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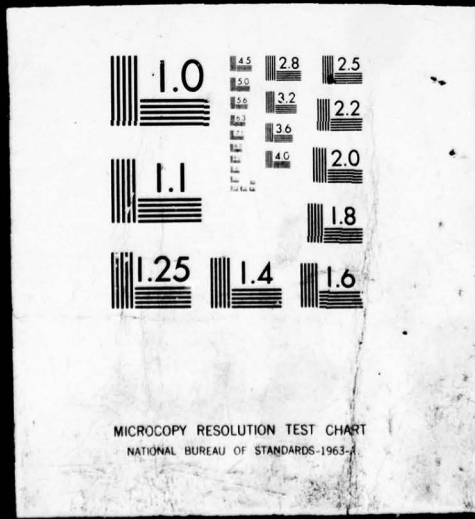


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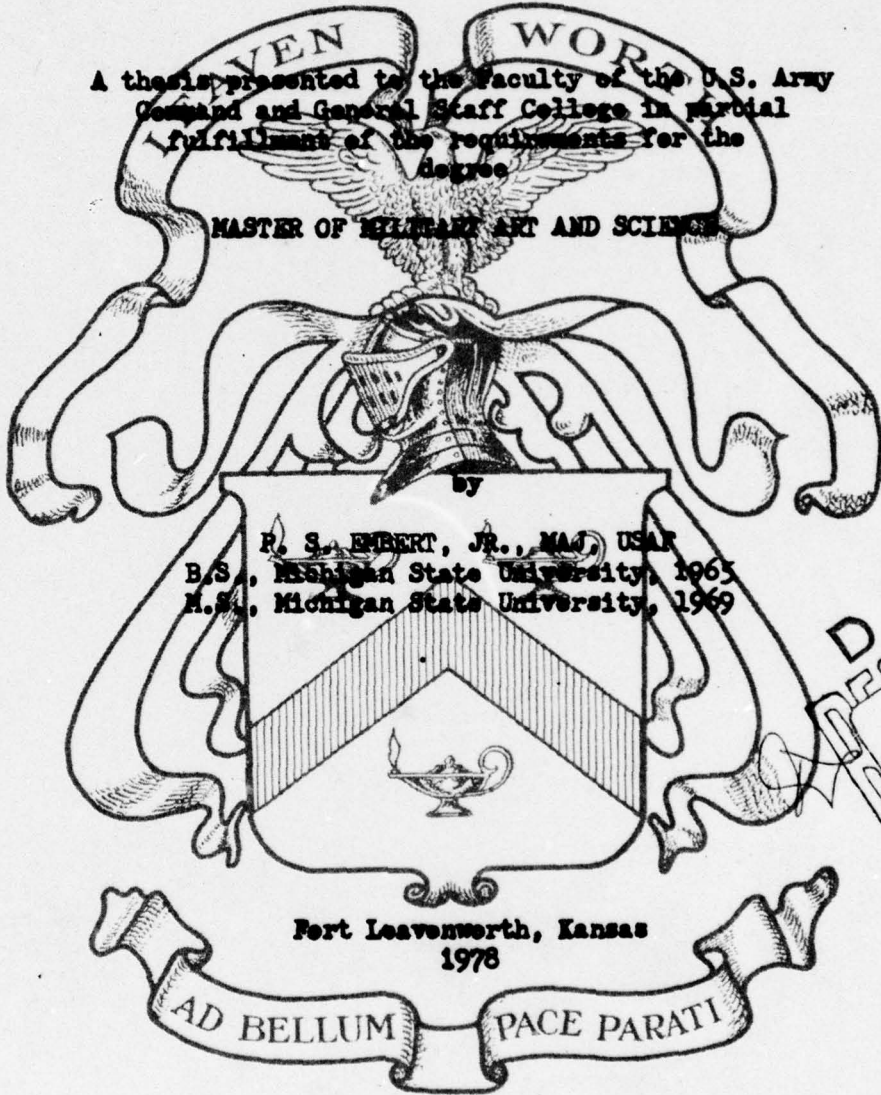
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**OPTIMIZING THE COST EFFECTIVENESS OF MILITARY CORRECTIONS;
AN ASSESSMENT OF PROGRAM EVALUATIONS
AND RELATED DATA**

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A thesis presented to the Faculty of the U.S. Army
Command and General Staff College in partial
fulfillment of the requirements for the
degree

MASTER OF MILITARY ART AND SCIENCE



by

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**Fort Leavenworth, Kansas
1978**

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This study attempted to identify possible changes to the overall military corrections system and determine which are cost effective and feasible. Methodologically, the research entailed ex post fact research, coupled with unstructured observations. Program evaluations and observations provided original data; assessments of evaluations allowed consideration of more material than was directly possible during the time allotted for the effort. Adoption of a crime prevention model and development of a correctional decision model provided structure to the research.

Investigation revealed that there are a variety of means whereby correctional expenditures can be decreased, without significant adverse consequences to society, military discipline, or criminal recidivism. These include adaptation of new correctional approaches and modifications within the existing system. Several other general and specific conclusions resulted in the formulation of a decisional matrix, which can be used as an aid in evaluating various correctional alternatives.

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ABSTRACT

OPTIMIZING THE COST EFFECTIVENESS OF MILITARY CORRECTIONS; AN ASSESSMENT OF PROGRAM EVALUATIONS AND RELATED DATA, by Major Paul S. Embert, Jr., USAF, 132 pages.

Military corrections, spawned as the result of problems in penology, is currently affected more by its place in the military than by its niche in corrections. Auster resources and the transition to an all-volunteer constabulary force have focused attention on correctional expenditures. However, prior inquiries have focused on the costs of confinement, while ignoring alternative means of handling offenders and often conflicting correctional goals.

This study attempted to identify possible changes to the overall military corrections system and determine which are cost effective and feasible. Methodologically, the research entailed ex post facto research, coupled with unstructured observations. Program evaluations and observations provided original data; assessments of evaluations allowed consideration of more material than was directly possible during the time allotted for the effort. Adoption of a crime prevention model and development of a correctional decision model provided structure to the research.

Investigation revealed that there are a variety of means whereby correctional expenditures can be decreased, without significant adverse consequences to society, military discipline, or criminal recidivism. These include adaptation of new correctional approaches and modifications within the existing system. Several other general and specific conclusions resulted in the formulation of a decisional matrix, which can be used as an aid in evaluating various correctional alternatives.

The inquiry also revealed a lack of a clearly defined correctional objective, which detracts from cost effective or cost benefit analyses of the options available to the military, as well as other issues warranting further exploration.

ACKNOWLEDGEMENTS

This thesis reflects the efforts and support of numerous persons. Appreciation must be extended to Darrell K. Kasson, Colonel, MPC, former Commandant, USDB, and to John J. Sheridan, Lieutenant Colonel (USMC, retired). As former commander and supervisor respectively, these gentlemen were responsible for many experiences leading to this study -- as well as furthering the professional development of the author. In deference to these leaders, this acknowledgement does not infer their concurrence or philosophical agreement with the final product. The efforts of Kenneth L. Brady, Captain, USAF, who enabled the writer to "brainstorm" various concepts and ideas are also thankworthy.

Gratitude must also be expressed to numerous students at a local college, where the author has been employed in an adjunct capacity for several years. Many, employees of the USDB, Bureau of Prisons, or the Missouri probation and parole system, contributed perspectives leading to the study and insight enhancing the effort.

Last, but not least, special recognition must be extended to the writer's beloved wife, Leandra. Once again her critical and careful editing should not go unheeded.

As in all manuscripts, the errors and deficiencies are the sole responsibility of the writer.

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LIST OF ABBREVIATIONS

AND NOMENCLATURE

I. ABBREVIATIONS

- ACA -- American Correctional Association; a foremost professional correctional association focusing on prisons, but concerned with other aspects of corrections.
- AWOL -- Absent without leave; equates to the Naval term UA (unauthorized absence).
- BOP -- Bureau of Prisons, U.S. Department of Justice.
- CMR -- Court of Military Review; concerned with military appeals.
- COMA -- Court of Military Appeals; the highest military court of appeals.
- CONTACT -- CONTACT, Incorporated, a not-for-profit organization in Lincoln, Nebraska; concerned with ex-offenders.
- CGSC -- (Army) Command and General Staff College, Fort Leavenworth, Kansas.
- DOD -- Department of Defense.
- FBI -- Federal Bureau of Investigation.
- FY -- Fiscal Year.
- GAO -- General Accounting Office.
- GED -- General Educational Development; a term commonly used in reference to both a test and attainment of a high school equivalency as a result of passing the test.
- IACP -- International Association of Chiefs of Police; a foremost senior police professional organization.

LEAA -- Law Enforcement Assistance Administration, U.S. Department of Justice.

NCCD -- National Council on Crime and Delinquency; a national service agency, comprised of concerned citizens and professionals in criminal justice.

NCJRS -- National Criminal Justice Reference Service; a function of the LEAA, which published many of the sources used in this study.

SJA -- Staff Judge Advocate; the senior military lawyer on an installation.

TJAG -- The Judge Advocate General; the senior military lawyer in a respective service, more commonly used to refer to the Army.

UCMJ -- Uniform Code of Military Justice; Appendix 2 to the Manual for Courts-Martial United States 1969 (revised Edition). The code is part of title 10, United States Code, the basis for the military justice system.

USAF -- U.S. Air Force.

USARB -- U.S. Army Retraining Brigade; a specialized organization in the Army corrections system, which conducts a special program aimed at preparing offenders for return to duty status.

USDB -- U.S. Disciplinary Barracks, the principle military confinement facility, housing offenders from the Army, Air Force, Navy, and Marine Corps.

USGPO -- U.S. Government Printing Office.

USC -- United States Code.

The above abbreviations were used in the interest of brevity or because the abbreviation is more commonly used than proper terminology.

II. NOMENCLATURE

ACA Directory -- refers to an annual directory published by the American Correctional Association.

Carter Study -- refers to a 1977 study of the USDB by Carter and his associates.

Crime Commission -- refers to the President's Commission on Law Enforcement and Administration of Justice, which published its reports in 1967.

Lowrey Study -- refers to a research paper prepared at the Army War College in 1974, which addressed the costs of military corrections.

MacCormick Committee -- refers to an ad hoc committee which studied the Army confinement system in 1969.

UCR -- refers to annual reports published by the Federal Bureau of Investigation; most references in this thesis refer to the 1975 UCR.

USDB History -- refers to the USDB Annual Historical Summary for the period October 1, 1976, through September 30, 1977; similar reports are published at the end of each fiscal year.

Masculine words such as "he" are generally intended to include both the masculine and feminine genders, particularly when used in relation to commanders, staff members, and other position incumbents. Where used in relation to offenders, some material specifically excludes females and is generally so clarified in the thesis.

The above nomenclature was used in the interest of brevity since the various studies and documents are used or referred to extensively in the report.

CHAPTER I

THE PROBLEM AND DEFINITIONS OF TERMS

Corrections, that part of the criminal justice system that the public sees least of and knows least about, has undergone many changes during the past two centuries. Use of imprisonment as total punishment (as opposed to a prelude to more severe punishment), development of the rehabilitation model versus the punitive model, substitution of probation and parole in lieu of confinement, and the still-developing concept of community-based corrections have all been introduced to America since the year 1800.¹ Military corrections, as a subsystem of corrections, has been affected by many of these changes. Indeed, forces generating change to the overall corrections system led to the first American military prison being established by law on March 3, 1873 (thereby, creating the separate military corrections system).² Conversely, some changes to military corrections have been influenced more by its place in the military than by its place in corrections.

The military system is currently constrained by austere financial resources, thereby, dictating an improvement in the cost effectiveness of military corrections. Yet, in no case has data been formally collected,

¹For a discussion of innovations in corrections see Harry E. Allen and Clifford E. Simonsen, Corrections in America: An Introduction (Beverly Hills: Glencoe Press, 1975), pp. 39-85.

²U.S. Disciplinary Barracks, USDB History (Fort Leavenworth, Kansas, June 1957), pp. 1-3. This pamphlet notes that in 1872 there were 346 military prisoners confined in 11 different penitentiaries in as many states. The conditions noted in some of these prisons, plus other problems, led to adoption of a separate prison system.

analyzed, or presented which considers costs and the feasibility of implementing potentially cost effective modifications to the overall corrections system. Instead, recent inquiries have focused on the costs of confinement (while generally ignoring alternative means of handling offenders and the often conflicting objectives of corrections). These endeavors have, however, been attempted in civilian corrections systems.³

I. THE PROBLEM

Statement of the problem. It is the purpose of this study to:

(1) identify feasible changes to the military corrections system, which are likely to result in significant savings, without serious detriment to basic correctional objectives; (2) analyze these changes in terms of cost effectiveness, feasibility, advantages and disadvantages, and impact; and (3) draw conclusions related to possible military adaptation or further study of the most feasible change(s).

Importance of the study. The importance of this study is twofold. From an academic or theoretical perspective, numerous evaluations of corrections have been undertaken in recent years. Military corrections (like its comparable civilian corrections systems) has also been analyzed. However, most past endeavors suffer from one or more of several

³ See "Mod Plan 77," Soldiers, Vol. 32, October, 1977, p. 30, which reported that the new Army corrections program is based, in part, on a study reflecting that the average cost of keeping a prisoner at a stockade is 100 percent higher per prisoner than at either the U.S. Disciplinary Barracks or the U.S. Army Retraining Brigade; Michigan Crime and Delinquency Council, Saving People and Money: The Saginaw Project (East Lansing, Mich., 1963), which reported on an expanded probation program that saved nearly \$425,000 in three years for 88 offenders; and Stuart Adams, Evaluative Research in Corrections: A Practical Guide (Washington, D.C.: USGPO, March 1975), which summarized various cost effectiveness and cost benefit studies.

deficiencies.⁴ Some have focused on determining whether various programs can rehabilitate offenders -- often without regard to cost consideration. Others have concentrated on proving that there is little evidence that any corrections programs rehabilitate offenders. Within the military, studies have focused on facilities, manpower, or other selected aspects of the total corrections problem, without regard to factors other than their immediate selective objective. This study is an attempt to overcome the limitations of these prior efforts by relating feasible changes, cost effectiveness, and often conflicting correctional objectives (i.e., deterrence, punishment, and rehabilitation). In assessing these variables an attempt is made to avoid the assumptions upon which many prior studies are based and which often detract from their practical value. For example, some analyses assume that rehabilitation is corrections' sole goal; others assume that cost is irrelevant; and still others assume that changes must be made within an existing system, rather than by changing the overall system. This assessment makes no such assumptions.

At a more practical level, the study attempts to address two peculiarities of the military corrections system. First, there are relatively few corrections specialists assigned to higher level staff and management positions within the military corrections system. Most

⁴Adams, *ibid.*, pp. 53-97, summarizes various relevant studies. Also see Report of the Special Civilian Committee for the Study of the United States Army Confinement System (hereafter referred to as the MacCormick Committee) (Washington, D.C.: USGPO, May 1970). The Committee, chartered to conduct a comprehensive analysis and evaluation of Army confinement facilities and practices, provided data and recommendations which had a significant impact on the current military corrections system. The report also provides a historical perspective to any current study of military corrections. This perspective is addressed in Chapter IV of this report.

are military police (or other branch) officers temporarily detailed to a corrections assignment (at a local confinement facility, the U.S. Disciplinary Barracks, or at a headquarters). In the case of the military police officers, even their training and experience may be in areas other than corrections. As a result, many military corrections practitioners have questioned the value and effectiveness of the current system. Compounding the problem of limited corrections expertise is a lack of readily available literature (to which the military corrections officer can turn for guidance, given the inclination or direction to analyze military corrections). This study is an attempt to explore a topic embracing questions expressed by fellow officers and the writer while previously detailed to a corrections assignment, and to develop a source of useful data and information which may provide both direction and stimulation for further research into military corrections issues.

Purpose of the study. As an exploratory-descriptive study, this inquiry responds to five interrelated questions: (1) are there alternative programs in existing corrections systems that can be adapted by the military corrections system?; (2) will any of these programs result in significant savings in resources?; (3) will any of the alternatives either positively or adversely affect the correctional objectives of deterrence, punishment, or rehabilitation?; (4) which alternative(s) optimize cost effectiveness and feasibility, while minimizing adverse impacts?; and (5) should one or more techniques either be further studied or adapted within the military corrections system?.

Limitations of the research. As an exploratory-descriptive study, the foremost limitation of this research is the lack of readily

available, meaningful, and quantifiable data. While considerable study has been undertaken, much of it is limited by the absence of valid substantiating data. Similarly, corrections research has neither been synthesized nor consolidated in one repository; data is fragmented and scattered among many individuals and institutions. Hence, as in many exploratory studies, this effort is limited to the possibility that it might end with only the formulation of a problem suitable for more precise investigation.⁵ A second barrier to the study is the author's possible bias due to relatively extensive practical and academic experience in corrections. While there are advantages to academic exposure to corrections and practical experience in the military corrections system (in providing insight into the problem), this experience also was a handicap. Problems of bias, hasty conclusions, and acceptance of real world practice versus doctrine and theory had to be reckoned with throughout the effort. A third restriction on the effort is the rapid changes occurring in corrections, which could well negate parts of the study at an early date. For example, laws defining criminal conduct vary from state to state, as well as at the federal level, and are in a period of flux. At the federal level alone, there are some 80 laws prohibiting theft, plus 70 on counterfeiting and forgery. These laws impact on the sentence an offender receives, reduce the reliability of data used in research, and are being reviewed at the present time. In April, 1978, Congress was still considering a bill (S-1437) which will codify the loosely strung federal criminal laws and reform several other areas

⁵See Claire Selltis, et al., Research Methods in Social Relations (revised one-volume edition; New York: Holt, Rinehart and Winston, Inc., 1967), pp. 50-52, wherein the authors note that this is an acceptable end for research, albeit practitioners generally seek a more useful product.

of federal criminal justice. If the bill becomes law, which is somewhat problematic, parole will be abolished except in unusual circumstances, and a program of victim compensation will be established. Since both areas are of concern to this study, the impact of the bill is apparent; past history indicates the bill, if passed, will eventually affect the military corrections system.

II. OPERATIONAL DISTINCTIONS AND DEFINITIONS OF TERMS

Corrections. The term corrections is generally used to refer to institutions, agencies and programs, whose purpose is to prevent convicted offenders from engaging in further criminal behavior. This might infer some form of rehabilitative effort, aimed at eliminating weaknesses from an offender's makeup (which might cause him or her to become a repeat offender), or it might infer long term confinement, in the hope that maturation (age) will cause the offender to remain law-abiding upon release from the system. At present, the major forms of corrections can be reduced to incarceration and various forms of community-based treatment. This division, while useful, needs to be further clarified so as to preclude oversimplification and misunderstanding. The often misused term is at once used to convey the idea of a system, a total process, a philosophy, or simply as a euphemistic expression, dependent on the perspective of the user. While it is somewhat of a system, the student of corrections can perceive a lack of cohesiveness between its component parts (e.g., prisons as opposed to parole agencies). Sometimes corrections is perceived as merely a process, but again the student can perceive a lack of agreement as to what the outcome of the process should be and

which processes are related to which outcomes (e.g., prison used to punish and also used to rehabilitate). To some extent corrections is perceived as a philosophy, since both the system(s) and their processes are greatly affected by one's orientation toward the offender: whether one feels something should be done to or for the offender. Finally, for some, corrections is but a euphemism meaning imprisonment, punishment, or rehabilitation. As can be seen, the term embraces a range of nebulous concepts.⁶ However, as used in this study, corrections is defined as the totality of the criminal justice system, involving all the processes for dealing with convicted offenders, including but not limited to probation, incarceration, and parole. This definition acknowledges that there may be conflicting philosophies driving the process and infers that there may be obscurely defined objectives. Within the definition arrest (apprehension), trial, and sentencing are generally excluded, even though decisions made during these stages of the corrections process have an ultimate, albeit, largely unmeasurable impact on the subsequent stages.

Military corrections. Military corrections is interpreted in a broad context, meaning the sentencing to imprisonment and resultant disposition of military offenders by the various military departments. This definition enabled the researcher to generally exclude from the study those offenders disposed of without resort to a court martial, as well as those offenders not sentenced to confinement and/or discharge. This definition also enabled the writer to generalize without regard to the philosophical differences between the Departments of the Army, Navy, and

⁶See Peter P. Lejins, Criminal Justice in the United States 1970-1975 (College Park, Md.: ACA, 1975), pp. 47-50, and Allen, op. cit., pp. xvii-xviii, for elaboration on these concepts.

Air Force. Such differences, while perhaps influencing the correctional process and outcome therefrom, were not germane to the central issues of this study. In the interest of brevity and ease of presentation, each service was viewed as sufficiently alike to generalize, especially since each service's corrections program has its foundation in Public Law 90-377 (82 Stat. 287, 10 USC 951-954), which was signed by the President on July 5, 1968. Briefly summarized, this law provides for the establishment of military correctional facilities, for the administration thereof, for a parole system, and for clemency actions.⁷

Military confinement facilities. This term is also used in a broad context, to include corrections, confinement, and retraining facilities. This definition is used to avoid entanglement with issues of whether to confine at various locations or at a central facility. Such issues, although of importance, are currently being studied by the respective services. The definition also precludes the need to address the philosophies inherent in the distinction between stockade, retraining facility, or correctional facilities such as the U.S. Disciplinary Barracks (USDB).

Clemency. The term clemency has both a broad connotation and a restrictive one. The general definition of clemency includes the concept of mitigating punishment, based on the best interests of society, the services, and the individual. Technically, the term includes either a change in punitive discharge or a reduction in sentence to confinement, through mollification of the original sentence to confinement, release on parole, or restoration to active duty. In a narrower, restrictive

⁷MacCormick Committee, op. cit., p. 1.

sense, clemency refers to a reduction in an inmate's sentence to confinement. Whether used in a broad or narrow sense, clemency, as used in this study, is separate and distinct from that accomplished by means of appellate procedures incident to trial by court martial. Clemency refers to action taken by the Secretary of the service concerned, normally upon recommendation of the appropriate clemency and parole board, to reduce an inmate's sentence, change the discharge from a punitive type to an administrative type, grant parole, or restore the individual to honorable duty status.⁸ The study does not address clemency obtained through the appellate process. This does not imply such clemency is unimportant; rather, it implies a restriction on the scope of the study.

Feasible change. It is recognized that there are many changes that could be made to military corrections. However, it is also realized that some changes are infeasible. Consequently, changes too removed from the norms and values of the mainstream of society are precluded from study. It is assumed that a change must be constitutionally legal, must be acceptably humane, and must address both punishment and rehabilitation. Ideally, a feasible change should also address victim as well as offender. As will be elaborated upon in Chapter II, concern with the victim of crime is receiving ever more attention throughout society.

Savings. Savings is recognized as being measurable in terms of manpower, equipment, facilities, or dollars. Either an immediate cost reduction or avoidance of future increases is deemed an acceptable savings. Conversely, mere consolidation or modification of existing

⁸This distinction is compatible with guidance contained in USDB Memorandum No. 15-1, "Correctional Classification Program," Fort Leavenworth, Kansas, 1976, Chapter IV -- a driving force behind clemency actions at the USDB, for which the author was action officer.

physical facilities or the use of new equipment is not considered within the parameters of the study, since current studies are addressing these approaches and since they generally have little effect on correctional goals.

Detriment. Any adverse impact of savings on: (1) the military image or discipline, (2) the potential rehabilitation or recidivism of individual offenders, or (3) the other objectives of corrections is considered a detriment, and was a primary consideration in determining the feasibility of changes.

Correctional objectives. The commonly accepted, although often conflicting, objectives of deterrence (of others), punishment (whether for deterrence of future criminality or for vengeance), and rehabilitation are used. These objectives enabled the researcher to ignore such goals as the perpetuation of an existing system. While it was recognized that many corrections programs continue to exist because of vested interests, resistance to change, and other reasons, such objectives are not viewed as legitimate correctional objectives. Perpetuation of an existing program may affect costs, however, and is considered from this vantage.

III. PREVIEW OF ORGANIZATION OF THE ANALYSIS

The analysis is organized into three parts: (1) a description of major feasible changes to the military corrections system, to include history, utilization, and commonly espoused advantages/disadvantages; (2) a comparison of each tentative alternative, in terms of cost, cost effectiveness, feasibility in terms of military application and consequences; and (3) an assessment of data to determine which changes best optimize cost effectiveness and feasibility, while minimizing

adverse consequences. Within this framework, major feasible changes will be described in Chapter II, Review of the Literature. The research design appears in Chapter III, Methodology. Comparison of variables will be presented in Chapter IV, Analysis, and the final conclusions will appear in Chapter V, Summary and Conclusions. The overall findings are listed in sequence responding to the questions enumerated in Purpose of the study, page 4. The total analysis involves both quantitative and intuitive or judgmental analysis. While precise statistically significant data was a primary objective of this research, it became increasingly apparent that judgment and logical reasoning, as well as the persuasion of the preponderance of evidence, are as critical, if not more critical, than statistical data, in addressing correctional alternatives. This does not imply that correctional alternatives and programs must depend on mere philosophy and theory for their justification; rather, this merely recognizes that quantifiable data, where present, may be somewhat imprecise.

CHAPTER II

REVIEW OF THE LITERATURE

In 1967 the President's Crime Commission reported that on any one day corrections was responsible for over a million offenders. Annual expenditures exceeded a billion dollars. Today, the average number of offenders has nearly doubled; annual expenditures have risen to about four billion dollars.¹ This large undertaking has led to considerable study and debate; however, general criminological and penological literature reveals more theory, argument and philosophy than useful data. In spite of this limitation, the following synthesis of the literature provides insight into the history, utilization, and professed advantages and disadvantages of correctional alternatives.

I. ALTERNATIVES FOR DEALING WITH OFFENDERS

Review of the literature indicates that there are six basic methods, used singularly or in combinations, for initially dealing with offenders in our society: (1) non-prosecution, to include diversion; (2) fines; (3) suspended sentence to confinement; (4) restitution; (5)

¹President's Commission on Law Enforcement and Administration of Justice (hereafter referred to as The Crime Commission), The Challenge of Crime in a Free Society (Washington, D.C.: USGPO, 1967), p. 159. While this report is 11 years old, it is commonly used as a referent within criminal justice literature due to the relative lack of reliable criminal justice information prior to the commission's monumental undertaking. Current data is based on U.S. Department of Justice and U.S. Department of Commerce, Trends in Expenditure and Employment Data For the Criminal Justice System, 1971-1975 (Washington, D.C.: USGPO, June 1977), p. 4, and ACA Directory: Juvenile and Adult Correctional Departments, Institutions, Agencies and Paroling Authorities, 1978 Edition (College Park, Md., 1977).

probation; and (6) incarceration. Each approach has its own unique history, commonly cited advantages and disadvantages, as well as proponents and opponents. Each method also has various forms of application. As an example, probation may be conducted with minimum, medium, or maximum levels of supervision, may include temporary incarceration, or may involve mandatory residence in a community-based treatment center.

Precise measurement of these methods and their application is difficult. This difficulty is apparent from a recent grant awarded by the Law Enforcement Assistance Administration (LEAA) in the amount of \$224,981 for a 15 month study. The study has the objective of development of uniform and comprehensive definitions and methods for evaluating correctional performance.² In spite of the difficulty of quantitatively assessing various approaches to corrections, the general literature reveals common citations of the advantages and disadvantages of varying ways of dealing with offenders. Only the precise degree of advantage (or disadvantage) is in question in many cases.

Non-prosecution. From primitive to medieval society the most common way of dealing with offenders was on a personal basis. During the Anglo-Saxon period in England (700 - 900 A.D.), the settlement of private wrongs was on a personal basis. Rather than resorting to courts, offenses were handled by individuals or their families, with such actions often resulting in blood feuds. Subsequently, certain offenses became crimes against the king's peace and a matter for public authorities to settle. While some historians argue that the legal changing of private wrongs into crimes against the king had ulterior motives, most scholars agree that a foremost consideration was the extreme extent to

²Corrections Compendium, Vol. II, October, 1977, p. 5.

which personal vendettas and family feuds had evolved.³ From these beginnings present society has come to recognize two broad categories of law -- civil and criminal. Criminal law, by definition, entails prosecution by a duly constituted authority (i.e., the government). While a victim of crime may sue an offender under civil law, most criminality is prosecuted, not by the victim but by the government, under criminal law. The government, as in the case of private citizen disputes, often exercises its assumed option of not prosecuting an offender.

Several reasons are commonly offered for non-prosecution: (1) lack of evidence; (2) cost of prosecution, as opposed to seriousness of the offense; (3) a "sense of justice"; and (4) as a reward for providing evidence leading to other criminals. For example, one study observed that the institution of formal charges against all offenders is not a realistic goal. A substantial percentage of cases will not result in a conviction because the evidence is lacking to prove guilt -- for whatever reasons. In other cases, the interest of society may not be served by invoking the full criminal justice process.⁴

Conversely, non-prosecution has its critics. For example, the President's Crime Commission noted that limited statistics indicate that approximately one-half of those arrested have their cases dismissed

³For development of this historical analysis, see Harry E. Barnes and Negley K. Teeters, New Horizons in Criminology (3d ed.; Englewood Cliffs, N.J.: Prentice Hall, Inc., 1959), pp. 287-288, and Ronald J. Waldron, et al., The Criminal Justice System: An Introduction (Boston: Houghton Mifflin, Co., 1976), pp. 132-133.

⁴For concise discussions of non-prosecution see W. Jay Merrill, et al., Prescriptive Package: Case Screening and Selected Case Processing in Prosecutors' Offices (Washington, D.C.: USGPO, March 1973), and Joan Jacoby, The Prosecutor's Charging Decision: A Policy Perspective (Washington, D.C.: USGPO, January 1977). Both documents were prepared for the LEAA and provide considerable insight into this problem area.

prior to an actual trial; more often than not, the dismissals are made under circumstances that make unwise decisions likely. The disadvantages of non-prosecution listed by the commission include: (1) lack of sufficient information, on which to base a decision; (2) lack of standards, on which to base decisions; (3) lack of established procedures for making decisions; and (4) lack of alternative means of dealing with offenders other than prosecution or non-prosecution.⁵

As a result of the later criticism, another form of non-prosecution, commonly labeled diversion, has become the most recent approach to corrections. Diversionary programs are predicated on the notion that formal criminal justice sanctions should be used only as a last resort and are intended to offer an option between prosecution and non-prosecution.

While there are controversies concerning non-prosecution, this option is generally considered a viable alternative for handling some offenders (due to cost, legal, and more subjective considerations). Most of the controversy focuses on the methodology employed in the decision to not prosecute -- an issue beyond the scope of this study. More quantifiable evidence concerning the effectiveness and cost of the new diversionary programs appears in Chapter IV.

Fine. Reaction to criminality by confiscating property or imposing fines has existed in most literate societies, but has increased in recent years due to a proliferation of technical violations (a phenomenon some have equated to governmental guidelines for implementation of the Ten Commandments). Fines in America are estimated to be in

⁵The Challenge of Crime in a Free Society, op. cit., pp. 132-134.

excess of 75 percent of all penalties imposed and are normally justified by at least four arguments: (1) they are the most easily remissible of penalties, (2) they are the most economical penalties, (3) they are easily divisible, and (4) they do not carry the stigma of prison. Contrary to these benefits, fines have been opposed on such grounds as being ineffective in changing behavior, as well as being meaningless to the rich and disproportionately harsh on the poor. Within the military, fines can be assessed through non-judicial Article 15 punishment as well as through court martial, and can range from a relatively minor fine (forfeiture of X dollars) to severe fines. In the case of career persons, there is the most severe fine inherent in loss of retirement pension in the event of certain court martial sentences.

The use of fines will not be further addressed in this report. While an integral part of the corrections system, there is little quantifiable data which can be evaluated concerning fines. Like non-prosecution, the fine is so deeply ingrained in our overall criminal justice system that it will remain an option for the foreseeable future. Within the parameters of the analysis the use of fines is cost effective, to the point fines can even be profitable; the effect of fines on recidivism is, however, highly problematic.

Probation and suspended sentences to confinement. The concepts of probation and suspended sentences to confinement are logical outgrowths of the Positive School of Criminology, founded by Cesare Lombroso, with its emphasis on motivational, behavioral, and environmental aspects of the offender's situation. The Positive School, from which most modern theories of crime causation and treatment have emanated, emphasizes rehabilitation or treatment and is largely

responsible for the intertwined concepts of probation and suspended sentences.⁶

In the federal government, the suspended sentence was a forerunner to probation. Indeed, the use of suspended sentences by U. S. District Courts, in spite of legal objections by the Department of Justice, ultimately reached the U. S. Supreme Court, which held that federal courts had no inherent power to suspend sentences (Ex Parte U.S., 242 US 27). At the time of the ruling, over 2,000 persons were serving suspended sentences; the decision resulted in President Wilson granting amnesty and pardons to the majority of them.⁷ The controversy between the judges and the Department of Justice concerning the legality of suspended sentences ultimately led to enactment of a federal probation law on March 4, 1925 (thereby creating the situation wherein an offender may receive a suspended sentence or be placed on probation, under the supervision, however slight, of a U. S. Probation Officer).

In both England and the United States probation developed out of various prior methods used for the conditional suspension of punishment and was prompted by judges determined to find alternative ways of handling offenders. Humane ways were explored in an attempt to avoid the

⁶Robert C. Trojanowicz, Juvenile Delinquency Concepts and Control (Englewood Cliffs, N. J.: Prentice-Hall, Inc., 1973), pp. 25-31, among others, succinctly describes the Classical and Positive Schools of Criminology.

⁷Victor H. Evjen, "The Federal Probation System: The Struggle to Achieve It and Its First 25 Years," Federal Probation, June, 1975, p. 3. The first state law providing for probation was established in Boston in 1878, largely as the result of the work of John Augustus between 1841 and 1852. See A. C. Germann, et al., Introduction to Law Enforcement and Criminal Justice (rev. 25th printing; Springfield, Ill.: Charles C Thomas, Pub., 1976), p. 169, which provides a brief overview of the work of Augustus. It should be noted that the history and evolution of probation in the state systems somewhat parallels federal developments.

application of perceived cruel and repressive criminal laws. Among the earlier approaches were the so-called benefit of clergy, the judicial reprieve, and other devices which either suspended the imposition of, or execution of, sentences to confinement. The advantages and disadvantages of suspended sentences and probation are, in many cases, similar, and such alternatives are used in approximately 57 percent of all felony convictions in the United States.

The arguments favoring suspended sentences or probation over imprisonment focus on: (1) reduced stigma, (2) community help in rehabilitating the offender, and (3) cost. The opposing arguments focus on: (1) a need to punish, (2) a need to protect society, and (3) problems in the organization and administration of probation services.⁸ These arguments are strong enough to influence legislatures. Arizona, for example, recently eliminated its good time provision and raised the time of eligibility for parole from one-third to one-half of the time served.⁹ Normally, trends in probation and parole tend to follow one another; as requirements for one are eased or increased, the other tends to follow.

Of paramount concern to this report is the distinction between suspended sentences and probation, especially in the armed forces. In the services, and often in civilian life, suspended sentences involve no supervision or rehabilitation programs. Instead, the offender is left to "sink or swim" on his or her own. While this approach offers economy and simplicity, the offender does not enjoy the alleged benefits

⁸George C. Killinger and Paul F. Crowell, Jr. (eds.), Corrections in the Community - Alternatives to Imprisonment; Selected Readings (St. Paul, Minn.: West Publishing Co., 1974), p. 59, and Harry E. Allen and Clifford E. Simonsen, Corrections in America: An Introduction (Beverly Hills: Glencoe Press, 1975), pp. 118-120, provide discussions of these arguments.

⁹Corrections Compendium, *op. cit.*, p. 5.

of supervision and rehabilitation programs directed by professional probation officers (perhaps assisted by volunteers).¹⁰ The benefits of probation supervision will be addressed in terms of reduced costs and lower recidivism rates in Chapter IV.

Restitution. The concept of restitution can be found in the codes of Lipit-Ishtar and Eshnunsia (1750 B.C.), if not in the legendary code of Hammurabi (2300 B.C.). As Anglo-American criminal law evolved, harm to the victim became of secondary importance to the harm to society as a whole and restitution evolved into a fine.¹¹ When used, restitution has typically been prior to court action or as a precondition to a suspended sentence or probation. Restitution has been used extensively in other countries, thereby, offering considerable literature on the subject. In general, the studies note the following advantages of restitution: (1) the victim is reimbursed for damages; (2) the offender is forced to recognize his responsibilities to the victim; (3) the cost to society is less than the cost of imprisonment; (4) the punishment better fits the crime; (5) the punishment makes crime a personal-victim act, rather than an impersonal perpetrator-state encounter; (6) the incidents of offenders' divorces and need for family welfare are reduced; (7) the harmful affects of imprisonment are eliminated; and (8) the prison is better able to concentrate on the relatively few who need incarceration (for whatever reason). Opposing these benefits are the following arguments: (1) a need for definition, clarification, and formalizing; (2) a lack of a

¹⁰See Harjit S. Sandhu, Modern Corrections; The Offenders, Therapies and Community Reintegration (Springfield, Ill.: Charles C Thomas, Pub., 1974), pp. 243-262, for a discussion of probation supervision.

¹¹Barnes and Teeters, op. cit., p. 288, provides background concerning the origins of restitution.

system to insure that restitution works as intended; and (3) a need to educate the public on its acceptability in lieu of incarceration.¹²

While restitution has not been widely used on a formal basis in the United States, it is noted that this alternative is receiving more attention than in the past. For example, the North Carolina House of Representatives recently passed an act providing that restitution and reparation to victims be incorporated as an integral part of the state's criminal justice system (as a rehabilitative measure). The provision adds the possibility of restitution and reparation as sentencing alternatives, as part of a plea bargain, as a condition of probation, and as a condition of parole.¹³ Limited information concerning cost and effectiveness of restitution appears in Chapter IV.

Incarceration. The purpose of incarceration varies based upon one's philosophical orientation. According to utilitarian philosopher Jeremy Bentham, criminal law should yield the greatest happiness (or least unhappiness) to the community as a whole. The threat of punishment, according to the utilitarian, would deter a rational person tempted to break the law. Thus, to a utilitarian the success or failure of legal punishment is its effectiveness in reducing crime. Retributionists, contrary to utilitarians, claim that criminals should not be punished for the welfare of society, but because they deserve it to balance the scales

¹²Richard E. Laster, "Criminal Restitution: A Survey of Its Past History and an Analysis of Its Present Usefulness," University of Richmond Law Review, Vol. 5, 1970, pp. 74-82; David Fogel, et al., "Restitution in Criminal Justice: A Minnesota Experiment," Criminal Law Bulletin, Vol. 8, October, 1972, pp. 681-691; and Joe Hudson and Burt Galaway, "Undoing the Wrong," Social Work, Vol. 19, May, 1974, pp. 313-318, provide fuller discussions leading to these conclusions.

¹³Corrections Compendium, op. cit., p. 4.

of justice.¹⁴ Such controversial philosophies explain, in part, why some states try to grapple with crime through tougher sentences and longer prison terms, while other states are trying experiments in shorter periods of imprisonment.¹⁵

Actually, we know little about either the rehabilitative effect or the deterrent effect of the prison experience. One clue as to what the effects are is contained in a study by P. S. Greenwood, et al. Greenwood and his associates show that the more severe prison sentences tend to be given to prisoners with prior records.¹⁶ Such offenders are typically the defendants most difficult to rehabilitate. Since the public easily differentiates itself from these more deviant offenders, severe sentences to the more deviant criminals probably have little general deterrent effect. Nonetheless, since the advent of the nineteenth century, incarceration has been a major disposition for criminal offenders. With each succeeding change to our prison system, there has been accompanying thought and research. As a result, the current advantages of incarceration are viewed as: (1) protecting society, (2) punishing the offender, (3) deterring others, and (4) being less costly than smaller institutions such as community treatment centers. Countering these arguments, the disadvantages tend to focus on the: (1)

¹⁴ Discussed by Gertrude Esorsky, Professor of Philosophy, in "Crime and Justice Courses by Newspaper," as presented in the Kansas City Star, October 16, 1977.

¹⁵ Tom Diemer, reporting in the Kansas City Star, October 16, 1977, discusses Ohio's 12 years of experience with shock probation and three years with shock parole, noting that critics and supporters alike claim the method is working. The technique is also discussed in Corrections Magazine, Vol. III, December, 1977, pp. 49-55.

¹⁶ P. S. Greenwood, et al., Prosecution of Adult Defendants in Los Angeles: A Policy Prospective (Santa Monica: Rand Corp., 1973).

harmful effects of imprisonment, (2) failure of prisons to rehabilitate, and (3) recidivism of prisoners.¹⁷ While concern with the cost and effect of imprisonment in general is a paramount focus of this study, Chapter IV concentrates on various programs within the institution, rather than on the prison per se. Such programs add to the cost of operating a prison and are justified by corrections personnel from the perspective of reducing recidivism.

From the foregoing synthesis of the literature it can be seen that non-prosecution, fines, suspended sentences to confinement, probation, restitution, and incarceration have alleged advantages and disadvantages. Each argument for or against is entwined with philosophical values. In addition, most positions have little supporting quantifiable data due to the difficulty in defining evaluative criteria in measurable terms.

II. ALTERNATIVES FOR DEALING WITH VICTIMS

Victims of crime have recently generated major interest on the part of both researchers and practitioners. It is not clear where this concern will lead us, but landmark efforts have begun the systematic study of the role of the victim.¹⁸ This effort indicates the propriety of considering victims in an assessment of change to a corrections system. The Kansas Sheriffs' Association recently reported on civil suits, which will ultimately effect corrections if the trend continues.¹⁹

¹⁷Sandhu, op. cit., pp. 91-170, analyzes prisons' impact on inmates.

¹⁸See, for example, William F. McDonald, ed., Criminal Justice and the Victim (Beverly Hills: Sage Publications, 1976).

¹⁹The Sheriffs' Star (Topeka, Kansas: Kansas Sheriffs' Association), January, 1978, pp. 6-7, discusses several law suits against governmental agencies which contributed to the victims' plight.

The relationship between the victim of crime and the administration of justice encompasses a broad area. Some of the issues included go to the fundamental assumptions of our system of justice, others raise matters of value, and still others question policy. Nonetheless, it can be concluded that victims of crime have largely been ignored as we moved from pre-Anglo Saxon individual justice to state administered prosecution. Generally, a victim has three possible avenues for seeking redress for injury or loss: (1) civil suit, (2) compensation by the state, or (3) restitution from the perpetrator (through criminal court proceedings). A fourth option, addressed by the Kansas Sheriffs' Association (civil suit against governmental agencies contributing to a person becoming a victim), will not be further explored. Its isolated and infrequent use, to date, makes any assessment of this approach problematic.

Civil suit. Civil suit offers the advantage of an existing legal mechanism. Offsetting this advantage is the fact that a majority of offenders have inadequate resources to make civil suit against a criminal a viable course of action for most victims of crime.

Compensation. Compensation by the government is currently being widely debated. Twelve states now provide compensation from public funds for victims of violent crime, and the federal congress, as discussed in Chapter I, may enact legislation to subsidize states with compensation programs. Studies indicate that compensation offers the victim a means of recouping his property loss or compensating him for personal injury but raises the issues of victim provocation and the social psychology of victimization. The limited empirical research tends to indicate that the fundamental issue of whether compensation relieves

the harshness of victimization is, at best, open to question.

Restitution. The major arguments for restitution are twofold: (1) the obvious advantage of a victim being reimbursed for injury or loss, and (2) the correlation of restitution with correctional theory. The primary disadvantage of victim reimbursement is the risk of evading other problems associated with crime.

From this brief summary of alternatives for dealing with victims of crime, it is apparent that there are advantages and disadvantages for both victims and perpetrators of crime. When correlated with the other alternatives for dealing with offenders, these considerations pose issues which are relevant to any decision regarding a change to a correctional system.

III. THE MILITARY CORRECTION SYSTEM

Having identified civilian correctional alternatives, a brief overview and comparison of the current military corrections system is appropriate to complete the perspective underlying this study.

Non-judicial disposition. This disposition has no precise counterpart in the civilian world. Somewhat similar to non-prosecution and yet comparable to the civilian handling of traffic and misdemeanor offenses, non-judicial dispositions range from counselling through official reprimands to non-judicial punishment in the form of punishment under the provisions of Article 15, UCMJ. Although not technically a part of the formal military corrections system, non-judicial dispositions offer such advantages as relative simplicity, economy, speed, avoidance of the stigma of a court conviction, and a choice between non-prosecution

and prosecution. While such dispositions, especially Article 15 punishments, have been criticized by civil libertarians, the major disadvantage in the context of this study is that non-judicial punishment often fails to adequately address the victim of crime. It is also more difficult to develop accurate data concerning the effectiveness or impact of these punishments than in the case of courts martial (due to a lack of adequate records and other peculiarities).

Suspended sentences to confinement. The military, like the civilian systems, uses suspended sentences to confinement. However, convicted personnel are not placed under the supervision of a professional probation officer (as is typically true in the case of civilians). As a result, commanders exercising their authority to approve or suspend a sentence to confinement have essentially three options for handling offenders: (1) a punitive discharge without confinement, which has the effect of removing an offender from the military and returning the criminal to civilian status (without benefit of supervision or planned rehabilitation); (2) a suspended sentence, which results in the offender returning to a duty unit (with a threat of the sentence being ordered into execution if the offender breaks another law); and (3) incarceration at an appropriate confinement facility.

The advantages of the military system's use of suspended sentences appear to be their relatively low cost. In the case of returning to duty, the offender is assured of a continued livelihood, a place to live, and a reasonably good environment (all of which are consistently identified as essential to rehabilitation). The military suspended sentence also has apparent disadvantages. In the case of offenders returned to civilian status, they may not have a means of

livelihood, may be returned to the worst of socio-economic environments, bear the cloud of a court conviction, and lack the alleged benefits of supervision by probation officers or a planned rehabilitation program. In the case of returning to duty, they may well be returned to the very environment that contributed to their criminality, and, they may encounter excess pressures as the result of their court martial conviction.

Incarceration. The military offender may be confined at a small installation facility, a retraining facility, or a correctional facility. Short term offenders (sentences of approximately 90 days or less) are typically confined at an area or installation facility and receive little rehabilitative effort. Offenders sent to either the USAF or Army retraining facilities are normally minor offenders sent to these locations because they have a likelihood of successfully returning to duty. They have generally committed a purely military offense (e.g., violation of a general order) or an offense frequently classified as a misdemeanor in the civilian world (e.g., possession of small amounts of marijuana). The more serious felony offenders are generally sent to the USDB (or Naval corrections facility) or to a federal institution.

The foregoing summary is only a general model of the military incarceration system. Variables, such as the distinction between a felony and a misdemeanor, whether confined locally or at the USDB, and the exact criteria for being sent to a retraining facility vary within the services, as well as over a given time frame. During the author's assignment at the USDB, the criteria for confinement at the USDB varied from 30 to 90 days. However, the model is conceptually useful in understanding the system and in comparing it with civilian systems.

Based on this overview, the military corrections system is seen

as comparable to the system found in most states, with the use of non-prosecution, suspended sentences, and incarceration. The separate area and installation facilities, retraining facilities, and corrections facilities may be loosely compared with county jails, state reformatories, and state prisons. Yet, there are important differences. The military facilities are generally not overcrowded or inhumanely operated, as is true of some civilian institutions. The military does not use probation. Restitution, while used occasionally, is not structured or publicized. Also, the comparison between jails, reformatories, and prisons is rapidly breaking down due to current efforts to consolidate military confinement facilities. This trend, caused (in part) by recognition of the inordinate costs associated with maintaining facilities with low prisoner populations, has resulted in prisoners being sent to the USDB with sentences of as little as 30 days. This short term confinement requires the expenditure of travel funds, results in short term minor offenders serving time with long term offenders, and creates problems in programming and operating an institution such as the USDB (which has rehabilitation programs that are geared toward the longer term offender).

Summary and conclusions. The military corrections system is sufficiently similar to warrant comparison of the possible dispositions of offenders with dispositions utilized in the civilian community. While enjoying options not available in the civilian world, the military system is also deprived of dispositions such as structured diversion, probation, and restitution. In view of the trend toward consolidation of facilities, the question of the cost effectiveness of other alternative offender dispositions is germane. An assessment of the costs and effectiveness of alternative means of handling offenders is addressed in the ensuing analysis (Chapter IV).

CHAPTER III

METHODOLOGY

The preceding review of literature describes broad correctional practices and sets the parameters within which the analysis (Chapter IV) is undertaken. The study focuses on broadly defined methods of handling offenders -- non-prosecution, fine, suspended sentence to confinement, restitution, probation, and incarceration -- and the correlation of each method with its cost, feasibility for military adaptation, and effect on the correctional objectives of deterrence, punishment, and rehabilitation. These parameters preclude consideration of cost effective measures which have little impact on the goals of corrections.¹

Having set the parameters of the study, this chapter describes the methodology employed in researching and analyzing the alternatives (including the research design for data collection, measurement, analysis, and interpretation) leading to the final conclusions.

I. RESEARCH DESIGN

General design. The general design involves collection and analysis of data in a manner which combines relevance to research purpose

¹For example, various activities have been assessing the use of word processing centers as a means of reducing the administrative costs of operating the USDB. Similar studies have been accomplished in other correctional systems. James A. Weber, "Illinois Corrections Improves Communications and Cuts Yearly Costs," American Journal of Correction, Vol. 38, July-August, 1976, pp. 20-32, reported that such centers are producing more than 680 lines of typing per person, per day, compared to the previous production of 375 lines per person, per day, with a net savings of \$51,000 per year. Such approaches, while well suited for economic analysis, have little bearing on correctional objectives.

with economy of procedures. As a formulative study the design required flexibility (to permit consideration of various aspects of the problem). Accordingly, the design entails three distinct phases (each a form of ex post facto research coupled with unstructured observations), and an ultimate assessment within the framework of a model (formulated during the course of the study).

As a result of discarding experimental and other research plans, a form of ex post facto research was determined appropriate. Such research may be defined as systematic inquiry in which the researcher lacks direct control of independent variables (either because their manifestations have already occurred or because they are inherently unamenable to manipulation). While this form of research lacks the characteristic of independent variable manipulation, may lack the trait of randomization, and has a risk of improper interpretation, it does provide for systematic inquiry (as well as the establishment of statistically significant relationships).²

The overall study entailed a search for, review of, and analysis of program evaluations, assessments of evaluations, and other data and information related to the cost and effectiveness of various correctional techniques and programs. Relying, in part, on assessments by other researchers offered advantages and disadvantages. There were at least two benefits: (1) the academic and research expertise of various scholars provided the researcher with an awareness of deficiencies in primary evaluations, which might otherwise have gone undetected; and (2) the overall effort was benefited by indirect exposure to many more

²For a detailed discussion of ex post facto research, see F. N. Kerlinger, Foundations of Behavioral Research (2d ed.; New York: Holt, Rinehart and Winston, Inc., 1973), pp. 381-393.

primary studies than was directly possible during the time allotted for this effort. The primary disadvantage of these assessments was their possible biasing influence on the analysis. Offsetting this detriment was the fact that a secondary, yet critical, part of the research was based on unstructured observations of the military corrections system (while the researcher was assigned to the USDB from 1974 to 1977).

Selltis describes unstructured observation as participant observation of a process, while taking on the role of a member of a group and participating in its functions.³ It is believed that any bias stemming from the use of others' assessments of primary program evaluations largely offset any distortions inherent in these unstructured observations. Both considerations were further balanced by observations developed in two different types of assignments at the USDB: (1) as a Custody Officer, dealing almost exclusively with inmates and lower ranking guards and counsellors; and (2) as Programs Officer, dealing predominantly with higher echelon personnel (such as the chairmen of the respective clemency and parole boards, staff members of the services' headquarters, and corrections personnel in similar positions outside of the military corrections system -- especially in the federal prison and parole systems). Given the assessments of evaluations, program evaluations, unstructured observations, and other data and information, the research design appeared adequate to insure unbiased conclusions.

The model. The use of models has received increasing attention

³Claire Selltis, et al., Research Methods in Social Relations (revised one-volume edition; New York: Holt Rinehart and Winston, Inc., 1967), pp. 207-221, discusses the disadvantages of unstructured observations, including problems concerning documentation and reliance on the use of memory.

in criminal justice during the past decade. Models have been used to obtain a better understanding of why the criminal justice system operates as it does and to determine how the parts of the system can be made to operate more effectively. Yet, the use of models in corrections has trailed other subsystems of the criminal justice system, even though one of the principle barriers to an assessment of corrections is the lack of a conceptual model.⁴

One model which helped clarify and limit the analysis is based on a concept of crime prevention at three levels: (1) primary prevention, aimed at modification of criminogenic conditions in the overall environment; (2) secondary prevention, aimed at early intervention in criminogenic circumstances; and (3) tertiary prevention, aimed at preventing, or at least reducing, recidivism.⁵ By focusing on only tertiary prevention, the scope of the research was restricted to a manageable problem. By the same token, helping offenders cope (within prison or within society, in an effort to prevent crime), appeared to be a valid correctional goal. More relevant to the analysis was recognition that tertiary efforts are but one level of crime prevention; thus, the outcome of these efforts is influenced by the primary and secondary efforts. Measurement of such influences, which are perhaps impossible, were excluded from the analysis.

⁴For extended discussions of criminal justice models, including JUSSIM II, a planning model, see Stuart S. Nagel, ed., Modeling the Criminal Justice System (Beverly Hills: Sage Publications, 1977), pp. 265-312, and J. Chaiken, et al., Criminal Justice Models: An Overview (Washington, D.C.: USGPO, April 1976), pp. 107-113.

⁵Paul J. Brantingham and Frederic L. Faust, "A Conceptual Model of Crime Prevention," Crime and Delinquency, Vol. 22, July 1976, pp. 284-296, discuss the model and its practical application in some state plans (e.g., Florida's criminal justice planning agency).

Beyond adopting this three level model, a separate model gradually evolved and is portrayed in Figure 1. The model does not pretend to be complete, but rather, illustrative. It presumes that in dealing with offenders there will be a conscious or subconscious evaluation of the type of crime (against person, against property, major, minor, etc.), and the type of offender (first offender, repeat offender, general background, etc.). This evaluation results in the punishing authorities (court or convening authority) establishing an objective (revenge, rehabilitation, or some combination of objectives). Dependent on this objective, however vaguely defined, the court and/or convening authority must select from alternatives. Some alternatives, while perhaps desirable, are closed to use; some are impractical; and some are a compromise. It is assumed that each alternative has a dollar value or price as well as a probability for reducing recidivism (a benefit). This benefit and cost may, or may not, be considered. The model thus developed was used throughout the analysis so as to provide a degree of consistency to the overall assessment.

Having described the general form of research and having presented the model used in the analysis, it is now possible to discuss the phases of the research.

Phase I; Review of general literature. The initial phase of the research was conducted purely as an exploratory study (primarily of general criminological and penological literature), while searching for more quantitative data and program evaluations. Reviewing and building upon work done by others is recognized as one of the simplest ways of economizing effort (especially if the survey includes studies immediately relevant to the area of interest, as well as concepts and theories

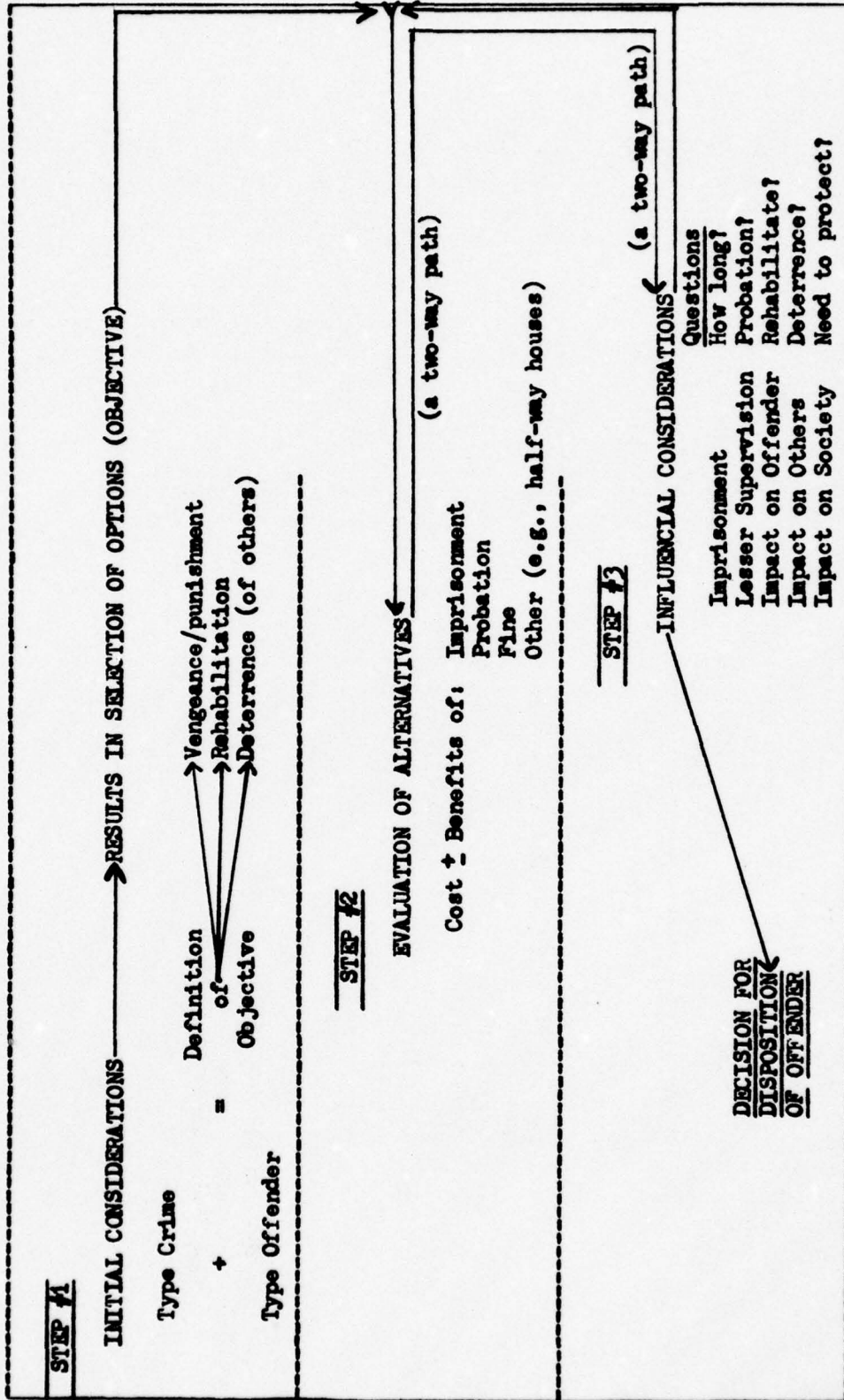


Figure 1
A CORRECTIONAL
DECISION MODEL

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developed in completely different research contexts).⁶ It was originally hypothesized that cost effective corrections options could be analyzed through the comprehensive study of existing data contained in prior studies. However, in the course of the research it became apparent that there are numerous considerations involved in addressing correctional data, evaluation, and analysis, which a casual search of the literature might not consider. Consequently, a considerable number of studies and less sophisticated essays were discarded in this early phase.

The search for quantitative data related to crime prevention, recidivism, and punishment was largely limited to professionally published books and articles. The author examined a variety of general and specialized indexes thought likely to include references to crime, prevention, treatment, rehabilitation, and recidivism studies: The Catalog of Governmental Documents, Crime and Delinquency Abstracts, Social Science and Humanities Index, and Social Science Citation Index. Various documents (such as the Crime Commission Task Force reports), the National Criminal Justice Reference Service, and communications with the National Council on Crime and Delinquency, American Correctional Association, and CONTACT, Incorporated (a not for profit organization concerned with criminal offenders) provided more citations, documents, advice, and further references.

Three sources greatly influenced the subsequent analysis and follow-on research. The first source was the Criminal Justice Reference Service -- an international clearinghouse for criminal justice information. During the period September 1, 1977 through March 31, 1978, over 295

⁶Selltiz, op. cit., pp. 50-65, elaborates on this methodology, discussing both advantages and disadvantages inherent in the design.

abstracts were received by the researcher describing the latest criminal justice literature. Some 57 were closely related to the topic; numerous documents were subsequently obtained from the National Criminal Justice Reference Service (NCJRS) that otherwise might not have been available within this geographical area within the time constraints imposed on the study.

A second major source of information and data was the quarterly periodical, Crime and Delinquency, published by the National Council on Crime and Delinquency (NCCD). This source, which serves as a forum for the expression of professional views on the administration of justice, proved invaluable in providing insight into the research problem and various issues. Conversely, the articles, generally written by members of academia, though logical and thought provoking, frequently lacked useful quantitative data which can be replicated or generalized.

Finally, several key documents were obtained and used for comparison and verification of data and information uncovered during the analysis. These documents were especially helpful, in that they provided considerable information and data, with a minimum expenditure of time.⁷

Phase II; Data analysis. Having gathered the preliminary data and information in phase one, the quantifiable data was analyzed (to the extent possible) using such techniques as regression analysis, establishment of the coefficients of correlation and determination, and probability analysis.⁸ Considerable judgment was applied during this

⁷These documents are asterisked in the bibliography.

⁸Hubert M. Blalock, Jr., Social Statistics (New York: McGraw-Hill Book Company, 1960), pp. 273-358, describes such inductive statistics. More sophisticated techniques might have been used, but the imprecise nature of the data appeared to negate such an approach.

stage of research and analysis since much correctional data are not comparable in a meaningful manner.

Phase III; Intuitive analysis and interpretation. Following the collection and analysis of data and information in Phases I and II, correlation and interpretation were conducted in Phase III of the design. The resulting report is consistent with the following logical progression: (1) Are there variations of correctional programs in existing correctional systems that can be adapted by the military system? This question recognized that the military uses all but one major correctional option to some degree. The question focused on the degree of use and on variations within the general correctional methods. The question was partially answered in Phase I of the research design, and reported upon in both Chapter II and Chapter IV. (2) Will any of these possible changes result in significant savings of resources? This question was answered in Phase II of the design and primarily reported upon in Chapter IV -- Section I, Quantitative Analysis. (3) Will any of the cost effective changes positively or adversely affect the conflicting objectives of deterrence, punishment, or rehabilitation? This question was answered in Phase III of the study and reported upon in Chapter IV -- Section II, Intuitive Analysis. (4) Which change (or changes) optimize cost effectiveness and feasibility, while minimizing consequences? This final, critical question was answered in Phase III of the design by combining the analysis of both quantified and non-quantifiable material (see Chapter IV -- Section III, Correlation of Quantified and Non-Quantified Data).

II. DATA COLLECTION, MEASUREMENT, AND ANALYSIS

Data collection and measurement. There are several ways to measure correctional effectiveness. As a result, considerable evaluative research has been accomplished. In using after-the-fact data and evaluations, only data amenable to cost benefit, cost comparison, cost effectiveness, or recidivism comparison were used -- to the extent such comparisons are possible. Data were obtained from various sources, all of which are identified in Chapter IV. An attempt was made to limit measurement to studies and data which meet, or at least approximate, the criteria suggested by Adams (and other researchers).⁹

Analysis and interpretation. The analysis and interpretation of this study is both quantitative and intuitive (logical or judgmental). To accurately measure the quantitative relationships, it was essential that data be categorized in a manner to maximize the variance of individual differences and to minimize the error variance. Thus, each study had to be critically examined to insure that the resultant categories were consistent. This subjective evaluation dictated that considerable material be discarded without analysis; however, the end results vindicated this approach. Given the description of the design, and allowing for subjective evaluations inherent in the study, this project can be replicated and should draw conclusions essentially compatible with those presented in the final chapter of this report.

⁹Stuart Adams, Evaluative Research in Corrections; A Practical Guide (Washington, D.C.: USGPO, March 1975).

CHAPTER IV

ANALYSIS

Earlier chapters established parameters, reviewed arguments (concerning alternatives for handling offenders), and described the methodology. This chapter presents a three part analysis of existing correctional program evaluations, assessments of evaluations, and other data and information. A decisional matrix (formulated during the analysis) is presented in the final chapter (V).

The analysis begins with more readily quantifiable data, progresses through less definitive evidence, and concludes with an overall assessment of both types of material. Initially, data reflecting trends (which have inferences for military corrections) will be discussed.

I. QUANTITATIVE ANALYSIS

Influential trends. It is precarious to draw conclusions about the cost effectiveness of correctional alternatives without considering various trends influencing corrections and the military. To do so raises the risk of arriving at quantifiably valid, but perhaps, infeasible conclusions. Such risk is unnecessary for in many cases the more significant trends can be quantified.

The first trend considered is the nation's crime rates. Known crimes and crime rates have increased significantly more than our population. Many discussions have addressed the significance and meaning of these facts, but such debates are irrelevant to this analysis. More relevant, are the inferences, which can be drawn from data underlying the

apparent increases in criminality, which are shown in Table I.

TABLE I*
1970-1975 POPULATION
AND CRIME INCREASES

<u>General Rates</u>		<u>Specific Crime Rates</u>	
Population increase	+ 5%	Murder	+ 22%
Number of crimes	+ 39%	Aggravated assault	+ 38%
Overall crime rate	+ 33%	Forcible rape	+ 41%
Violent crime rate	+ 32%	Robbery	+ 27%
Property crime rate	+ 33%	Burglary	+ 41%
		Larceny	+ 35%
		Motor vehicle theft	+ 3%

*SOURCE: FBI, Uniform Crime Reports for the United States 1975 (Washington, D.C.: USGPO, August 1976)(hereafter referred to as UCR), pp. 12-36.

Although there is some variance by specific crime, the overall increases shown in Table I do not vary significantly when analyzed in terms of crimes of violence (murder, rape, robbery, or aggravated assault), major crimes against property (burglary, grand larceny, and motor vehicle theft), or other factors. However, one factor showing a significant variance, that impacts on the military, is the age of the groups which are arrested for the majority of these major criminal offenses.

Within the categories of offenses shown in Table I, 53.7 percent of all arrests are of people age 18 to 49 -- a group that embraces the majority of military personnel; the primary military ages (18 to 29) account for 41.6 percent of all major arrests. These data increase slightly if less serious offenses are considered but, in either case, indicate that the predominant military ages are part of a population group which contributes heavily to our national crime figures. The impact of

this fact is exacerbated by a large input of recruits with deficient socio-economic backgrounds (backgrounds which correlate with a highly disproportionate amount of criminality) and by consolidation of this age group into relatively small military areas. For example, the age group 18 to 22, which typically embraces single enlisted personnel living in military barracks, accounts for over 26 percent of all major criminal arrests; youths with deficient socio-economic backgrounds account for a disproportionate number of such arrests.¹ This infers that crime is very likely to continue, if not increase, within the military structure. Accordingly, a case can be made for changing the caliber and age of recruits, as a means of reducing the crime problem and its associated costs.

Recruitment of personnel from better socio-economic backgrounds and/or from a slightly older age group would reduce the probability of enlisting personnel likely to become criminal offenders. While 18 and 19 year old youths account for 13.8 percent of all major arrests, the 23 and 24 age group accounts for only six percent of major arrests. However, given the current governmental dedication to an all voluntary military force, and the trends in recruitment, efforts to change either the age or caliber of military recruits appear to be an infeasible solution to the problem in the near future. Accordingly, it appears that the military must continue to deal with its offenders either within the existing system or within a modified corrections system.

¹Statistics taken from FBI, Uniform Crime Reports for the United States 1975 (Washington, D.C.: USGPO, August 1976) (hereafter referred to as the UCR), pp. 188-189. These figures closely correlate with data reported by Patrick R. Lowrey, "Military Confinement: Needless Luxury or Viable Necessity," unpublished Army War College Military Research Paper, Carlisle Barracks, Pa., May 30, 1974 (hereafter referred to as the Lowrey study). This correlation of data indicates the propriety of considering long term trends in criminal justice problems.

In dealing with military criminal offenders, commanders, corrections personnel, and other staff members are influenced, directly or indirectly, by other trends which emanate from our greater society.

Two of these trends were recently addressed by Norman A. Carlson, president-elect of the American Correctional Association (ACA) and head of the Federal Bureau of Prisons (BOP). Carlson noted that corrections is undergoing a major re-examination revolving around the question of the basic objectives of criminal justice sanctions (particularly, incarceration), and articulated a second, closely related trend:

Today the trend is toward a balanced approach, one that recognizes that retribution, deterrence, incapacitation and rehabilitation are all legitimate objectives of incarceration, probation, parole, and other criminal justice sanctions. The emphasis is on developing a system of sentencing which is just and fair in both fact and appearance.²

While the foregoing thoughts do not constitute quantitative evidence of these trends, similar views are widely expressed, and Mr. Carlson's comments are likely to reinforce these concerns among that portion of the population he influences. More quantitative evidence exists concerning rising costs and recidivism rates.

Nationwide correctional expenditures rose sharply from 1971 to 1975. Nineteen of the states increased their expenditures by over 100 percent. Only eight states managed to keep their correctional budgets from increasing by less than 50 percent. While inflation played a role in these increases, full-time equivalent correctional employment rose 23.7 percent. Overall expenditures were \$3.8 billion in 1975 versus \$2.3 billion in 1971, and reflected an outlay greater than our national

²See ACA, On the Line, Vol. 1, January, 1978, p. 1, for the first thought, and "Toward a Balanced Mission for Corrections," American Journal of Corrections, Vol. 40, January-February, 1978, pp. 13-28, for quotation.

budget for judicial services, legal services, and other criminal justice services. Only police protection consumed more of criminal justice resources than corrections (\$9.8 versus \$3.8 billion) in 1975.³

The foregoing data indicate that corrections is growing in terms of employees as well as expenditures. Given the concurrent rise in police protection, crime rates, and inflation, such growth is not surprising. On the other hand, given the likelihood of continuing crime and the likelihood of increasing correctional expenditures, the military options for dealing with this problem are essentially threefold: (1) accept the increasing expenditures, (2) counter the trend through in-house managerial improvements, or (3) abandon the costly corrections business (at least in part). To illustrate this dilemma, the USDB budget increased approximately 69 percent in spite of a reduction in average prisoner population from fiscal year 1973 to fiscal year 1977.⁴ Conversely, the overall military corrections system has curtailed expenditures in some areas. Yet, the rising trend is difficult to counter as evidenced by the USDB budget increase. Recent correctional standards, which are now being addressed by the courts, increase the probability of future cost increases. While expenditure trends are clear, recidivism rates, reflecting correctional failures, are equally unmistakable.

The failure of corrections is commonly addressed in terms of numbers or percentages of repeat offenders (recidivists). Recidivism

³U.S. Department of Justice and U.S. Department of Commerce, Trends in Expenditure and Employment Data for the Criminal Justice System 1971-1975 (hereafter referred to as Trends in Expenditures and Employment Data) (Washington, D.C.: USGPO, June 1977), pp. 2-5.

⁴Based on data reported in Lowrey, op. cit., and USDB Annual Historical Summary, 1 October 1976-30 September 1977, Fort Leavenworth, Kansas (hereafter referred to as USDB History).

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rates have been well analyzed and the results thereof widely published.⁵ While many criticisms have been made of the various studies of recidivism, and while there are numerous fluctuations by region, type of program being evaluated, and mere definition of the term, two facts are clear: (1) recidivism rates are, for the most part, reasonably constant regardless of variables; and (2) with few exceptions, the rates are uniformly high.

The Uniform Crime Reports (UCR) reflect data for offenders arrested during the period 1970 to 1975, as well as more elaborate data concerning 78,143 persons released from various correctional programs in 1972 and rearrested within four years.⁶ Table II, for example, portrays a summary of persons arrested from 1970 to 1975. This data, while considering a different population, correlates significantly with the data depicted in Table III. Table III presents the subsequent arrest history of offenders released from various correctional programs in 1972. Tables IV to VII portray similar data and trends when analyzed for various factors; all show a similar trend of persons being arrested for a second or later time.

The data in Tables II to VII reflect statistically consistent data. With the exception of some females and the crime of embezzlement, the data reveal a recidivism rate of 48 to 81 percent (mean = 67%). Allowing for the often reported inadequacies of the Uniform Crime Reports, these data

⁵See, for example, Edwin H. Sutherland and Donald R. Cressey, Criminology (9th ed., Philadelphia: J.B. Lippincott Co., 1974), pp. 153, 255, and 296; The President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society (Washington, D.C.: USGPO, 1967), pp. 45-46; and the UCR, op. cit.

⁶UCR, ibid., pp. 42-47, provides the basic data for Tables II-VII. The UCR provides more comprehensive data than that selected for presentation, and some of the data has been recomputed or modified from the original FBI presentations.

TABLE II*
 REPEAT OFFENDERS
 BY RACE & SEX
 (PERSONS ARRESTED 1970-1975)

Sex	Total	Race		
		White	Black	Other
Total:				
Number Arrested	255,936	149,324	102,132	4,480
Percent Repeaters	64.2	60.5	70.3	48.2
Male:				
Number Arrested	220,114	131,731	84,530	3,853
Percent Repeaters	67.0	62.9	74.0	51.4
Female:				
Number Arrested	35,822	17,593	17,602	627
Percent Repeaters	47.0	42.2	52.4	28.1

*SOURCE: UCR, op. cit., p. 44

TABLE III*
 REPEAT OFFENDERS
 BY RACE
 PERSONS RELEASED FROM CORRECTIONAL
 PROGRAMS IN 1972 AND REARRESTED
 WITHIN 4 YEARS

Sex (male & female)	Total	Race		
		White	Black	Other
Total Released	78,143	48,732	28,416	955
Number Rearrested	51,817	30,603	20,654	560
Percent Repeaters	66.3	62.8	72.7	56.3

*SOURCE: UCR, op. cit., p. 47.

TABLE IV*

REPEAT OFFENDERS
BY TYPE OF CRIME AND TYPE
OF RELEASE - PERSONS RELEASED
FROM CORRECTIONAL PROGRAMS
IN 1972 AND REARRESTED WITHIN 4 YEARS

Offense	Percent Repeaters	Type of Release	Percent Repeaters
Burglary	81	Suspended Sentence or probation	57
Robbery	77	Parole	71
Motor Vehicle Theft	75	Fine	70
Rape	73	Mandatory Release or Pardon	74
Assault	70	Acquitted or Dismissed	67
Stolen Property	68		
Forgery	68		
Larceny-Theft	65		
Narcotics	65		
Murder	64		
Weapons	64		
Fraud	63		
Gambling	50		
Embezzlement	28		
Others	64		
Mean	65.07		67.8
Range	28 - 81		57 - 74

*SOURCE: UCR, op. cit., pp. 45-46.

TABLE V*

REPEAT OFFENDERS BY
SELECTED AGE GROUPS - PERSONS
RELEASED FROM CORRECTIONAL
PROGRAMS IN 1972 AND REARRESTED WITHIN 4 YEARS

Total Released = 78,143	Total	White	Black	Other	Male	Female
Age Group 20 - 24	27,704	17,138	10,191	375	23,876	3,828
Repeat offenders	19,352	11,235	7,902	215	17,213	2,139
Percent repeaters	69.9	65.6	77.5	57.3	72.1	55.9
+Age Group 25 - 29	68.0	63.6	75.1	60.0	70.2	53.6
+Full data is not presented. Actual numbers decline in all categories, but the percentages remain relatively constant as depicted.						

*SOURCE: UCR, op. cit., p. 46.

are probably conservative.⁷ Where there appear to be significant variations, such as in the case of probation (Table IV), it can be argued that this difference is due to the selective sentencing inherent in sentences to probation. This same rationale explains the difference in the probability of recidivism reflected in Table VI; this table shows that for given age groups the method of correctional disposition does not significantly affect recidivism rates.

Somewhat countering these statistics are data indicating that the probability of arrest, as well as the probability of rearrest, is relatively small for any particular offender. Total arrests in 1975 equaled less than five percent of the national population (9,273,666 versus 213,124,000). Compared to the total number of persons released from correctional programs, the individual likelihood of rearrest is also small (as depicted in Table VII).

Some persons may challenge the validity of these arrest figures, but the FBI is not the sole source of such data. Other studies indicate that a large percentage of prisoners have previously been processed through one of the criminal justice system's correctional programs. Table VIII, reflecting data from a 1973 prisoner census, portrays that approximately 99 percent of the inmates had previously served a sentence

⁷ Many writers have criticized the Uniform Crime Reports on the grounds that not all police agencies report to the FBI, that reported data is unreliable, and for other reasons. Most writers have criticized only the external problem, and not problems within the FBI itself. Based on this author's observations from 1975 to 1977, it appears that the FBI also contributes to statistical deficiencies by rejecting valid inputs. On a frequent basis, the writer had to resort to telephonic or written communications to correct errors made within the FBI. Some errors could not be corrected, thereby impacting on the accuracy of FBI records. Considering both sides of the reporting problem, it can be concluded that the data portrayed in Tables I through V is conservative, rather than inflated.

TABLE VI*

SELECTED FOUR YEAR FOLLOW-UP
 PERSONS REARRESTED (BY AGE GROUP AND TYPE RELEASE),
 RELEASED FROM CORRECTIONS PROGRAMS IN 1972

<u>Type of Release</u>	<u>Age 20 - 24</u>	<u>Age 25 - 29</u>
Probation	63.8%	56.6%
Fine	74.1%	73.0%
Parole	75.7%	71.2%
Mandatory Release and Pardon	77.9%	77.6%

*SOURCE: UCR, op. cit., p. 46.

TABLE VII*

OVERALL PROBABILITY OF
 REARREST WITHIN 4 YEARS
 (BY SELECT YEAR GROUPS)

TOTAL RELEASEES = 78,143		
<u>Offender Trait</u>	<u>Age 20 - 24</u>	<u>Age 25 - 29</u>
White	14.4%	07.7%
Black	10.1%	05.9%
Other	00.3%	00.2%
Male	22.0%	12.3%
Female	02.7%	01.4%

*SOURCE: UCR, op. cit., p. 49; computations made by author.

of some type; 57 percent had been on probation as either juvenile or adult.

TABLE VIII*
SELECTED DATA ON PRIOR
CORRECTION
BACKGROUND OF INMATES

<u>Item</u>	<u>Number Inmates</u>	<u>Percent</u>
Total Inmates Surveyed	191,400	100
Number of Prior Sentences		
0	500	0+
1	55,700	29
2 or more	135,100	71
Total Juvenile Sentences		
0	128,300	67
1	40,200	21
2 or more	22,900	12
Number of Times on Probation		
0	82,600	43.2
1	41,000	21.4
2 or more	67,300	35.2
+less than one percent.		

*SOURCE: LEAA, Survey of Inmates of State Correctional Facilities 1974 Advance Report (Washington, D.C.: USGPO, March 1976), p. 35. Computations by author to consolidate data in presentation.

While both FBI and LEAA data indicate that an extremely large percentage of persons arrested or imprisoned have previously been arrested and/or sentenced, this data does not address those offenders who were "successfully rehabilitated" -- those, who once arrested and sentenced, do not repeat their criminality. Additionally, some military corrections personnel would argue that the civilian recidivism trends do not apply to the military. There is, however, evidence suggesting otherwise.

A recent census of nearly 188,000 prisoners in state prisons

revealed that over 51,000 had prior military service. Of these, nearly 13,000 former servicemen had received discharges under other than honorable conditions; 2,600 had received dishonorable discharges. This data, when related to an estimated number of personnel processed through the military corrections system, infers that the low recidivism rates claimed by many military personnel may be invalid. As shown in Table IX, a number of prior military offenders ranging from 7 to 32 percent of USDB releasees end up in state prisons. This projection does not include military offenders released from other confinement facilities. However, it does not include former military personnel confined in city, county, or federal institutions; on probation or parole; or in community-based treatment programs. Similarly, the projection does not address purely military offenders (who are not criminals in the civilian sense of the word and who, presumably, are less likely to be repeat offenders). On balance, therefore, this correlation infers that the recidivism rates of military offenders may be considerably higher than casually mentioned rates of under five percent (usually, such rates are derived from parole success rates -- the only bona fide measure of rehabilitative success the military has validated to date).

Other trends have evolved from increasing crime rates and high recidivism rates with inferences for military corrections. As an illustration, more than 100 prisoners were recently released on furlough from three Delaware prisons in an effort to comply with a federal court order to reduce overcrowded prison conditions.⁸ While the military does not have overcrowded facilities, the problem does affect the

⁸Police Executive Report (Gaithersburg, Md.: IACP, August 29, 1977), p. 7.

military. During the writer's tour at the USDB, it became increasingly difficult to transfer USDB prisoners to the federal system. Due to crowded conditions within the federal prisons, approximately half of our efforts to transfer military offenders to the federal system were rejected. Yet, as will be discussed, at least two reports (the Lowrey and Carter studies) have concluded with recommendations that the military close its facilities and transfer its prisoners to the federal or state systems.

TABLE IX*

FORMER MILITARY PERSONNEL
IN STATE PRISONS
(SURVEYED AND PROJECTED)

<u>Survey Results</u>	<u>Number</u>	<u>Percentages</u>
Total State Prisoners Surveyed	187,500	69.4
Total Former Military:	51,000	27.2
With Other Than Honorable Discharges	12,800	6.8
With Dishonorable Discharges	2,600	1.3
<u>Projected Results</u>		
Total State Prisoners	270,033	100.0
Projected Former Military:	73,448	27.2
With Other Than Honorable Discharges	+18,443	6.8
With Dishonorable Discharges	++ 3,754	1.4
+Based on estimated number of military releasees from confinement = 32%		
++Based on estimated number of military releasees from confinement = 7%		

*SOURCE: ACA Directory; Survey of Inmates of State Correctional Facilities, 1974; and USDB History, op. cit.; for USDB History see n. 4.

Overcrowded prison conditions have also contributed to the trend of decriminalizing various offenses. This trend does not appear

to be of major significance to the military; however, some military offenses could be considered in the same generic category of offenses for which incarceration is increasingly considered to be inappropriate. As such, these offenses create problems of perceived fairness in the sentencing process. For example, in some cases military possessors of marijuana get imprisoned while civilians often receive lesser sanctions.

There is also a trend toward concern with the indirect costs of corrections. It was recently reported that budgetary restraints were forcing the FBI to stop handling crimes of desertion. The FBI estimates that it can reduce its budget by \$6 million by refusing to handle these cases (the agency arrested almost 80,000 deserters from 1973 to 1976). The military spent nearly \$58 million to apprehend deserters in 1975 and 1976 -- an expenditure criticized by the GAO, and which led to a \$5.9 million dollar reduction in the DOD deserter apprehension budget.⁹

Trends of this nature are significant in at least two respects. First, a reduction in enforcement efforts raises questions of the propriety of prosecuting -- or at least confining -- the relatively few who are caught. Second, the total expenditure -- \$58 million in two years -- places the military corrections budget into perspective. For example, the USDB budget in fiscal year 1977 was approximately \$13 million (about half of what was spent to apprehend deserters during the same year).

Finally, the trend toward a small, all-voluntary constabulary military force also impacts on military corrections. After ten years of force reductions, it appears that the total DOD strength will show some degree of stability. Recently reported strength figures for enlisted

⁹Reported in the Air Force Times, January 1, 1978.

personnel are reflected in Table X. Only enlisted statistics are reflected because officers, cadets, and midshipmen account for a small portion of the total problem. These figures have a twofold impact.

TABLE X*
MILITARY ENLISTED STRENGTH

<u>Service</u>	<u>End FY 77 (Actual)</u>	<u>FY 78 (estimated)</u>	<u>FY 79 (estimated)</u>
Army	680,062	673,112	671,905
Navy	462,176	464,903	453,750
Marine Corps	173,057	172,948	171,693
Air Force	<u>469,878</u>	<u>471,193</u>	<u>465,490</u>
TOTAL:	1,785,173	1,782,156	1,762,838

*SOURCE: The Air Force Times, February 13, 1978.

Assuming court martial and confinement rates remain constant, military prisoner populations should remain relatively constant. This, however, could be influenced by crime trends in civilian life and the type of recruit the services obtain during the next few years, as well as the ultimate strengths of the respective services. This could also be influenced by changes in correctional or punitive philosophy or policy. For example, the Air Force has a court martial rate of 1.8 per thousand. If, in 1977, all of these courts martial had resulted in confinement, there could have been an average of 276 Air Force prisoners confined; an average of slightly over 100 were actually confined. Indeed the number of Air Force prisoners has declined since Vietnam to such an extent that the jail portion of the 3320th Correction and Rehabilitation Squadron (the primary Air Force confinement facility) was officially

closed on February 20, 1978. Reasons for this decline in prisoners have been offered, including decreases in drug abuse and AWDL cases, higher recruiting standards, and new discharge policies.¹⁰ However, such conjecture has not been empirically proven. The significance of the Air Force experience can be projected should the other services attain equal confinement ratios. Allowing for the variations by service, the impact of reduced military strength and the change to an all-volunteer force since the secession of Vietnam is significant in terms of both number and type of offenders. For example, the number of USDB prisoners has declined to less than 800 as of May 1, 1978, and the purely military offender has been replaced by the more traditional felon. This phenomenon became especially noticeable in late 1974 and early 1975 as a result of the Presidential amnesty program (which caused the immediate release of about 100 USDB inmates, as well as subsequent releases under the program). Both Lowrey and Carter observed the change in the nature of military offenses; Table XI shows a clear change from military to felony offenses.

The significance of the data portrayed in Table XI can be seen in the conclusions reached in two separate studies. The MacCormick study of the Army confinement system (from April 23 to May 30, 1969), found that 80 to 90 percent of the prisoners in Army stockades and half of the USDB population were young and confined for AWDL. A similar, but less comprehensive study (the Carter team) found mostly felons at the USDB in 1977 (as Table XI reflects). As a result of this change in type of offense perpetrated by military offenders, the Carter team formed different recommendations: that the military turn these felons over to federal or

¹⁰Reported in the Air Force Times, March 13 and April 3, 1978, and in the Leavenworth (Kansas) Times, March 8, 1978. The retraining program, however, is still in operation at Lowrey AFB, Colorado.

state corrections systems.¹¹

TABLE XI*
MILITARY OFFENDERS
CONFINED AT USDB
(BY TYPE OF OFFENSE)

<u>Military Offenses</u>	As of Feb 20, 1970		As of Apr 14, 1975		
	Army	Air Force	Army	Air Force	Marine Corps
Desertion & AWOL	443	3	22	2	27
Discreditable Conduct	143	2	21	1	7
Other	<u>87</u>	<u>4</u>	<u>0</u>	<u>1</u>	<u>0</u>
SUBTOTAL:	673	9	43	4	34
<u>Civilian Offenses</u>					
Unlawful Killing	83	1	106	9	20
Attempted & Actual Rape	32	0	51	3	8
Other Sex Offenses	39	1	28	4	3
Assaults	82	3	92	6	41
Forgery	19	3	8	2	0
Arson	0	0	9	1	2
Narcotics	66	6	284	22	32
Robbery	50	2	119	5	12
Larceny	89	5	94	18	22
Other	<u>70</u>	<u>3</u>	<u>24</u>	<u>4</u>	<u>12</u>
SUBTOTAL:	530	24	815	74	152
TOTAL:	1203	33	858	78	186
NOTE: Marines were not confined at the USDB at the time of the 1970 study; they were transferred to the USDB in the Spring of 1974 due to closure of the Marine Corps facility in New Hampshire.					

*SOURCE: MacCormick study, n. 11, and Roster of USDB Inmates, April 14, 1975. Offenses in both reports were consolidated to provide direct comparisons; use of exact comparisons is infeasible due to differences in terminology used in classifying offenses in the two reports.

¹¹ Report of the Special Civilian Committee for the Study of the United States Army Confinement System (hereafter referred to as the MacCormick Committee) (Washington, D.C.: USGPO, May 1970), and Robert M. Carter (unpublished report to the Commanding General, Fort Leavenworth, Kansas, June 10, 1977).

The impact of this trend is apparent in the recommendations of these two different teams of experts -- one focusing on rehabilitating and treating the wartime AWOL serviceman; the other, recommending the military turn over its corrections function to a more suitable system.

Summary of trends. From the foregoing it is apparent that there are numerous trends which impact on military corrections irrespective of micro economic considerations. Rising crime rates, particularly among the military age group; rising correctional costs; high recidivism rates; a small, all-voluntary military force (required, for various reasons, to predominantly enlist the socio-economically disadvantaged, crime-prone segments of society); and the change in the character of the typical offender can be quantitatively established. Beyond this point, evidence becomes more difficult to assess. Prior to such an assessment, it is appropriate to consider the alternatives for handling military offenders.

Programs adoptable to military corrections.

The first question raised in this study -- are there alternative programs in existing systems that can be adapted by the military -- was partially answered in Chapter II. It is evident that there are six basic correctional methods (used singularly or in combinations) in our society today (see Chapter II). Each program described in the literature fits into one or more of these basic dispositions. However, there are numerous variations of each general method. For example, probation may involve various levels of supervision, entail the use of volunteers, or include temporary incarceration. Each variation of each basic method has been evaluated; consequently, it would take a monumental treatise to describe every variation. Such an approach would be of little value

for, in many cases, their use is so limited in scope or otherwise restricted that adaptation by the military would be impractical -- in spite of cost or effectiveness. Five of the six basic dispositions are currently used to some degree by the military. While the services do not use probation (see pp. 16-19), no evidence could be found indicating that this general approach could not be adapted. The military presently uses federal probation officers to supervise parolees from the USDB. It would be a relatively simple matter to modify the current DOD-Department of Justice agreement to include use of federal probation officers to supervise military probationers, as well as military parolees. Use of state probation officers, as well as state confinement systems, could also be adopted but with greater difficulty. Since the military uses most of the basic approaches to corrections, adaptation of some variations of the basic methods are feasible. For example, shock parole and shock probation could be adapted with relative ease. Other programs, while less suitable for adaptation, appear to warrant exploration of their underlying principles. The issue, to be discussed in the remainder of this report, is not are there alternatives, but rather, would any of the alternatives save resources while serving to accomplish the objectives of corrections.

Programs resulting in savings of resources.

Cost comparison of alternative offender dispositions. It is relatively easy to either oversimplify or complicate the costs of correctional alternatives and programs. Table XII portrays some simple and complex cost considerations. This table, while incomplete, shows the difficulty of comparing costs within corrections (albeit, the Carter study, as well as other studies, have tried such comparisons).

TABLE XII
SOME POSSIBLE
COST COMPARISONS

<u>Offender Disposition</u>	<u>Simple Cost Considerations</u>	<u>Complex Cost Considerations</u>
Non-prosecution	None	Cost to victim Cost to society Cost of encouraging further criminality
Fine	Court costs minus value of fine	Cost to victim Inequitable impact May generate profit May not change behavior
Suspended sentence	Court costs	Cost to victim Cost of encouraging further criminality Savings of welfare Increased tax collections
Restitution	Court costs	Savings to victim Increased tax collections Savings of welfare Cost of encouraging further criminality
Probation	Court costs plus probation costs	Differential costs of various levels of supervision
Incarceration	Court costs plus prison costs	Lost tax revenues Welfare costs

Numerous studies have attempted to measure the more complex costs involved in various offender dispositions (which in many cases cloud even simple cost comparisons). Considering only the simple cost factors does not simplify cost comparisons, for differences in bookkeeping, wages, and in the scope of correctional programs, are but three variables affecting even simple cost considerations. For example, in the Leavenworth, Kansas, area there are disparities in salaries between federal civil servants employed by the Federal Bureau of Prisons and those employed by the Department of Defense, as well as between state employees at the Kansas

State Penitentiary and at the Kansas Correctional Institution for Women -- four institutions, located within a single county.

Due to such complexities, much correctional data and many evaluations are incomparable. Consequently, this study attempted to isolate and consider only the relatively simple and comparable costs -- salaries, operating, and maintenance -- of various alternatives. In considering only these expenses, some reasonable, if tenuous, conclusions can be drawn. Non-prosecution, fine, restitution, and suspended sentences are less costly than probation, parole, or incarceration. Similarly, probation and parole are generally, but not always, less expensive than incarceration (although some people argue that, if properly administered, probation and parole costs would rise considerably). If more complex factors are included, these conclusions become far more tenuous due to the variables involved. For example, indicators that misdemeanor corrections (whether handled in a community or in an institution) are less costly than felon corrections have many explanations -- not the least of which is an absence of misdemeanor treatment programs.

Table XIII portrays the average cost per adult offender per year, based on a study by the President's Crime Commission, with costs adjusted by a seven percent annual inflation rate in order to project 1975 costs. This projection, while varying slightly from recent cost estimates, offers the advantage of excluding increased offender populations and the addition of new programs, both of which affect current cost comparisons. However, the comparison retains the general relationship of costs between felon and misdemeanor corrections, as well as between institutional and non-institutional programs. The later comparisons have frequently been identified (as Table XIII portrays) as ranging from 10:1 to 18:1 ratios (e.g., see Sutherland, op. cit., pp. 479-481).

TABLE XIII*

COST COMPARISONS
FELON & MISDEMEANANT
(ACTUAL AND PROJECTED)

<u>Felon Corrections</u>	<u>1965 Average Cost Per Offender Per Year Per Crime Commission</u>	<u>1975 Average Cost - Projected & Based on 7% Annual Inflation</u>
Institutional Programs	\$1966	\$3343
Community Programs	198	337
Probation	140	238
<u>Misdemeanant Corrections</u>		
Institutional Programs	\$1046	\$1778
Community Programs	142	241

*SOURCE: Challenge of Crime in a Free Society, op. cit., p. 161; Crime Commission, Task Force Report: Corrections (Washington, D.C.: USGPO, 1967), p. 28.

While some people may argue that the foregoing conclusions are only logical, evidence indicates that such conclusions are not without pitfalls. Table XIV and Figure 2 portray data concerning correctional expenditures of 25 states (for adult offenders). The remaining 25 states could not be compared due to non-publication of data, differences in accounting, or for other reasons. For the 25 states compared, the annual expenditure per offender ranged from \$1180 to \$7817 (mean = \$3686; standard deviation = \$2105). Figure 2 shows the comparative ranking of the states in terms of the ratio of non-institutionalized offenders versus institutionalized offenders and expenditure per offender.

While there is a strong positive correlation (+.609) between these rankings, the correlation is not as strong as one would intuitively expect. Table XIV, reflecting the data from which Figure 2 was derived,

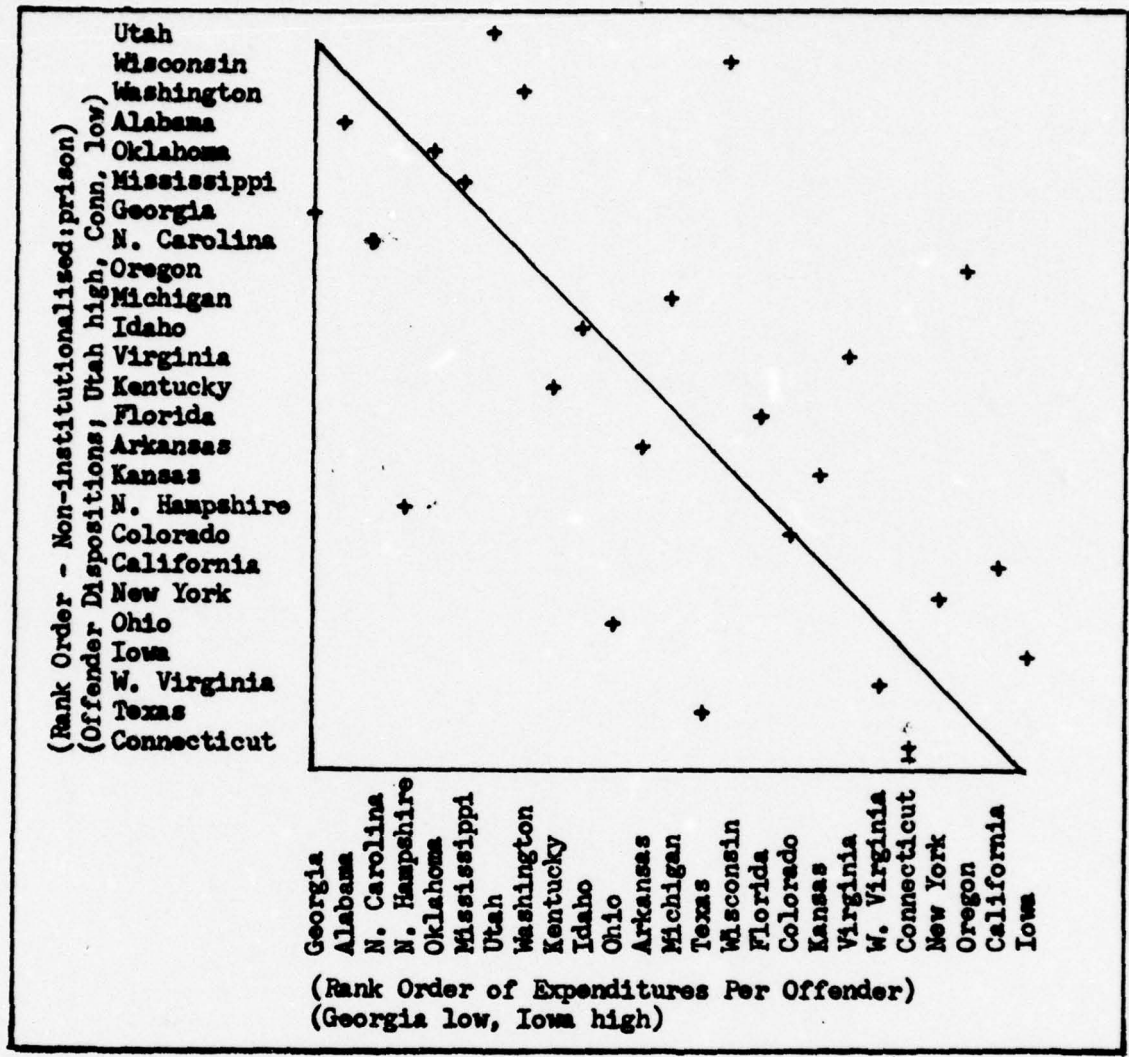


Figure 2
CORRELATION OF STATE CORRECTIONAL
EXPENDITURES AND RATIO OF
INSTITUTIONAL TO NON-INSTITUTIONAL
OFFENDER DISPOSITIONS

provides insight into the difficulties of making casual cost comparisons in corrections. Texas, for example, has relatively few offenders under supervision in its communities. Conversely, its prison costs (\$4.55 per day, discussed later in this chapter), are among the lowest in the nation. Thus, in Texas, the costs of non-institutional programs exceed incarceration costs. Conversely, the southern states, while making

extensive use of probation and other community treatment programs, are beneficiaries of relatively low wages in both the institutions and in the community programs.¹²

TABLE IV*
STATE EXPENDITURES
AND RATIO OF NON-INSTITUTIONAL DISPOSITIONS
TO INSTITUTIONAL DISPOSITIONS

State	Average Annual Offender Expense	State Rank	Ratio of Non-Insti- tutional Offender Dispositions to Prisoners	State Rank
Georgia	\$1180.30.....	1	3.16.....	7
Alabama	1214.08.....	2	3.56.....	4
N. Carolina	1645.92.....	3	3.00.....	8
N. Hampshire	1688.39.....	4	1.30.....	17
Oklahoma	1814.78.....	5	3.53.....	5
Mississippi	1855.78.....	6	3.41.....	6
Utah	2092.60.....	7	6.94.....	1
Washington	2189.81.....	8	3.94.....	3
Kentucky	2261.05.....	9	1.68.....	13
Idaho	2370.09.....	10	2.38.....	11
Ohio	2575.81.....	11	0.84.....	21
Arkansas	2758.99.....	12	1.4159.....	15
Michigan	2787.08.....	13	2.51.....	10
Texas	2957.90.....	14	0.67.....	24
Wisconsin	3465.60.....	15	4.98.....	2
Florida	3716.18.....	16	1.51.....	14
Colorado	4344.66.....	17	0.98.....	18
Kansas	4494.38.....	18	1.4152.....	16
Virginia	5834.05.....	19	1.74.....	12
W. Virginia	5868.98.....	20	0.71.....	23
Connecticut	6374.15.....	21	0.52.....	25
New York	6634.43.....	22	0.88.....	20
Oregon	7112.47.....	23	2.81.....	9
California	7118.17.....	24	0.94.....	19
Iowa	7817.46.....	25	0.81.....	22

*SOURCE: ACA Directory, op. cit., pp. iv-vii; computations by author.

¹²Based on data taken from Benson Hecker, et al., "Survey of Probation/Parole Supervisors and Counselors," American Journal of Correction, Vol. 38, March-April, 1976, pp. 31-44.

In Georgia, for example, the starting salary for probation and parole officers is \$8,196; Texas starts at \$11,460; and Michigan at \$12,360. Allowing for a standardized case load -- which does not exist anywhere in the nation -- these salary disparities alter the individual offender costs significantly. For example, the cost in Georgia would be \$273, in Texas \$382, and in Michigan \$412. Such variances are further compounded by the wide ranges in case loads (often exceeding 100 probationers per supervisor). The overall situation affects intuitive conclusions, reveals the difficulty in making cost comparisons in general terms, and indicates a need for extremely precise comparisons (which often cannot be made because of these variables).

Cost comparisons of military corrections are equally difficult. There is no consolidated budget that reflects the total costs of the overall program. Several potential areas of comparison can be analyzed, as reflected in Table IV. Both the GAO and the Lowrey study have addressed some of these comparisons. The GAO found that military stockades (used for pretrial and minor offenders) are more expensive than a consolidated facility, such as the USDB (a finding contrary to the civilian picture of lower costs for minor offenders). Lowrey determined that the military incarceration system is more expensive than the federal prison system. Other comparisons, such as the costs of the military clemency program, have not been analyzed. Some discussion regarding relatively simple cost comparisons, such as done by Lowrey, will now be presented; the clemency program will be discussed later in the chapter.

As Table XV portrays, it appears to cost slightly more to confine a prisoner at the USDB than at the U.S. Penitentiary, Leavenworth (USP). The difference (\$1.18 per day, per prisoner), on the surface, warrants

closing the USDB and transferring all military prisoners to the federal system. However, this conclusion is tenuous. The respective costs of the two institutions are greatly affected by the economies of scale associated with disparate prisoner populations (under 800 at the USDB and over 1800 at the USP). Were the USDB inmate population to double, the daily per prisoner cost would drop considerably -- assuming there were no increase in the size of the staff. The scope of rehabilitation programs, which far exceed those at the USP, also contribute to a higher cost at the USDB. Additionally, the nature of the confining offenses and sentences precludes transferring all USDB prisoners to the Leavenworth Penitentiary. Some offenders (perhaps as few as one-third) would be

TABLE XV

SOME POSSIBLE MILITARY
COST COMPARISONS

Comparative costs of individual stockades.
 Comparative costs of retraining programs (Air Force vs. Army).
 Cost of military clemency program.
 Trial costs.
 Appellate costs (for local SJA, TJAG, CMR, and COMA).
 Miscellaneous travel and escort expenses.
 Cost of USP, Leavenworth (\$33.04 per prisoner, per day).
 Cost of USDB (\$34.22 per prisoner, per day).
 Cost of various state prisons (Average = \$9.16) per prisoner, per day.
 NOTE: The state prison costs are virtually meaningless as was discussed in the text; economies of scale, wages, productivity and other variables create a wide range in state costs.

ineligible for transfer to the federal system. Yet, allowing for the transfer of 67 percent of the offenders, at a total savings of about \$230,000 per year, the savings would be dissipated by such factors as more expensive institutions (in some cases), additional travel costs

(for rehearings and reasons unique to the military prisoner), and the increased marginal cost of confining the remaining military offenders in a military facility (at the USDB or elsewhere).

Summary of cost comparison. Based on the foregoing analysis of data, it is apparent that there are numerous ways of comparing costs of alternative offender dispositions. One may use simple or complex considerations. Both are influenced by a number of variables that can affect conclusions. However, it is generally recognized that institutional programs are more expensive than non-institutional programs. Yet, variables such as institutional size, employee pay scales, and the extent of rehabilitative programs significantly affect institutional costs. Prior studies have concluded that an institution, such as the USDB, is less costly than small local confinement facilities. A prior cost comparison indicated that the USDB is slightly more costly than a federal prison (a fact confirmed, in part, in this analysis). State prison costs, seemingly far less expensive than the federal or military institutions, are greatly affected by variables such as prisoner:staff ratios (see Table XXI), local wage scales, extent of rehabilitation programs, and other factors. Thus, it can be concluded that general cost comparisons are probably meaningless. Unless the comparison is vigorously and precisely defined and a multitude of variables considered, any further conclusions or decisions are likely to be invalid -- particularly when used in correlation with the objectives of corrections.

Effectiveness of alternative offender dispositions. While quantitative cost comparisons are difficult, quantitative assessments of the effects of various alternative dispositions are nearly impossible.

Tables IV and VIII reflect data indicating that regardless of option, the failure of the majority of correctional methods is high. Useful data is lacking to show the effects of non-prosecution, although some inferences can be drawn from the fact that 67 percent of people arrested had been previously charged (and either acquitted or had their charges dismissed). Data concerning restitution is extremely limited (see Table XX). Attempts to quantify the effectiveness of other programs are as prone to the influences of variables as cost comparisons. For example, primary and secondary crime prevention efforts affect the outcome of tertiary efforts but probably cannot be quantitatively measured. In general, however, the available evidence indicates that most programs offer little likelihood of successfully precluding recidivism at significantly better than a 50/50 chance ratio. Consequently, quantitative assessments of rehabilitative methods require the application of considerable insight as well as intuitive, judgmental, and subjective analysis.

II. INTUITIVE ANALYSIS

Affects of alternatives on conflicting correctional objectives.

As previously discussed, consideration of the absolute costs of various correctional alternatives can lead to tenuous conclusions. Lowrey, for example, estimated an annual cost of \$4.5 million to train Army guards in fiscal years 1973-1975 (training costs within the other services were not considered). In assessing this cost, it is apparent that the military cannot operate its correctional program on a cost-comparative basis. Greater stability of personnel in most civilian programs and the greater expense of training military personnel (as both soldier and guard) are but two factors precluding such an absolute

comparison. In addition, if the military is truly concerned with rehabilitation, absolute costs are not the proper or sole criteria to use in evaluating its corrections program. Instead, cost effectiveness or cost benefit appears to be the appropriate measure for evaluating correctional alternatives.¹³

Cost effectiveness/cost benefit. The concepts of cost benefit and cost effectiveness are difficult to apply to corrections due to a lack of consensus as to the objectives of corrections. If punishment (vengeance) is the primary objective, a series of subordinate questions require answers. Does mere conviction and labeling punish? Does imprisonment punish or must imprisonment be of a relatively harsh nature (i.e., spartan, hard labor, and discipline oriented)? If the objective is deterrence, other questions arise. Given a system where few offenders are caught, tried, and convicted, what is the deterrent effect of punishing the relatively few? Finally, if the objective is to reform or rehabilitate, how is rehabilitation measured? Do we measure attitudinal changes, the acquisition of a marketable skill, educational level, or recidivism rates?

Most criminologists and penologists agree that the only valid measure of evaluating rehabilitative programs is in terms of recidivism. Yet, in agreeing on this, they agree on nothing. Issues such as the following require resolution: (1) is an offender a recidivist if he or she commits a different crime than the initial crime (e.g., murder instead of theft)?; (2) is an offender a recidivist if he admits to a crime, even though he is not arrested and convicted (e.g., through

¹³Lowrey, op. cit., p. 69, provides data for training Army guards.

surveys)?; (3) is he a recidivist if he is arrested but not convicted?; and (4) how long must he refrain from crime to be considered a non-recidivist?

Having raised these issues, it is apparent that precise quantitative evaluations of correctional programs are probably impossible. Additionally, the initial decision point in the correctional process is itself unquantifiable. Referring to the model depicted in Figure 1, a subjective objective must be defined. Additionally, the philosophical issue of the value of one rehabilitated person, as well as the standard used to measure success, must be addressed before attempting even an intuitive analysis of the problem.

Conflicting goals. In addressing alternative means of handling offenders, one of the more striking features is the enormous variety of methods and policies used in the attempt to control crime. These variations have existed throughout history and in various social systems. In America there exists a dichotomy, wherein society says that the offender must be punished, but the punishment must be humane. To accomplish this contradictory goal certain compromises have been accepted, because most people realize that rehabilitation efforts must be successful to prevent future criminality. Conversely, society has decreed that the first responsibility of corrections is the protection of society from the criminal. To assure its protection, the public has demanded that the offender be isolated (which usually means imprisonment). Thus, in striving to achieve its conflicting goals, society, as a whole, seeks a degree of punishment (vengeance), deterrence, and rehabilitation.¹⁴

¹⁴R. O. Steggerda and P.S. Venezia, Community-based Alternatives to Traditional Corrections (Davis, Cal.: NCCD Research Center, 1974), pp. 22-23, elaborate on these conflicting goals of society.

Punishment. While there is a plethora of theory, research, and evaluations related to the effects of various approaches to rehabilitation, the opposite is true of punishment. Many criminologists point to historical studies which show that punishment has generally failed to prevent or reduce crime. Their evidence, however, tends to be more intuitive, logical, or anecdotal than quantitative. Indeed, the problems inherent in proving that punishment does not affect crime generally preclude the use of empirical evidence. Criminologists who try to prove that punishment does not prevent crime are in much the same position found in a current television program (UFO). The cast constantly reminds the audience that they cannot prove that flying saucers do not exist -- only that there is a lack of valid evidence that proves that saucers do exist. So it is with criminologists. There is no evidence that punishment has not prevented crime -- only a lack of valid evidence that punishment has significantly reduced crime.

Some studies focus on the death penalty and use comparative homicide rates to show that the use of this penalty has not greatly affected crime rates. Others rely on anecdotal facts, such as the number of pickpockets who plied their trade in 18th century England -- a time when about 200 crimes (including pickpocketing) were punishable by death. Still others, rather than trying to prove that punishment does not prevent crime, tend to focus on philosophical issues (why we punish) or try to reconcile the conflicting purposes and philosophies of punishment, on the one hand, with treatment, on the other hand.

Most scholars, however, agree that every alternative means of handling offenders in the United States today involves a measure of punishment. Consequently, recidivism rates, such as presented in Tables

II through VIII, can be used to measure the effects of punishment, as well as the effects of rehabilitation efforts. While some prisons may be harsher than others, these prisons do not show a statistically significant difference in recidivism rates from those institutions perceived of as more humane or which are typically more rehabilitation oriented than security oriented. Perhaps the most important statistic in this regard is one put forth by Ramsey Clark: 95 percent of all expenditures in the entire correctional effort of the nation is for custody, while only five percent is for help. Clark went on to note that the Federal Bureau of Prisons had a 1968 budget of \$77 million compared to a FBI budget of nearly \$200 million and that the FBI was but one of more than 20 substantial federal investigative and enforcement agencies.¹⁵ Clark's observations correlate closely with recently published data showing that police service receives far more funds than corrections and that within corrections the bulk of the funds go to prisons (mostly for security, rather than treatment). Thus, it can be said that the assessments of rehabilitation evaluations are a study of a small part of America's correctional effort.

Rehabilitation. Critics of rehabilitative programs have observed that people changing efforts in corrections have proceeded by trial and error, unguided by firm data. One study addressed two major problems in

¹⁵Ramsey Clark, Crime In America (New York: Pocket Books, 1971), pp. 192-218, succinctly discusses some problems he perceived in corrections from the vantage point of attorney general. Supporting the observation that 95 percent of correctional efforts are for custody, rather than help, one can critically evaluate the manning of the USDB. After deducting the custodial personnel, headquarters personnel in three separate service units, the command element, legal, and administrative personnel involved in uniquely military functions, a relatively small percentage is directly involved in rehabilitation.

attempting to evaluate program effectiveness: (1) there is a propensity to reach naive conclusions from crude statistics (e.g., some statistics show that adult offenders are more likely to refrain from further criminality if placed on probation; more sophisticated observers contend that such data merely reveals that probation is a selective process, to which "self-correctors" are assigned,); and (2) most of the research has consisted of sporadic onetime studies. Other studies reiterate these problems.¹⁶

Adams, a foremost critic of evaluation studies, identifies 12 additional problems inherent in measuring the effectiveness of correctional programs:

1. Masking effects (e.g., subpopulations interact differently with the treatment than the overall population).
2. Regression (performance levels of groups drawn from the extremes of a distribution may move toward the mean).
3. Maturation (i.e., growing up independent of treatment).
4. Context problems (i.e., outcomes affected by uncontrolled variables).
5. Operating biases (e.g., staff unwittingly influencing outcomes).
6. Relevance (the questions asked may not be proper).
7. Efficiency (research designs, especially controlled experiments, tend to better measure effectiveness, not efficiency).
8. Timeliness (may take too long to be valid when published).
9. Erosion of treatment effects may not be measured.
10. Selection bias (in either control or experimental group).

¹⁶ Don C. Gibbons, et al., "Program Evaluation in Corrections," Crime and Delinquency, Vol. 22, July, 1976, p. 309, and Stuart Adams, "Measurement of Effectiveness and Efficiency in Corrections," in Handbook of Criminology, Daniel Glaser, ed., (Chicago: Rand McNally College Publishing Co., 1974), pp. 1022-1027.

11. Contamination, especially of the control group, due to inadvertant exposure to the treatment.

12. Form of economic analysis (the program is less costly, but achieves as much as a more costly program; the program is more costly, but significantly reduces recidivism; or cost/benefit analysis may be limited or expanded to address welfare and other remote costs/benefits.¹⁷

In regard to Adams' last point, another analyst observed that according to the economic analysis of criminal justice, society concentrates on the deterrent effect of punishment, thereby raising the cost of engaging in crime.¹⁸

Having reviewed several discussions of the problems inherent in evaluating correctional programs, it become obvious that one can readily criticize many evaluations. For example, Trojanowicz, in evaluating the effectiveness of Pine Lodge Halfway House, Lansing, Michigan, addressed the rehabilitative effects but not cost. Under scrutiny, his evaluation of the rehabilitative aspects also becomes suspect. His study was limited to a onetime evaluation of 80 boys. While reporting that 23 of the boys accepted at Pine Lodge were either still at the house or had been released to the Boys Training School, he concludes that 80.7 percent of the 57 released to the community had not been involved in further negative behavior. One does not know how he defined negative behavior or if his success is 46 of 57 or 46 of 80, because he did not address the outcome of the 23 boys remaining at the school or who were sent to the training school.¹⁹ It should be stressed that Trojanowicz is given only

¹⁷Adams, ibid., pp. 1027-1036.

¹⁸John E. Monzingo, "Economic Analysis of the Criminal Justice System," Crime and Delinquency, Vol. 23, July, 1977, pp. 260-271.

¹⁹Robert C. Trojanowicz, Juvenile Delinquency Concepts and Control (Englewood Cliffs, N. J.: Prentice-Hall, Inc., 1973), p. 287 provides this evaluation; prior pages describe the program in greater detail.

as an example; he is widely known and respected as practitioner and academician. This brief analysis merely points out the difficulty in casual acceptance of program evaluations.

Adams, relying on three independent assessments of evaluations, concluded that evaluators have found little evidence that any mode of correctional treatment has a decisive effect on recidivism. He did note, however, that three other assessments, using smaller, more precisely defined samples, arrived at more optimistic conclusions. He also observed that research failure rates in industry range from 50 to 99 percent.²⁰

Accepting the fact that correctional evaluations are not sufficiently valid to stand up under careful scrutiny by statisticians and critics, some tentative conclusions can be drawn based on a review of various assessments and scrutiny of individual program evaluations, as well as the weighted opinion of those who have also assessed various programs and evaluations.

Two evaluators theorize, based on available evidence, that humanitarian systems of treatment are no less effective in reducing the probability of recidivism than severe forms of punishment and that money can be saved by revising treatment systems. As an example, they note that the California Youth Authority's Community Treatment Program costs half of the average expense of institutionalization.²¹ Appendix A reflects some criticisms of the program in terms of its proclaimed reduction in recidivism rates. On the other hand, there is no evidence suggesting increased recidivism, and, as noted, the cost is about half

²⁰ Adams, in Glaser, *op. cit.*, pp. 1021-1022.

²¹ Norval Morris and Gordon Hawkins, "Rehabilitation Rhetoric and Reality," *Federal Probation*, Vol. XXXIV, December, 1970, pp. 9-17.

the cost of prison.

Similarly, another evaluator concluded that the further an offender is entrenched into the system, the less his chances for successful rehabilitation.²² The data in Tables IV and VI tend to confirm his conclusions, although not at a statistically significant level.

A more comprehensive assessment of programs, following review of 231 studies of prison rehabilitation efforts, concluded that with few and isolated exceptions, the rehabilitative efforts that have been reported have had no appreciable effect on recidivism.²³ In the same vein, Greenberg's survey, of evaluations of the wide array of correctional programs, attempted to assess the degree to which rehabilitation programs prevented further criminal activity. His analysis, limited to studies conducted in the United States through the end of 1975, used the statistical significance level of .05 in a two-tailed test as a criteria for judging whether a program was successful or unsuccessful. His conclusion is especially poignant:

Here and there a few favorable results alleviate the monotony, but most of these results are modest and are obtained through evaluations seriously lacking in rigor. The blanket assertion that "nothing works" is an exaggeration, but not by very much.²⁴

Greenberg provides approximately 125 references which are included in his survey. In reviewing many of these sources, no contrary data could be found to refute his general conclusion. Among his findings having particular relevance to military corrections was the observation

²²Vern L. Folley, American Law Enforcement (2d ed.; Boston: Holbrook Press, Inc., 1976), p. 321.

²³Robert Martinson, "What Works? - Questions and Answers about Prison Reform," The Public Interest, Spring, 1974, p. 25.

²⁴David F. Greenberg, "The Correctional Effects of Corrections: A Survey of Evaluations," Corrections and Punishment, Greenberg, ed. (Beverly Hills: Sage Publications, 1977), pp. 111-148.

that programs in conventional institutions -- academic education, vocational training, and work release -- show little or no significant difference in recidivism rates. All the noted differences either declined with time or were compromised by the application of selective criteria used for admission to the various programs.

This later finding tends to support Adams' perception that corrections, as now practiced, appears wasteful, dysfunctional, and inequitable. He (and others) has concluded that many who are confined are not in need of incarceration -- the most expensive form of corrections. He also expresses the opinion that institutionalization probably harms rather than helps offenders. Finally, Adams notes that since few offenders are ever confined, the system is inherently inequitable.²⁵ His later conclusion can be supported by data provided by the FBI, as reflected in Table XVI, which shows the relatively small likelihood of a given offender being caught, prosecuted, convicted, and sent to jail or prison.

TABLE XVI*

PROBABILITY OF ARREST
AND CONVICTION

	Number	Percentage
Index Offenses Known to Police	1,936,519	100.0
Index Offenses Cleared by Police	405,530	20.9
Index Offenses Resulting in Arrest	383,351	19.8
Persons Charged	353,166	18.2
Persons Found Guilty as Charged	106,579	5.5
Persons Found Guilty of Lesser Crimes	10,963	0.6

*SOURCE: UCR, op. cit., p. 176.

²⁵Adams, op. cit., as well as other writings, expresses this idea.

Complicating the questionable results of correctional programs is the nature of the correctional process. The total process can be described as a decision making process, involving numerous officials exercising discretion at various stages. The implications of this multi-discretionary decision making process are quantitatively immeasurable; however, they explain many of the problems encountered in evaluating the effect of various programs and add to perceptions of inequitable treatment. Given a continuous succession of individual judgments -- by police, prosecution, judge, jury, probation officer, prison official, parole officer, and others -- a "wrong" decision, at any point, can affect the outcome.

Further compounding the problem are opposing assessments, which note that the evidence refuting rehabilitative success is, in itself, questionable.²⁶ Nonetheless, the preponderance of evidence indicates that no one correctional method, used to date, has a marked effect on recidivism, even though small, vigorously constructed studies show more favorable outcomes.

By accepting these general conclusions as well as the relatively imprecise nature of costs, the critical issue becomes one of optimization of expenditures while protecting society, punishing the offender, and deterring others, with the least likelihood of adversely affecting possible reduced recidivism rates. This question can only be addressed by correlating all that is known about costs and program effectiveness and then comparing that knowledge with an existing program or system. Such a correlation and comparison is presented in the final section of this chapter.

²⁶Lois Shawver and Bruce Sanders, "A Look at Four Critical Premises in Correctional Views," Crime and Delinquency, Vol. 23, October, 1977, pp. 427-434.

III. CORRELATION OF QUANTIFIED AND NON-QUANTIFIED DATA

Changes optimizing cost effectiveness, feasibility, and consequences.

In attempting to assess programs which optimize cost, feasibility, and consequences, there are a variety of small, cost effective projects which can be considered. Information about such projects has, until recently, been difficult to obtain. However, the National Institute of Law Enforcement and Criminal Justice, through its Exemplary Projects Program, has attempted to fill this void in criminal justice by reporting on projects that have demonstrated consistent, measurable success. The program is a systematic method of identifying outstanding criminal justice projects throughout the country, verifying their achievements, and publicizing them widely. It is, perhaps, a reflection on the state of the art to note that only seven exemplary projects have been identified in the field of corrections to date. A brief summary of some of these projects follows:

1. Volunteer Probation Counselor Program, Lincoln, Nebraska. Lay volunteers are successfully counselling high-risk probationers -- misdemeanants (age 16 to 25) with an average of 7.3 previous arrests and convictions. A one year comparative analysis of recidivism in the program with a control group in the regular probation program shows a significant reduction in recidivism, as portrayed in Table XVII.

2. Community-based corrections program, Polk County (Des Moines), Iowa. The program coordinates four services for defendants and convicted offenders: pretrial release on own recognizance; pretrial supervised release; probation; and residence at Fort Des Moines, a correctional facility offering work and educational release.

3. 601 Juvenile Diversion Project, Sacramento, California. The project provides short-term family crises counselling in lieu of court processing for minor offenders (petty theft and drug possession). The project's first year record shows reduced expense and recidivism, as reflected in Table XVIII.

Projects such as the foregoing, while amenable to criticism on various grounds, show that some are less costly than the traditional

approaches to corrections and do not increase recidivism or harm the community. These programs warrant further exploration of their underlying principles for possible adaptation within the military, even if on a limited scale.

TABLE XVII*

RESULTS OF VOLUNTEER PROBATION COUNSELLOR PROGRAM

	<u>Volunteer Program</u>	<u>Regular Program</u>
New non-traffic offenses	15%	63.7%
Multiple new offenses	10%	52.2%

*SOURCE: LEAA Exemplary Projects, op. cit., n. 27, p. 5.

TABLE XVIII*

EFFECTIVENESS OF CRISES INTERVENTION/DIVERSION

	<u>Project Cases</u>	<u>Control Cases</u>
Court petitions filed	3.7%	19.8%
Repeat offenders (within 1 year)	46.3%	54.2%
Juvenile hall detentions	13.9%	69.4%
Average case cost	\$284	\$562

*SOURCE: LEAA Exemplary Projects, op. cit., n. 27, p. 16.

Conversely, these types of programs appear to have little value to the overall military corrections system due to the limited scope of the specific projects or the immense scope of the world-wide military

operation. For example, a community-based diversion project in Champaign-Urbana, Illinois, reflected a study of 24 participants and a control group of 12. Similarly, Project New Pride, in Denver, Colorado, while costing \$4,000 per year per participant (as opposed to the control group cost of incarceration of \$12,000 per year), was limited to age group 14 to 17.²⁷ The Illinois project, like many, is statistically insignificant due to the limited numbers involved. The Colorado project considered a different age group from the one encountered in the military. The other programs appear to have limited feasibility for world-wide use by the military. While it is conceivable that the Department of Defense could negotiate 50 different agreements to adopt state-wide programs, the task of coming to terms with all the counties appears improbable. Similarly, the use of volunteers, while successful in Nebraska, might not attract volunteers on every military installation in the world. Conversely, the use of volunteers might have feasibility on a limited and localized basis. Nonetheless, while small, localized programs have merit, such programs are largely infeasible for use by the military on a system-wide basis. By discounting these types of programs, only the larger, more widely practiced programs will be discussed in the remaining report.

Probation and shock probation. In an analysis of civilian probation, there are three methods used today which warrant vigorous evaluation: (1) normal probation, entailing minimal supervision; (2)

²⁷Office of Development, Testing and Dissemination, National Institute of Law Enforcement and Criminal Justice, U.S. Department of Justice (LEAA), Exemplary Projects (Washington, D.C.: USGPO, September, 1977)(hereafter referred to as LEAA Exemplary Projects), pp. 1-16, provides summaries of these and additional projects, with similar results.

intensified probation, which entails closer supervision and which may include some form of special treatment program; and (3) shock probation, a concept aimed at giving an offender a short taste of prison and then placing the offender on probation.

The statistical information on probation is not adequate at present from the point of view of reliability or significance. Yet, probation departments generally report that about 75 percent of their probationers succeed on probation. This 75 percent general figure is inadequate in at least three respects. First, the number reported as failures is incomplete because most probation officers are not in close enough contact with their probationers to know how many of them actually commit crime. Second, the statistics of probation departments are confined to behavior during the period of probation and do not include behavior subsequent to release from probation. Third, the success of probation is difficult to compare with the success of alternative methodologies dealing with offenders.²⁸

Nonetheless, available data supports the relative cost effectiveness of probation, as shown in Table XVIII. Such cost differentials, however imprecise, argue in favor of probation rather than incarceration, for at least some offenders.

At the time of the President's Crime Commission study there were 257,755 felons on probation, at an annual cost of approximately \$38 million, with a probation success rate of 60 to 90 percent.²⁹ Such

²⁸Sutherland, op. cit., pp. 476-480, elaborates on these general observations.

²⁹President's Crime Commission, Task Force Report: Corrections (Washington, D.C.: USGPO, 1967), pp. 27-37, provides additional data.

apparent successes led The Commission to recommend improving probation services as a means of reducing prison populations and increasing the success rates of probation.

Under scrutiny and the passing of time, it appears that civilian probation supervision is typically more apparent than real, and experiments to intensify supervision have been inconclusive. For example, Table XIX indicates that federal probation officers only spend about 20 percent of their time actually supervising probationers. Assuming a 40 hour work week, the average probation officer has but eight hours to spend with those he (or she) supervises. Allowing for small caseloads of as few as 30, this permits less than 20 minutes contact per week between probation officer and probationer.

TABLE XIX*

DISTRIBUTION OF FEDERAL
PROBATION OFFICERS' WORKING
TIME BY TYPE ACTIVITY

<u>Type of Activity</u>	<u>Time Devoted to Activity</u> (Percent)
Supervision	28.7
Probation	20.1
Parole	8.5
Investigation and reports	33.3
Presentence	25.9
Other	7.4
Non case-related	38.0
Administration	31.8
Other	6.3

*SOURCE: David T. Stanley, Prisoners Among Us; The Problem of Parole (Washington, D.C.: The Brookings Institution, 1976), Table 6-1, p. 125. Data in source table modified for presentation above.

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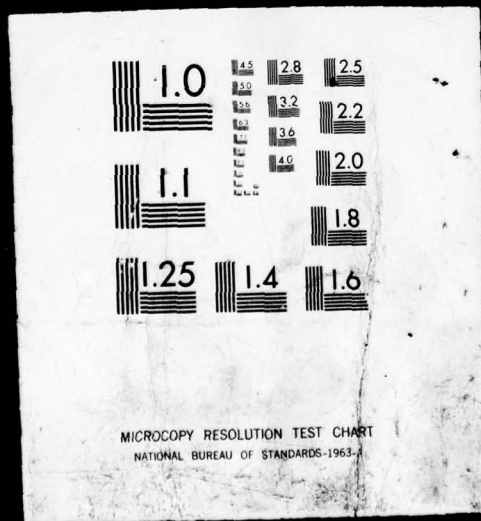
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It can be seen in the foregoing table that civilian probation officers spend little time actively supervising probationers (and even less time on parolees). As a result, numerous programs for dealing with offenders on probation have been attempted. The volunteer probation program discussed earlier in this section clearly shows the impact of adding volunteers to that one program. Yet, such results are impractical for military consideration since most probation programs are not comparable to that described in Lincoln. Instead, the military, by adopting the federal probation system, would in effect be adopting a system wherein the average probationer receives about 20 minutes supervision per week. It should be noted that the military has already adopted this system for its parolees.

This general situation of limited probation supervision is as common in the state systems (as is the limited parolee supervision), where caseloads are typically greater than in the federal system. Yet, in some states, probationers receive greater supervision than parolees. In Maine, for example, the first state to have abolished parole supervision, no parole officers have lost their jobs. They have merely shifted their emphasis to probation, where 85 percent of their case supervision efforts have always been.³⁰

Recognition of the problems of limited probation supervision has led to various efforts to modify the probation concept. One approach, intensified probation supervision (ISP) within the probation system (i.e., without the use of volunteers), was recently evaluated. The study, which involved reviews of earlier reports, communications

³⁰Rob Wilson, "Supervision (the other parole) Also Attacked," Corrections Magazine, Vol. III, September, 1977, p. 57.

with experts, and on-site visits to 20 projects, reached several relevant conclusions: (1) the literature is inconclusive that case load reduction results in a decrease in recidivism (many studies show an increase); (2) some claimed decreases in recidivism rates may not have strong enough evaluative designs to support the claims; (3) there is only weak evidence for the success of volunteer probation projects; (4) there is some doubt that truly intensive supervision can exist since client contact can occur for only a small part of the probationer's waking hours; and (5) most cost evaluations compare the cost of ISP to incarceration, not regular probation.³¹

Other, more radical modifications of probation have been attempted, which combine the merits of imprisonment with the economy of probation. In Ohio, it costs \$5,000 a year to keep a person in prison as opposed to \$500 for probation supervision. The idea developed to combine the punishment of the former with the economy of the later. During the ten years that shock probation has been in effect in Ohio, its use has risen from 85 cases in 1966 to 1478 cases in 1976. Officials claim that only 10.3 percent of those released under this law have been returned to prison, albeit at least one study challenges this figure as too low. However, the study, of the five year period 1966 to 1970, which showed a 31.3 percent recidivism rate, also showed that most of the subsequent crimes were non-assaultive and less serious than the original offenses. The perceived success of the shock probation program led to Ohio implementing a shock parole program in 1974; however, no statistics concerning the success

³¹J. Banks, et al., Summary: Phase I Evaluation of Intensive Special Probation Projects (Washington, D.C.: USGPO, September, 1977), pp. 1-32. This comprehensive report provides not only data concerning probation, but guidelines for evaluating probation.

of this program are currently available.³²

Summary of probation. As noted in Chapter II, probation was perceived as less costly and offering a degree of professional supervision. Given the data and information presented in this section, civilian probation supervision is more apparent than real. Recidivism rates, while better than those of incarceration, vary by type of offender and program. Shock probation, though not yet widely used, appears to offer favorable results warranting further experimentation.

Restitution. In the United States, the common method of demanding restitution is in connection with probation; one condition of the latter being that the offender make restitution. In spite of this generalisation, there is little quantitative literature which can be analyzed to determine the effectiveness of restitution. Galaway, in an analysis of restitution, concluded that the publication of information from various jurisdictions is essential to the orderly development of the concept and of its place in criminal justice.³³ In spite of this caveat, some indicators infer that restitution may enhance the likelihood of lowering recidivism. One study showed that a restitution group had fewer parole revocations, fewer convictions for new offenses, and were more successful in an index of overall parole success than a control group (as indicated in Table XX).³⁴

³² Joan Potter, "Shock Probation: A Little Taste of Prison," Corrections Magazine, December, 1977, pp. 49-55, provides one of the more comprehensive overviews of the Ohio project.

³³ Burt Galaway, "The Use of Restitution," Crime and Delinquency, Vol. 23, January, 1977, pp. 57-67.

³⁴ Cited in source for Table XX, p. 84.

TABLE IX*
MEASURE OF OVERALL
RESTITUTION SUCCESS

	<u>Restitution Group</u>	<u>Control Group</u>
Clear Success	44.4% (n=8)	33.3% (n=6)
Marginal Success	16.7% (n=3)	5.6% (n=1)
Marginal Failure	27.8% (n=5)	16.7% (n=3)
Clear Failure	11.1% (n=2)	44.4% (n=8)

*SOURCE: Leonard E. Fite, "An Exploratory-Descriptive Study of Restitution and Its Place in the Criminal Justice System," unpublished Senior Thesis, Park College, Mo., December, 1976, citing Joe Hudson, et al., "Restitution and Parole; A Follow-up Study of Adult Offenders," Social Service Review, March 1976, pp. 148-156.

Studies such as the Minnesota Experiment, reflected in the foregoing table, are subject to criticism -- limited numbers, selectivity of participants, and level of statistical significance being among the more obvious criticisms. From the perspective of cost effectiveness, such an approach is less costly than incarceration. The method also offers compensation to the victim and, if coupled with probation (or parole), may be perceived as being as severe a punishment as incarceration. In terms of military application, the approach could be experimented with in the existing military system as either an alternative to imprisonment or as a condition of parole, either of which would reduce the prisoner population within the military corrections system. Such experimentation would also address the victims of crime.

Incarceration. America has the highest rate of imprisonment in the world -- 215 per 100,000 population. This compares with such rates

as 18, 28, and 32 per 100,000 in The Netherlands, Denmark, and Sweden, respectively. Additionally, American prisoners serve longer sentences. About 98 percent are confined a year or more; 74 percent are sentenced to five years or more. In Denmark only 19 percent serve as long as a year; whereas in Sweden only nine percent receive a sentence of a year or more.³⁵ Given America's affinity for long periods of incarceration (and ignoring cultural differences), it is not surprising that most people who think of corrections think of imprisonment.

Partially as a result of our national preoccupation with imprisonment and long periods of incarceration, prison, as a means of handling offenders, has reached or surpassed its saturation point. As of January 1977, there were 280,000 people confined in our nation's prisons, with an additional 250,000 crowded into jails. Compounding the problem of swollen prison populations is the cost of constructing new prisons. The National Clearinghouse for Criminal Justice Planning and Architecture estimates the cost of a 400 capacity institution at \$13,680,000.³⁶ The military, while not sharing the problem of crowded facilities, does share the problem of costs.

A recent conference at the USDB (involving approximately 40 corrections specialists from the Army, Navy, Marine Corps, and Air Force), attempted to address the cost effectiveness of prisons and expressed concern over the cost of running facilities with small inmate populations in the face of overcrowded conditions at many federal

³⁵Eugene Doleschal, "Rate and Length of Imprisonment: How Does the United States Compare with The Netherlands, Denmark, and Sweden?" Crime and Delinquency, Vol. 23, January, 1977, pp. 51-56.

³⁶Anthony P. Traviseno, "Over 280,000 Men and Women in Our Nation's Prisons...." American Journal of Correction, Vol. 39, May-June, 1977, pp. 14-44.

institutions.³⁷

Looking at prisons in terms of over or under utilization and costs is analogous to looking at the tip of an iceberg. There are many other factors involved in incarceration. On the one hand is the need to protect society and punish the more serious offenders. On the other hand is the impact of imprisonment on recidivism. The success of imprisonment as a means of reformation is slight. Sutherland, for example, noted that in 1970, 81 percent of the persons committed to federal prisons and reformatories had prior records of confinement at penal or reformatory institutions.³⁸ Yet, the fact remains that some who go to prison are released never to return. In trying to assess the prison experience that may contribute to successful rehabilitation and lowered recidivism, numerous problems arise. One can begin by looking at mentally incompetent persons and drug users.

Within the correctional system there are offenders who, while legally competent to stand trial, are mentally retarded. One survey determined that close to ten percent of all incarcerated inmates were mentally retarded, with IQs below 70. The special needs of the mentally retarded offender are unique, and model programs for dealing with these offenders are few. While the military probably does not have the problem of the truly mentally retarded, it does harbor some who are at least deficient and who probably require approximately the same treatment as

³⁷News items reported in the Leavenworth (Kansas) Times, January 4, 1978, and the Kansas City Times, February 6, 1978; and personal interviews with USDB personnel.

³⁸Sutherland, op. cit., pp. 518-520, reports on several studies reflecting the failure of prisons to rehabilitate; Tables VI and VIII portray data correlating with Sutherland's observations.

the retarded. These mentally deficient or retarded individuals, who are not adequately dealt with in many prisons, may account for a part of the high recidivism rates in corrections.³⁹ This problem also infers that the success rates for the more mentally sufficient may be higher than the overall recidivism rates indicate.

The second problem interfering with institutional treatment is that of drugs. In many correctional institutions more than half of the inmates have drug problems. Past experiences with drug abusing offenders have led most agencies to conclude that traditional methods of prosecution, incarceration, and rehabilitation have had little impact on subsequent drug-taking and associated criminality. The impact of this fact on institutional rehabilitative efforts is reflected in the results of a recent nationwide survey of 190 state prisons. The study showed that 61 percent of the inmates were drug abusers at some point in their lives. About one-third had a history of almost daily use of drugs; one of four was under the influence of drugs at the time of their confining offense. Yet, what is known about drug abuse treatment within a correctional context is dated, overly optimistic, or highly critical of correctional treatment in general. Compounding the problem is a lack of consensus regarding the most effective treatment of drug offenders. Many argue that institutions cannot provide such services and should abandon their efforts in this direction altogether. Most drug problems have not reduced criminality; therefore, knowledgeable personnel feel that treatment in a community is the major hope for dealing with this common

³⁹Miles Santamour and Bernadette West, Prescriptive Package: The Mentally Retarded Offender and Corrections (Washington, D.C.: USGPO, August 1977), pp. 1-2, discuss the problem in a more complete summary form than presented in this report. The total package discusses the problem in depth.

type of prisoner.⁴⁰

The drug offender and drug involvement in the military are well publicized. One source, for example, reported that of 11,000 cases processed by the Fort Gordon Criminal Investigation Command Laboratory more than a third involved drug and narcotic investigations.⁴¹

Compounding the problems of institutional treatment of the mentally retarded (or deficient) and the drug abuser, is the widely recognized influence of guards (in both civilian and military prisons) on institutional rehabilitative efforts. One study determined that guards at the USDB often reflect hostility toward prisoners in direct proportion to their hostility toward the administration. The researcher noted that of 188 guards tested, 31 were identified as high-hostiles and 29 as low-hostiles.⁴² Another study at the USDB confirmed these findings. Stressing the role of guards in rehabilitation efforts, the researcher concluded that some guards developed dysfunctional attitudes.⁴³ The writer's own unstructured observations tend to confirm both of these structured studies -- some guards are hostile, some dysfunctional in other ways. For whichever reason, they are often inhibitors in rehabilitative efforts and adversely affect the success or failure of an institutional treatment program.

⁴⁰ Roger Smith, Prescriptive Package; Drug Programs in Correctional Institutions (Washington, D.C.: USGPO, July 1977), pp. vii-x.

⁴¹ Robert C. Stephens, "Army Super Sleuths," Soldiers, Vol. 32, October 10, 1977, pp. 22-25.

⁴² Charles A. Hines, "An Analysis of Factors Associated With Guard-Prisoner Hostility at the U.S. Disciplinary Barracks," unpublished Master's Thesis, CGSC, 1971, pp. iii, 3, and 31-36.

⁴³ Maynard D. Eaves, "Correlative Dysfunctional Attitudes of Guard Personnel at the United States Disciplinary Barracks: An Exploratory Study," unpublished Master's Thesis, CGSC, 1973.

Another institutional problem is that of costs, which vary widely between both jails and prisons.⁴⁴ As previously indicated, Texas contends that it spends only \$4.55 per prisoner, per day, versus some states which spend \$15 per prisoner, per day. One federal penitentiary, when analyzed in terms of operating and food expenditures, has costs of \$33.04 per prisoner, per day (\$12,059.60 per year).⁴⁵ Yet one study, addressing operating expenditures in a variety of public juvenile detention and correctional facilities, showed a range from \$3,900 (in Mississippi) to \$24,656 (in Alaska), versus a yearly mean expenditure of \$11,789.90.⁴⁶ Given a standard deviation of \$4,303.43 in this study plus the disparities between state and federal costs, there are obviously a number of factors affecting the costs and expenditures of institutions. Compounding the problems inherent in operating costs is the interrelationship between refurbishment and/or new construction costs and the current standards for correctional institutions.

The 1973 Report of the Task Force on Corrections of the National Advisory Commission on Criminal Justice Standards and Goals contains the

⁴⁴For example, news items in the Wall Street Journal, March 2, 1978, p. 11, and the Kansas City Times, March 3, 1978, regarding a study by the accounting firm of Coopers and Lybrand, reported that it costs \$71.87 per day to keep a prisoner confined in the New York City Jail -- a figure addressing welfare and other costs.

⁴⁵Personal interview, W. Stephenson, USP Leavenworth, March 21, 1978. He indicated that the USP spends \$2,983,964 per year for operating and maintenance costs and an average of \$17.47 per day, per prisoner for food, with an average daily population of over 1800. Such an assessment is comparable to USDB accounting procedures which do not consider the earnings of the Vocational Training Fund or the savings of wages on Fort Leavenworth due to the use of prison labor as offsetting operating and maintenance expenditures.

⁴⁶LEAA, Children in Custody; Advance Report on the Juvenile Detention and Correctional Facility Census of 1975 (Washington, D.C.: USGPO, October 1977), pp. 1-8 and 36-37.

latest recommendations for modifications and reforms of correctional systems. Although few of the standards in the Task Force Report contain an accompanying discussion of their economic implications, an economic impact is apparent at virtually all stages of the correctional process (diversion, sentencing, community-based corrections, parole, and institutional programs). Among the standards having impact on the military are the standards for the design and construction of prisons as well as the standards for academic and vocational training programs within the institutions.

In analyzing the costs of new institutions, one researcher identified three variables that logically affect these expenditures: (1) economies of scale associated with large-scale construction, (2) economies of rural land versus urban land acquisition, and (3) added costs associated with the special design features incorporated in the corrections report. He concluded that none of these variables significantly affected the construction costs.⁴⁷

In another study of ten major institutions opened since 1971, per bed capital costs varying from \$22,587 to \$57,052 were reported. These institutions were designed to house 96 to 2400 inmates; while there were economies associated with scale, an increase of 100 beds only reduced per bed cost by \$24 (for institutions whose mean cost in 1975 prices was approximately \$49,000).⁴⁸

The impact of such data is apparent when addressing the price

⁴⁷Neil M. Singer, "Economic Implications of Standards for Correctional Institutions," Crime and Delinquency, January, 1977, pp. 14-19.

⁴⁸Ibid., citing Neil M. Singer and Virginia Wright, Cost Analysis of Correctional Standards: Institutional Programs and Parole (Vol. II), (American Bar Association, 1976), Appendix B.

of upgrading or building new military institutions. The USDB, for example, which houses a plurality of military prisoners, is old, does not conform to these new standards, and in fact, does not conform to current military standards. Thus, the military is in a position of selecting from alternatives such as: (1) upgrading the USDB; (2) replacing the USDB; or (3) continuing to operate a substandard, deteriorating facility. The physical plant, constructed to hold 1800 prisoners, is not designed for efficient manning when only 800 prisoners are confined. Hence, to continue operating the facility, while saving construction costs, will result in unnecessary manpower expenditures. Upgrading the facility, which might save manpower costs, will entail an expenditure of millions. Yet, a new prison designed for 800 inmates would cost in excess of \$31 million in 1975 dollars (based on the previously discussed studies).⁴⁹ While the military can save land costs, an annual inflation rate of six percent (or more) will shortly erode this benefit. The options, while all unattractive, are compounded by the possible impact of future court decisions regarding current correctional standards, as well as the need to expand prisoner capacity in the event of a future military expansion. Equally important, the standards for physical facilities are only part of the standards problem.

Vocational and educational program standards also impact on the military corrections system. The Task Force report, for example, advocates the use of modern education technology (such as teaching machines,

⁴⁹ It should be noted that the historical significance of the USDB may well restrict the options available to the military. Several other facilities on Fort Leavenworth have been proclaimed historical landmarks, with resultant modification and disposition restrictions being placed on them. Given the history of the USDB, as a quartermaster depot, federal prison, and military prison, similar restrictions could be placed on any future disposition or modification of the facility.

learning laboratories and skill centers). Such a model program is offered at the Draper Correctional Center in Alabama at a student cost of \$2,000 per year (versus a public school district expenditure ranging from \$1,000 to \$1,500).⁵⁰

In analyzing the costs of vocational training programs, Singer concluded that an average of \$2,000 per student -- in 1975 dollars -- was a reasonable estimated price.⁵¹ While some may debate the reasonableness of the price and the standard, the courts may ultimately decide the issue.

In both the case of educational and vocational training, the Task Force report contained no assessment of the value that inmates or society at large derive from implementation of the standards. From an economic perspective one assumes that such programs will increase prisoners' future income and taxes paid; criminologists assume a reduction in crime. To date, however, there is no conclusive quantitative proof that existing educational and vocational training programs contribute to either of these objectives, or to the overall objective of rehabilitation and lower recidivism rates.

Two other factors related to incarceration costs should be addressed: the cost of internal administrative inefficiencies and the ratio of prisoners to staff. In addressing the first factor, a recent GAO report criticized the Federal Bureau of Prisons for irregularities and inconsistencies in the administration of contract fees. The GAO reported an expenditure of \$24.6 million per year for 5,000 prisoners housed at various contract facilities. Daily rates, the GAO noted, range from \$1.50 per day for a county jail in Tennessee to \$43.50 a day

⁵⁰Singer, *op. cit.*, n. 47, pp. 20-21.

⁵¹*Ibid.*, pp. 23-26.

for a county detention center in California.⁵²

The second factor -- the ratio of prisoner to staff -- is evident in the wide range of such relations. Analysis of data indicates that the nationwide ratio ranges from .85 to 6.86, with a mean of 2.21 prisoners per staff member (standard deviation = 1.10), as shown in Table XXI.

TABLE XXI*

PRISONER/STAFF RATIOS
VARIOUS PRISON SYSTEMS

Alabama	3.24	Louisiana	1.95	Ohio	3.56
Alaska	1.44	Maine	1.05	Oklahoma	2.46
Arizona	2.36	Maryland	3.96	Oregon	2.21
Arkansas	3.31	Massachusetts	0.95	Pennsylvania	2.62
California	2.35	Michigan	3.01	Rhode Island	0.89
Colorado	2.62	Minnesota	1.19	S. Carolina	4.38
Connecticut	2.00	Mississippi	2.21	S. Dakota	2.14
Delaware	1.86	Missouri	3.63	Tennessee	1.58
Florida	1.98	Montana	0.85	Texas	6.86
Georgia	3.50	Nebraska	1.68	Utah	1.36
Hawaii	1.05	Nevada	2.86	Vermont	0.95
Idaho	2.58	N. Hampshire	1.54	Virginia	1.15
Illinois	2.01	New Jersey	1.59	Washington	1.89
Indiana	2.05	New Mexico	2.52	W. Virginia	1.49
Iowa	1.34	New York	1.48	Wisconsin	1.12
Kansas	1.89	N. Carolina	2.64	Wyoming	1.38
Kentucky	3.50	N. Dakota	1.50	+BOP	3.04

+U.S. Department of Justice, Bureau of Prisons.

*SOURCE: ACA Directory, op. cit., pp. iv-vii for raw data; ratios computed by author.

Obviously there are a number of factors which influence a system's prisoner:staff ratio -- size of institutions, correctional philosophy, and labor costs. Yet, it is intuitively apparent that the higher the ratio.

⁵² New item in the Leavenworth Times, March 14, 1978. The GAO criticism was not merely the wide range of prices, but the fact that some facilities were overpaid and others underpaid. The BOP agreed with the findings.

the less costly a system or institution. The significance of the foregoing table lies not so much in the variations, as in the fact that there is no correct prisoner:staff ratio. Consequently, cursory examinations of correctional manpower (addressed subsequently in this chapter) are, at best, suspect. Equally important is a truism expressed in Army Field Manual 101-5 (approved draft, July 1977), that the larger a staff, the more energy spent in overcoming internal friction, passing information, and climbing to the top to get a decision. The problems associated with large staffs correlate with the previous inference that educational, vocational, and other institutional programs do not appear to reduce recidivism; yet, they do create positions.

One of the few areas in corrections where there is nearly universal agreement is the need for increasing offenders' employment potential. Typically young, unskilled, and poorly educated, the average offender (civilian or military) has few marketable capabilities to offer potential employers. In recognition of their need, several approaches to the problem have been used, ranging from educational and vocational training to job placement and work release programs.

Vocational training in correctional institutions began with the opening of the Elmira Reformatory in 1876. Since then numerous surveys and studies have been conducted into institutional vocational training programs, most resulting in uncomplimentary conclusions. The criticisms have addressed such problems as: (1) fewer than ten percent of inmates participate in many programs, (2) many institutions have a limited variety of programs, (3) a lack of adequate training time, and (4) limited equipment and instructors.⁵³

⁵³For a summary of various studies see McCreary, cited at Table XXII, next page.

Similarly, many institutions have created programs to place offenders in jobs after their release from prison. Again, the results have been largely disappointing. For example, one study indicates that such programs actually result in few job placements (see Table XXII).

TABLE XXII*

SUCCESSFUL JOB PLACEMENTS

<u>Location of Program</u>	<u>Number of Parolees</u>	<u>Number of Jobs Provided</u>
New York State, 1970	16,000	506 (3%)
Federal Bureau of Prisons (1972, one prison)	68	9 (13%)
Federal Bureau of Prisons (1972, five prisons) (month of July only)	153	+0 (0%)
+130 individuals surveyed did not even indicate an awareness of the job placement service existing in the institutions.		

*SOURCE: Phyllis G. and John M. McCreary, Job Training and Placement for Offenders and Ex Offenders (Washington, D.C.: USGPO for LEAA, April, 1975), p. 11.

Partly in recognition of the problems inherent in both vocational training and job placement efforts, the idea of a work release program was developed. However, participation in these programs has been limited to selected inmates, in limited numbers. As Table XXIII reflects, only six states report as much as 10 percent of prisoner participation. Of the 50 states and the District of Columbia, 14 jurisdictions did not report any participation. Of the remaining 37 jurisdictions, 3% had less than ten percent of their inmates employed in a work release program. The range of participation was three inmates in North Dakota to 650 inmates

in Florida (7.2%). The average participation was 96 work releaseses (standard deviation = 128.77).

TABLE XIII*

WORK RELEASE: STATES
REPORTING EXCESS OF
10% PARTICIPATION

<u>State</u>	<u>MALE PARTICIPATION</u>	<u>IN WORK RELEASE</u>
Alaska	400	47 (11.8%)
Delaware	600	120 (20.0%)
District of Columbia	1,700	326 (19.2%)
North Carolina	10,076	1,075 (10.7%)
South Carolina	3,267	575 (17.6%)
Wisconsin	2,600	450 (17.3%)

*SOURCE: McCreary, op. cit., p. 12.

Relating the foregoing to manpower considerations, it is clear that positions have been created which contribute little to the overall goals of corrections. Running small programs, such as vocational training, work release, and job placement, which affect ten percent or less of a prison's inmate population is obviously not cost effective. Yet, within the military all three positions have been created in response to the recommendations of the MacCormick Committee. That study suggested implementation of a work release program, a pre-release and after-care program expansion, and greater use of parole -- "in line with the knowledge that the chances of a man succeeding after release are enhanced if he is under strict and helpful parole supervision."⁵⁴ Interestingly, while recommending the use of federal prison industries at stockades, the Committee did not have the same suggestion for the USDB.

⁵⁴MacCormick Committee, op. cit., pp. xix and 2.

It should be noted, at this point, that the MacCormick Committee did not provide an extended discussion of clemency, parole, or restoration to duty, but did observe that this program provided consideration and relief not available to individuals confined for violations of federal or state laws.⁵⁵ The clemency program will be addressed in the last portion of this chapter in a context similar to the assessment of education, vocational training, and work release -- the creation of jobs, for a program affecting relatively few inmates, and with little evidence of reducing recidivism.

In terms of expenditures, prison industries have typically been cited as a means of offsetting the costs of incarceration. The Federal Bureau of Prisons, for example, maintains a separate accounting of the Federal Prison Industries, as do various state programs. The USDB, while not participating in the federal prison industries program, does operate a separate vocational training fund but does not typically address the profitability of the fund in assessing the true operational costs of the USDB (reduced labor costs on Fort Leavenworth due to the substitution of prison labor for paid labor are not considered, which also reduce the true cost of maintaining the USDB).

Federal Prison Industries, Incorporated, is one of the more profitable lines of business in the country. There are obvious reasons for this profitability -- low wages, selectivity of enterprise, etc. Opposing these advantages are the well documented problems of laws and labor union pressures which restrict prison labor. Nonetheless, in 1970 profits on sales were 17 percent versus an average of 4.5 percent for all industries in the nation. From 1935 to 1970, the industry provided \$82

⁵⁵Ibid., p. 2.

million to the Federal Treasury -- after reinvesting profits for new equipment. Irl E. Day, in a recent press interview concerning the Federal Penitentiary at Leavenworth, noted that industry sales totaled \$13.5 million in 1977. Profits were \$2.6 million for products sold to other federal agencies. Inferentially, one can determine that the other agencies either saved money or received more goods and services as a result of their relatively cheap purchases. Some states report similar benefits in their industry programs. In Texas, for example, prison industries contribute to the low cost per man per day -- thereby lowering the burden on taxpayers. Kentucky, which formerly lost money in its industries, is now making a profit. While only employing 350 of 3,000 inmates, the state prison industry is now profitable, providing tire recapping and crowd control sticks for the state police. Finally, Cummins, Arkansas, a 17,000 acre facility, is self sufficient. The prison grows its own food, raises and butchers hogs, and has training in computer and graphic communications.⁵⁶

Miscellaneous dispositions. Having discussed the major offender dispositions, including problems and considerations inherent in evaluating such programs, some mention of lesser correctional methods is warranted. Weekend jail, community services, halfway houses, and diversion will be addressed as being among the more viable options open to the military.

⁵⁶ Jessica Mitford, Kind and Usual Punishment: The Prison Business (New York: Alfred A. Knopf, 1973), pp. 196-198; Richard Alm, "Close Up," Kansas City Times, January 19, 1978; "Everybody Wins in Texas: Prison Industries Innovation," American Journal of Correction, March-April, 1974, pp. 18-20; R. Kanuf, "Public Saves Money: Correctional Workers Learn and Earn," American Journal of Correction, May-June, 1975, pp. 12-13; and E. H. Dermitt, "Arkansas' New Graphic Communication Program Trains and Cuts Cost," American Journal of Correction, March-April, 1975, pp. 32-33, provide further information regarding prison industries.

Weekend jail. The use of part time jail terms has increased dramatically in some areas of the country. For example, the federal system started with 15 offenders in 1973; in 1977, 110 offenders were serving part time sentences. In Cook County (Chicago), Illinois, 500 prisoners (often confined for serious offenses such as aggravated assault, manslaughter, and kidnapping) participated in the program in 1977; in Vermont, 20 percent of persons sentenced to jail served this recent innovation. Interviews with inmates indicate that the punishment is often perceived as worse than a onetime period of confinement; judges contend that the punishment is better than jail or probation. Preliminary statistics indicate that recidivism is low.⁵⁷

Sentencing to community service.⁵⁸ Sentencing selected offenders to perform services for the community has become an increasingly popular option. Based on the belief that a fine and/or jail sentence is not always the best of options, many courts have embraced the concept of community service as an alternative to the traditional forms of sentencing. In assessing this form of punishment, more problems than data are evident; the logic underlying this alternative is that many offenses and offenders neither deserve nor will benefit from confinement. Based on this logic, a suspended sentence, with or without probation supervision, is not always an acceptable alternative; a suspended sentence may not convince the offender, the victim, or the public that the violator has been held accountable for his or her behavior. The other traditional

⁵⁷ See Edgar May, "Weekend Jail: Doing Time on the Installment Plan," Corrections Magazine, Vol. IV, March, 1978, pp. 28-38, for additional information regarding this form of punishment.

⁵⁸ Comments and data in this section are based on James Beha, et al., Sentencing to Community Service (Washington, D.C.: USGPO, October 1977), pp. 1-67, which encapsulates available data on the concept.

alternative -- a fine -- is not the solution it often appears to be. For affluent offenders, the fine may be relatively insignificant; yet, for the poor, payment may be an undue burden, often penalising family more than offender. Community service, however, is perceived of as a form of punishment which offsets the disadvantages of jail, on the one hand, and fine, on the other; it punishes the offender, while being a form of non-monetary or symbolic restitution (to either the victim or general public).

While generally used on an ad hoc basis, a number of jurisdictions have developed a more systematic approach to the use of community service. Quantitative evidence related to the cost and benefits of this technique is largely lacking; although Alameda County, California, and Multnomah County, Oregon, have shown that the public can utilize this source of labor for 36¢ or 61¢ per hour, respectively (as shown in Table XXIV).

TABLE XXIV*

COSTS AND RETURN -
COMMUNITY SERVICE SENTENCING

Place	Costs	Manhours Provided	Wage Equivalent
Alameda County (Based on FY July 1, 1976 to June 30, 1977; the program employs 8 full and 5 part time staff members to arrange and oversee projects.)	\$145,000	400,000	36¢ per hr.
Multnomah County (Annual expenditures based on average monthly cost during the first 22 months of operation.)	\$18,000	29,693	61¢ per hr.

*SOURCE: Beha, op. cit., n. 58, pp. 10-15.

Such a program could be administered at a military installation, on an obviously smaller scale, thereby reducing the costs but deriving the benefits of this concept.

While community service programs in the United States have been used primarily for cases that might otherwise be handled by fine or probation, the British experience has addressed more serious offenders and offenses. In Britain, 90 percent of court referred participants have had a prior criminal record, with a median of more than three previous convictions; 40 percent have been incarcerated.

Halfway houses. Halfway houses encompass two roles within corrections: as resources serving clients from other programs (such as a prerelease from prison or as a condition of probation and parole) and as a direct sentencing alternative. Halfway houses, like prisons, reflect a large variation in costs as shown in Table XIV.

TABLE XIV*
COST OF HALFWAY HOUSES

<u>Facility Costs</u>		<u>Operating Costs</u>
Low	\$76 per bed year	\$4.77 per day
High	1391 per bed year	27.58 per day
Median	335 per bed year	13.33 per day
Mean	404 per bed year	13.55 per day
Rental Mean	455 per bed year	
Purchased Mean	332 per bed year	
State Operated Mean	580 per bed year	

*SOURCE: Thalheimer, op. cit., n. 59, pp. 5-6.

Thalheimer, in his analysis of the cost variations, identified four variables affecting cost: (1) difference in services provided, (2) inter-regional price variations, (3) availability of resources, and (4) economies of scale and factor indivisibilities. He also suggests that halfway houses are as effective in preventing criminality as other alternatives

which involve community release; do not increase crime in the local neighborhood; and at full capacity cost no more, and probably less, than traditional incarceration. Thalheimer's analysis (of 34 houses) and conclusions were substantiated by another, more extensive study which reviewed 55 evaluations and surveyed an additional 153 programs.⁵⁹ In line with these cost considerations, several officers and the writer hypothesized that the military should adopt halfway houses as part of its system. In the fall of 1975, these officers initiated a study at the USDB to determine the feasibility of utilizing the Federal Bureau of Prisons' system of halfway houses (under the belief that inmates would be able to leave the USDB sooner, thereby reducing costs and, at the same time, improving the probability of reduced recidivism). The project, aborted for various reasons, warrants reappraisal, based on the findings of the preceding studies.

Diversion. The channeling of cases to non-court institutions has been written about in terms of handling both juvenile and adult offenders. Nejedski, for example, describes four diversion projects especially noting their common characteristics: use of paraprofessionals from the community, reliance on crisis intervention, the central role of arbitrators, and a concentration on a special type of offender (status offenders and minor delinquents). He notes a lack of adequate evaluation of these programs. Gibbons and Blake, in reviewing the outcomes of nine specific juvenile diversion programs, concluded that the studies are flawed by small sample numbers and other methodological defects. Roesch, in assessing evaluations of such projects, concludes that we know little

⁵⁹ Donald D. Thalheimer, Halfway Houses: Cost Analysis of Correctional Standards, 2 Vols. (Washington, D.C.: USGPO, November 1975), esp. Vol. I, pp. 5-6; and Richard P. Seiter, et al., Halfway Houses: National Evaluation Program Phase I Summary Report (Washington, D.C.: USGPO, January 1977), p. iii, provide information on halfway houses.

about the effectiveness of pre-trial intervention. Addressing one of the more comprehensive studies of diversion, Roesch took exception to Fishman's conclusion that rehabilitation efforts, such as diversion, should be discontinued due to their high recidivism rates (41 percent). Observing that a 41 percent recidivism rate was high, he contended that the rate had little meaning by itself. In scrutinizing Fishman's \$819,000, 3½ year study, Roesch observed that persons age 30 to 39 and 49 to 71 had significantly lower recidivism rates (29 and 24 percent, respectively). This suggested to him that diversion may be an effective alternative for these groups of offenders, if not for all age groups.⁶⁰

From the foregoing survey of assessments, it appears that the latest correctional fad is of little use within military corrections. Yet, as the newest approach to reducing the costs of corrections and, at the same time, reducing recidivism, diversion programs may warrant further study for possible adaptation by the military.

Military corrections assessed in terms of findings. Once a commander has elected to prosecute an offender by court martial, and subject to the constraints of the Manual for Courts-Martial (Table of Maximum Punishments) and the recommendations of the court (a commander

⁶⁰As a starting point for researching diversionary programs, the reader is referred to: Paul Nejedski, "Diversion: The Promise and the Danger," Crime and Delinquency, Vol. 22, October, 1976, pp. 393-410; Don C. Gibbons and Gerald F. Blake, "Evaluating the Impact of Juvenile Diversion Programs," Crime and Delinquency, Vol. 22, October, 1976, pp. 411-420; Ronald Roesch, "Does Adult Diversion Work," Crime and Delinquency, Vol. 24, January, 1978, pp. 72-80; Thomas M. Young and Donnel M. Pappenfort, Secure Detention of Juveniles and Alternatives to Its Use (Washington, D.C.: USGPO, August 1977); and Andrew Rutherford and Osman Bengur, Community-Based Alternatives to Juvenile Incarceration (Washington, D.C.: USGPO, October 1976). Each source provides further references. Additionally, these collective sources provide descriptions of existing programs, as well as cost and effect data concerning the various programs.

cannot impose greater punishment than that recommended by the court), he or she has a range of options, from relatively minor to major. However, even the mere record of a court conviction makes the punishment relatively severe. If the commander elects to impose major punishment he ceases to be a change agent; in effect, he turns the offender over to the formal corrections system (i.e., confinement, clemency, and parole personnel).

This model of the military corrections system is illustrated in Figure 3. Among the more significant aspects of this model is the fact that throughout all options short of incarceration, the commander is the change agent. He, directly or indirectly, is undertaking a corrective measure, even though some degree of punishment may be part of that action. However, once the commander opts to incarcerate an offender, the formal corrections system is delegated (or assumes) responsibility for changing (rehabilitating) the offender. The objectives of the commander and the objectives of corrections personnel may well vary, a problem addressed in the concluding portion of this chapter.

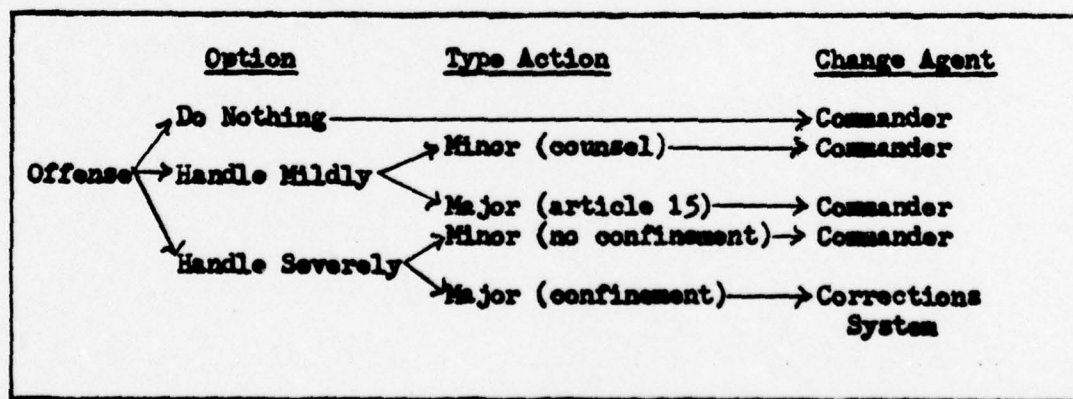


Figure 3

CHANGE AGENTS BASED
ON OPTIONS FOR CORRECTING
AND PUNISHING OFFENDERS

Compounding the foregoing problem is the fact that commanders are limited in their imposition of minor punishment to fine, reduction in grade, discharge, or a suspended sentence. Options, such as previously described -- weekend jail, use of probation officers, halfway houses, or community service -- are unavailable to the military commander.

Some people argue that the commander does not need the options available in civilian corrections systems, for the objective of military justice is nothing more, or less, than discipline. Professor John W. Wigmore, for example, stated that, "Military justice knows what it wants...discipline, and it systematically goes in and gets it." He also maintained that this definition of its needs overrides the uncertainty of the civilian system, which is unable to decide what it wants (retribution, prevention, or deterrence).⁶¹

Others argue that commanders are neither trained nor indoctrinated in correctional theories and philosophies. Given either argument, at the initial stage of the correctional process (Figure 1, objective), the commander (given America's affinity for imprisonment) may merely consider deterrence and punishment, without due regard to either rehabilitation or the cost of punishment.

Still others question if punishment is the military's objective. Lowrey, for example, noted the emphasis on hard labor contained in the Manual for Courts-Martial versus a de-emphasis on hard labor in basic correctional regulations, leaving little doubt, in his mind, that there is a basic conceptual gap between the Manual and the philosophy

⁶¹J. W. Bishop, Jr., Justice Under Fire: A Study of Military Law (New York: Charterhouse, 1974), pp. 22-24. Wigmore's perception of a preoccupation with discipline is shared by this researcher, although the same perception does not appear to permeate the formal corrections system.

portrayed in confinement directions.⁶² This rationale infers a gap between commanders and those directly involved in the corrections system (at the USDB, the clemency and parole boards, etc.).

Lowrey went on to address the dichotomies in perceptions of the military's responsibility for human development -- those who contend that it is not a proper function of the military to act as a social or educational institution for the incapable, versus those who argue in favor of contributing to the solution of national social and economic problems (the military's welfare role).⁶³

Whether agreeing or disagreeing with Lowrey's thesis, such considerations are frequently expressed and are clearly relevant to how the military defines its correctional objective(s). Commanders, oriented to the UCMJ and its emphasis on punishment, appear to be in conflict with various correctional directives which indicate that the purpose of confinement is not punishment, but rehabilitation.⁶⁴ Thus, the starting point in the correctional process -- determining the definition of a precise objective of an offender disposition -- is vague, yet influences any cost effectiveness analysis of corrections.

In spite of vague correctional objectives, the military has traditionally relied on the use of incarceration. As a result, military

⁶²Lowrey, op. cit., p. 24.

⁶³Ibid., p. 42.

⁶⁴See, for example: U.S.D.B. Staff Manual (Fort Leavenworth, Kansas: 1976); USDB Memorandum No. 15-1, "Correctional Classification Program," (Fort Leavenworth, Kansas: 1976); and various Army directives in the 190 series of publications. USDB Memorandum No. 15-1, for example, states: "...the United States Disciplinary Barracks will be operated on a corrective, rather than a punitive basis, with the goal of rehabilitating military inmates for restoration to honorable duty or return to civilian life as useful citizens." (see paragraph 3-1).

confinement populations have fluctuated widely over the years. Lowrey ascertained that in June 1952 the Army prisoner population was 18,653. By December 1959, it had dropped to 3,752. During Vietnam the population soared to 10,343 but by May 1972 had again declined to 5,006 (even though the rate of confinement per 1,000 soldiers had not changed since 1968).⁶⁵

These fluctuations in prisoner populations have serious ramifications on the military corrections system. For example, the MacCormick Committee study grew out of citizen complaints concerning poor facilities and poor treatment of military prisoners. These conditions, in turn, grew out of the large and rapid increase in the numbers of military prisoners which accompanied the Vietnam escalation. This historical lesson infers that such conditions could reoccur during any future military buildup unless facilities and a cadre of trained correctional personnel are maintained to cope with such a contingency. Accordingly, the system must be capable of expansion and contraction; the crux of the problem is how to establish a cost effective capability for such extreme expansions and contractions. Yet, opposing this historical reality, are the realities of an all-voluntary constabulary force.

For example, a GAO study in 1974 criticized the military for operating 200 confinement facilities and using 6,000 staff members to maintain only 8,500 prisoners -- at an estimated cost of \$60 million. The same study also criticized the military for a lack of a common approach to corrections.⁶⁶

⁶⁵Lowrey, op. cit., p. 36.

⁶⁶Ibid., p. 38, citing both an interview with the Army Chief of Corrections and the GAO report. The GAO report was a major concern upon arrival of this writer at the USIB and provided the impetus culminating in the instant study, which strives to correlate the MacCormick, GAO, Lowrey, and Carter studies.

Current military confinement statistics (portrayed in Table XVI) reveal 48 confinement facilities -- 24 Army, 1 Air Force, 16 Navy, and 7 Marine. This is a reduction in the conditions noted by the GAO; yet, it is apparent that further closure and consolidations would be cost effective.

TABLE XVI*

MILITARY CONFINEMENT
FACILITIES AND CONFINEEES

<u>Army</u>	<u>Population</u>	<u>Navy</u>	<u>Population</u>
USDB	1050	Long Beach	17
USARB	564	San Diego	86
Ft. Benning	20	Treasure Island	55
Ft. Dix	15	Jacksonville	63
Ft. Gordon	20	Pensacola	51
Ft. Knox	25	Pearl Harbor	45
Ft. Leonard Wood	10	Great Lakes	73
Ft. Sill	25	Philadelphia	142
Ft. Bliss	10	Newport	22
Ft. Jackson	3	Charleston	102
Ft. Bragg	12	Millington	18
Ft. Campbell	36	Corpus Christi	45
Ft. Carson	25	Norfolk	219
Ft. Hood	30	Seattle	64
Ft. Lewis	18	Yokosuka (Japan)	21
Ft. Mead	19	Subic Bay (Philippines)	40
Ft. Ord	26		
Ft. Polk	8	Total:	1063
Ft. Richardson	18		
Ft. Riley	32	<u>Marine</u>	<u>Population</u>
Eighth U.S. Army (Korea)	22	Camp Pendleton	180
Berlin	2	Albany, Ga.	2
SETAF (Italy)	91	Camp Lejeune	270
Mannheim (Germany)	91	Quantico	30
		Paris Island	15
Stockade Total:	558	Camp Butler (Okinawa)	80
		Iwakuni (Japan)	12
<u>Air Force</u>	<u>Population</u>	Total:	589
3320th C&R Squadron (Lowrey AFB)	104		

*SOURCE: ACA Directory, op. cit., pp. 238-243.

Excluding the USDB and the USARB, the facilities range from 2 to 270 prisoners, including pretrial and convicted offenders. The Army range is 2 to 91 (mean = 25.36; standard deviation 23.01); the Navy ranges from 17 to 142 (mean = 64.44; standard deviation 52.61); and the Marine facilities vary from 2 to 170 (mean = 84.14; standard deviation 102.80). Such variances are difficult to explain in terms of the cost effective operation of smaller facilities. Based on the foregoing analysis, further consolidation and closure of military confinement facilities appear warranted from the standpoint of costs. As previously indicated, however, this consideration would not be fully explored. Travel costs, a need for overseas facilities, and other factors (currently being addressed by the respective services) enter into an assessment of the merits of closing each installation. What has been pointed out is but a cursory documentation of what is intuitively obvious — some facilities are not cost effective, irrespective of their punitive, deterrent, or rehabilitative effects. To consider these correctional effects, it is more appropriate to address the convicted offender, rather than the pretrial accused, and the larger correctional facilities (such as the USDB), rather than the smaller, more temporary, and less treatment-oriented facilities.

Lewrey, comparing offenses within the military to the civilian sector, observed that for an eight year period (FY63 - FY71) the FBI reported a nationwide increase of 140 percent in violent crime contrasted to an Army increase of 141 percent. For crimes against property the FBI reported an increase of 140 percent versus an Army increase of 304 percent.⁶⁷ Similarly, the Carter study noted that 94 percent of the USDB

⁶⁷Ibid., p. 21.

population were serving sentences as the result of civil offenses -- felonies; 46 percent involved crimes of violence or threat of violence, 26 percent were narcotic violations, and 22 percent were crimes against property.⁶⁸ Partially due to these facts, both Lowrey and Carter recommended that the military turn its felons over to the Department of Justice or to state correctional agencies. Lowrey concluded that the Army could not afford to support a corrections program of questionable success and benefit to the Army and that the costs of rehabilitative efforts should be handed to federal agencies with rehabilitation responsibilities. Carter advocated confinement in the federal or state prison systems (or in regional stockades, in the case of offenders with less than two year sentences).⁶⁹

Both Lowrey and Carter focused on costs, with only secondary consideration of rehabilitative efforts. If cost is taken as the sole criterion, their positions can be supported, although with some effort. Addressing costs has its pitfalls, as discussed earlier in this chapter. In this respect Lowrey distorted his evidence by calculating the cost of training Army guards without addressing civilian guard force recruitment, selection, and training costs (such costs, while not borne by the DOD, are still a federal expenditure). Similarly, the Carter study noted that a ratio of 800 employees to 1,000 inmates was an "unusually rich mix" per civilian standards; he compared the USDB with Deuel Vocational Institution in Tracy, California (average population-1,300; ratio of staff to prisoner-1:2.6; budget-\$13 million; average daily cost-\$27.53). As shown in Table XXI, this staff:inmate ratio is not excessively rich (nationwide mean of

⁶⁸ Carter, op. cit.; Table XI shows similar data.

⁶⁹ Lowrey, op. cit., p. 76; Carter, ibid.

2.21, but ranging from .85 to 6.86). Similarly, the cited daily cost of \$27.53 appears low when compared with the cost of the Leavenworth Federal Penitentiary (\$33.04, see Table XV); the comparison also fails to address economies of scale associated with the Deuel facility. Thus, it appears that both Carter and Lowrey failed to identify all variables affecting costs.

Turning from costs to effectiveness, it is again necessary to refer to Figure 1 and question the objectives of military corrections. Table XVII reflects the year end enlisted strengths and average number of confinees by service. As can be seen, there is a wide variation in incarceration rates among the services. The reasons for this variation are beyond the scope of this study but warrant investigation to determine the underlying causes and the possible affect if a change were effected to these ratios. Some insight into the affect can be gleaned from the Air Force experience. While courts martial increased in the other services in 1977, the Air Force had but 1.8 per 1,000 members -- the lowest rate in its history. Major General Reed, TJAG of the Air Force, recently attributed this fact to the Air Force preventive law program and to AMJAMS (Automatic Military Justice Analysis and Management System).⁷⁰ Whether these unique Air Force programs reduce the courts martial rate is questionable but warrant study. The most obvious way of reducing correctional costs is by decreasing courts martial! Whether this can be done -- at least legitimately, and in measurable form -- is problematic. Conversely, differences in service philosophies, caliber of recruits, and lifestyle, among other reasons, could also explain the differences

⁷⁰Reported by M. L. Craver, The Air Force Times, May 15, 1978, p. 25, following an interview with General Reed.

shown in Table XVII. Such factors would also impact on rehabilitation efforts.

TABLE XVII*
PROBABILITY OF
CONFINEMENT BY SERVICE

<u>End Year 1977</u> <u>Enlisted Strength</u>	<u>Number Confined</u>	<u>Probability of</u> <u>Confinement</u>
Army 680,062	1922	1/353.83
Air Force 469,878	154	1/3051.16
Marine Corps 173,057	789	1/219.34
Navy 462,176	1063	1/434.78

*SOURCE: ACA Directory and Air Force Times, op.cit.; see Tables X and XVI for original source; probability computed by researcher.

Having raised perhaps immeasurable variables, the effectiveness of the existing institutional programs which profess to reduce recidivism -- academic training, vocational training, work release, restoration, parole, and clemency, can be assessed.⁷¹

Academic training. As previously noted, there is no quantifiable data supporting the contention that academic training contributes to lower recidivism rates. Intuitively, such programs have benefits even though they cannot be measured quantitatively. However, given a lack of measurable benefits, the issue becomes one of degree -- how much effort and expense should be spent on a product whose output is unmeasurable? At the USDB, for example, it appears that positions have been created and work generated in the name of academic training, disproportionate to

⁷¹Data in the remaining portion of this chapter concerning the USDB was extracted or computed from statistics contained in USDB History, op. cit., except as otherwise indicated.

any quantifiable benefits. In fiscal year 1977, 8,759 educational interviews were conducted; only 1,446 new inmates arrived at the institution. Similarly, 2,054 GED tests were administered, while only 217 inmates received a high school GED (less than 11 percent success rate). There were 1,624 enrollments in a non-accredited junior college program, but only 585 (36 percent) resulted in course completions. This equates to better than six interviews for every newly arriving inmate and infers an extraordinary effort to entice inmates into the various educational programs. From observations, such interviews also provide inmates with a good excuse to avoid working. These statistics also raise questions concerning the motivation of the program participants, particularly since involvement in these programs impacts on clemency and parole deliberations (addressed subsequently in this chapter). Given this effort in interviewing, testing, and conducting courses with relatively little academic success, and given the lack of evidence that completion of such activities reduces recidivism, one can conclude that the program is not cost effective as presently conducted. Opposing this approach, the Federal Bureau of Prisons has adopted a general approach of providing such programs to those who want them, without forcing the tests and courses on inmates who are not properly motivated to participate. Involvement in such activities is not a factor in determining parole eligibility in the federal system.

Vocational training. Vocation training programs, while lacking evidence of reducing recidivism, are cost effective at the USDB. Ignoring internal deficiencies (currently being addressed at the USDB) which kept the program from making even more profits, the overall program partially offsets the cost of operating the institution, even though such a

fact is not reflected in the institution's budget. Intuitively, it also provides inmates with work habits and exposes them to a trade, neither of which impact adversely on recidivism. A question worthy of exploration, however, is how much more profit could be generated by participating in Federal Prison Industries, Incorporated. Such a transition would provide savings in accountability and inspections, as well as employee costs and energies (currently borne by the DOD).

Work release.⁷² Brady's review of available literature identified a gap in empirical studies concerning work release. Most studies were case histories (citing successful examples to support the concept) or cost effectiveness studies (showing that the program pays for itself). Brady hypothesized that if an inmate participated in a work release program, he would experience less adjustment problems than an inmate who had not been a participant. His study is particularly significant because the USDB work release program is broader than typically found in civilian institutions (violent offenders are not excluded from the program). His study addressed several variables but was limited to 32 former inmates. He concluded that men who took part in the program demonstrated significantly less problems in adjusting to the civilian community than non-participants. Brady's study is partially validated by similar studies in the civilian sector. For example, the Montgomery County Work Release/Prerelease Center (Maryland) passed 407 offenders through their program and had less than 20 percent rearrested within the first year. Yet, it is apparent that Brady's study can be

⁷²Data in this section concerning the USDB Work Release Program is taken from Kenneth L. Brady, "A Comparative Analysis of Post-Release Adjustment of Work Release Participants at the United States Disciplinary Barracks," unpublished master's practicum, Wichita State University, 1976.

challenged in terms of selectivity of offenders (inmates go through a vigorous screening process before acceptance in the program), as well as the statistical insignificance of his small numbers. From a cost effective perspective, the program provides the inmates with a job which can help their families avoid welfare, and should help the inmate more readily transition from prison to society. Conversely, the program affects an insignificant number of inmates. An average of 15 prisoners were assigned to the program versus an average USDB population of 1,050 in 1977. Many of the participants (under two percent of the total population) were not, in fact, employed during the entire time they were assigned to the program. Thus, the program appears to have questionable impact on overall recidivism rates, affects an insignificant number of inmates, and drains staff manpower and energy.

Restoration. Lowrey assessed the cost effectiveness of the military's corrections program in light of its stated purpose of restoring to duty the maximum number of military offenders. He concluded that while the Army promotes the rehabilitation of military prisoners for restoration to duty, it has also implemented numerous programs to eliminate inept, marginal, and non-effective personnel. This, according to Lowrey, shows a dichotomy of purpose -- discharging some, while attempting to rehabilitate and restore criminal offenders. Lowrey also noted that this dilemma was exacerbated by the poor recidivism rate of the USARB (nearly 51%).⁷³ Other studies have been equally critical of the failures of the restoration program.

Holden and Kroll studied 468 prisoners confined at the USDB from January 1, 1965, to February 28, 1967, who were returned to duty for

⁷³Lowrey, op. cit., pp. 60-61 and 74-75.

further military service. Their assessment was a follow on to an analysis of 432 prisoners restored to duty from January 1958 to June 1964. The first study found that 71 percent of the 432 prisoners achieved restoration success -- success being defined as ultimate discharge under honorable conditions. While this first study was primarily concerned with the restoration success of prisoners with punitive discharges, the follow on investigation considered all restored prisoners (not merely those with punitive discharges). Holden and Kroll also tried to deal with factors related to successful restoration and accuracy of prediction but confined their follow-up to a short (6 to 12 month) period. They concluded that the 6 and 12 month evaluations did not vary significantly and that inmates whose sentences did not involve discharge did not have an impressive success rate -- just barely above the 50/50 chance level (56.6 percent). While noting that the punitively discharged prisoners had a higher success rate (84.4 percent), they also observed a difference in type of offender -- older, regular Army, career soldiers whose offense was often situational, not repetitive.⁷⁴

Again we have conflicting evidence of the success of an institutional program. More importantly, successful restoration to duty -- as measured in terms of an honorable discharge -- does not necessarily equate with reduced recidivism. One may well ask how many of these successful restorees who ultimately earned honorable discharges are included in the estimated 73,000 former servicemen now confined in state prisons (reference discussion, pages 48-50). Additionally, the current restoration program affects few military prisoners.

⁷⁴ Martin H. Holden and Jerome L. Kroll, "Restoration Success: A Follow Up Study," Project 17-67 (USDB, Fort Leavenworth, Kansas: 1967).

According to the latest data, less than four percent of those prisoners considered for restoration to duty in 1977 were actually approved for restoration. As Table XVIII reflects, there was some variation by service.

TABLE XVIII*

RESTORATION BY SERVICE FROM USDB

	<u>ARMY</u>	<u>Air Force</u>	<u>Marine Corps</u>
Total Considered:	1134	71	114
Total Recommended for Restoration:	61	5	1
Total Approved for Restoration:	49 (4.3%)	1 (1.4%)	2 (1.8%)

*SOURCE: USDB History, op. cit., pp. 34-37.

The figures in Table XVIII do not reflect the fact that some of those prisoners recommended and approved for restoration to duty either were not sentenced to a discharge or else received a suspended discharge. Similarly, the figures do not address the number of Army and Air Force prisoners who left the USDB but failed to complete the appropriate retraining programs at Fort Riley or Lowrey Air Force Base, respectively, or the number who successfully returned to duty yet committed another crime. The figures do infer, however, an extraordinary amount of man-hours devoted to evaluating and making the decision to restore a statistically insignificant number of offenders to military service. In effect, restoration appears to be a costly program with insignificant results.

Parole. In any given year, there are over 300 military prisoners on parole from the USDB. Records indicate that the success rate of these

men ranges from 95 to 97 percent. The MacCormick Committee recommended greater use of parole in recognition that parole increased the likelihood of reform. However (as reflected in Table IV), nationwide, 71 percent of repeat offenders have previously been paroled. Appendix B contains further data concerning the questionable affects of parole on recidivism. Conversely, parole is less costly than incarceration, and parolees do no worse statistically (and perhaps better) than non-parolees. There are other factors to consider; for example: the costs incurred by the military to parole less than 30 percent of its confinees, whether the parolees were rehabilitated as a result of their confinement experience, or whether they were offenders who should never have been confined in the first place (self-correctors). Such questions, beyond the scope of this report, appear to warrant research. If the system can save money by paroling a man at 18 months, it is conceivable that it could save even more by paroling the offender after six months or by using shock parole. Further, one may question the true savings of paroling the offender in view of the elaborate system used for parole, which consumes the energies of the staff not only at the USDB (or other confinement facility) but also at the respective service headquarters. As Table XXIX indicates, less than 30 percent of inmates considered for parole were approved in 1977.

As in the cases of percentages of confinees and restorees, the percentages of parole approvals varies by service. Again, one can refer to Figure 1 and question the respective service's objectives and how the objectives affect rehabilitative efforts. From experience, Marine prisoners perceived the Marine Corps (Department of the Navy) as being less liberal with clemency and parole than the other services; this perception

is supported by the data and is often reflected in the morale and behavior of Marine prisoners at the USDB.

TABLE XXIX*

USDB PRISONERS CONSIDERED
AND APPROVED FOR PAROLE, 1977
BY SERVICE

	<u>Army</u>	<u>Air Force</u>	<u>Marine Corps</u>
Total Considered:	612	49	97
Total Recommended:	269	21	40
Total Approved:	185 (30.2%)	17 (34.7%)	15 (15.5%)

*SOURCE: USDB History, op. cit., pp. 34-37.

Clemency. The military operates a clemency program incomparable to any civilian program. Prisoners, once sentenced to confinement, are awarded good conduct time in varying amounts dependent on the length of their sentences (up to 10 days per month). They can earn extra good time (up to 5 days per month) dependent on their sentence and involvement in various programs and achievements. This is common to civilian correctional systems. Over and above this good time, a military prisoner has the right to an additional clemency consideration at least once a year. From personal observation, it can be reported that only in rare cases will an inmate have more than one clemency board per year (but it does happen occasionally due to quirks in regulations and in especially deserving circumstances). These clemency considerations (whether annually or more frequently) involve gathering information from various sources (from both inside and outside of the USDB), summarizing the

information, and convening a board of officers at the USDB. The boards' recommendations are submitted to the Commandant who adds his recommendations. Subsequently, the summaries and board results are (except in Marine cases) resummarized; forwarded for review through channels; and in the case of the Army, summarized yet a third time (at Hq DA where an analyst adds his recommendations to the case). In Air Force cases, clemency may be granted at an intermediate echelon. Regardless of service, the case is ultimately considered by the respective clemency and parole board in Washington. After the respective clemency and parole board makes its recommendations, the representative of the service secretary makes a final determination, and the case is returned to the USDB for announcement of his decision. In the case of parole denial, the prisoner has a right to appeal, in effect largely repeating the process. The entire procedure consumes the full-time energies of approximately 20 personnel at the USDB, various headquarters personnel, analysts in Washington, and the chairmen of the respective clemency and parole boards -- not to mention part-time board members, time spent by mental hygiene and custody personnel completing evaluations, etc. Additionally, the clemency and parole boards consider academic and vocational training achievements. Consequently, an unmeasurable amount of time is devoted to inmates involved in these programs (not for the knowledge or skills they might gain but in hopes of early release from confinement). There are also postal fees and overtime costs (incurred due to seasonal workload fluctuations; especially at Christmas, when an extraordinary effort is made to board and consider "deserving" inmates for release prior to the holiday). The total expense of this unique program would entail considerable study; it is obviously costly. To date, there have been no measurements that

can justify the program in terms of reduced recidivism. As Table XXI indicates, relatively few inmates receive clemency as a result of the program, although these figures are somewhat misleading for in many cases a prisoner will not receive clemency because he is approved for either restoration or release on parole.

TABLE XXI*
USDB PRISONERS CONSIDERED
AND RECEIVING CLEMENCY

	<u>Army</u>	<u>Air Force</u>	<u>Marine Corps</u>
Total Number Considered:	1768	117	210
Total Number Recommended for Clemency:	686	55	77
Total Number Approved:	326 (18.4%)	31 (26.5%)	26 (12.4%)

*SOURCE: USDB History, op. cit., pp. 33-37.

The foregoing discussion suggests that the military is operating an expensive program which cannot be supported in terms of its effect on reducing recidivism. This does not necessarily mean that the program should be abolished. Clemency does, if nothing else, save some confinement costs by getting a few, hopefully reformed, offenders out of the institution earlier than their normal release date. It may also prompt the prisoner to behave better while confined -- at least until his clemency decision is made. The evidence does suggest that cheaper ways of administering the program could be developed -- such as eliminating the boards either at the USDB or in Washington and/or the analysts who summarize summaries of summaries. One may well question why the Army

requires a prisoner's record to be thrice summarized; whereas, the Marine Corps needs but one basic summary. One may also question the need for various position incumbents in the entire procedure -- ranging from clerks at the USDB who summarize summaries through analysts in Washington who add recommendations to those of the USDB staff, board members, and Commandant. Indeed, adaptation of a more quantitative procedure, such as used in the federal parole system, could reduce the paperwork, personnel, and subjectivity in the current cumbersome process.

Summary of military corrections. The foregoing discussion indicates that several approaches could result in lower expenditures within the military correctional system. Early diversion from the formal justice system, while not adoptable in many forms, would help reduce costs. The use of sentences to community service, weekend jail and probation, rather than incarceration, would also result in savings. Mere modification of the existing system, by abolishing or curtailing programs such as clemency, restoration, and academic educational training, would also increase the cost effectiveness of the system. In general, however, it appears that no one option optimizes cost effectiveness while minimizing adverse consequences or increasing the probability of successful rehabilitation.

Programs which should be adopted or further studied.

Lacking proof that any correctional options significantly affect recidivism rates, the selection of one alternative over another is impossible without a clearly defined military objective -- rehabilitation or punishment (vengeance). If rehabilitation is the legitimate objective, several programs offer as much promise as incarceration and are less

costly. If, on the other hand, punishment is the basic objective, incarceration of a humane nature minus the expenses of questionable rehabilitative programs appears to be the logical option. If cost is the paramount consideration, use of probation and/or referral to state or federal correctional systems is justified.

The actual correctional objective may involve all of these goals in varying degrees. If so, these objectives need to be clearly defined and given appropriate priorities in order to assure a proper course of action. Every major correctional alternative except probation is now used by the military to some degree. Some minor variations in the major alternatives are not feasible on a worldwide basis (e.g., reliance on volunteer programs and use of some forms of diversionary programs). Diversion, as a concept, could be used by the military in cases where non-prosecution appears warranted. Some form of central guidance and education would probably be necessary in order to establish such a program (e.g., as has been done in the areas of race relations and organizational effectiveness). This approach, while feasible, would require considerable study in terms of costs. Given a lack of conclusive evidence of reduced recidivism, cost considerations may outweigh all benefits. Fines (which are already used) are a feasible approach to reducing criminality and confinement costs. Greater use of fines (rather than incarceration) would require central headquarters' efforts to indoctrinate commanders and court martial members. Non-prosecution through a diversion program and greater use of fines appear to be the least feasible among the broad categories of potential offender dispositions due to the nature of the offenses committed by the typical inmate confined at the USDB.

Suspended sentences and restitution are also used within the

military. Probation, though not used, is feasible and would provide a commander or court with a degree of punishment greater than mere suspended sentences yet less than incarceration, at a lower price than incarceration. The use of halfway houses, in conjunction with probation or parole, appears to offer cost advantages. The evidence suggests that none of these methods has a significant impact on recidivism. From a feasibility standpoint, the exclusive use of probation, suspended sentences, or other techniques short of confinement probably would not be condoned by either the civilian or military community. This indicates that exclusive reliance on other than incarceration is not a feasible means of reducing military correctional costs.

The current programs within the formal corrections system can be refined, apparently without impacting on recidivism. In this respect, several programs were identified which warrant further study at such time as the military clearly defines its correctional objective. Without a clearly defined objective, an answer to the final research question is problematic.

The evidence presented in this report tends to affirm Lowrey's observation regarding a basic conceptual gap: there is a dichotomy in perceptions of the military's responsibility for human development (whether or not it is a proper function of the military to act as a social and educational institution), as well as a gap between the punitive oriented commanders and staff officers in the field versus the rehabilitation orientation of personnel assigned to the formal corrections system. Without closure of these conceptual gaps, the military corrections objective cannot be established. Without a consensus on the objective, a cost analysis of the military corrections system is subject to formulation of invalid conclusions.

CHAPTER V

SUMMARY AND CONCLUSIONS

I. SUMMARY

This report presented the findings of a study which attempted to: (1) identify feasible changes to the military corrections system, likely to result in significant savings, without serious detriment to basic correctional objectives; (2) analyze these potential changes in terms of cost effectiveness, feasibility, advantages and disadvantages, and impact; and (3) draw conclusions related to possible military adaptation or study.

As an exploratory-descriptive study, the inquiry responded to five interrelated questions: (1) are there alternative correctional programs that can be adapted by the military corrections system?; (2) will any of these alternatives save resources?; (3) will any of the alternatives either positively or adversely affect correctional objectives?; (4) which alternative(s) optimize cost effectiveness and feasibility, while minimizing adverse impacts?; and (5) should any changes be made to the existing military corrections system?

After defining various terms which limited the scope of the study and describing the research methodology, the report provides a brief description of major correctional alternatives, to include history, use, and commonly espoused advantages and disadvantages (Chapter II). A quantitative and intuitive (judgmental) comparison of variations of each major correctional method (in terms of cost, cost effectiveness, and feasibility of military application, and consequences), and an assessment

of overall data and information is presented in Chapter IV.

Relying on evaluations of various rehabilitative programs, assessments of such evaluations, unstructured observations, and other data and information, the analysis attempted to ignore value judgments, criminological theory, and philosophy. Instead, the assessment focused on factual data, however imprecise, concerning costs and criminal recidivism rates.

The analysis relied on an a priori model in which definition of the objective (vengeance, rehabilitation, or deterrence) precedes consideration of the cost and benefit (or detriment) of various options. This second step, which can be quantified, is followed by other considerations which are less quantifiable.

The report addresses trends which impact on military corrections irrespective of mere statistical inferences: rising crime rates, particularly among the predominant military age group; rising correctional expenditures (likely to be exacerbated by new correctional standards); high recidivism rates (mean = 67%); a small, all-voluntary military force (typically drawn from poor socio-economic backgrounds); and a change in the nature of the offenses perpetrated by the military offender (from the purely military offense to felonious crimes). The report also notes a low probability of any offender being arrested, tried, and sentenced for a crime.

Accepting the impreciseness of quantifiable data concerning both costs and the effect of rehabilitative efforts, the report addresses options which offer apparent cost benefits without increasing the risk to society, military discipline, or criminal recidivism. In assessing each alternative, numerous pitfalls concerning cost and effect

comparisons are discussed, including variables which detract from the reliability of such evaluations.

The report presents data concerning small, localized correctional programs which may warrant study if only for use on a limited scale. More substantive material indicates that probation, while relatively effective and inexpensive, is not a panacea (due to problems of limited supervision and the impact of selective sentencing), thereby raising questions concerning the current military parole system. Shock probation, although not widely used, has data to support the concept; experimentation with the concept, particularly in the form of shock parole, appears warranted.

Data concerning restitution are more restrictive than for other programs, although benefits to victims of crime, as well as possibly lower recidivism rates are briefly assessed.

Considerable material concerning incarceration is discussed, including such problems as America's affinity for long prison sentences; the impact of the mentally deficient, the drug abuser, and the dysfunctional or hostile guard on rehabilitative efforts and recidivism rates; and the relatively small measurable impact of various institutional programs on recidivism rates.

Techniques which are not currently used by the military are addressed: weekend jail, sentencing to community service, and the use of halfway houses and diversion programs. All of these less common and relatively new approaches to dealing with offenders are less costly than incarceration and reflect reasonably low recidivism. Such approaches could be adapted by the military with relative ease.

Finally, the report provides an overall assessment of the data

and information revealed during the investigation. While raising issues and problems such as future military expansions, the report discusses the apparent lack of common correctional objectives between commanders and corrections personnel, as well as between the respective services. The report concludes with a discussion of existing military correctional programs which do not appear to be cost effective, but which cannot be adequately evaluated because of this lack of a clearly defined objective.

II. CONCLUSIONS

Several general and specific conclusions were formed as a result of this study. Conversely, several issues were raised. The bottom line is that there are a variety of means which have not previously been considered whereby the cost of military corrections can be decreased (without significant adverse consequence to society as a whole, military discipline, or criminal recidivism). This thesis specifically rejects the interpretations and recommendations resulting from similar assessments; some of these studies form naive conclusions without due regard to the complexities inherent in cost effective analyses of correctional programs. Others form opinions based solely on statistical data, without due regard to equally important, albeit, non-quantifiable variables.

Six other relatively significant conclusions were formed as the result of this investigation: (1) there are numerous means of handling offenders which are not used by the military; (2) neither probation nor parole is a panacea in terms of either reducing correctional costs or reducing recidivism; (3) there is little evidence that institutional rehabilitation programs such as academic and vocational training;

work release and job placement; and clemency, parole, and restoration affect significant numbers of inmates or recidivism rates, even though the programs do create jobs and may benefit small numbers of offenders; (4) there is a lack of a conceptual model or correctional objective, which detracts from efforts to perform an accurate cost effectiveness or cost benefit analysis of military correctional alternatives; (5) given the nature of program evaluations and the complexity of variables affecting both cost and program effectiveness, glittering generalities and simplistic conclusions, such as presented in some previous studies, must be taken as circumspect; and (6) the existing military corrections system can be made more cost effective by either refining its various parts or by adapting entirely new approaches to corrections. For example, clemency and parole procedures could be simplified by adaptation of the federal parole procedures; that system's quantitative approach to approving parole offers simplicity, speed, and visibility, while reducing the time and efforts of subjective and costly board procedures. The military could also experiment with a form of shock parole. For example, the convening authority could automatically approve release on parole at the time he takes action on a court martial recommendations. He might require some form of feedback from the USDB concerning the prisoner's conduct while confined. The prisoner's release might even require final approval by the respective service secretary. However, the concept could eliminate the cumbersome and subjective procedures currently employed. Given some indoctrination of commanders, the approach would also help close the existing conceptual gap between punishment, as perceived in the field, and rehabilitation, as perceived in corrections "officialdom."

In addition to the foregoing conclusions, a decisional matrix

was formulated based on the data and information, as well as the findings contained within this report. The matrix (see Figure 4) can be completed as the reader progresses through the report and/or referred to in attempting to form separate conclusions concerning a proper correctional decision.

The matrix portrays the six basic methods for dealing with offenders, as well as the variations or modifications of these basic methods. While it was concluded that precise measurement of correctional costs and various correctional methods is tenuous, an attempt is made to complete the matrix in terms of feasibility, deterrence of others, relative costs, punitive value against the offender, rehabilitative value, and whether the method adequately addresses the victims of crime. Each variable is assessed in terms of yes, no, questionable, or on a rank order basis, considering the data and conclusions formed in this study.

Several issues were also raised as a result of this investigation:

- (1) what is the current military corrections system doing to aid the victims of crime?;
- (2) what is the effect of the current less educated, socio-economically deprived recruit on crime and corrections within the present military system?;
- (3) are military sentences, assessed with a view toward enforcing military discipline, fair and equitable -- in fact and in perception?;
- (4) what is the true extent of criminal recidivism among personnel processed through the military corrections system?;
- (5) what impact will future court decisions regarding new correctional standards have on the military corrections system?;
- and (6) what has contributed to the apparent disparity in courts martial and confinement rates between the respective services?

Probation, especially shock probation (or shock parole),

	Feasible?	Deterrent Value	Punitive Value	Rehab Value	Relative Cost	Consider Victim?
BASIC CORRECTIONAL METHODS						
Non-prosecution	Yes-6	Nil	6	4	6?	No
Fine	Yes-5	Nil	4	5	5?	No
Suspended Sentence	Yes-4	Nil	5	2	4	No
Restitution	Yes-3	Nil	3	1	3	Yes
Probation	Yes-2	Nil	2	3	2	No
Incarceration	Yes-1	Nil	1	6	1	No
CORRECTIONAL VARIATIONS						
Diversion	Yes-7	Nil	8?	?	8	No
Community Service	Yes-6	Nil	7?	?	7	No
ISP	No-8	Nil	--	--	--	No
Volunteer Probation Counsellor	No-?	Nil	--	--	--	No
Shock Probation	Yes-3	Nil	6?	1	5? (4?)	No
Weekend Jail	Yes-5	Nil	4?	?	6?	No
Incarceration:						
USDB	Yes-1	Nil	3	6	1	No
BOP	Yes-2	Nil	2	7	2	No
State	?-9	Nil	1	8	3	No
Halfway House	Yes-4	Nil	5?	2	5? (4?)	No
Rank scales from high to low = 1-10; for example, in the upper portion 1 indicates the greatest punishment value whereas 6 shows the least punishment value						
Where data is questionable, ranking or response shows: ?						

Figure 4
DECISIONAL MATRIX

part time jail sentences, sentences to community service, and the use of halfway houses appear to offer reduced costs, with perhaps a better chance of lowering recidivism than incarceration in many cases. On the other hand, deficiencies in parole and probation raise the issue of the propriety of the existing elaborate, expensive procedures used to grant parole -- as well as clemency and restoration to duty. This contrary position is exacerbated by the greatest problem inherent in this research effort -- the lack of a clearly defined correctional objective -- which detracts from the use of a decision matrix such as previously reflected in Figure 4.

Given the foregoing conclusions and issues one final conclusion is, perhaps, inevitable. Further research is necessary to establish an optimal cost effective military corrections system. The MacCormick, Lowrey, Carter, and GAO studies provide a point of departure. Hopefully, this report has filled some of the gaps left by these prior studies, and can itself serve as a point of departure for further, more vigorous investigation.

A P P E N D I C E S

APPENDIX A

RESULTS OF VARIOUS PROGRAM ASSESSMENTS

<u>Location of Program</u>	<u>Nature of Program</u>	<u>Results of Program</u>
	<u>Early Diversion</u>	
Los Angeles	Random assignment of juveniles to various dispositions 1. Counsel and release 2. File petition without detention 3. Referral to social agency 4. Referral and purchase of services	Multi-arrests less frequent for counsel cases; rearrest rate comparable with other programs; self-reports show no difference in delinquency
Champaign & Urbana, Ill.	Random assignment of juveniles to college student supervisors	Fewer police contacts and court referrals; no change in self-reported delinquency
Washington, D.C.	Individual and group counselling; education and vocational assistance; dismissal of charges based on completion of program	No change in behavior after termination of program; no change in recidivism rate
	<u>Probation Intensity</u>	
Los Angeles	Random assignment of juveniles to intense supervision	Male detention rates and commitment to CYA lower; barely significant at .05 level
Los Angeles	Other similar projects	No significant difference in recidivism or probation revocation rates
Northern California	Adults randomly assigned to various sized case loads	Slightly lower rate of new offenses; higher rate of technical violations

Probation with Non-residential Programs

Utah (Provo)	Juveniles randomly assigned to probation or experimental program compared with reformatory in follow-up study	All forms of treatment reduced recidivism equally
New York, N.Y.	Similar program	Differences not statistically significant
Louisville, Ky.	Similar program	Experimental group had higher recidivism rate

Imprisonment

California	Comparison of 2148 adult probationers with 2561 confinees	Only 49% of prisoners avoided new arrests; 66% of probationers avoided new arrest
Wisconsin	Similar comparison	First offender prisoner had lower recidivism rate than first offender probationer
Florida	Early release of prisoners due to court decision (Gideon vs. Wainwright)	Significantly lower recidivism rate (14% vs. 25%)

The foregoing sample of program evaluations, considering a variety of programs in different geographical areas, indicates the difficulty in assessing the effectiveness of alternative methods of rehabilitating offenders. For further descriptions of various programs and the results of measuring these programs, the reader is referred to the works of Greenberg and Adams contained in the Bibliography and referred to in the text of this report.

APPENDIX B

PAROLE ASSESSMENTS

1. One study alluded to political pressures in California which caused fluctuations in parole release:

<u>Year</u>	<u>Number Released on Parole</u>
1968	6,600
1971	10,000
1974	5,000
1975	11,000

2. Another study addressed the probability of successfully completing parole based on the age of a prisoner at the time of parole:

<u>Age Group</u>	<u>Parole Success Rate</u>
20 & under	71
21 - 25	78
26 - 30	89
31 - 40	89
over 40	97

3. Another study addressed scales used for predicting parole success. Using a scale produced in 1972, the utility of the scale showed less validity in 1975 than in 1972 due to changed laws, the addition of probation officers, and changes in court membership and attitudes:

Original Classification in 1972

	<u>Low Risk Failure</u>	<u>Medium Risk Failure</u>	<u>High Risk Failure</u>
Success	90% (n = 159)	60% (n = 94)	36% (n = 17)
Failure	10% (n = 17)	40% (n = 64)	64% (n = 30)

Predictive Scale Used in 1975

Success	86% (n = 94)	77% (n = 50)	55% (n = 64)
Failure	14% (n = 15)	23% (n = 15)	45% (n = 53)

4. A final study indicates parole success approximates 75 percent nationwide. However, decreases in technical violations account for year to year variations as shown below:

	<u>1969</u>	<u>1970</u>	<u>1971</u>
Continued on Parole	15,908 (66%)	16,272 (69%)	15,972 (73%)
Absconder	1,488 (6%)	1,373 (6%)	977 (5%)
Technical Violations	4,790 (20%)	4,187 (18%)	3,203 (15%)
New Convictions	1,766 (7%)	1,658 (7%)	1,617 (8%)

The foregoing sample of various parole assessments indicates the myriad of considerations inherent in evaluating parole.

APPENDIX C

OTHER CONSIDERATIONS

1. One study correlated state crime rates with incarceration rates. The correlation was a very weak .214. In subsequent analyses of other variables, the researcher noticed a positive relationship between racial composition and incarceration rates, but no significant correlation between racial composition and crime rates. These coefficients of correlation follow:

Black Population	1.00	.694	-.134
Incarceration Rate		1.00	.214
Crime Rate			1.00
	Black Population	Incarceration	Crime

Such correlations raise fundamental questions concerning the purpose and effect of incarceration as a correctional tool.

2. Another study argues that recidivism rates are not the proper dependent variable to address in an analysis of corrections. Instead, the writer argues that crime rates are the appropriate variable. His rationale is based on the premise that a truly effective community treatment program (e.g., a 10 percent reduction in recidivism) would still expose a community to an increase in crime because of the added offenders turned loose in a community instead of being confined, so as to be exposed to the more effective program.

3. Such considerations, themselves suitable for a thesis, were beyond

the parameters of this research effort but warrant consideration by any researcher addressing correctional alternatives. For those contemplating such research the following sources are furnished:

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