the conditions imposed and, as with any correctional agency, provide whatever appropriate measures are needed for the safety of the community during the course of a sentence.

In order to implement these principles, changes in practice will be needed. The following illustrates the possible character of some of these,

(1) At the time of sentencing, the community corrections agency provides the court with a pre-sentence investigation outlining the proposed risk control and treatment plans for the offender and recommends the punitive sanctions that would be most congruent with those plans. For example, would it be better for the treatment objectives in a given case if a convicted person was assigned to a day reporting center or to intensive supervision when each provides about the same degree of public protection and punitiveness?

(2) The sentencing judge, after receiving the recommendations of the community supervision agency, imposes a penalty profile that consists of those punitive sanctions appropriate to the case. The cumulative duration of those

sanctions would approximate the presumed amount of punishment indicated for a specific sentence.

(3) Should the court wish to impose a sanction greater than those specified for a presumed risk control level or extend the penalty profile beyond its presumed duration, the court must find either that: the allowable punitive sanctions would depreciate the seriousness of the offense or additional specific conditions that would have an immediate and important effect in promoting public safety are necessary. The grounds for these findings would be articulated by the court.

(4) Besides enforcing the explicit conditions imposed by the court, the community corrections agency when so directed by the court would also provide at all times the types and levels of programs that protect the public safety and provide for the agency's effective and efficient operation. This requires the capacity to respond to offenders' current behavior and the kind of dynamic, structured decision making systems described earlier. These types of systems are employed by many contemporary community corrections organizations through well developed classification procedures and programs that range from minimal to high degrees of restrictiveness. Labeled "classified supervision" here, these systems are designed for risk-management purposes and are supplementary to those already provided implicitly by the sanctions imposed in a penalty profile.

(5) The specific sanctions set by the court could not be altered except by the court and would be executed as promptly as possible consistent with their fair and reasonable enforcement. After sentencing, an offender's behavior may trigger a risk reclassification that calls for an increase in supervision. If the same class of sanction at a lower level of intensity (in this case close supervision) had been imposed by the court for punitive purposes, it may be subsumed under the more intense application, provided the court has agreed with this narrowly drawn form of substitution.

(6) For punitive purposes, certain sanctions can be administered simultaneously. A person in a residential center who is under supervision when periodically leaving the facility is not given credit for each; the supervision aspect is subsumed under the residential program.

However, paying a day fine while under close supervision would be credited independently from the close supervision.

With the foregoing in mind, let us examine alternative intermediate sentences that might emerge through the use of the type of equivalent punishment scale shown earlier. For this purpose, let us assume we are dealing with a person whose criminal history score and offense make him eligible for an intermediate sanction in the community, rather than a prison sentence of 18 months (72 weeks). Let us further assume that in the jurisdiction 25% is subtracted from the prison sentence for good behavior. This leaves 54 weeks as the net period to be served in prison, one half (or 27 weeks) of which is attributed to punitive purposes.

There are several ways of dealing with this case within the framework of our illustrative Intermediate Sanction Scale. These are shown in Figure 5.

**Figure 5: Options in Intermediate Sanction Scales**

ASSUMPTIONS

Presumed prison term	72 weeks (18 months)
Prison term minus good time	54 weeks
Penalty profile duration	22-32 weeks
Risk level	III

SANCTION IMPOSED	RATIO	PUNITIVE EQUIVALENT
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Alternative 1

16 weeks intensive supervision	.50	8 weeks
500 hours community service	1.00	10 weeks
40 weeks close supervision	.25	<u>10 weeks</u>
		28 weeks

Time remaining under classified supervision -- 16 weeks

Alternative 2

16 weeks residential center	1.00	16 weeks
8 weeks intensive supervision	.50	4 weeks
15 weeks drug prevention sessions	.20	3 weeks
16 weeks close supervision	.25	<u>4 weeks</u>
		27 weeks

Time remaining under classified supervision -- 32 weeks

As with sentencing systems of this type, the court would be allowed a 20% departure from the presumed profile duration (27 weeks in this case) without being required to articulate the reasons for the specific profile imposed. Under Alternative 1, the community service sanction would be served simultaneously with each of the two independent supervision sanctions. The offender could complete the punitive portion of the community sentence in 56

weeks, leaving 16 weeks of classified supervision remaining.

Under Alternative 2, the court imposed 16 weeks in a residential center (a Level I sanction) and would need to articulate the risk or punitive objectives served by this departure. In addition it imposed 8 weeks of intensive supervision, followed by 16 weeks of close supervision for a total of 40 weeks when combined with the first sanction. The

15 weeks of drug prevention sessions would be served concurrently. The time remaining under classified supervision would be 32 weeks (72-40).

The use of full-time incarceration as a punitive sanction deserves specific comment. Often, jail time ranging from weekend imprisonment to varying lengths of full-time incarceration has been used as a condition of community supervision. As a matter of punitive proportionality one can assert justifiably a one for one equivalence between time spent in a jail cell and a prison cell. One can also assert that both are too often destructive and typically expensive means of dealing with convicted offenders. As a risk control device absent an immediate and significant threat to public safety, use of imprisonment is unnecessary on grounds of principle or effectiveness. As a punitive symbol, the alternatives suggested above should be sufficient in all but egregious cases.

### **Enforcement of Sanctions**

We have focused thus far on the use of an Intermediate Sanction Scale in choosing the appropriate disposition at sentencing. There is, however, another and quite important use for this type of scale when a court or correctional agency confronts offenders who have failed to observe the conditions imposed at the time of a community sentence, such as willful failure to pay a fine or to comply with a community service order. For years correctional officials have been forced to make a costly and ineffective choice: ignore a violation or send an offender to prison, thus either contributing to a loss of credibility for community corrections or significantly adding to prison overcrowding by

committing offenders who could have been dealt with just as well, if not better, by other means. By employing the array of alternatives described in an Intermediate Sanction Scale, infractions can be dealt with in a much more measured way while at the same time taking into account the objectives of risk management. Evidence of some drug usage by a probationer, for example, can often be dealt with quite effectively with a short term in a community residential program with drug counseling, followed by intensive supervision and drug monitoring, rather than by a return to prison where few resources may be available to deal with substance abuse.<sup>15</sup> Many agencies have developed variations of intermediate sanctions for probation or parole violators; far too many have not.

The conditions of supervision rank among the most important elements shaping the character of community supervision. They not only represent legal requirements for the offender, but also are the official mandates governing the performance of the supervision worker. It is our contention that they should be restricted to those that are meant to be enforced and necessary to the maintenance of the supervision relationship. The decision to establish a formal condition, specific or general, is a grave one and should be rendered by a judge or parole board and not delegated to probation or parole officers.

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

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

Second, when an officer seeks to achieve goals for any offender not required by a condition imposed by a court or parole board, the goals should be mutually agreed upon by the officer and the offender. The coercive power of the state cannot be used in these instances. The mere fact that a person is under

supervision in the community does not constitute permission for community supervision workers to intervene willy-nilly in the life of that offender under the rubric of "help." Only when a goal has been demonstrated to have a crime reduction purpose and has been mutually agreed upon by the offender and officer is it appropriate to make it a subject of the correctional task.

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

## PART III: THE COMMUNITY CORRECTIONS AGENCY AND ITS FUNCTIONS

Contemporary community supervision agencies are molded by the forces in their social and political settings, and those that thrive have become a force in their jurisdictions. Indeed, a limited risk-management approach provides a set of guides to help community supervision systems become more effective and stable within their often turbulent environments. We see it as a kind of beacon that can serve as a steady guide: informing decisions, helping when weighing alternative courses of action, and integrating diverse demands into a coherent correctional plan.

The general principles outlined here could be given shape and meaning in various jurisdictions, as long as three capacities are maintained:

- First, a risk-oriented system of classification embodying several levels of categories has been established. We believe such a classification system is most comprehensive when it reflects the elements of the Intermediate Sanction Scale described earlier.
- Second, rules have been articulated under which offenders are assigned to one of the categories described. In addition, criteria for departing from those presumptions have been set forth as have procedures for moving from one classification to another.
- Third, an information and assessment system has been put in place that permits correctional authorities to continuously

determine that offenders are assigned to those control, treatment, and sanction modalities appropriate to each of them and that the quality of services assumed is actually delivered.

What steps, then can an organization interested in the principles we have enunciated follow to implement a risk-management philosophy? What specific form ought the organization's practices take?

When we wrote on this topic 10 years ago we included a schematic drawing of a functioning field supervision office (O'Leary and Clear, 1984). In contrast to the relatively undifferentiated organizations prevalent at that time, the schematic emphasized assessment and classification as an organizational as well as a community worker function. It also stressed a more diverse organizational response to those under supervision and a greatly enlarged use of community resources. If we were to redraw that schematic today, it would emphasize even greater internal differentiation and a significant increase in the number and importance of outside agencies in providing services to correctional clients.

Neither then nor now have we attempted to describe a precise administrative form through which these services should be delivered. There are such wide differences - - the allocation of functions among agencies, in the larger organizational and legal contexts in which agencies operate, and in the amount and character of resources available to them

-- that it is exceedingly difficult to describe a preferred structure. Moreover, it is probably unwise. This is a time for experimentation, not premature homogeneity.

Those with experience in organizations also will confirm a truism about them: it is one thing to openly ascribe to a philosophy, but quite another to implement the day-to-day practices and procedures needed to bring that philosophy alive. Instead of taking a goal-oriented view, there is a tendency among correctional workers to think in terms of "programs" that has a certain faddish quality to it. The popularity of workload-classification systems in the 1970s was replaced by an interest in intensive supervision programs in the 1980s and has now shifted toward boot camps and relapse prevention. This continuing search for the right program and congruent administrative structure reveals two long-standing problems in corrections. First, agencies seem to scramble from one idea to the next, often without evaluating the usefulness of the old idea or the need for the new one. Second, when poorly planned new programs are designed and implemented, they frequently end up competing with existing ones, both for funding support and for specific clients.

There is nothing inherently wrong with new programs; neither are they inherently "right." The task of the correctional agency is not to implement the newest (or the greatest number of) programs, rather it is to establish a coherence in its program mix. The question is not, "Which programs should we have?". Rather it is, "Given our clients and our resources, what types of programs do we need, how should they relate to each other, and who should

deliver them -- the agency or an extramural source?" Effective correctional agencies engage in self and environmental assessment to help design and create programs that meet their specific needs and reinforce one another.

In performing these assessments, correctional organizations will find they have varying program and structural needs. A well-funded, integrated statewide correctional system will include services from probation diversion to release planning and intensive parole supervision. By contrast, financially strapped county probation agencies may find they are unable to support more than a couple of levels of street supervision combined with specialized programs for offenders who represent a particular risk to the community. The worth of programs in place to serve the community and offenders will depend on the circumstances of the agency and clarity about its purposes. To illustrate, we can look at three risk-management strategies developed in response to different circumstances, each of which could require different types of administrative arrangements.

The New York City illustration represents what might be done under severe resource limitations. Caseloads in New York City already exceed 200 per officer, and revenue projections indicate that additional budget cuts of up to 40% may have to be absorbed by the agency. Faced with this challenge, the New York City leadership decided it needed to concentrate its resources on the most serious offenders in its caseload: violent offenders. They also felt that violent offenders need to be managed more effectively.



Drawing upon research that finds promise in certain types of group-based supervision methods for particular types of offenders, New York City has defined a classification continuum based on two dimensions: risk of violence and suitability for group intervention. High-violence-risk offenders who are suitable for that group intervention go into a “Blue” track, where they participate in a series of group experiences designed to help them learn self-control. The high-risk offender who is not suitable for that program goes into a “Amber” track, where problems are addressed through case management augmented by referral. All others go to a supervision program that provides minimal attention; they are required simply to report periodically at locations around the city. Violators from any supervision stream go to the “red” track, which involves a series of enforcement strategies the last step of which could culminate in return to court.

Arizona’s Maricopa County “continuum of sanctions” model is an example of a more diverse risk-management strategy. Its programs range from paper-supervision to case management based on classification, intensive supervision, residential placements, and special treatment programs. The offender’s initial placement is determined by risk, with movement across the programs determined by the offender’s behavior. A wide range of strategies is provided within the continuum; incarceration is kept as the last resort, the extreme end of the continuum.

The Vermont system reflects the opportunity that exists in a corrections system that can integrate its activities from institutions to the community with

an overarching correctional policy. It rests on three principles:

- Risk reduction. Every offender who represents a significant risk to the community should be assigned to intermural or extramural programs designed to reduce his or her risk in the long run, not simply control risk in the short run.
- Value added. Every offender will recompense the community for the damage inherent in the crime through labor, fines, or restitution.
- Cost containment. Whenever possible, the least costly correctional method will be employed.

These three illustrations show the range of strategies that can be employed. The differences among the three systems reflect the constraints within which each operates, not the main foundations of their philosophy. Each system is oriented toward risk management, and each of the strategies attends to many of the concerns we described earlier. We note that the “equivalences” defined in the second part of this document are not fully reflected in these illustrations. However, each of the three sites could house a system of equivalences, and Vermont in particular is a comprehensive system that has moved toward developing them through its system of recompensation.

It is our belief that a risk-management philosophy is best implemented by adopting a dynamic outlook regarding how organizations develop and manifest their functions and values. In describing that outlook, we will examine the various crucial roles of the community and its officials and of community correctional personnel: the administrator, the line worker, and the first-line supervisor. We

will then describe a series of organizational practices that will facilitate an optimal level of functioning within the ideas espoused.

### **Community Involvement**

We emphasize again that our purpose is to outline some of the dimensions involved in a limited system of risk management not a specific model to be cloned in all regions and jurisdictions. However, there is a good deal of evidence that the community corrections measures described here can be applied widely and, in fact, have already been applied in many forms. The task is to build on existing programs, support their expansion through increased resources and community awareness, and prudently modify the larger criminal systems -- in particular the correctional components -- in which they function to make them more congruent with these programs.

But all of this is not enough. The type of system contemplated can only work if there is a substantial degree of community and official support locally. That requires, among other things, participation of key representatives in contemplating the creation or expansion of the kinds of programs we envision. A framework needs to be developed at the state level in which local groups have an opportunity to participate in the development of statewide policies,<sup>16</sup> and which can also guide implementation of those policies at the local level. For example what local facility should be properly identified as a community correction facility? Are there equivalent programs and facilities that can be used? What forms of community service are suitable in a **particular** locality? To what degree are the sanctions employed

effectively managed and meet the standards of quality established? What programs need to be developed in the local community to respond to characteristics and needs of offenders? Ongoing advisory bodies made up of officials and key community representatives would be crucial in gaining and maintaining local support for the types of programs we have been discussing.

### **The Administrator Role: Establishing the Mission**

The logic of risk management begins at the top of the organization, with a commitment to a fundamental mission and its associated values. Many chief executives approach this problem authoritatively, as though it is their job to declare a mission and everyone else's job to follow it. Experience shows that at best this kind of approach leads to a sort of benign confusion among staff about the real significance of the mission; at worst, it can produce open hostility by staff who misunderstand or disagree with the mission as stated. In either case, the top-down strategy is unlikely to lead to a staff enthusiastic about and committed to a risk-management approach.

Staff find it difficult to focus on the quality of their work when it is unclear what the work is intended to be. This can be especially problematic in corrections, where they work under a number of complex and often competing goals. Long-term priorities tend to dissipate into a desire to deal with immediate demands and pressures.

To overcome these problems, many leaders have adopted a mission-clarification process in which all members of the organization are

involved.” A typical process will include several steps:<sup>18</sup>

- The leadership provides a basic statement of the mission and its affiliated values,
- A task force of staff representing various levels and divisions of the organization works to clarify that statement and assess how well current policies and practices fit it,
- In carrying out its assignment, the task force holds a series of meetings with staff to obtain bottom-up feedback on the proposed mission, and how it might be improved,
- The final report of the task force is fed back to the leadership, who revise and clarify the mission statement,
- An organization-wide training program about the mission is provided, with participation and interchange expected by all staff,
- Each function of the organization develops a team that includes line workers to describe how the activities in its function can be better related to the mission, including new procedures needed and old ones to be eliminated,
- The functional teams describe the practices and procedures--and the criteria for “acceptable quality”--that fit the mission.
- The report of the teams is fed back to the leadership, and its recommendations are incorporated into practices and procedures, training programs, and quality assurance systems.

Obviously, such a process requires a major commitment of resources and cannot be completed quickly. Experts in organizations tell us that without such a process, sustained extensive and significant

staff commitment to the mission is not likely to be obtained. Thus the belief that an organization needs a mission translates into a leadership committed to a reciprocal goal-development process.

The mere articulation of a mission does not end the work of the administrator. Organizations that are mission-focused find ways to highlight and emphasize it in day-to-day activities. One probation agency has placed next to an elevator a three-foot-high poster containing its mission in bold letters. Another produced shirt-pocket-size laminated cards containing the mission statement, for easy reference. Still another devotes half a day in the annual training to its mission. These organizations recognize a fundamental truth about what it takes to be mission-focused: the centrality of the mission must be continually emphasized by all levels of management.

### **The Line Worker Role: Managing Offenders**

The actions and decisions of line workers in human service organizations are so central to the organization’s functioning that it has been said that the policies of the individual line worker are for all purposes the agency’s policies--at least as far as the offender is concerned.<sup>19</sup> An inherent problem is that line workers typically have extraordinary discretion in choosing their supervision strategies -- from specific treatment approaches and enforcement methods, to which outside resources should be tapped. As a result, in most community supervision agencies, offender management methods are highly idiosyncratic, reflecting more the disposition of an officer than the mission of the agency. As long as line discretion remains unaddressed by agency

policy, the agency will struggle to make its principles operational.

Case management systems have been devised to structure this discretion (National Institute of Corrections, 1982), for example through standardized classification devices to determine the amount of contact the offender will receive from an officer. But they do little to channel the most important aspect of the discretionary role of the officer--how to relate to an individual client, significant persons, or external agencies. This relational aspect is permeated with discretion, the exercise of which is essentially invisible and therefore largely inaccessible to necessary feedback.

Objectives-based case management systems, among other uses can, help overcome this problem. They require the officer to indicate at the outset of supervision the specific objectives to be achieved and the strategies to be employed. In addition, they lead the line worker to justify the supervision strategy in terms of how the objectives are linked to risk management. We introduced the notion of objectives-based case management in our earlier monograph (O'Leary and Clear, 1984). In the ensuing 10-year period, a number of agencies adopted this approach and confirm for us the wisdom of its further use and elaboration.

An objectives-based case management approach is, in practice, a philosophy of case planning for supervision. Its central purpose is twofold. First, it provides a risk-based structure for the supervision worker to think through the strategies to be used with an offender. When risk-management principles are incorporated into the supervision planning process, it is more likely that

the abstractions of the mission will become translated into real actions at the line level. Second, the plan makes visible not only the actions the line officer is prepared to take in the case, but also the aims to which those actions are dedicated and the assumptions underlying those aims. Discretion is made more visible and accessible to feedback in a simple and efficient manner.

### **Objectives-Based Case Management**

This system begins with the assumption that the assessment of risk is best seen as an organizational as well as a casework task. It is an organizational task in that it yields a ranking of the priority the organization attaches to various aspects of the offender's supervision. For example, the greater the risk the more intensive the program of supervision. Risk assessment is also a casework task in which the front line worker plays an important role in shaping that assessment, becomes familiar with the character of risk in a given case, and begins the planning process accordingly.

In agencies with extremely limited resources, the case planning process for low-risk clients may end with the initial assessment because these offenders will receive little active supervision. For those offenders who will receive direct supervision, however, there is a need to structure the aims of supervision. This begins with the identification of factors in the case that tend to increase risk. Again, a systematic, objective, and structured assessment of risk factors is needed.

There are numerous ways to assess need factors, as we indicated earlier. The most common approach is to use a generalized "needs assessment"

instrument to identify the problems in a case. For offenders with special problems--sex offenders, mentally ill, or drug dependent -- more specialized and detailed assessments may be necessary.<sup>20</sup> The value of any of these needs assessments is that they cause the caseworker to systematically consider significant factors in a case that have been shown to be related to risk in similar cases (and likewise avoid consideration of factors known to be generally unrelated to risk). They also assist in the identification of change-relevant problems, which if alleviated or controlled tend to reduce risk.

The ultimate result of an assessment of risk factors is a list of potential intervention targets upon which the supervision process can be built. These targets are risk-related factors that are subject to change or control through supervision; for example, education levels can be increased, family functioning can be improved, employment skills can be enhanced. In a given case, the identification of such specific risk-related factors forms the core of the supervision process.

Without a structured approach to identifying risk factors, staff have a tendency to overlook some problems (with which they may be uncomfortable or unfamiliar) and develop idiosyncratic approaches to the supervision of all offenders, regardless of the risk factors relevant to an individual offender. For instance, one staff member might focus on employment referrals, while another prefers direct counseling. Defining intervention targets helps to redirect the supervision strategy away from the personal preferences of the caseworker and more toward the specific problems in the offender's life.

Properly identified risk factors are crucial to the accurate explication of the goals in a specific case. In an objectives-based system, goals take the form of written statements of the expected changes in offender behavior that will result from actions taken to reduce or control the risk he or she poses. A focus on activity without a clearly stated goal is wasteful of time and potentially leads to ineffective or poorly chosen actions. Moreover, by stating first the goals of the supervision process, it is possible to have a more reliable assessment of which supervision strategies are effective in achieving their goals.

The literature on how to write objectives is voluminous and derives from fields as diverse as psychology, social work, public administration, and education. However, certain common themes in the literature are relevant to the field of case management. Four of the most important are:

- Objectives should be as specific as possible, indicating the intended results of the process, not the process itself
- Whenever possible, time frames should be established against which the objective will be measured.
- A case should not be overloaded with supervision objectives.
- Objectives should describe changes in client behavior, as distinct from the actions the corrections worker will take to secure their achievement.

The next step in an objectives-based case management system is to state the tasks to be performed by clients, staff, and outside resources. The tasks are separated from the objectives because

of the “technical uncertainty” (Thompson, 1967) that permeates supervision; the ability to achieve important objectives with clients through particular tasks is at best conditional. To hold staff or a referral agency accountable for achieving client-controlled objectives places them hostage to client choices, not their own. Even a well-designed and well-implemented supervision plan can fail in the face of an uncooperative client. It is unrealistic to expect staff to be accountable for offender behavior. However, it is not unrealistic to hold them responsible for the choices they make in planning and carrying out supervision.

An objectives-based approach has several advantages for the corrections organization. First and foremost, it channels discretion in the direction of the mission. Offenders who represent the greatest risk to the community are not only targeted for the greatest amount of supervision, but the nature of the supervision is itself channeled to deal with problems believed to be associated with recidivism. Second, as we demonstrate below, a key feature of an objectives-based case management system -- reporting on results -- is an essential building block for other crucial functions in the organization. It provides the information on which the supervisor’s role in quality assurance is based, and it forms the database on which an administrator can create the “learning organization” environment.

### **The Supervisor Role: Quality Performance.**

In a mission-driven organization, the supervisor’s function can best be thought of as the systematic management of line-level functioning to ensure that the quality of work is consistent with the

philosophy of the organization? Often, quality assurance is misconstrued as quality control. In **correctional agencies, the latter refers to a supervisor's review of case decisions to be certain** that “standards” have been met: documents have been correctly filled out, the prescribed number and type of client contacts have been made, and notifications to victims and the court have been filed. The quality control function is designed to ensure that certain organizational policies and procedures are carried out; its main benefits are the avoidance of liability for failure to supervise properly and the maintenance of a certain degree of regularity in activity with offenders.

When we use the term quality assurance, we have in mind a much more goal-directed form of line supervision. Overemphasis on necessary “quality control” functions can easily lead to a form of minimalist case management, supervision by-the-book. It can also promote a stultified version of the mission; not the vibrant and creative interpretation intended. The quality function of the line supervisor is not merely to be certain that policies are followed, but to ask what value the supervision is likely to provide. This type of proactive focus on quality helps overcome the inertia that so easily afflicts the day-to-day activities of line caseworkers who **are** faced with high volumes of work and little time to get it done., Three examples of some tested ways through which quality assurance can be pursued by community corrections agencies and case preview, case review, and unit feedback.

Case preview allows supervisors to exercise proactive quality assurance by examining the anticipated actions of staff before clients are placed

under the agency's purview. The objectives-based case plan permits the supervisor to assess expeditiously a staff member's thinking about a case: Is the risk assessment correct? Is the identification of risk factors reliable? Are the objectives appropriate and likely to work? Is the overall plan consistent with the mission? Are appropriate resources being used? The supervisor will choose to discuss some plans directly with staff who have written them. Questions will be explored regarding the rationale for strategies, the choice of intervention targets, and the particular tasks to be undertaken. Through such discussion, quality in casework is reinforced by supervisory oversight. It may be that nothing changes in the plan, but the mere fact that choices are discussed and alternatives reconsidered tends to reinforce the importance of carefully considered supervision methods. The supervisor enters into a partnership with the staff member and confirms the plan's consistency with the larger mission of the organization.

Case review is a more detailed evaluation of a case after a period of time under supervision. Staff are typically expected to "present" a case to a supervisor or to a group of peers and discuss its dynamics and how those dynamics are being managed. It provides an opportunity to clarify the approaches the caseworker has taken with cases and to test alternative approaches. There is merit in this type of case review, but larger samples and more structure are needed to make them fully effective. Larger samples mean that a representative number of

the line worker's cases be reviewed, not just one. Successful case review systems typically provide for 10 to 15 cases to be considered, and allow some to be selected at random, some by the supervisor, and some by the line worker. It is unwieldy to have such a large number of cases presented orally, therefore a structured format for evaluating the cases that focuses on needs, objectives, and tasks is helpful. Such formats for case review have the same benefits as structure in case planning -- consistency in evaluation and comprehensiveness in coverage.

Unit feedback can be thought of as the aggregate version of case review. It is also an important stage in the development of the "learning organization." Its main ingredient is the comparative review of strategies for managing cases and their outcomes. It is well known that individual caseworkers are idiosyncratic in their case management approaches, but it is not easy to confront the problem without tending to suppress individual creativity and talent for the job. Ways to consider the effect of differences in supervision style without imposing a singular styles on everyone are needed. A useful means of accomplishing this is for staff members to review in a problem-solving mode differences in operations among themselves as reflected in the cases they supervise.

Table 8 shows a hypothetical example of this type of unit feedback. It is based on cases in which employment is thought to be importantly related to the risk posed by an offender.

**Table 8: Unit Level Feedback - Cases with Employment as an Objective**

Officers in Unit	% Cases with Employment Objective	Status of Cases		
		% Employed	% Under-Employed	% Unemployed
Smith	56	54	26	20
Jones	42	36	35	29
Baker	36	29	37	34
Thomas	51	44	28	22
Watson	40	33	36	31
Lawrence	32	27	37	36
M	43	37	33	27

The example shows differences in the percentage of cases in which officers choose employment as an objective for intervention. Those officers selecting that objective at a greater rate than others also show lower unemployment among these offenders. Some questions, that can be raised could focus on the characteristics of cases for whom employment objectives are chosen, steps that can be taken by the unit to address the under-employed category, and the use of external resources in coming to grips with the unemployment among offenders for whom this area is an important focus of supervision.

Another important form of unit feedback is a periodic review of data on a sample of cases, both “failures” and “successes,” as they exit the system. The question here is if the actions taken in the cases represent quality and in what ways it can be improved upon.

### **Performance Measures**

Effective community corrections organizations are also attentive to various objectives that are aggregated at a level higher than the individual-focused performance data we have discussed above. These intermediate targets serve to indicate progress on a broader risk-management agenda and can be constructed on a variety of supervision outcomes, for example, the percentage of “dirty” urine tests or the proportion of restitution paid by offenders.

Many of the lessons learned in other settings about performance measures apply to corrections. Three of the most important are discussed below.

(1) “What gets measured, gets done.”

Selection of the performance measures to use is crucial, for if managers take the measures seriously, staff will inevitably orient themselves toward them. If the performance indicators are not closely linked to the organizational mission, they will tend to deflect effort toward these aims reflected by the



indicators. For example, some human service managers tend to show excessive concerns for “process” measures, such as the number of client contacts or number of programs completed. While contacts and program completion rates are important considerations, they provide more of an indicator of agency “activity” levels than they do of productivity. If managers tend to focus exclusively on these activities, staff will begin to “produce” contacts and program completions, even when they are not directly related to improvements in risk management.

(2) “Use performance indicators for process improvement, not process control.”

Performance indicators are often greeted with resistance by staff. They may believe, rightly or wrongly, that the adoption of these indicators will lead to unequal distribution of rewards or will otherwise make their work more difficult. Such resistance may also be a symptom of the belief that holding @accountable will inevitably result in the use of such indicators for punitive ends. A performance focus is much more effective when it is seen as a part of organizational development. The popularity of the Total Quality Management movement has partly to do with the way it uses measures of products to focus on process improvement. Staff are not punished for problems or rewarded for successes. Instead, performance indicators are used as “benchmarks” so that an organization can find ways to improve performance by studying its successes as well as its failures.

(3) “Gather and use performance indicators as a part of organizational routines. ”

Outcome data need to become a part of the organization’s routine information processing system. This means not only should the indicators be collected regularly in the agency’s information system, but also that the reports reviewed by managers and workers should contain performance information. Recording such data in an information system and reporting it back in various summarized reports will tend to improve the reliability of the information as well. A number of agencies, such as the Community Corrections Unit in the State of Washington, are experimenting with or have provided laptop computers to field staff to more efficiently record these kinds of data. Managers, and staff under the proper conditions, will want to use the information as an indicator of progress over time, as well as evidence of the effectiveness of new procedures. This will create an incentive for consistency in the agency’s overall information system.

. We can provide a simple illustration of what we mean by this performance orientation. Agency members should be able to understand the organization’s performance over time, whether at the unit or total agency level. Table 9 illustrates the kind of feedback that might be produced on a monthly basis. This kind of table allows the agency head, the unit supervisor, and staff to scan the unit’s productivity, to see if there are notable swings in its levels. For instance, in the illustration provided, one might be concerned about the slight upward trend in positive urines tests and the large increase in cases added as opposed to cases closed in this unit. Similar data can be presented at the total organizational level as well.

**Table 9: Monthly Unit Performance**

Performance Category	This Month	Last Month	Average Last Year
Percentage of clients with an arrest	3%	7%	5%
Percentage of high risk with an arrest	14%	12%	11%
Percentage of urines testing positive	21%	16%	9%
Percentage of cases with active warrants	15%	14%	17%
Percentage of cases closed with improvement	54%	52%	50%
Cases added	64	44	31
Cases closed	35	33	30

**Learning Organization**

Inherent in the idea of performance measures at whatever level is the “learning organization” philosophy under which staff are continually encouraged to ask questions about the agency’s effectiveness, to create new approaches, and to collect feedback on their results<sup>22</sup>. The willingness to determine performance levels in a systematic way goes hand-in-hand with a desire to create a learning environment provided performance measures are used primarily for problem-solving, not the apportionment of rewards or blame.

We have already illustrated how the supervisor’s role includes the idea of promoting continual self-improvement through feedback, but it is not only the line manager’s role; it is also a main task of the agency’s top leadership. The “self-improvement” idea is essential

partly because so little is known about which techniques are consistently effective in controlling risk.

The fundamental building blocks for the learning organization are to be found at the line level when staff articulate their supervision objectives. Success in achieving these objectives is the most direct measure of the organization’s effectiveness, and the key to that goal is to create an organizational climate in which staff will want to continually assess how well they are achieving their objectives and which types of interventions are most likely to achieve them.

Table 10 illustrates the kind of feedback correctional organizations need in addition to that already suggested. It shows, for example, when certain objectives are achieved, arrest rates of clients are lower, particularly in the areas of cognitive self-regulation, employment maintenance, and substance abuse. Staff would want to

identify the kinds of strategies that produce successful objective achievement, since success in these areas “pays off.” In others such as anti-social associates, success in achieving objectives seems unrelated to probabilities of arrest. Staff would want to examine the strategies that are

being used in these areas to see if they could strengthen their risk-management capabilities. Finally, a manager would want to return to this type of information over time, looking for changes in problem-specific arrest rates as evidence of organizational development.

**Table 10: Feedback Using Objectives**

Area of Supervision Objective	Arrest Rate when Objective Not Achieved	Arrest Rate when Objective Achieved
Mental Health	25%	22%
Anti-Social Attitudes	36%	31%
Anti-Social Associates	38%	28%
Cognitive Self-Regulation	34%	24%
Family Relations	31%	26%
Maintaining Employment	25%	15%
Leisure/Recreation	27%	28%
Substance Abuse	38%	25%

The learning organization in the end is a management philosophy, a day-by-day strategy, and a systematic practice. As a philosophy, the agency’s staff -- from the administrator to line worker -- takes an “action research” stance toward the job: learning which practices seem to work and which seem not to be helpful, and taking action based on what is learned. As a day-to-day strategy, the manager works to infuse the organization with information at each level of performance and to empower staff to act on the information. As a practice, quality improvement teams are built into organizational priorities.

Inherent to this approach is the value placed on good stewardship of public resources. Every dollar spent on corrections is a dollar not available for schools, roads, or public health. Corrections leaders know that the fiscal resources available for corrections, while growing, will always be limited and will never be enough to do whatever a they would ideally want to do. In response, they must preserve resources in whatever ways they can. This is not easy. In most states, the incentives all operate in the wrong direction. Locally generated revenues do not have to pay the costs of offenders sent to state prison.

State officials see little benefit in supporting local corrections systems.

However, the fiscal pot is finite. If more money is spent on state prisons, less will go to local corrections; if local corrections systems are to become more relevant to the problem, they will need resources diverted from the prison system. Any long term solution has to rest on the principle of funding the “least expensive alternative that

works.” The cost management perspective means that correctional managers know the per-program costs of various options and choose the least costly available option that might satisfy the need, a formidable argument against net-widening.

## SUMMARY

We recognize that the specific form taken by risk-management organizations will vary, depending upon resources and environmental conditions. Therefore, we cannot define an optimal structure for the corrections agency. Instead, we can describe certain practices that will help organizations more effectively implement the values we have advocated here. These practices are:

- An emphasis on mission instead of programs, supported by administrative commitment to the mission;
- Objectives-based case management at the line level;
- The use of objectives by supervisors as a feedback tool;
- An attitude of continuous improvement that is augmented by practices of quality assurance, case review, and quality improvement teams;
- An attitude of cost containment;
- The use of performance indicators at multiple levels of the organization;
- The development of a learning organization internal environment.

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1. Norval Morris and Michael Tonry, (1990) Between Prison and Probation, Intermediate Punishments in a Rational Society. NY: Oxford University Press, provides arguments for many of the key premises undergirding intermediate sanctions.
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5. Truax v. Corrigan 257 US. 312, 243 (1921) (Holmes, J. dissenting). Quoted by Federal Judge Vincent L. Broderick, in Intergovernmental Perspective, page 14 (Washington, DC: U.S. Advisory Commission on Intergovernmental Relations, Vol 19, No.1, Spring 1993).
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8. See Don Andrews and James Bonta (1993) The Psychology of Criminal Conduct. (Cincinnati: Anderson.
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10. For a fuller discussion of this type of feedback system, see Todd Clear and Vincent O'Leary (1983) Controlling the Offender in the Community, Chap. 5



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11. For example see Belinda McCarthy, Ed. (1987) Intermediate Punishments: Intensive Supervision, Home Confinement and Electronic Surveillance, Newbury Park, CA: Sage; and Dale Parent (1990) Day Reporting Centers for Criminal Offenders: A Descriptive Analysis of Existing Programs. Washington, DC: National Institute of Justice.

12. We use the term "sanction" to make clear we are addressing both the punitive and risk management elements of a sentence. From time to time we may use the terms punitive sanctions or risk sanctions in referring to these elements.

13. Other examples of this type of scaling include Joan Petersilia and Elizabeth P. Deschenes (1993) What Punishes? Inmates and Staff Rank the Severity of Prison vs Intermediate Sanctions. Santa Monica, CA: Rand Corp.

14. See, for example, Faye Taxman (1994) "Correctional Options and Implementation Issues: Results of a Survey of Correctional Professionals," Perspectives, Winter. Also see Andrew Von Hirsch (1992) "Scaling Intermediate Punishments: A Comparison of Two Models," in James Byrne, Arthur Lurigio and Joan Petersilia Eds., Smart Sentencing: The Emergence of Intermediate Sanctions Newbury Park, CA: Sage.

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16. For example, see Edna McConnell Clark Foundation (1989) Punishing Criminals: The Public's View. New York: The Edna McConnell Clark Foundation; or Malcolm Davies (1993) Punishing Criminals: Developing Community-Based Intermediate Sanctions Westport, CT: Greenwood Press, 1993.

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21. Many of the concepts in this section have been stimulated by the work of W.E. Demming.

22. The idea is developed in detail by Paul M. Senge (1990) The Fifth Discipline: The Art and Practice of the Learning Organization. New York: Doubleday.