

Organizational Theory

How Do We Explain What Organizations Look Like?

Section Highlights

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In 1988, the Junction City Police Department, a pseudonym for a Midwestern police agency studied by Charles Katz (2001), created a specialized gang unit. The formation of the unit, an example of functional differentiation, was a response to concerns about a growing gang problem in Junction City and a belief that many crimes were gang related. Interestingly, Katz's review of records and interviews with departmental personnel revealed that Junction City's gang problem in 1988 was relatively small. In fact, only about 5% of narcotics arrests and less than 5% of robbery, misdemeanor assault, and felony assault incidents could be attributed to gangs. In other words, the creation of the unit was not a response to an *actual* gang problem as much as a response to a *perceived* gang problem. Gangs were receiving significant attention in the national media, and that attention was permeating local communities. In Junction City, community leaders, the local Chamber of Commerce, and members of the police department saw gangs as a problem and a detriment to the city's overall quality of life. The chief was under tremendous pressure to do something about the gang problem and responded by forming a gang unit.

Section II detailed the dimensions of organizational structure but was largely silent on why organizations vary in these same structures. In other words, how are differences across organizations explained? For example, why do police departments such as that in Junction City assign functions to specialized units while other departments remain less differentiated? Organizational theories offer potential explanations for the patterns observed in organizations. Organizational theory, as discussed in Section I, is concerned with the organization as a whole. Some theories, particularly those from the classical and human relations schools, prescribe a single best structural arrangement for achieving organizational goals. Others suggest that there is no single best way to organize since the most effective structure depends on a variety of factors; contingency theorists take this position. Still others contend that organizational structures are largely unrelated to concerns about efficiency and effectiveness and instead reflect the desire to obtain much-needed resources (e.g., money) or conform to what is widely believed to be the best approach to organization. The Junction City Police Department arguably fits this latter description, succumbing to external pressures rather than adapting to any real gang problem.

Why does theory matter? Organizational theory offers a number of important contributions to both organizational personnel and those who interface with organizations. First, theories offer guides for managers interested in improving the efficiency and effectiveness of their organizations. A probation department chief might not fully adopt a bureaucratic form, but she may become more aware of the strengths and limitations of bureaucracy as a result of theory. Second, theories provide insight into improving the workplace for and enhancing productivity of an organization's employees (see Daft, 2010b). Structural choices, as described in theories of organization, work to enhance or stifle individual initiative, motivation, and job satisfaction. Third, the successes or failures of organizational strategies can be reviewed and understood within an organizational theory framework. If, for example, a corrections department adopts an innovative treatment program not to improve service delivery to inmates but to obtain the additional personnel and financial resources that accompany the initiative, the program's implementation may be purely symbolic. The success (or failure) of the program then is related to the motives for adoption. Fourth, theory can also help researchers, policymakers, and others understand how to spread innovative ideas throughout a population of organizations. The fact that funding availability stimulated the corrections department to adopt the treatment program is an important consideration in diffusing the program to other departments. Finally, the evolution of organizational theories affords a historical perspective on thinking about workplaces and organizations over a more than 100-year period (Daft, 2010a). The remainder of this section describes the major theoretical perspectives on organizations, both historical and contemporary.

Classical Theories

The earliest theories of organization and management are collectively referred to as classical theories. Scholars writing in the classical tradition share similar views about the purpose of organizations—they are “organized in such a way as to lead to predetermined goals with maximum efficiency” (Scott & Davis, 2007, p. 35). From this perspective, organizations are rationally oriented toward goal achievement (Scott & Davis, 2007). The challenge for managers is determining and implementing the most effective means for reaching organizational goals, referred to as **instrumental rationality** (Gortner, Nichols, & Ball, 2007). Classical theories are **prescriptive** in their orientation, offering principles or propositions detailing the ideal structure (Rainey, 2009). Three perspectives form the classical school—scientific management, bureaucracy, and administrative management.

Scientific Management

The earliest classical school theory, **scientific management**, can be traced back to the writings of Frederick Taylor around the turn of the 20th century (Scott, 1961). Taylor's primary concern was lost profits (he examined industrial organizations) due to work inefficiencies and deliberate and unintentional decreases in worker output. In his influential work *The Principles of Scientific Management*, Taylor (1913) espoused the importance of scientifically informed organizations that would generate "maximum prosperity" for both the organization in the form of profits and the individual worker in the form of increased pay (p. 9). "Maximum prosperity can only exist as the result of maximum productivity," however; so he proposed methods for enhancing organizational output (p. 12).

Taylor claimed that increasing productivity and prosperity could be accomplished by overcoming the inertia of poor work habits and ineffective techniques. How are these habitual behaviors displaced? Each work task was to be scientifically studied to determine the best way to perform the work.

Taylor (1913) illustrated the importance of science and time-motion studies—so named for their interest in the duration of and physical movements related to tasks—in the Bethlehem Steel Company. Results of time-motion studies were used in task setting, "the process of defining what a worker is expected to do and how long it should take to do it" (Tompkins, 2005, p. 73). At Bethlehem Steel, workers brought their own shovels to work and were required to move different materials from one location to another. The problem was that the weight of the materials varied, so a shovel load was sometimes very light and other times quite heavy; in both cases, the worker was less productive than if the correct weight were loaded. Scientific study of the task revealed not only the best movements for shoveling (e.g., to reduce fatigue) but also the ideal load on each shovel—21 pounds. Workers were trained on proper physical motions, and shovels of different sizes were provided for each material so that, regardless of the substance being moved, a shovel load always approximated 21 pounds; the result was maximum productivity (21 pounds per load) with maximum efficiency (less fatigue and strain). Returning to the dimensions of organizational structure from Section II, job requirements were formalized so that employees always adhered to the scientifically determined procedures. In the absence of rules or formalization, the workers and the organization are less productive. Taylor also saw the benefits of horizontal complexity or specialization, dividing the work into narrow tasks (Tompkins, 2005). Having the individual both shovel and repair equipment would be inefficient, as it would take time to switch tasks and get oriented to the new task. Specialization generates expertise and efficiencies (Pugh & Hickson, 2007).

The Principles of Scientific Management also identified and circumscribed management's role. Managers are responsible for selecting individuals capable of completing the task, training them according to the scientifically derived principles, and monitoring them to ensure compliance. Like rank-and-file workers, managers must be proficient in the performance of their tasks and specialized accordingly; they are incapable of hiring, training, and supervising an employee if they are unable to perform the tasks themselves (Allen & Sawhney, 2010; Scott & Davis, 2007).¹ Scientific principles also delimited managerial actions and prevented supervisors from making capricious demands of employees. Directives from supervisors must also be governed by science (and, consequently, rules) (Pugh &

¹Taylor supported functional management wherein multiple supervisors, each experts in a particular part of an employee's work (e.g., quality assurance, training, discipline, etc.), lead subordinates (see Taylor, 1913, p. 123). Other classical theorists rejected this view in favor of the unity of command principle—only one direct supervisor per subordinate. Nevertheless, the notion that supervisors must also be experts in their assigned area was an important component of scientific management.

Hickson, 2007; Taylor, 1913). If scientific management principles are followed throughout the organization, then prosperity emerges. The organization sees increased profits and the worker receives financial rewards (Taylor, 1913).

In an article that appeared in the *Harvard Law Review*, famous criminologists Sheldon and Eleanor Glueck (1929) advocated “a scientific management of the problem of crime by courts and administrative agencies” (p. 329). By developing prediction instruments based on studies of actual offenders, researchers can guide judges and other criminal justice officials in their decision making. Science would be used to increase the likelihood of positive, successful parole outcomes. Their work, emerging on the heels of Taylor’s book, foreshadowed development of bail schedules in the 1960s and sentencing guidelines in the 1980s.

Elements of Taylor’s scientific management are also visible today, both outside and within the criminal justice system, even if not framed explicitly in scientific management terms. Several years ago, United Parcel Service (UPS) utilized a software program to draw driver delivery routes that would minimize vehicle idling time. Routes were constructed to maximize the number of right turns and minimize left turns, the source of considerable idling as trucks wait to execute turns across traffic. In one year, the effort saved three million gallons of gas and reduced vehicle travel by 28.5 million miles (Lovell, 2007). Elsewhere, researchers study the relationship between workplace productivity and interruptions to work flow (Thompson, 2005). For example, larger computer monitors are associated with more efficient task completion, suggesting avenues for increasing productivity in office environments.

In policing, job analyses have been used to construct task-based physical agility tests (for initial screening or academy training) where individuals perform activities similar to those they would be expected to perform on the job (e.g., sprints, climbing walls, dragging dead weights). This procedure contrasts with physical fitness tests where an individual’s general fitness level is assessed through exercises such as running, sit-ups, pull-ups, and push-ups (Gaines, Falkenberg, & Gambino, 1993). Science has also been used to standardize criminal justice practices, particularly those supported by (or believed to be supported by) empirical research. The results of the Minneapolis Domestic Violence Experiment, a study assessing different police responses to misdemeanor domestic violence using a randomized research design, pointed to the effectiveness of arrest; apprehending the perpetrator seemed to reduce the likelihood of subsequent violence (Sherman, 1992; Sherman & Berk, 1984). By the mid-1980s, just a few years after the study’s results were published, police agencies across the country had implemented mandatory arrest policies (Schmidt & Sherman, 1993). Science had identified the most appropriate response, and departments formalized this behavior via arrest policies. Replication studies failed to reproduce the Minneapolis findings exactly, but the formalized policies were largely retained anyway (see Dunford, Huizinga, & Elliott, 1990; Hirschel, Hutchinson, & Dean, 1992). More recently, the relationship between science and organizational attributes can be seen in calls for “evidence-based” policies in policing and corrections (MacKenzie, 2000; Sherman, 1998). Practices that are demonstrably effective in the research literature are adopted by organizations and structure the work and guide employees.

Taylor’s ideas generated criticisms in spite of the appeal of finding the best way to perform a job. Many of the criticisms were directed at the implicit and explicit views of the worker within scientific management theory. For workers, initiative, judgment, and discretion were considered inferior to empirically derived evidence (Guillén, 1994). They were “cogs in the industrial machine,” offering little more to the organization than their labor and the occasional suggestion of a topic worthy of scientific study (Tompkins, 2005, p. 81). Employees are instructed to perform the task according to

predetermined procedures and to do so at maximum performance levels (Scott & Davis, 2007). Moreover, the incentive system outlined by Taylor was considered exploitive; worker pay might increase by 100% even though scientific principles contributed to a 400% increase in workplace profits. What seemed like benevolence was just a means of controlling workers while maximizing financial gain. Managers, too, failed to embrace scientific management. Their own competence was usurped by researchers and scientific studies (Scott & Davis, 2007). Others argue that research in the public sector is never so conclusive as to be the sole determinant of organizational structures and that such research may lead to a limited menu of inflexible strategies (Sparrow, 2011).

Bureaucracy

Max Weber's writings on **bureaucracy**, a term today equated with inefficiency and red tape, detailed an ideal organizational structure, one that would efficiently accomplish organizational goals (Pugh & Hickson, 2007; Weber, 1946). Unlike Taylor, Weber concentrated on the larger organization, rather than the individual worker or isolated task (Allen & Sawhney, 2010). Weber's work amounted to a historical analysis examining why people acquiesce to the demands of superiors, concluding that, in modern times, such compliance was based on rational–legal principles evident in bureaucratic organizations. Pugh and Hickson (2007) explain, “The system is called rational because the means are expressly designed to achieve certain specific goals” and “legal because authority is exercised by means of a system of rules and procedures” (p. 6). Bureaucratic organizations exhibit certain characteristics that, in combination, produce rationality and goal attainment (Blau & Scott, 1962/2003).

1. Division of labor: Weber (1946) argued, “There is a principle of fixed and official jurisdictional areas . . . the regular activities required [are] distributed in a fixed way as official duties” (p. 196). Each worker is assigned a specific task (their duties) that becomes their area of specialization or jurisdiction. As noted previously, specialization breeds expertise; workers develop maximum proficiency in a narrow area rather than less-than-maximum proficiency in a larger number of areas. A prosecutor with a caseload comprising solely murder and manslaughter cases will arguably be more adept in securing convictions than if he or she were required to retain complete knowledge on a range of offense types.
2. Hierarchy/vertical complexity: Weber's (1946) vision of bureaucracy required a system of “supervision of the lower offices by the higher ones” (p. 197). Recall, horizontal complexity (the division of labor) leads to coordination problems. Organizations must make an effort to coordinate the disparate parts into a cohesive whole; the supervision afforded by the hierarchy provides this control, ensuring that all organization members are working toward goal achievement. Subordinates are obligated to comply with directives from above.
3. Formalization: Not unlike scientific management, activities must be governed by rules and regulations detailing appropriate practices. Rules and procedures ensure that everyone is performing tasks according to the ideal methods, and they also help coordinate work (Blau & Scott, 1962/2003). Decisions are recorded in written form for the purposes of subsequent decision making (Scott & Davis, 2007; Weber, 1946). The rules and records “provide for continuity in operations regardless of changes of personnel” (Blau & Scott, 1962/2003, p. 32). Consequently, the success of the organization is not tied to any one or more specific individuals.

4. Selection/advancement is based on merit, and employment is a career: Workers should be hired for specific positions and be promoted into supervisory positions based on their technical qualifications (i.e., education, job-related knowledge and skills, experience). Adherence to this principle results in an organization staffed by the most qualified personnel. Moreover, if the work is viewed as a career, workers invest in the workplace, free of fear of arbitrary firing, and become more committed to the job (Perrow, 1986; Scott & Davis, 2007).
5. Impersonal relations: Finally, the organization is supposed to be governed impersonally. Organization personnel are “expected to disregard all personal considerations and to maintain complete emotional detachment” to make appropriate decisions guided by rules and in the best interest of organizational goal achievement (Blau & Scott, 1962/2003, p. 33). For example, a supervisor must avoid letting friendships interfere with employee discipline; to do otherwise would allow the organization to function below optimum level.

The principles, if taken together, are intended to produce a well-run, smoothly functioning organization—“a well-designed machine with a certain function to perform, and every part of the machine contributes to the attainment of maximum performance of that function” (Pugh & Hickson, 2007, p. 6). A bureaucracy, according to Weber, organizes a collection of experts with superior qualifications to produce an object or deliver a service according to a system of rules detailing the best ways to perform a task (though not necessarily scientifically derived). The behavior of workers is guaranteed through close supervision and discipline if rules are violated. The work of the organization becomes predictable, with any uncertainty reduced due to bureaucratic principles (Gajduschek, 2003). Such is the case when the courtroom becomes bureaucratized; sentencing decisions are made according to guidelines with considerations for offense seriousness and prior record. Arbitrariness is supposed to diminish as sentence outcomes become more predictable (Dixon, 1995).

The many theoretical advantages of Weber’s bureaucracy are clarified by examining late 19th and early 20th century policing, a period prior to reforms that would bureaucratize many law enforcement agencies. Fogelson (1977) described police officers during this political era as ill trained and ill equipped but in search of the good pay of government jobs. Politicians distributed jobs to supporters, or to generate support, and expected favors in return (e.g., enforcing the law against the opposition and not against supporters; blocking voters from polling places; Fogelson, 1977). If political leadership changed, officers lost their jobs as the new leader remade the police force in the spirit of “to the victor belong the spoils” (p. 18). Policing was clearly not a career occupation characterized by merit selection; connections were paramount, and officers were far from experts in law enforcement. Nor was police work governed by a system of rules. In theory, police officers were to enforce the criminal law, but as Fogelson notes, that assumed that officers did their work as assigned (instead of, say, visiting taverns during work hours, as some officers did) and had little opportunity to exercise discretion. Both assumptions were false, leading to differential policing. Supervision from above did not help regain control, as police chiefs and other supervisors also owed their allegiance to politicians. Stated differently, the quality and quantity of policing within a city was unpredictable, determined in large part by the characteristics of the officer addressing the problem. The reforms that emerged in the subsequent professional era of policing were, in many ways, consistent with Weber’s bureaucracy: civil service testing was used to separate officer selection and promotion from political spheres, the specific functions of policing (crime control) were defined, a strong hierarchy developed to enhance employee control, and specialized areas (e.g., investigations) emerged.

How did the very organizational structure Weber saw as the most rational, most efficient form come to be associated with dysfunction and inefficiency? As Perrow (1986) argued, the idea of bureaucracy is consistent with the closed-system view of organizations. If the organization is structured according to bureaucratic principles, nothing else outside of the organization should matter in its functioning. This is a tenuous assumption given that workers have lives outside of the organization. The hierarchy, discussed in Section II, encourages employees to deflect responsibility and hide wrongdoing from superiors out of fear of punishment (Blau & Scott, 1962/2003; Perrow, 1986). Bureaucracies also have a tremendously difficult time adapting to external changes due to their rigid structures (Morgan, 2006). Prosecutors' offices, for example, interested in adopting community prosecution, were confronted with the structural inertia of years of felony prosecutions as the primary emphasis (Coles, 2000). They experienced challenges in adapting to the new role of addressing community quality-of-life concerns. Bureaucracies may also encourage an emphasis on means over ends or, returning to the machine analogy, how a product is produced rather than the quality of the product itself. Herman Goldstein (1979) saw this problem in his call for problem-oriented policing: "All bureaucracies risk becoming so preoccupied with running their organizations and getting so involved in their methods of operating that they lose sight of the primary purposes for which they were created" (pp. 236–237). In policing, a preoccupation with means is commonplace, as departments highlight response times, number of officers on the street, clearance rates, number of arrests, and other strategies and methods presumed to be linked to some desirable outcome. The outcome itself—crime reduction, improved neighborhood quality of life, reduced fear—is supplanted. Finally, bureaucracy largely ignores the worker except to say that he or she is a piece of the machinery, potentially leading to dissatisfaction and lack of motivation. In spite of these dysfunctions, most organizations exhibit some degree of bureaucratization (Morgan, 2006). Reading 4 (Bohm, 2006) offers additional examples and concerns of modern bureaucratization in criminal justice.

Administrative Management

The third major strand of classical theory is associated with the works of Luther Gulick (1937) and Henri Fayol (1949). Frederick Taylor's scientific management concentrated on the lower levels of the organization, specifically the individual worker and his or her immediate supervisor, while upper levels of the hierarchy were virtually ignored (Pearson, 1945). This omission was noteworthy, and Gulick and Fayol sought to address this oversight. Fayol, a French mining engineer and manager credited with developing administrative management theory, argued that management above the level of direct supervisors "required an art of formulating plans and, through proper organization of effort, of getting [many] people to work together toward achievement of the planned objectives" (Pearson, 1945, p. 73; see also Fayol, 1949; Pugh & Hickson, 2007). The functions of management included planning, organizing, commanding, coordinating, and controlling; Fayol (1949) proposed a set of 14 principles of **administrative management** to assist in the fulfillment of these functions.

1. Division of work: Work should be divided—horizontal complexity—to facilitate specialization and the development of expertise. An addictions counselor specializing in opiate addictions has arguably more knowledge than one who counsels on a range of drug and alcohol addictions.
2. Authority: Managers must have the right to make demands of subordinates, because of both their superordinate position in the hierarchy and their personal characteristics, and the ability to punish those who fail to comply.

3. Discipline: “Obedience” and “outward marks of respect” must characterize relationships between managers and other employees if the organization is to function properly (p. 22).
4. Unity of command: Each subordinate should receive orders from one supervisor only. If, for example, a police officer receives contradictory directives on matters related to preliminary investigations from his or her immediate sergeant as well as from the leader of the investigations unit, the principles of authority and discipline are disrupted. The officer may not be able to comply with the dual directives.
5. Unity of direction: Similar to unity of command, unity of direction suggests that activities related to the same goal should be led by a single individual. In other words, patrol work should ultimately be coordinated by one supervisor and investigations, a separate activity with distinct goals, coordinated by a different supervisor.
6. Subordination of individual interests to the general interest: The functioning and goals of the overall organization are more important than the personal goals of individual members. Organizational members work toward organization objectives first, followed by individual objectives.
7. Remuneration: Employee pay should be fair and generate satisfaction. Overall, very little attention in classical theory is paid toward worker motivation beyond the idea that monetary rewards are the primary motivator.
8. Centralization: Consistent with the principles of unity of command and direction, orders generally emerge from a central source. However, Fayol argued that the right balance between centralization and decentralization must be determined.
9. Scalar chain: The scalar chain is the hierarchy of authority from the lowest level of the organization to its peak. Fayol believed that the chain should be unbroken from top to bottom.
10. Order: Fayol summed up the principle for both objects and people by stating, “A place for everything/everyone and everything/everyone in its place” (p. 36).
11. Equity: Workers must be treated with fairness and kindness, particularly if they are to be retained (Tompkins, 2005).
12. Stability of tenure of personnel: Just as Weber discussed a career orientation, Fayol stated that stability was essential for developing expertise and ensuring the functioning of the organization.
13. Initiative: Fayol’s principles had provisions for employee input and discretion in how the work is accomplished. Of course, the input and discretion were constrained by other principles, including authority, discipline, and the scalar chain.
14. Esprit de corps: According to Fayol, workplace harmony, where employees work together largely conflict free, is an essential element of a successful organization.

Most of Fayol’s (1949) principles are aligned with prescriptions found in the works of Taylor and Weber and are apparent in modern criminal justice organizations. Scott and Davis (2007) suggest that they can be grouped into the two dimensions of organizational structure—coordination/control (e.g., authority, discipline, unity of command, unity of direction, scalar chain) and complexity (division of

labor), the main components of organization structure discussed in Section II. Dias and Vaughn (2006) illustrated the ramifications of failing to adhere to these principles. In one example, officials in the Texas prison system were sued for failing to prevent the repeated sexual abuse of a homosexual inmate over a nearly two-year period. Officers were accused of lacking the necessary training to properly classify inmates, particularly vulnerable inmates, to protect them from harm (a breakdown in specialization). In a second example, Dias and Vaughn described the situation during the early period of the Los Angeles riots following the Rodney King verdict in 1992. The unity-of-command principle was missing, as no single supervisor was providing instructions to officers on the street. Administrative breakdown is discussed further in Section IV.

Although Fayol's prescriptions were accompanied by the important qualification that they were flexible, they were subjected to intense criticism, most notably from Herbert Simon (1946). Simon asserted that the principles are at times contradictory and lacking in specificity. For example, calls for specialization were imprecise. A police department could divide work by place, assigning detectives to geographic areas, or by offense type. According to Simon, the principles maintain only that a division of labor is necessary, failing to identify the proper way to specialize to maximize efficiency. Simon also believed that the unity-of-command principle conflicts with specialization. Police officers are responsible for conducting preliminary investigations at most crime scenes—taking initial statements, securing the scene, and taking other necessary steps to preserve evidence. The officer operates under the direct supervision of a patrol sergeant. A detective or detective supervisor, an individual with more knowledge about criminal investigations than officers on patrol, would be prohibited from making demands of officers due to the unity-of-command principle. In such a case, unity of command and the scalar principle supersede the expertise resulting from specialization, leading to inefficiency or ineffectiveness. These internal conflicts lead to questions about how rigid classical school prescriptions really are. As we will see, there are other ways to organize and, perhaps, no single best way to organize. Criticisms notwithstanding, “the historical contribution of [administrative management] is undeniable; the table of contents of many contemporary management texts reflect the influence of these theorists’ early efforts to conceive the role of management and administration” (Rainey, 2009, pp. 31–32).

Human Relations Theory

Classical theory dominated early 20th century thinking about organizations but was joined by an alternative approach to organization by mid-century. Human relations theorists addressed one of the central shortcomings of classical organizational theory, the neglect of the worker, by stepping away from an immediate focus on formal organizational structure and replacing it with a concern for worker behavior and informal structures (e.g., peer relationships). Interestingly, the research that solidified human relations thinking initially commenced as a series of scientific management-oriented studies at the Hawthorne plant of the Western Electric Company, a manufacturer of communications equipment for the telephone industry (Roethlisberger & Dickson, 1949). The **Hawthorne studies**, as the research is known, established the **human relations school** of organizations. Unlike scientific management, bureaucracy, or administrative management theory, the human relations school of management paid greater attention to the needs of the individual worker, viewing each worker as more than just a piece in a larger machine (Scott & Davis, 2007). The recognition of worker needs and behavior resulted in prescriptions for fundamentally different types of organizational structures.

The Hawthorne studies began in 1924 with the goal of identifying proper lighting and workplace incentives, among other issues, to encourage productivity (Roethlisberger & Dickson, 1949). The first set of experiments addressed illumination. Two groups of workers were assigned the same task to be completed. The lighting intensity in one group (the experimental group) varied, while in the other the level was



▲ **Photo 3.1** Workers participated in a variety of tasks during the Hawthorne experiments, beginning in the 1920s. The results led to a significant shift in thinking about workers and organizational structure. (Source: http://www.library.hbs.edu/hc/hawthorne/bigwehe_131.html, President and Fellows of Harvard College)

held constant (control group). The findings were unexpected, as levels of lighting did not seem to matter except when the lighting was so dark the task could not be completed. Productivity increased for both groups at relatively equal rates. Researchers attributed the results to what became known as the **Hawthorne effect**; worker productivity increased not because of the variation in lighting but because of the special treatment and attention workers were given for their participation in the study. Perrow (1986) summarized the findings succinctly, stating, “The attention apparently raised morale, and morale raised productivity . . . it was a happy thought” (p. 80).

A second experiment in the Hawthorne plant tested a piecework pay system. Workers completed their tasks together, and the productivity of the entire unit was used to compensate employees; the greater the level of productivity for the unit, the greater the earnings for each worker (Roethlisberger & Dickson, 1949). The study revealed, however, that the pay system did not work as intended. Employees did not

work at their optimum level, falling below the ideal levels established by management, in spite of the fact that they were capable of producing more (Blau & Scott, 1962/2003). They did have their own beliefs about what constituted a “day’s work” and were not going to let the incentive system dictate output (Roethlisberger & Dickson, 1949, p. 414). Instead, the group of employees developed an informal standard that was reinforced within the group. Individuals who exceeded the informal standard, deemed “rate busters,” were subjected to informal sanctions such as ridicule or minor hitting. Individuals perceived as not pulling their weight were similarly admonished by the group. The consequences of violating group standards were enough to suppress individual efforts to over- or underperform. The informal organization operates along with the practices set forth via formalization, centralization, and other formal structural dimensions. Morgan (2006) summarized the Hawthorne studies by stating, “They showed quite clearly that work activities are influenced as much by the nature of human beings as by formal design and that organization theorists must pay close attention to this human side of organization” (p. 35).

The contrast between classical and human relations theories, particularly their views about human nature and human behavior, was demonstrated by Douglas McGregor (1960) in *The Human Side of Enterprise*. The classical theorist view, a position termed **Theory X** by McGregor, assumed that individuals were uninterested in work and would avoid it if possible; they lacked ambition and preferred not to exercise personal initiative. He continued, “Most people must be coerced, controlled, directed, threatened with punishment to get them to put forth adequate effort toward the achievement of organizational

objectives” (p. 34). Why then do people continue to work? They want and need the financial security that comes from it. If this is the correct view of workers, then the prescriptions of the classical school make sense. Rules, hierarchical control, centralization, and specialization (small tasks) are necessary since workers cannot be counted on to complete the work absent such controls. In contrast, McGregor’s **Theory Y** presupposes that individuals can reap tremendous satisfaction from their work. Control is not necessary when workers are committed to the organization and its goals and motivation is generated from the gratification resulting from task accomplishment. Workers want to use their skills, both physical and mental; “the capacity to exercise a relatively high degree of imagination, ingenuity, and creativity in the solution of organizational problems is widely, not narrowly, distributed in the population” (p. 48). This view, consistent with human relations principles, supports a radically different organizational structure. Professional judgment may be substituted for formalization and lower level decision making for centralization. A lesser degree of horizontal complexity is preferable, allowing workers to utilize a range of skills and break the monotony of performing a single task repetitively.

The effects of human relations theory on the workplace are significant. In criminal justice settings, knowledge gleaned from these studies is critical for understanding the behavior of criminal justice actors. In policing, the occupational peer group exerts significant influence over officer behavior on the street. Mastroski, Ritti, and Snipes (1994) found that officers in 19 Pennsylvania police departments typically made five or fewer driving under the influence (DUI) arrests in the previous year; about 15% of officers exceeded this number, and only 3.7% made more than 25 DUI arrest. The authors reported that the rate busters, those with the highest numbers of arrests, were alienated from the department and faced pressure from other officers. Moskos (2008) noted a similar phenomenon in Baltimore. Officers responsible for a high volume of all arrests reduced their effort when the morale of the group suffered due to what were considered unfair management practices. In corrections, Marquart (1986) documented the influence of informal structures in the prison environment when he noted the widespread support of the use of physical force. Various degrees of force, termed tune-ups, ass-whippings, and beatings, worked to maintain prisoner control but also gained the officer acceptance among peers. Perhaps nowhere is the formal organizational structure supplanted by informal arrangements more than in the courthouse. Implicit and explicit negotiations between attorneys and judges result in plea bargains guided by formal rules and procedures but not dictated by them (Emmelman, 1996; Heumann, 1977). “The law in action” is different from the “law on the books,” as plea bargaining enables the members of the courtroom workgroup to satisfy their collective goals through nontrial dispositions (Leo, 1996, p. 269; see also Eisenstein & Jacob, 1991). As these examples illustrate, informal organizational structures exist apart from the formal structural dimensions discussed in Section II. Human relations theory brought attention to the simultaneous influence of these forces on worker behavior.

Structural implications also arise from human relations theory. If Douglas McGregor’s (1960) Theory Y is accurate, less bureaucratic structures are required. Tom Murton (1971), for example, described a novel approach to prison operations that occurred in an Arkansas prison in the late 1960s. A representative council formed of prison inmates (organized by housing unit) was established to share governance over matters related to living conditions, prison work, inmate privileges, and other issues affecting prisoners. They even offered suggestions pertaining to prison security following a series of escapes. Murton, the superintendent of the prison at the time, argued that the council helped in “gaining control” and “revolutionizing” the prison (p. 101). Researchers have also found positive outcomes, including lower absenteeism, increased job commitment and satisfaction, and lower job turnover rates, among criminal justice workers when organizations decentralize, allow individuals to

exercise judgment, and reduce the level of control over the work (Lambert & Paoline, 2008; Stohr, Lovrich, Menke, & Zupan, 1994). Human relations theory, like classical theories, was prescriptive in that it supported a nonbureaucratic, decentralized, flat, less formalized, and less specialized organization. Moreover, it affirmed the importance of interpersonal issues such as motivation, leadership, and power (organizational behavior topics to be discussed in later sections).

Two significant criticisms were levied against the human relations school. First, the argument appeared to be simplistic, leading some to call human relations theory “cow sociology” (see Scott and Davis, 2007, p. 69). The metaphor of a happy cow producing a lot of milk was used to illustrate the belief that satisfied and committed workers would be more productive. The goal, then, for organizations was to increase the happiness of workers. As admirable as this may seem, it actually represents a second significant criticism of human relations theory. Satisfying employee needs and well-being were not the most important concerns of the organization. As Scott and Davis (2007) suggest, “Humanizing the workplace was viewed not as an end in itself, but primarily as a means to increasing productivity” (p. 69). In some respects, the criticism of exploitation directed at scientific management was equally applicable to human relations theory. Management’s attempt to change the organizational structure is merely an attempt, according to critics, to manipulate the workforce (Landsberger, 1958).

Open Systems Theories

Classical and human relations theories were consistent with the closed-system view of organizations (Silverman, 1968): Organizations need not be concerned with the external environment. The prescriptions offered by each theory were stable, detailing the best approach to organization, and were unaffected by external environmental factors. The principles themselves were universal, with the disagreement only in which set, classical or human relations, was correct. The closed-system perspective persisted until the 1960s, when scholars began recognizing the importance of the environment in shaping the structures and activities of organizations (Burns & Stalker, 1961; Katz & Kahn, 1966; Lawrence & Lorsch, 1967). In fact, the popular depiction of criminal justice agencies as a system emerged during this period. Other agencies of the criminal justice system, the larger crime problem, and citizen reporting behavior—all features of the external environment of any one criminal justice organization—nevertheless exert tremendous pressure on it. This section presents three contemporary ways of viewing the importance of the environment. While contingency, resource dependence, and institutional theories are not the only open systems theories of organization, they are the three most commonly applied to the study of criminal justice organizations.

Contingency Theory

In the 1960s, scholars began to question the “one best way” prescriptions of classical and human relations theories. In their minds, **contingency theory** offered the best explanation for organizational structures and practices, suggesting that the ideal arrangement depends on—or is contingent on—environmental characteristics, organizational size, and other determinants (Burns & Stalker, 1961; Lawrence & Lorsch, 1967). These factors, termed contingencies, affect an organization’s performance, and leaders try to steer their organizations toward the successful accomplishment of their goals. Lex Donaldson (1995, 2001), a proponent of contingency theory, connects the three parts of the theory—performance, contingencies, and organizational structure and practices—in what he termed the structural-adaptation-to-regain-fit (SARFIT) model:

Because the fit of organizational characteristics to contingencies leads to high performance, organizations seek to attain fit. For this reason, organizations are motivated to avoid misfit that results after contingency change, and do so by adopting new organizational characteristics that fit the new levels of the contingencies. Therefore, the organization becomes shaped by the contingencies, because it needs to fit them to avoid loss of performance. (Donaldson, 2001, p. 2)

A fast-food restaurant, for example, may offer a menu consisting of only high-fat, high-cholesterol items. If, however, the dietary habits of the population change (the contingency, in this case) and individuals become more health conscious, the restaurant's performance will suffer. Profits will decline as customers flock to other more healthy alternatives. In Donaldson's language, performance is suffering because of the misfit between the organization's practices (menu) and its contingencies (customers' dietary needs). To regain fit and improve or stabilize performance levels, the restaurant must change and offer more low-fat, low-cholesterol options, including salads. The organization must fit the contingencies to be successful.

Among the contemporary open systems theories, contingency theory has garnered the most interest within the criminal justice discipline. Reisig (1998) examined rates of disorder in control, responsibility, and consensual prisons. Facilities labeled control oriented are rule-bound, regimented, and vest authority in prison officials. The other two models allow for greater inmate self-determination (Craig, 2004). In a sample of prisons, control facilities had higher rates of disorder than the other two in spite of the top-heavy control. Reisig (1998) noted, however, that the success of consensual and responsibility models may be due to certain contingencies. Consensual- and responsibility-model facilities tended to be located in smaller, more homogenous states. Given the importance of prisoner input and/or governance in these models, they may be inappropriate in large or more diverse populations where agreements would be more difficult to reach. In policing, Mullen (1996) found that understaffed departments, measured by the police–citizen ratio, were more likely to adopt computer technology. He argued that the misfit created by the unfavorable ratio (the contingency) was rectified by technologies that saved time and allowed officers to return to the streets more quickly. More recently, researchers found that law enforcement agencies adapted to the (perceived) risks of a terrorist attack by taking more preparedness actions, including training personnel, conducting a threat assessment, and adopting an emergency response plan (Burruss, Giblin, & Schafer, 2010).

The Central Intelligence Agency (CIA) was faced with a changing environment (the contingencies) in the early 1990s and, as some have argued, did not adequately adapt to emerging conditions (Zegart, 2007). When the primary adversaries of the United States during the Cold War were nations such as the Soviet Union, CIA officers would attempt to gather intelligence by recruiting foreign officials at diplomatic events (Zegart, 2007). As the Cold War ended and the threat of international terrorism emerged, the enemy was no longer a country but, rather, transnational organizations such as al Qaeda. The CIA was unable to send officers posing as diplomats to recruit spies. The organization did not readily adapt to the new enemy, meaning valuable intelligence was never gathered on al Qaeda or other groups. Adaptation, or the lack thereof, affected performance (Zegart, 2007).

Contingency theory has tremendous intuitive appeal; organizations and their leaders are supposed to rationally construct successful organizations and change them as needed. The theory has been criticized, however, for a seemingly endless list of possible contingencies. The studies reviewed above indicated the importance of dietary habits, population heterogeneity, police officer–citizen ratio, risk of a terrorist attack, and political considerations. These are just a few of the many possible factors affecting

organizational performance. More important is the question of whether organizations can rationally adapt to contingencies. Many organizations are plagued by the inability to link their structures and activities to any type of performance outcomes (Salancik, 1981). Although they may make valiant attempts, do police leaders know how to reduce crime or mitigate risks associated with terrorism? Do prison and jail wardens know how to successfully rehabilitate offenders? Do probation and parole officers know how to prevent recidivism? This knowledge is simply not well developed. It is difficult for a police chief to know whether a particular strategy is effective or not since crime is influenced by so many other factors. Lipsky (1980) writes that this is a problem that plagues many public organizations. They are often unable to clearly demonstrate the value of their practices. Moreover, in situations where evidence points to the ineffectiveness of a structure or practice, contingency theory is unable to account for its persistence. The Drug Abuse Resistance Education (D.A.R.E.) program operates throughout the country in spite of evidence that it does not appreciably affect drug use (Berman & Fox, 2009; Rosenbaum, 2007). Contingency theory would argue that the program's ineffectiveness should lead to its abandonment. The fact that it continues suggests that it has value beyond its ability to reduce drug use.

Resource Dependence Theory

Developed in the 1970s, **resource dependence theory** posits that organizations are not always capable of making choices based on the lone consideration of improving organization performance. Organizations, instead, are constrained because of their reliance on the external environment for certain resources critical to the organization's work and, ultimately, its survival (Pfeffer & Salancik, 1978). Organizations are not self-sufficient; they are dependent, in whole or in part, on their environments to provide key resources, often physical capital or monetary resources, needed for continued operation (Aldrich & Pfeffer, 1976; Pfeffer & Salancik, 1978). This is particularly true in public organizations such as criminal justice agencies that rely on support from their sponsoring local, county, state, or federal government. Pfeffer and Salancik (1978) refer to this condition as interdependence, arguing that it "exists whenever one actor does not entirely control all of the conditions necessary for the achievement of an action or for obtaining the outcome desired from the action" (p. 40). Interdependence is not necessarily a problem, however, unless resources are scarce and/or critical (Jaffee, 2001; Pfeffer & Salancik, 1978). It is in these situations when asymmetrical power relationships emerge and the individual, government, or organization distributing the much-needed resources obtains power over the organization dependent on those resources (Pfeffer & Salancik, 1978; Scott, 1998). If the dependent organization wants to ensure continued resource flow, it must comply with the demands of the external organization.

To illustrate resource dependence, consider the situation faced by state legislatures after passage of federal highway fund legislation in 2000. State legislatures, themselves sovereign organizations, are responsible for the creation of state law, including laws related to drunk-driving prevention. Before the mid-2000s, state statutes varied, with some specifying a blood alcohol concentration (BAC) of .10 as legally intoxicated and others codifying a lower level of .08. The federal government, concerned about the harms associated with drunk driving and interested in standardizing the level at .08 nationwide, faced opposition arguing that such legislation was a state's prerogative rather than a federal issue (Eisenberg, 2003). Rather than federalize drunk-driving laws, the federal government instead passed a law that allowed for the withholding of portions of federal highway funds for states that failed to pass .08 legislation (Eisenberg, 2003; O'Neill, 2004). The lost funds were substantial, increasing gradually from 2% in fiscal year 2004 to 8% in fiscal year 2007 and thereafter. New Jersey, for example, lost \$7.2 million for

failing to comply by 2004 (O'Neill, 2004). States were eligible to recover the money if they adopted the lower standard by 2007. Returning to resource dependence theory, the state legislature is, as noted above, a sovereign organization capable of making rational decisions in the best interests of the state. Yet reducing the legal BAC level was not solely based on concerns about reducing drunk driving. States are dependent on the federal government for a portion of overall operating dollars. These funds are scarce, critical, and available from few other sources (e.g., from raising taxes). To secure these needed funds, states were required to comply with the demands of the external resource provider—the federal government. As of 2011, all states had adopted the lower standard (Governors Highway Safety Association, 2011). This is the essence of resource dependence theory.

The application of resource dependence theory in criminal justice settings is most notable in studies of policing. Specifically, scholars have assessed the importance of grant funding as a determinant of organizational practices. In 1994, the federal government passed the Violent Crime Control and Law Enforcement Act containing, among other things, provisions to encourage the implementation of community policing in U.S. police departments (Worrall & Zhao, 2003). The law led to the establishment of the Office of Community-Oriented Policing Services, a component of the Department of Justice charged with administering grant programs fostering community policing innovation. Oliver (2000) argued that this is when community policing really took hold; “many of the agencies coming to community policing during the third generation [of the reform] were simply seeking grant funding, and they would hire the officers as community-policing officers” (p. 379). Worrall and Zhao (2003) echoed this statement in their findings. Even after considering a range of possible predictors of community policing implementation, including contingency factors such as the local crime rate, “no single variable was as significantly related to COP [community-oriented policing] as the grants variables” (p. 81). Similarly, in a sample of 285 large law enforcement agencies, Katz, Maguire, and Roncek (2002) found that outside financial assistance for the creation or support of a gang unit was more influential in determining whether or not a department had a specialized gang unit than the violent, property, drug, weapons, or simple assault crime rates.

External control raises a number of important issues. First, Worrall and Zhao (2003) ask, “What happens when the well runs dry?” (p. 81). If organizations, including the police departments described above, are adapting to the constraints they face, will it be necessary to continue with community policing or gang units once the constraints ease, as they have with federal funding for community policing? Will funds just shift to other priorities such as homeland security and encourage greater efforts on that front? Oliver (2006) claims that we may have already moved beyond the community policing era and moved into a homeland security era of policing. Moreover, a variety of policing innovations are currently operating in cities throughout the country, with some demonstrably more effective than community policing (Weisburd & Braga, 2006). As such, it is possible that as funding diminishes, community policing and other strategies may fade away unless they are valuable for other reasons (see the next subsection). A second concern is that conformity to external demands might produce additional costs for the organization. As Giblin (2006) stated when discussing the adoption of crime analysis units, “Since there are costs associated with creating special units, the resources acquired from environmental constituents must be both critical and must exceed the costs associated with the organizational change for structural elaboration to occur” (p. 661). If the costs of compliance are too high, the organization may simply resist the demands of external providers or ignore the funding altogether. Feeley and Sarat (1980) provide support for this position in their description of criminal justice planning agencies created by the Law Enforcement Assistance Administration. The planning agencies attempted to induce

change in criminal justice organizations but were limited in their success. The money offered was not critical to law enforcement agencies since it was just a small part of overall operating budgets. Consequently, it simply was not worth it to succumb to external demands.

Institutional Theory

A third contemporary perspective on organizations, **institutional theory**, contends that organizational structures and practices are a product of expectations of what organizations should do, irrespective of efficiency and effectiveness concerns (Meyer & Rowan, 1977). In their classic and widely cited article, Meyer and Rowan argued that certain

positions, policies, programs, and procedures of modern organizations are enforced by public opinion, by the views of important constituents, by knowledge legitimated through the educational system, by social prestige, by laws, and by definitions of negligence and prudence used by the courts. (p. 343)

If powerful actors (public opinion, other organizations, etc.) outside of the organization believe that certain organizational attributes are appropriate, the organization will be under tremendous pressure to comply to demonstrate its “organizational worth” (Hinings & Greenwood, 1988, p. 53). Returning to the example of D.A.R.E. discussed earlier, why would a police department continue to offer drug education in schools despite the absence of demonstrated success? For institutional theorists, the answer lies in wider expectations about best practices, even if the practices are only “hypothetically associated” with successful outcomes (Lipsky, 1980, p. 51). Powerful constituents believe in the efficacy of D.A.R.E., and it is backed by a national organization and “anecdotal testimony of participants, teachers, parents, and police officers who believe DARE is an effective program” (Frumkin & Reingold, 2004, p. 18). If departments fail to respond to these pressures, they risk legitimacy challenges. That is, departments may face criticisms from the outside about their choices (Hinings & Greenwood, 1988; Meyer & Rowan, 1977). The police department described at the beginning of the section faced this predicament—either establish a gang unit for a largely nonexistent gang problem or face criticism for not responding to what many felt was a significant community threat (Katz, 2001).

D.A.R.E. has become what institutional theorists would call an institutional myth. The widely shared belief—the benefits of drug education for school children—has taken on a fact-like quality even though validity of the myth is inaccurate or unproven (Meyer & Rowan, 1977). Additional examples of institutional myths are common throughout the criminal justice system. In the courts, victims are often afforded the opportunity to provide input in the sentencing process, orally or in writing, via victim impact statements. The problem is, at least with respect to oral impact statements at the time of sentencing, judges have already largely determined the sentence, basing their decisions on legal factors such as seriousness of the offense and prior record (Erez & Tontodonato, 1990). In other words, the procedure is largely symbolic, consistent with beliefs that the victim’s voice be heard. Similarly, the appearance of individualization is maintained via probation presentence reports even though they only minimally affect judicial sentencing decisions (Rosecrance, 1988). The public and defendants demand individualized justice. In policing, both random preventive patrol and rapid response to 911 hold myth-like status. Research has questioned the efficacy of both strategies in reducing crime (e.g., Spelman & Brown, 1984), yet the public would likely resist efforts to reduce or eliminate random patrol or replace immediate responses with alternatives such as taking reports over the Internet.

Since institutional myths are, by definition, widely shared understandings of how organizations should operate, similar organizations are going to be under similar pressures to respond. That is, police departments, prisons, jails, and other criminal justice organizations will face the constraints associated with their specific industry. Organizations within the same field will tend to resemble one another—adopting similar structures or practices—since “there are only a limited number of acceptable or appropriate organizational features that are viewed as legitimate” (Burruss et al., 2010, p. 83). The tendency of organizations to resemble one another is referred to as **isomorphism** (DiMaggio & Powell, 1983). Three processes contribute to isomorphism: coercive, mimetic, and normative. Coercive isomorphism is evident when organizations are forced to or seduced into adopting particular structures or strategies through laws or funding inducements. For example, isomorphism might be evident among municipal police departments in a number of states in their racial profiling data collection practices. Each agency may require officers to collect basic information (age, race, sex, etc.) related to each stop. Was the decision to implement data collection procedures based on best practices? Not necessarily, as states are increasingly mandating departments to gather this information (Tillyer, Engel, & Cherkaskas, 2010). Grant requirements (see examples in the “Resource Dependence” subsection) may also encourage adoption. A second source of isomorphism is mimetic pressures. Organizations become similar as a result of copying or modeling other organizations perceived to be successful. The New York City Police Department’s Compstat management initiative was a commonly modeled program; “should a department implement a Compstat program that does not closely resemble what Compstat is expected to look like (the NYPD model), it risks forfeiting the innovation’s legitimating value” (Willis, Mastrofski, & Weisburd, 2007, p. 160). Finally, normative processes contribute to isomorphism. Normative processes are related to education and training; what is learned in these settings is brought back to home organizations by employees helping diffuse ideas throughout an industry. Harris (1999) indicated that 27,000 police officers attended training offered by the Drug Enforcement Administration, where officers learned how to interdict drugs through the use of pretext stops. The concern, of course, is that the training might have contributed to the spread of racial profiling as these officers returned to their own departments. These pressures toward isomorphism are arguably more salient than concerns about organizational performance in explaining structures and practices.

Institutional theory, at first glance, takes a relatively cynical view of organizations. Organizational leaders are viewed as symbolically complying with the demands of external constituents to maintain their support even if the adopted structures and practices are ineffective. Indeed, organizations may **decouple** the institutionally prescribed practices from their day-to-day operations so as not to disrupt the regular organization work flow. For example, a granting agency may require a police department to adopt community policing. Department leaders can simply relegate community policing to a special unit, the responsibility of a handful of officers, while the vast majority of officers police as usual (Parks, Mastrofski, Dejong, & Gray, 1999). A judge can similarly allow for the presentation of a victim impact statement or the preparation of a probation presentence report to satisfy demands, even though neither will substantially influence sentencing decisions. The day-to-day operations are disconnected or decoupled from the more symbolic actions. Criminal justice organizations should not be viewed as completely neglectful of performance concerns. Organizational leaders might truly desire to improve their organizations when confronting a mismatch with the environment (see contingency theory) but are limited in the possible options for adaptation by what the environment supports (institutional theory) (Giblin, 2006). Interested in enhancing homeland security preparedness, for example, police departments may select only from approaches that are supported in law enforcement circles (Burruss et al., 2010).

The organizational theories presented in this section help us understand what organizations look like (Maguire & Uchida, 2000). The focus is on the structures and practices of organizations rather than the actual behavior of the actors within the criminal justice system. As the discussion shows, theories provide

insight into the best organizational forms but also help make sense of, or describe, what we observe. Subsequent sections extend this larger discussion by focusing on environmental influences (unions in Section VI) and structural contributions to organizational failure (Section IV), as well as human relations issues such as socialization (Section VII), motivation (Section VIII), and stress (Section IX).

KEY TERMS

administrative management	Hawthorne studies	prescriptive
bureaucracy	human relations school	resource dependence theory
contingency theory	institutional theory	scientific management
decouple	instrumental rationality	Theory X
Hawthorne effect	isomorphism	Theory Y

DISCUSSION QUESTIONS

1. Chief executives of some criminal justice organizations (prosecutors' offices, sheriffs' departments) are elected by the general public. Would Max Weber support elected leadership over other types of hiring/appointment processes? Why or why not?
2. Weber advocates for objective rather than personal considerations in hiring and promotion. Scholars, including Blau and Scott (1962/2003) and Scott and Davis (2007), questioned whether competence for purposes of hiring and promotion is best gauged by experience (time on the job) or training and education away from the job. Which do you think is more important? Explain.
3. Many people who study contingency theory point to the effects of crime-related factors in shaping criminal justice organizations. When crime increases, for example, organizations must adapt to regain effectiveness. Are there other factors, or contingencies, that also affect criminal justice organizational effectiveness? Explain.

WEB RESOURCES

CIA Museum Online Collection (including interactive timeline):
<https://www.cia.gov/about-cia/cia-museum/experience-the-collection/index.html>

D.A.R.E. (Drug Abuse Resistance Education) America:
<http://www.dare.com>

U.S. Department of Justice interactive organizational chart:
<http://www.justice.gov/agencies/index-org.html#OAAG>

READING

Reading 4

In his essay, author Robert M. Bohm takes the concept of McDonaldization developed by sociologist George Ritzer and applies it to the study of the criminal justice system and criminal justice organizations. McDonaldization has its roots in the classical school work of Max Weber and his notion of bureaucracy; organizations are rationally oriented to the efficient and effective achievement of goals, and this is accomplished through appropriate structures (e.g., complexity and control). Four principles—efficiency, calculability, predictability, and control—are consistent with bureaucratization and exemplified by the fast-food restaurant chain McDonald’s; the restaurant serves as a metaphor for illustrating the principles and describing how they are coming to characterize other parts of society, including the criminal justice system.

Criminal justice organizations, like McDonald’s, emphasize efficiency; a focus on rapid police response to calls for service and the large number of nontrial court dispositions are just two examples. The system also emphasizes calculability, the tendency to highlight numerical or quantifiable information, or quantity over quality (e.g., lengthy sentences, more police officers, value of drug busts). The system also tries to handle cases uniformly, or in predictable fashion, usually by promulgating rules (formalization). Finally, a variety of mechanisms are used to control criminal justice practitioners, from sentencing guidelines to mandatory arrest policies, to ensure that they behave as instructed. The problem with these four elements is that, while they are intended to produce an effective organization and system, they actually produce unintended consequences. As Bohm notes, attempts at rationality produce irrationality, such as when an innocent individual is convicted due to the sloppy procedures brought about by concerns for efficiency. Bohm concludes his essay by citing possible solutions to McDonaldization in criminal justice.

“McJUSTICE”

On the McDonaldization of Criminal Justice

Robert M. Bohm

The purpose of this essay is to examine the “McDonaldization” of criminal justice. The concept of “McDonaldization” or “McJustice” provides another useful way of understanding the

development and operation of criminal justice in the United States.¹ “McDonaldization,” as employed by sociologist George Ritzer, refers to “the [bureaucratic] process by which principles of the fast-food restaurant

Source: Bohm, R. M. (2006). “McJustice”: On the McDonaldization of criminal justice. *Justice Quarterly*, 23(1), 127–146.

are coming to dominate more and more sectors of American society as well as of the rest of the world” (Ritzer, 2004, p. 1). The theoretical basis for McDonaldization is Max Weber’s theory of rationality and bureaucracy (Ritzer, 2004, p. 24; but see Wood, 1998, for a critique of Ritzer’s use of Weber). The concept of McDonaldization has been used to depict developments in a variety of different social institutions, including religion (Drane, 2001), education (Hayes & Wynyard, 2002; Parker & Jary, 1995), the media (Prichard, 1987), medicine (Reiser, 1978; Ritzer & Walczak, 1987), and leisure and travel (Rojek, 1993), as well as society itself (Ritzer, 2004). However, to date, the concept of McDonaldization has only rarely been employed in the analysis of criminal justice or issues related to criminal justice (see, for example, Kemmesies, 2002; Robinson, 2002; Shichor, 1997; Umbreit, 1999).

The McDonaldization of various social institutions has succeeded because it provides advantages over other, usually older, methods of doing business (see, for example, Ritzer, 2004, p. 16). It has made McDonaldized social institutions bureaucratic and rational in a Weberian sense and, thus, more efficient, calculable, predictable, and controlling over people (often by nonhuman technologies). In the case of McDonaldized businesses, it has also made them more profitable. The principal problem with McDonaldized institutions, and another characteristic of the process, is irrationality or, as Ritzer (2004, p. 17) calls it, the “irrationality of rationality.” For example, McDonaldization does not always benefit all of the participants in the process or society in general. Indeed, McDonaldization has several important costs or dangers associated with it. A primary purpose of this essay is to expose the costs, dangers, or irrationalities of “McJustice.”

In the following sections the characteristics of McDonaldized criminal justice or “McJustice”—efficiency, calculability, predictability, control, and irrationality—are described. Because of space limitations, only a few criminal justice examples can be provided (for other examples see Kemmesies, 2002; Robinson, 2002; Shichor, 1997; Umbreit, 1999).



Efficiency: Administering Justice by Plea Bargaining

Efficiency is the choosing of “the optimum means to a given end” (Ritzer, 2004, p. 43). Bureaucracies attempt to increase efficiency by requiring employees (and sometimes customers) to follow steps in a predesigned process governed by organizational rules and regulations and by having managers supervise employees (and customers) to make sure they follow the rules, regulations, and process (Ritzer, 2004, p. 13). Increasing efficiency usually entails “streamlining various processes, simplifying products, and having customers do work formerly done by paid employees” (Ritzer, 2004, p. 44). Despite best efforts, however, the optimum means to a given end are rarely found because of historical constraints, financial difficulties, organizational limitations, and uncooperative human nature (Ritzer, 2004, p. 43). Therefore, most bureaucracies are relatively satisfied with the illusion of efficiency (Ritzer, 2004, p. 137) or an incremental increase in efficiency, knowing that maximization of efficiency is probably an unobtainable goal.

With the huge number of cases handled each year by the agencies of criminal justice, operating efficiency has long been a practical necessity, albeit oftentimes an unrealized goal. One of the first scholars to discuss operating efficiency in criminal justice was Herbert Packer (1968), who wrote about the topic in the context of his well-known crime control model of criminal justice. In Packer’s crime control model, which is arguably an apt description of the current operation of criminal justice in the United States, the control of crime is by far the most important function of criminal justice (Packer, 1968, p. 158). (Control is another characteristic of McDonaldized institutions.) Although the means by which crime is controlled are important in this view (illegal means are not advocated), they are less important than the ultimate goal or end of control. To better control crime, advocates of the crime control model want to make the process more efficient—to move cases through the process as

quickly as possible and to bring them to a close (Packer, 1968, p. 158). Packer (1968, p. 159) characterizes the crime control model as "assembly-line justice." To achieve "quicker closure" in the processing of cases, a premium is placed on speed and finality (Packer, 1968, p. 159). Speed requires that cases be handled informally and uniformly; finality depends on minimizing occasions for challenge, that is, appeals (Packer, 1968, p. 159).

Packer's assembly-line metaphor also describes the process by which McDonald's sells billions of hamburgers. Consider the McDonald's experience. When people order a Big Mac from McDonald's, they know exactly what they are going to get. All Big Macs are the same, because they are made uniformly. Moreover, a person can get a Big Mac in a matter of seconds most of the time. However, what happens when a person orders something different, or something not already prepared, such as a hamburger with ketchup only? The person's order is taken, and she or he is asked to stand to the side because the special order will take a few minutes. The person's special order has slowed down the assembly line and reduced efficiency. This happens in criminal justice, too! If defendants ask for something special, such as a trial, the assembly line is slowed and efficiency is reduced.

Even when criminal justice is operating at its best, it is a slow process. The time from arrest to final case disposition can typically be measured in weeks or months. If defendants opt for a jury trial, as is their right in most felony cases, the cases are handled formally and are treated as unique; no two cases are the same in their circumstances or in the way they are handled. If defendants are not satisfied with the outcome of their trials then they have the right to appeal. Appeals may delay by years the final resolution of cases.

To increase efficiency—meaning speed and finality—crime control advocates prefer plea bargaining (Packer, 1968, p. 162)—the quintessential bureaucratic and McDonaldized process in criminal justice. Plea bargaining also illustrates the interrelationship of all of the characteristics of McDonaldization.

Currently, about 95 percent of all convictions in felony cases are the result of guilty pleas (Durose & Langan, 2003, p. 9, table 10). Plea bargains can be offered and accepted in a relatively short time. Also, cases are handled uniformly because the mechanics of a plea bargain are basically the same; only the substance of the deals differs. Additionally, with successful plea bargains, there is no opportunity for challenge; there are no appeals. In short, plea bargaining allows cases to be disposed of quickly, predictably (another characteristic of McDonaldization), and with little of the adversarial conflict associated with criminal trials. In terms of McDonaldization, plea bargaining streamlines and simplifies the administration of justice and, thus, is the perfect mechanism for achieving efficiency.

Although plea bargaining became a common practice in state courts shortly after the Civil War and, as a result of the tremendous number of liquor law violations, was instituted at the federal level during Prohibition in the 1930s (Alschuler, 1979; Padgett, 1990), it has neither a constitutional nor statutory basis. It did not receive formal recognition until 1970 in the case of *Brady v. United States*, in which the Court upheld the use of plea bargaining because of the "mutuality of advantage" it provided the defendant and the state.

Plea bargaining benefits most of the participants in the criminal justice process (Packer, 1968, p. 222) by, among other things, reducing uncertainty or unpredictability. Uncertainty is a characteristic of all criminal trials because neither the duration of the trial, which may be a matter of minutes or of months, nor the outcome of the trial can ever be predicted with any degree of accuracy. Plea bargaining eliminates those two areas of uncertainty by eliminating the need for a trial. Plea bargaining serves the interests of prosecutors by guaranteeing them high conviction rates, which is an indicator of job performance and a useful tool in the quest for higher political office. It serves the interests of judges by reducing their court caseloads, allowing more time to be spent on more difficult cases. In addition, if a large proportion of the approximately 95 percent of felony cases that are handled each year by plea bargaining were to

go to trial instead, the administration of justice in the United States would be even slower than it already is. Plea bargaining serves the interests of criminal defense attorneys by allowing them to spend less time on each case. It also allows them to avoid trials. Trials are relatively expensive events. Because most criminal defendants are poor, they are usually unable to pay a large legal fee. Thus, when criminal defense attorneys go to trial, they are frequently unable to recoup all of their expenses. Plea bargaining provides many criminal defense attorneys with the more profitable option of charging smaller fees for lesser services and handling a larger volume of cases. Even most criminal defendants are served by plea bargaining. A guilty plea generally results in either no prison sentence or a lesser prison sentence than the defendant might receive if found guilty at trial. Plea bargaining also often allows defendants to escape conviction of socially stigmatizing crimes, such as child abuse. By “copping” a plea to assault rather than to statutory rape, for example, a defendant can avoid the embarrassing publicity of a trial and the wrath of fellow inmates or of society in general. In sum, there is no question that plea bargaining has many advantages, including making the administration of justice more efficient.

Calculability: Fiscal Costs of Administering Justice

Calculability refers to the quantitative aspects of McDonaldization (e.g., costs and the amount of time it takes to get the product). Calculability allows McDonaldized institutions “to produce and obtain large amounts of things very rapidly” and “to determine efficiency” (Ritzer, 2004, p. 66). Calculability also makes McDonaldized institutions more predictable and enhances control—two of the other characteristics of McDonaldized institutions (Ritzer, 2004, pp. 66–67).

Although the costs of administering justice in the United States are enormous—\$167 billion in 2001 (Bauer & Owens, 2004, p. 1)—compared to other

government expenditures, the amount spent on justice is modest. Only about 7 percent of all state and local public expenditures in 2001 were spent on criminal *and* civil justice (Bauer & Owens, 2004, p. 1). State and local governments funded about 85 percent of all direct justice system expenses in 2001 (Bauer & Owens, 2004, p. 1). By contrast, state and local governments spent nearly 4 times as much on education, about twice as much on public welfare, and approximately the same amount on hospitals and healthcare (Bauer & Owens, 2004, p. 1). Of the \$167 billion spent in 2001, police protection received 43 percent; judicial and legal services 23 percent; and corrections 34 percent (Bauer & Owens, 2004, p. 4, table 3). Note that from 1982 to 1999, judicial and legal services always received less state, local, and total funding than either police protection or corrections (Sourcebook of Criminal Justice Statistics, 2002a, pp. 3–4, table 1.2), which might also help explain the penchant for plea bargaining described above.

For the past three decades, about two thirds of the American public have believed that the amount spent on administering justice in the United States is a bargain—that too little money is spent on crime control (though in 2002, only 56 percent so believed); very few people think that too much money is spent (Sourcebook of Criminal Justice Statistics, 2002b, p. 135, table 2.40). Thanks to efficiencies such as plea bargaining the administration of justice in the United States is generally considered cost effective.

Predictability: Reducing Sentencing and Parole Discretion

In McDonaldized institutions, predictability means that products and services will be uniform everywhere and at all times; there are no surprises (Ritzer, 2004, p. 14). For consumers, predictability provides peace of mind (Ritzer, 2004, p.86). Employees of the process are also predictable in their actions because of rules and supervision (Ritzer, 2004, p. 14). For workers, predictability makes their jobs

easier (Ritzer, 2004, p. 86). “To achieve predictability” McDonaldized institutions stress “discipline, order, systemization, formalization, routine, consistency, and methodical operation” (Ritzer, 2004, p. 86).

Beginning in the mid-1970s, state legislatures began replacing indeterminate sentencing—long the principal form of sentencing in the United States—with determinate sentencing, and some states began abolishing parole (federal parole was abolished in 1987) (Carter, 1996, p. 148). These changes were motivated primarily by an increased public fear of crime, the loss of confidence in rehabilitation as a correctional goal, and the unpredictability of decisions made by judges and parole boards. The public began to believe that judges had become “soft” on crime, rehabilitation of criminal offenders was not possible, and parole boards were releasing from prison many dangerous offenders who had served only a small portion of their sentences. The hope of determinate sentencing was that it would at least get criminals off the streets for longer periods of time. Some people also considered a determinate sentence more humane (and predictable) because prisoners would know exactly when they would be released, something that they did not know with an indeterminate sentence (Griset, 1991, pp. 176–177).

Although the evidence never supported the widely held belief that judges were “soft” on crime (see, for example, Reaves, 2001), under indeterminate sentencing schemes judges did vary widely in the sentences they imposed for similar crimes and offenders. Critics argued that, besides being generally unfair (and irrational in a McDonaldized sense), such judicial disparity in sentencing resulted in discrimination against people of color and the poor (see, for example, Spohn & Holleran, 2000; Tonry, 1996, p. 7). As a result, several states and the federal government developed guidelines for determinate sentencing; other states established sentencing commissions to do so (Tonry, 1993, 1996, p. 10). Sentencing guidelines were another way of restricting judicial sentencing discretion.

Another response to the “soft on crime” allegation, and another way that legislatures restricted

judicial sentencing discretion in the 1980s, was by enacting “mandatory minimum” sentencing statutes (Ditton & Wilson, 1999; Tonry, 1996, pp. 6–7). “Mandatory minimum” sentences require that offenders—most frequently offenders who commit certain types of offenses such as drug offenses, offenses committed with weapons, and offenses committed by repeat or habitual offenders—serve a specified amount of prison time. All states and the federal government have one or more mandatory minimum sentencing laws. To reduce the discretion exercised by parole boards (in those states that retained them), states in the 1980s also enacted “truth-in-sentencing” statutes that generally required prisoners to serve a substantial portion of their prison sentence, usually 85 percent of it (Ditton & Wilson, 1999). All of these changes made sentencing more predictable.

Control: Rules, Regulations, Structure, and Technology

Control in McDonaldized institutions involves the ability of the institution to get employees and customers to follow the rules and regulations governing the process (Ritzer, 2004, p. 15). In the case of employees, this is accomplished by training them to do a few things in a precise manner with managers and inspectors providing close supervision (Ritzer, 2004, p. 15).

Criminal justice officials are controlled (at least in theory) by a myriad of rules and regulations. The US Constitution, for example, prohibits police officers from engaging in unreasonable searches and seizures (Fourth Amendment) and correctional officers from employing cruel and unusual punishments (Eighth Amendment)—to name just two constraints. State constitutions provide similar limitations. Decisions by the US Supreme Court and other courts also check the behavior of criminal justice officials. For instance, in *Tennessee v. Garner* (1985), the Supreme Court severely restricted police use of deadly force. The cases of *Morrissey v. Brewer*

(1972) and *Gagnon v. Scarpelli* (1973) prescribe strict guidelines for parole and probation revocation. Statutes are another way of controlling the behavior of criminal justice officials. As described in the last section, statutes providing determinate sentencing, sentencing guidelines, and mandatory minimum sentences control judges' sentencing decisions. Rules of evidence and criminal procedure govern practice and procedure in the various courts. Most criminal justice officials are also controlled by professional codes of conduct and departmental policies and regulations.

The military structures of both police and correctional agencies are intended to promote the control of police officers and correctional officers by those higher in the chain of command. Technology has also aided in their control. The police radio, for example, allows supervisors at the stationhouse to control patrol officers by keeping both parties in constant contact.

A new way that McDonaldization is influencing the control of police officers is through the highly touted Compstat program. Begun in New York City in 1994, Compstat is a strategic problem-solving system that combines "state-of-the-art management principles with cutting-edge crime analysis and geographic systems technology" (Willis et al., 2004, p. 464; also see Mabrey, 2002; Weisburd, Mastrofski, McNally, Greenspan, & Willis, 2003). Its explicit purpose is to help police departments fight crime and improve the quality of life in their communities by overcoming traditional bureaucratic irrationalities, such as loss of focus on reducing crime, department fragmentation, and lack of cooperation between units because of "red tape" and turf battles, and lack of timely data on which to base crime control strategies and to evaluate the strategies that are implemented (Weisburd et al., 2003, pp. 425–426; Willis et al., 2004, pp. 464, 470). The information produced by Compstat is also used by the chief of police to judge the performance of precinct commanders and by precinct commanders to hold their officers accountable. Unlike traditional police bureaucracies, Compstat is supposed to make police organizations

"more focused, knowledge-based, and agile" (Willis et al., 2004, p. 490).



The Irrationality of Rationality: Other, Often Unanticipated Consequences

According to Ritzer (2004, pp. 17, 134), McDonaldized institutions are rational systems, and rational systems inevitably produce irrationalities "that limit, eventually compromise, and perhaps even undermine their rationality." "At the general level," Ritzer (2004, p. 134) notes, "the *irrationality of rationality* is simply a label for many of the negative aspects of McDonaldization" (emphasis in original). It is important to understand that Ritzer is describing a particular kind of rationality—one that has been pejoratively called "technological rationality" or "instrumental reason" (see, for example, Gouldner, 1976; Horkheimer, 1996; Marcuse, 1966). As applied to McDonaldized businesses, it is "rational" only as a business strategy (Schroyer, 1975, p. 26) that has as its ultimate goal profit maximization. In the case of McJustice, it currently promotes "law and order" as instrumental values over alternative ideals such as justice and freedom (see Schroyer, 1975, p. 20).

McDonaldized institutions produce many irrationalities that undermine their rationality. They can be inefficient because of excess red tape and other problems (Ritzer, 2004, p. 27). They can produce poor quality work and a decline in employee effort because of the emphasis on quantification (the substitution of quantity for quality and the resulting mediocrity of both the process and the product), the often mind-numbing routine, and the absence of meaningful employee job input (Ritzer, 2004, pp. 27, 66, 86). Most employees of McDonaldized institutions "are expected to do a lot of work, very quickly, for low pay" (Ritzer, 2004, p. 14). McDonaldized institutions can be unpredictable because employees, no matter how well trained and supervised, sometimes are confused, unsure about what they are supposed to do, inefficient, and apt to make mistakes. To achieve greater

control, McDonaldized institutions increasingly attempt to replace employees with more consistent machines and nonhuman technologies (Ritzer, 2004, p. 15).² Ironically, those efforts can be counterproductive and control over employees and clients can be lost because they become angry at the machines and nonhuman technologies that replace the former and frustrate the latter (Ritzer, 2004, pp. 27–28). Reliance on machines and nonhuman technologies can also reduce the skills necessary to do the job, and the opportunity, perhaps even the ability, of people to think for themselves (Ritzer, 2004, p. 133). McDonaldized institutions also can be dehumanizing (Ritzer, 2004, p. 27). Weber especially feared what he called the “iron cage” of rationality in which people get trapped in bureaucracies that deny them their basic humanity (Ritzer, 2004, p. 28), as, for example, when crime victims are ignored or mistreated by criminal justice officials. In the remainder of this section irrationalities of plea bargaining, criminal justice fiscal policies, determinate sentencing, and efforts to control criminal justice officials are described.

Plea Bargaining

As noted in the previous section on efficiency, plea bargaining has become the principal method of administering justice in the United States because it benefits most of the participants in the criminal justice process. However, two types of criminal defendants are not served by the practice of plea bargaining and both illustrate irrationalities of the process. The first are innocent, indigent, highly visible defendants who fear being found guilty of crimes they did not commit and receiving harsh sentences. Such defendants are sometimes pressured by overworked and inexperienced defense attorneys into waiving their constitutional right to trial. The second type is the habitual offender. In this context, a habitual offender is a person who has been convicted under a state’s habitual-offender statute (sometimes called a “three strikes and you’re out” law). Most such statutes provide that upon conviction of a third felony, a defendant must receive life imprisonment. Although

habitual-offender statutes would seem to imprison offenders for life, they actually are used mostly as bargaining chips by prosecutors in plea negotiations and not as they were intended (see, for example, LaFree, 2002, pp. 880–881).

The irrationality of habitual-offender statutes is illustrated by the case of *Bordenkircher v. Hayes* (1978). The defendant, who had previously been convicted of two minor felonies, was arrested and charged with forging an \$88 check. The prosecutor in the case told the defendant that if he did not plead guilty to the charge and accept a 5-year prison sentence, which on its face seemed very harsh, then the prosecutor would invoke the state’s habitual-offender statute. The statute required the judge to impose a sentence of life imprisonment if the defendant were found guilty at trial. The defendant elected to play “you bet your life” and turned down the prosecutor’s plea offer. At trial, the defendant was found guilty of forging the check and was sentenced to life imprisonment. Clearly, the defendant in this case was not served by plea bargaining or, perhaps, was not served by refusing the prosecutor’s offer.

Crime victims are another group whose interests are not always served by plea bargaining, and their plight illustrates further the process’s irrationality. Long ignored in the adjudication of crimes committed against them, victims often feel “revictimized” by the deals that prosecutors offer offenders and believe they have been denied the full measure of justice they seek and deserve.

Another problem with plea bargaining is that it precludes the possibility of any further judicial examination of earlier stages of the process (Packer, 1968, p. 224). In other words, with the acceptance of a guilty plea, there is no longer any chance that police or prosecutorial errors before trial will be detected.

Criminal Justice Fiscal Policies

The public’s belief in the general cost effectiveness of criminal justice has been described in the section on calculability. Criminal justice is not always cost effective, however, and the exceptions expose irrationalities

of the process. For example, from the mid-1920s until the mid-1970s the costs of prisons and jails were not a major issue because the incarceration rate in the United States remained relatively stable. That did not change until the mid-1970s and the War on Drugs when the incarceration rate began to increase significantly, with each subsequent year showing a new high. By the 1980s, many states and the federal government were facing serious crowding problems. The immediate response was an ambitious and expensive prison and jail expansion program. (Other strategies included privatization and intermediate sanctions.) Between 1977 and 2001, total state and local costs for building and operating correctional institutions increased about 900 percent.³ Between 1982 and 2001, the corresponding increase at the federal level was about 700 percent (see footnote 3). By comparison, between 1977 and 2001, states and localities increased expenditures to education by 448 percent, to hospitals and healthcare by 482 percent, and to public welfare by 617 percent (Bauer & Owens, 2004, p. 4). In 1995, for the first time ever, more money was spent building new prisons than new university structures in the United States—\$2.5 billion for construction in higher education and \$2.6 billion for prison construction. From 1987 to 1995, state prison expenditures rose 30 percent while higher education funding fell 18 percent (“More Spent on Prisons,” 1997, p. A-6).

Ironically, by 1995, while expenditures for prison construction and expansion were peaking, the overall growth of the state (but not federal) prison population began slowing (Harrison & Beck, 2003). In 2001, the 1.1 percent growth in the state and federal prison population (entirely attributable to the slower growth in the state prison population) was the lowest annual rate recorded since 1972 (Harrison & Beck, 2003). Legislators, in an effort to appear tough on crime by incarcerating increasing numbers of law violators for longer periods of time, and correctional officials, on whose projections the legislators justified their decisions, had miscalculated the confinement space that was needed. Consequently, by the end of the century, many jurisdictions had new or expanded correctional facilities that sat empty or operated well under

capacity (Blomberg & Lucken, 2000, p. 182; Camp & Camp, 2002, p. 85). Many of the new facilities could not be used (even where there was a need) because continuing budget crises precluded the hiring of personnel to operate them (Blomberg & Lucken, 2000, p. 182). Other correctional institutions utilized their excess capacity by contracting with other jurisdictions to house the other jurisdiction’s prisoners (Camp & Camp, 2002, p. 93).

The costs of capital punishment illustrate another irrationality of criminal justice. As noted previously, about 95 percent of criminal cases never reach trial, but instead are resolved through the cost-effective process of plea bargaining. Capital cases are an exception; they are rarely plea bargained (Bohm, 2003, p. 137). They are also very expensive. The average cost per execution in the United States (i.e., the entire process) ranges from about \$2.5 million to \$5 million (in 2000 dollars) (Bohm, 2003, p. 135). Extraordinary cases can cost much more. The state of Florida, for example, reportedly spent \$10 million to execute serial murderer Ted Bundy in 1989, and the federal government spent more than \$100 million to execute mass murderer Timothy McVeigh in 2001 (Bohm, 2003, p. 135).

The costs of capital trials are forcing local governments to make difficult choices. For example, a recent study in Illinois found that capital trials could increase county spending by as much as 1.8 percent per trial. Such trials are often financed through increased property taxes or funds taken from police and highway appropriations (Governor’s Commission, 2002, p. 199). A *Wall Street Journal* article reported that the Texas county where the three men convicted of the 1998 murder of James Byrd were tried was forced to raise property taxes by 6.7 percent for 2 years to cover trial costs (Governor’s Commission, 2002, p. 199). Even when a capital trial does not result in a death sentence and execution, the added costs associated with the capital punishment process are incurred anyway without any “return” on the state’s investment of resources. In some death-eligible cases, prosecutors forgo capital trials altogether rather than incur the

expense. Based on cost effectiveness alone, capital punishment does not seem to be the most rational alternative for the most heinous crimes.

Determinate Sentencing

A number of problems or irrationalities have been identified with determinate sentencing schemes, described in the section on predictability. First, it has been argued that the consequences of determinate sentencing include longer prison sentences and overcrowded prisons (Goodstein & Hepburn, 1985, pp. 37–38; Griset, 1991, p. 184). In recent years, the United States has had one of the highest imprisonment rates in the world (see, for example, International Centre for Prison Studies, 2003). Furthermore, as of 2003, the entire correctional departments of 10 states were under court orders to reduce overcrowding or improve other conditions of confinement; in another 17 states, one or more institutions were under court orders for the same reasons (American Correctional Association, 2004, p. 18).

A related problem of determinate sentencing is that it produces an unusually harsh prison system (but see Goodstein & Hepburn, 1985, for another view). For example, because of prison overcrowding, many states have all but abandoned even the pretense of rehabilitating offenders. Prisons are increasingly becoming places where offenders are simply “warehoused.” This trend has been referred to as the “new penology” and “actuarial justice” (Feeley & Simon, 1992, 1994). As noted, this new penology has abandoned rehabilitation in favor of efficiently managing large numbers of prisoners. Success for this new penology is not measured by reductions in recidivism (a standard measure of correctional success used in the past) but rather by how efficiently correctional systems manage prisoners within budgetary constraints. In addition, because of the abolition of good time (the number of days deducted from a sentence by prison authorities for good behavior or for other reasons) and parole under some determinate sentencing schemes, prison authorities are having a more difficult time maintaining discipline and control of their institutions (Griset, 1991, p. 141). Eliminating

good time and parole removed two of the most important incentives that prison authorities use to get inmates to behave and to follow prison rules. Also, because of the perceived harshness of some of the determinate sentencing schemes, some judges simply ignore the sentencing guidelines (Griset, 1999, pp. 322–323). Other judges have ignored the sentencing guidelines because they believe they are too lenient. In short, many judges resent sentencing guidelines and refer to their use as “justice by computer.”

Third, critics claim that determinate sentencing merely shifts sentencing discretion from judges to legislatures and prosecutors (through plea bargaining) (Clear, Hewitt, & Regoli, 1978; Goodstein & Hepburn, 1985, p. 38; Tonry, 1996, p. 7; Tonry & Frase, 2001, p. 230). Whether this shift in sentencing responsibility is desirable is a matter of debate. On one hand, prosecutors generally exercise their discretion in secret, whereas judges exercise discretion in the open. Also, prosecutors and legislators are generally subject to more political influence than are judges.

Fourth, in those jurisdictions that retain good time, sentencing discretion, at least to some degree, actually shifts from legislators and prosecutors to correctional personnel (Clear et al., 1978; Goodstein & Hepburn, 1985, pp. 38–39; Griset, 1991, pp. 139–141, 1999, pp. 318–319). By charging inmates with prison rule violations, correctional personnel can reduce (if the charges are upheld) the amount of good time earned by inmates and, by doing so, increase an inmate’s time served.

Fifth, critics contend that it is virtually impossible in determinate sentencing schemes for legislatures or sentencing commissions to define in advance all of the factors that ought to be considered in determining a criminal sentence (Tonry, 1996).

Controlling Criminal Justice Officials

Despite all the rules, regulations, structures, and technology intended to control the behavior of criminal justice officials, mistakes or miscarriages of justice still occur. Although such “irrationalities”

have probably always plagued the administration of justice, only relatively recently, with the advent of sophisticated DNA technology, has the extent of the problem been realized. For example, according to attorney Barry Scheck, co-founder of the Innocence Project at the Cardoza School of Law in New York City, "Of the first eighteen thousand results [of DNA tests] at the FBI and other crime laboratories, at least five thousand prime suspects were excluded *before* their cases were tried" (Scheck, Neufeld, & Dwyer, 2001, p. xx). That is, more than 25 percent of the prime suspects were wrongly accused. In a study of wrongful convictions conducted in the 1980s, researchers conservatively estimated that approximately 0.5 percent of all felony convictions are in error (Huff, Rattner, & Sagarin, 1986). Given the annual number of felony convictions, that means there are probably thousands of people wrongfully convicted of felonies each year.⁴ The researchers believe that the frequency of error is probably higher in less serious felony and misdemeanor cases. Since 1973 (as of March 28, 2005), 119 people in 25 states had been released from death row because of evidence of their innocence (Death Penalty Information Center, 2005).

Many mistakes and miscarriages of justice are a result of inadequate investigation by law enforcement officials, who sometimes identify the wrong person as the criminal. When law enforcement officials are unable to solve a crime within a reasonable amount of time, they sometimes cut corners and jump to conclusions (Gross, 1998, p. 133). They (or others who aid them such as medical examiners and crime lab technicians) may even go so far as to lose, destroy, or manufacture evidence against a suspect (Forst, 2004, pp. 90–92; Gross, 1998, p.133). They may also ignore or conceal evidence that does not support their suspect's guilt or withhold exculpatory evidence from prosecutors (Westervelt & Humphrey, 2002, p. 5). By using illegal coercive and manipulative methods, law enforcement officials can get innocent suspects to confess to crimes they did not commit (Forst, 2004, p. 90; Gross, 1996, p. 485; Scheck et al., 2001, p. 116; Westervelt & Humphrey,

2002, p. 5). The wrong person is sometimes identified as the culprit because of poorly administered and biased lineups (Forst, 2004, pp. 88–89; Westervelt & Humphrey, 2002, p. 5). At trial, law enforcement officers (and others such as medical examiners and crime lab technicians) sometimes commit perjury (Harmon, 2001; Radelet, Bedau, & Putnam, 1992; Scheck et al., 2001, pp. 138–162, 222–236). Prosecutors ignore evidence counter to their case, withhold exculpatory evidence from the defense, suborn perjury, misuse informants, and use improper evidence (Liebman, Fagan, & West, 2000; Miller-Potter, 2002; Scheck et al., 2001; Westervelt & Humphrey, 2002, p. 5). Defense attorneys fail to communicate with their clients or communicate in a dismissive, callous or hurried manner; their efforts at discovery are sometimes perfunctory or, in some cases, they make no attempt at all; they fail to investigate allegations or investigate them poorly; they fail to retain needed experts and/or test physical evidence; at times their preparation is minimal, their trial advocacy is weak, and their cross-examination is superficial or tentative (Berry, 2003, p. 489). Defense attorneys have been known to sleep through long portions of a trial and not be declared ineffective (Bright, 2003, pp. 136–137; Mello & Perkins, 2003, pp. 371–372; Scheck et al., 2001, pp. 237–249). In capital and other felony trials, judges make many mistakes, including:

- not permitting the defense to present evidence of an alternative theory of the case;
- not permitting the defense to present certain mitigating evidence;
- denying the right of defense experts to offer evidence;
- failing to order a psychiatric examination prior to trial;
- prejudging the case;
- incorrectly finding fact;
- refusing to give certain jury instructions;
- failing to admonish the prosecutor for an improper closing argument;
- allowing a highly prejudicial photograph during the penalty phase;
- failing to permit withdrawal of a guilty plea;
- and not having jurisdiction. (Burnett, 2002, p. 103)

The gravest miscarriage of justice is undoubtedly the killing of an innocent person by law enforcement officials (see Forst, 2004, pp. 67–68) or by the state in the case of capital punishment (see Bohm, 2003, chap. 7).

As for Compstat, although proponents claim that it decentralizes decision making, in practice it reinforces the traditional control elements of the military model of policing (Willis et al., 2004, pp. 480, 466–467). A problem or irrationality with Compstat is that by reinforcing the hierarchical military model of policing and its emphasis on accountability and predictability, it tends to impede a police department’s ability to achieve other organizational objectives (Weisburd et al., 2003, p. 448; Willis et al., 2004, p. 468). For example, problem-oriented and community policing rely on line officers using their discretion to solve community problems (at least in theory). However, because Compstat is based on the bureaucratic military model of policing with its centralized command and control, line officers frequently lack the flexibility to use their discretion to respond to unanticipated community problems or refuse to address unanticipated problems because they fear being disciplined for mistakes. A consequence is that officers appear (and sometimes are) unresponsive to the people they serve (Willis et al., 2004, p. 470; but see Firman, 2003, for a different view). In sum, the ostensible purpose of Compstat is to improve policing by overcoming traditional bureaucratic irrationalities, but bureaucracies are difficult to change. In practice it appears that Compstat, at least so far, is just another way—albeit one that employs advanced technology and different management principles—for police leadership to control mid-level managers (precinct commanders) and street-level police officers (Moore, 2003, pp. 477–478; Weisburd et al., 2003, pp. 424, 448–449).

Conclusion: What to Do?

Ritzer (2004, pp. 213–215) suggests three possible responses to McDonaldization that could be applied to McJustice. The first is to do nothing. Some people like

living in a McDonaldized world or, as Ritzer (2004, p. 213) calls it: a “velvet cage.” This is a position most likely held by people who have known no other type of world (Ritzer, 2004, p. 213). Such people crave the efficiency, calculability, predictability, and control of a McDonaldized society. A second possible response to McDonaldization applies to people who live in what Ritzer (2004, p. 213) calls a “rubber cage.” These people like some aspects of McDonaldization but dislike or deplore other aspects. They realize the costs of McDonaldization and attempt to escape it when they can (Ritzer, 2004, p. 214). A third possible response characterizes people who view McDonaldized society as an “iron cage” (Ritzer, 2004, p. 214). These people dislike, even deplore, McDonaldization but do not believe they can do much, if anything, about it. Some of these people may attempt to escape from its influence from time to time but generally they simply resign themselves to it.

Ritzer is fatalistic about the inexorable spread and domination of McDonaldization and its irrationalities (Parker, 1998, pp. 13–14; Ritzer, 2004, p. 243–244; Taylor, Smith, & Lyon, 1998, p. 106). Ritzer does not believe there are any significant collective alternatives (Jeannot, 1998, p. 141, note 3; Rinehart, 1998, pp. 19–23; Taylor et al., 1998, p. 106). He focuses instead on more modest individualistic alternatives or ameliorations. However, a problem with individualistic alternatives, according to at least one critic, is that McDonaldization and its irrationalities are systemic. To transcend McDonaldization a systemic alternative is required (Jeannot, 1998, p. 132). But a systemic alternative is not an option for Ritzer because, as other critics claim, “Ritzer’s version of McDonaldized America is apolitical; there is no contest of viewpoints, no mobilization on behalf of shared interests, no imagination of a future much different than the present and worth working for” (Rinehart, 1998, p. 30; also see Taylor et al., 1998; Wood, 1998). Thus, as yet another critic observes, “people, in using McDonaldized systems, are not merely doing things but they are in practice *affirming* a particular way of doing things and, simultaneously, *negating* alternative ways of doing things” (wa Mwachofi, 1998, p. 151;

emphasis in original). In applying these criticisms to McJustice, accepting McJustice is not only supporting the status quo with all of its irrationalities, it is also rejecting viable, especially systemic, alternatives.

Critics fault Ritzer for failing to acknowledge the partisan and ideological nature of rationality and irrationality (wa Mwachofi, 1998). What is rational or beneficial for one person or group may be irrational or harmful for another person or group, or vice versa. What is considered rational or irrational might also take different forms depending on place, time, and culture (Wynyard, 1998, p. 163). Thus, McJustice, like McDonaldization generally, is a political enterprise in which definitions of rationality and irrationality are contested.

Critics also contend that Ritzer is too negative in his characterization of McDonaldized institutions; that he fails to fully appreciate the positive aspects and potential of bureaucracies and bureaucratic rationality (see, for example, Jeannot, 1998; Miles, 1998; Parker, 1998; Taylor et al., 1998; Wood, 1998). Thus, while it is true that McJustice manifests many irrationalities, it can also be enabling, helping people achieve things they otherwise could not accomplish. For example, it sometimes empowers individuals to protect themselves by way of laws and regulations from people and institutions that would otherwise infringe their rights (see Kellner, 1998, p. x). It also protects people from criminal behavior (when it is operating effectively) in cases where people cannot protect themselves. At the least, it can provide people with a sense of stability in a risky and, contrary to Ritzer's contention, oftentimes unpredictable world (Miles, 1998, p. 53).

The concept of McDonaldization or McJustice to describe criminal justice is imperfect, as is any metaphor. Metaphors can be useful in promoting understanding, but they can also limit "the ways in which we think about a problem" (MacCormac, cited in wa Mwachofi, 1998, p. 152). Although fast food restaurants are ubiquitous, no one is forced to eat at them. Some people eschew fast food; other people eat it infrequently. Many people enjoy fast food on occasion, but most people prefer a home-cooked meal or a finer dining establishment. Criminal justice is ubiquitous, too, but most people are not directly affected by

it and have no desire to be involved with it. Still, most US citizens pay taxes to support it and others, for whatever reasons, cannot escape it or have a vested interest in it. Many people would prefer an improved criminal justice process or a viable alternative to McJustice that eliminated or at least significantly reduced its many irrationalities. Most people aspire to something better than McJustice. There is no shortage of alternatives, ranging from liberal reforms to more radical transformations (see, for example, Braithwaite, 1989; Currie, 1985; Governor's Commission on Capital Punishment, 2002; Henry & Milovanovic, 1996; Palmer, 1994; Pepinsky & Quinney, 1991; Scheck et al., 2001; Sherman et al., 1997; Stephens, 1987). Hopefully, conceptualizing criminal justice as McJustice will motivate people to explore, debate, and implement alternatives that will improve justice and the quality of life.



Notes

1. A popular way of understanding criminal justice in the United States is by employing metaphors. The most frequently used metaphor depicts the criminal justice process as a "system"—a "criminal justice system." For additional metaphors of criminal justice see Kraska (2004).
2. People control human technologies (e.g., a screwdriver), while nonhuman technologies (e.g., an order window at a drive-through) control people (Ritzer, 2004, p. 106). Machines and nonhuman technologies are employed in McDonaldized institutions for other reasons besides control, such as increasing productivity, greater quality control, and lowering costs (Ritzer, 2004, p. 107).
3. The costs of "all correctional functions" between 1977 and 2001 increased 1,100 percent (Bauer & Owens, 2004, p. 4). "All correctional functions" include the costs of operation and employment for jails, prisons, probation, parole, pardon, and correctional administration for both adults and juveniles (Bauer & Owens, 2004, p. 4). Because approximately 80 percent of all funds allocated to corrections in the United States are spent to build and run institutions, and only about 20 percent are spent on community corrections (Bonczar & Glaze, 1999, p. 2), the increase in costs of prisons and jails during the period is estimated to be about 900 percent.
4. Although an error rate of 0.5 percent may not seem high, consider that in 2001, a typical year, approximately 14 million people were arrested in the United States (US Department of Justice, 2002, p. 232). Assuming conservatively that 50 percent of

all people arrested are convicted (Huff et al., 1986, p. 523)—about 7 million convictions in 2001—then approximately 35,000 people were probably wrongfully convicted.

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DISCUSSION QUESTIONS

1. The idea of McDonaldization emphasizes calculability, the quantifiable aspects of organizations/society, and, specifically, the notion that more is better (e.g., billions and billions served, double quarter pounders, super-sized meals). Does plea bargaining and the desire for expeditious handling of caseloads come at the expense of calculability? Explain.
2. Drug courts do not seem to fit the description of McJustice. Drug offender cases are handled intensively and addressed uniquely, challenging both efficiency and predictability. Are there other recent (in the past two decades) strategies in policing, courts, or corrections that contrast with one or more elements of a McDonaldized society?
3. If rationality is irrational, should strategies such as plea bargaining, determinate sentencing, and Compstat be abandoned to prevent the negative consequences? If not, what can be done to mitigate any harm?



READING

Reading 5

John Rosecrance’s research addresses a largely neglected topic—the production of probation presentence reports. Although not written from an institutional theory perspective, his article highlights key themes related to the theory, including myths and legitimacy. Drawing from interviews with 37 presentence investigators in two California counties in the mid-1980s, Rosecrance concluded that presentence reports are produced to

satisfy the demands of judges and prosecutors; that is, the recommendations offered in the reports are generally derived from considerations of offense seriousness and prior record, while extralegal variables such as social history are relevant only in exceptional cases. Investigators still gather social history information about offenders, but this information is typically employed to support an already generated recommendation based on legal considerations. Why expend energy collecting information that will not likely be considered? Rosecrance argues that there is a strong belief in individualized justice, especially among offenders, where each case receives due consideration by the courts rather than simply being processed in an assembly-line fashion. In institutional theory terms, this is an institutional myth that the system must comply with or else face challenges. The system can satisfy the demands for individualized justice, however symbolically, by conducting presentence reports, although this only perpetuates the myth. Moreover, presentence reports legitimize probation departments, whose very existence is based on individual treatment.

MAINTAINING THE MYTH OF INDIVIDUALIZED JUSTICE

Probation Presentence Reports

John Rosecrance

The Justice Department estimates that over one million probation presentence reports are submitted annually to criminal courts in the United States (Allen and Simonsen 1986:111). The role of probation officers in the presentence process traditionally has been considered important. After examining criminal courts in the United States, a panel of investigators concluded: "Probation officers are attached to most modern felony courts; presentence reports containing their recommendations are commonly provided and these recommendations are usually followed" (Blumstein, Martin, and Holt 1983). Judges view presentence reports as an integral part of sentencing, calling them "the best guide to intelligent sentencing" (Murray 1963:67) and "one of the most important developments in criminal law during the 20th century" (Hogarth 1971:246).

Researchers agree that a strong correlation exists between probation recommendations (contained in presentence reports) and judicial sentencing. In a seminal study of judicial decision making, Carter and

Wilkins (1967) found 95 percent agreement between probation recommendation and sentence disposition when the officer recommended probation and 88 percent agreement when the officer opposed probation. Hagan (1975), after controlling for related variables, reported a direct correlation of .72 between probation recommendation and sentencing. Walsh (1985) found a similar correlation of .807.

Although there is no controversy about the correlation between probation recommendation and judicial outcome, scholars disagree as to the actual influence of probation officers in the sentencing process. That is, there is no consensus regarding the importance of the presentence investigator in influencing sentencing outcomes. On the one hand, Myers (1979:538) contends that the "important role played by probation officer recommendation argues for greater theoretical and empirical attention to these officers." Walsh (1985:363) concludes that "judges lean heavily on the professional advice of probation." On the other hand, Kingsnorth and Rizzo (1979)

Source: Rosecrance, J. (1988). Maintaining the myth of individualized justice: Probation presentence reports. *Justice Quarterly*, 5(2), 235–256.

report that probation recommendations have been supplanted by plea bargaining and that the probation officer is “largely superfluous.” Hagan, Hewitt, and Alwin (1979), after reporting a direct correlation between recommendation and sentence, contend that the “influence of the probation officer in the presentence process is subordinate to that of the prosecutor” and that probation involvement is “often ceremonial.”

My research builds on the latter perspective, and suggests that probation presentence reports do not influence judicial sentencing significantly but serve to maintain the myth that criminal courts dispense individualized justice. On the basis of an analysis of probation practices in California, I will demonstrate that the presentence report, long considered an instrument for the promotion of individualized sentencing by the court, actually de-emphasizes individual characteristics and affirms the primacy of instant offense and prior criminal record as sentencing determinants. The present study was concerned with probation in California; whether its findings can be applied to other jurisdictions is not known. California’s probation system is the nation’s largest, however (Petersilia, Turner, Kahan, and Peterson 1985), and the experiences of that system could prove instructive to other jurisdictions.

In many California counties (as in other jurisdictions throughout the United States) crowded court calendars, determinate sentencing guidelines, and increasingly conservative philosophies have made it difficult for judges to consider individual offenders’ characteristics thoroughly. Thus judges, working in tandem with district attorneys, emphasize the legal variables of offense and criminal record at sentencing (see, for example, Forer 1980; Lotz and Hewitt 1977; Tinker, Quiring, and Pimentel 1985). Probation officers function as employees of the court; generally they respond to judicial cues and emphasize similar variables in their presentence investigations. The probation officers’ relationship to the court is ancillary; their status in relation to judges and other attorneys is subordinate. This does not mean that probation officers are completely passive; individual styles and personal philosophies influence their reports. Idiosyncratic approaches, however, usually are

reserved for a few special cases. The vast majority of “normal” (Sudnow 1965) cases are handled in a manner that follows relatively uniform patterns.

Hughes’s (1958) work provides a useful perspective for understanding the relationship between probation officers’ status and their presentence duties. According to Hughes, occupational duties within institutions often serve to maintain symbiotic status relationships as those in higher-status positions pass on lesser duties to subordinates. Other researchers (Blumberg 1967; Neubauer 1974; Rosecrance 1985) have demonstrated that although judges may give lip service to the significance of presentence investigations, they remain suspicious of the probation officers’ lack of legal training and the hearsay nature of the reports. Walker (1985) maintains that in highly visible cases judges tend to disregard the probation reports entirely. Thus the judiciary, by delegating the collection of routine information to probation officers, reaffirms its authority and legitimacy. In this context, the responsibility for compiling presentence reports can be considered a “dirty work” assignment (Hagan 1975) that is devalued by the judiciary. Judges expect probation officers to submit noncontroversial reports that provide a facade of information, accompanied by bottom-line recommendations that do not deviate significantly from a consideration of offense and prior record. The research findings in this paper will show how probation officers work to achieve this goal.

In view of the large number of presentence reports submitted, it is surprising that so little information about the presentence investigation process is available. The factors used in arriving at a sentencing recommendation, the decision to include certain information, and the methods used in collecting data have not been described. The world of presentence investigators has not been explored by social science researchers. We lack research about the officers who prepare presentence reports, and hardly understand how they think and feel about those reports. The organizational dynamics and the status positions that influence presentence investigators have not been identified prominently (see, for example, Shover 1979). In this article I intend to place probation officers’ actions within a

framework that will increase the existing knowledge of the presentence process. My research is informed by 15 years of experience as a probation officer, during which time I submitted hundreds of presentence reports.

Although numerous studies of probation practices have been conducted, an ethnographic perspective rarely has been included in this body of research, particularly in regard to research dealing with presentence investigations. Although questionnaire techniques (Katz 1982), survey data (Hagan et al. 1979), and decisionmaking experiments (Carter 1967) have provided some information about presentence reports, qualitative data, which often are available only through an insider's perspective,¹ are notably lacking. The subtle strategies and informal practices used routinely in preparing presentence reports often are hidden from outside researchers.

The research findings emphasize the importance of typing in the compilation of public documents (presentence reports). In this paper "typing" refers to "the process by which one person (the agent) arrives at a private definition of another (the target)" (Prus 1975:81). A related activity, *designating*, occurs when "the typing agent reveals his attributions of the target to others" (Prus and Stratten 1976:48). In the case of presentence investigations, private typings become designations when they are made part of an official court report. I will show that presentence recommendations are developed through a typing process in which individual offenders are subsumed into general dispositional categories. This process is influenced largely by probation officers' perceptions of factors that judicial figures consider appropriate; probation officers are aware that the ultimate purpose of their reports is to please the court. These perceptions are based on prior experience and are reinforced through judicial feedback.

Methods

The major sources of data used in this study were drawn from interviews with probation officers. Prior experience facilitated my ability to interpret the data. Interviews were conducted in two three-week

periods during 1984 and 1985 in two medium-sized California counties. Both jurisdictions were governed by state determinate sentencing policies; in each, the district attorney's office remained active during sentencing and generally offered specific recommendations. I did not conduct a random sample but tried instead to interview all those who compiled adult presentence reports. In the two counties in question, officers who compiled presentence reports did not supervise defendants.²

Not all presentence writers agreed to talk with me; they cited busy schedules, lack of interest, or fear that I was a spy for the administration. Even so, I was able to interview 37 presentence investigators, approximately 75 percent of the total number of such employees in the two counties.³

The respondents generally were supportive of my research, and frequently commented that probation work had never been described adequately. My status as a former probation officer enhanced the interview process greatly. Because I could identify with their experiences, officers were candid, and I was able to collect qualitative data that reflected accurately the participants' perspectives. During the interviews I attempted to discover how probation officers conducted their presentence investigations. I wanted to know when a sentencing recommendation was decided, to ascertain which variables influenced a sentencing recommendation decision, and to learn how probation officers defined their role in the sentencing process.

Although the interviews were informal, I asked each of the probation officers the following questions:

1. What steps do you take in compiling a presentence report?
2. What is the first thing you do upon receiving a referral?
3. What do you learn from interviews with the defendant?
4. Which part of the process (in your opinion) is the most important?
5. Who reads your reports?

6. Which part of the report do the judges feel is most important?
7. How do your reports influence the judge?
8. What feedback do you get from the judge, the district attorney, the defense attorney, the defendant, your supervisor?

In addition to interviewing probation officers, I questioned six probation supervisors and seven judges on their views about how presentence reports were conducted.

Findings

In the great majority of presentence investigations, the variables of present offense and prior criminal record determine the probation officer's final sentencing recommendation. The influence of these variables is so dominant that other considerations have minimal influence on probation recommendations. The chief rationale for this approach is "That's the way the judges want it." There are other styles of investigation; some officers attempt to consider factors in the defendant's social history, to reserve sentencing judgment until their investigation is complete, or to interject personal opinions. Elsewhere (Rosecrance 1987), I have developed a typology of presentence investigators which describes individual styles; these types include self-explanatory categories such as hard-liners, bleeding-heart liberals, and team players as well as mossbacks (those who are merely putting in their time) and mavericks (those who strive continually for independence).

All types of probation officers, however, seek to develop credibility with the court. Such reputation building is similar to that reported by McCleary (1978) in his study of parole officers. In order to develop rapport with the court, probation officers must submit reports that facilitate a smooth work flow. Probation officers assume that in the great majority of cases they can accomplish this goal by emphasizing offense and criminal record. Once the officers have established reputations as "producers," they have "earned" the

right to some degree of discretion in their reporting. One investigation officer described this process succinctly: "When you've paid your dues, you're allowed some slack." Such discretion, however, is limited to a minority of cases, and in these "deviant" cases probation officers frequently allow social variables to influence their recommendation. In one report an experienced officer recommended probation for a convicted felon with a long prior record because the defendant's father agreed to pay for an intensive drug treatment program. In another case a probation officer decided that a first-time shoplifter had a "very bad attitude" and therefore recommended a stiff jail sentence rather than probation. Although these variations from normal procedure are interesting and important, they should not detract from our examination of an investigation process that is used in most cases.

On the basis of the research data, I found that the following patterns occur with sufficient regularity to be considered "typical." After considering offense and criminal record, probation officers place defendants into categories that represent the eventual court recommendation. This typing process occurs early in the course of presentence inquiry; the balance of the investigation is used to reaffirm the private typings that later will become official designations. In order to clarify the decision-making processes used by probation officers I will delineate the three stages in a presentence investigation: 1) typing the defendant, 2) gathering further information, and 3) filing the report.

Typing the Defendant

A presentence investigation is initiated when the court orders the probation department to prepare a report on a criminal defendant. Usually the initial court referral contains such information as police reports, charges against the defendant, court proceedings, plea-bargaining agreements (if any), offenses in which the defendant has pleaded or has been found guilty, and the defendant's prior criminal record. Probation officers regard such information as relatively unambiguous⁴ and as part of the "official" record. The comment

of a presentence investigator reflects the probation officer's perspective on the court referral:

I consider the information in the court referral hard data. It tells me what I need to know about a case, without a lot of bullshit. I mean the guy has pled guilty to a certain offense—he can't get out of that. He has such and such a prior record—there's no changing that. So much of the stuff we put in these reports is subjective and open to interpretation. It's good to have some solid information.

Armed with information in the court referral, probation officers begin to type the defendants assigned for presentence investigation. Defendants are classified into general types based on possible sentence recommendations; a probation officer's statement indicates that this process begins early in a presentence investigation.

Bottom line; it's the sentence recommendation that's important. That's what the judges and everybody wants to see. I start thinking about the recommendation as soon as I pick up the court referral. Why wait? The basic facts aren't going to change. Oh, I know some POs will tell you they weigh all the facts before coming up with a recommendation. But that's propaganda—we all start thinking recommendation right from the get-go.

At this stage in the investigation the factors known to probation officers are mainly legally relevant variables. The defendant's unique characteristics and special circumstances generally are unknown at this time. Although probation officers may know the offender's age, sex, and race, the relationship of these variables to the case is not yet apparent.

These initial typings are private definitions (Prus 1975) based on the officer's experience and knowledge of the court system. On occasion, officers discuss

the case informally with their colleagues or supervisors when they are not sure of a particular typing. Until the report is complete, their typing remains a private designation. In most cases the probation officers type defendants by considering the known and relatively irrefutable variables of offense and prior record. Probation officers are convinced that judges and district attorneys are most concerned with that part of their reports. I heard the following comment (or versions thereof) on many occasions: "Judges read the offense section, glance at the prior record, and then flip to the back and see what we recommend." Officers indicated that during informal discussions with judges it was made clear that offense and prior record are the determinants of sentencing in most cases. In some instances judges consider extralegal variables, but the officers indicated that this occurs only in "unusual" cases with "special" circumstances. One such case involved a probation grant for a woman who killed her husband after she had been a victim of spouse battering.

Probation investigators are in regular contact with district attorneys, and frequently discuss their investigations with them. In addition, district attorneys seem to have no compunction about calling the probation administration to complain about what they consider an inappropriate recommendation. Investigators agreed unanimously that district attorneys typically dismiss a defendant's social history as "immaterial" and want probation officers to stick to the legal facts.

Using offense and prior record as criteria, probation officers place defendants into dispositional (based on recommendation) types. In describing these types⁵ I have retained the terms used by probation officers themselves in the typing process. The following typology is community (rather than researcher) designated (Emerson 1981; Spradley 1970): (1) deal case, (2) diversion case, (3) joint case, (4) probation case with some jail time, (5) straight probation case. Within each of these dispositional types, probation officers designate the severity of punishment by labeling the case either lightweight or heavy-duty.

A designation of "lightweight" means that the defendant will be accorded some measure of leniency

because the offense was minor, because the offender had no prior criminal record, or because the criminal activity (regardless of the penal code violation) was relatively innocuous. Heavy-duty cases receive more severe penalties because the offense, the offender, or the circumstances of the offense are deemed particularly serious. Diversion and straight probation types generally are considered lightweight, while the majority of joint cases are considered heavy-duty. Cases involving personal violence invariably are designated as heavy-duty. Most misdemeanor cases in which the defendant has no prior criminal record or a relatively minor record are termed lightweight. If the defendant has an extensive criminal record, however, even misdemeanor cases can call for stiff penalties; therefore such cases are considered heavy-duty. Certain felony cases can be regarded as lightweight if there was no violence, if the victim's loss was minimal, or if the defendant had no prior convictions. On occasion, even an offense like armed robbery can be considered lightweight. The following example (taken from an actual report) is one such instance: a first-time offender with a simulated gun held up a Seven-Eleven store and then returned to the scene, gave back the money, and asked the store employees to call the police.

The typings are general recommendations; specifics such as terms and conditions of probation or diversion and length of incarceration are worked out later in the investigation. The following discussion will clarify some of the criteria for arriving at a typing.

Deal cases involve situations in which a plea bargain exists. In California, many plea bargains specify specific sentencing stipulations; probation officers rarely recommend dispositions contrary to those stipulated in plea-bargaining agreements. Although probation officers allegedly are free to recommend a sentence different from that contained in the plea bargain, they have learned that such an action is unrealistic (and often counter-productive to their own interests) because judges inevitably uphold the primacy of sentence agreements. The following observation represents the probation officers' view of plea-bargaining deals:

It's stupid to try and bust a deal. What's the percentage? Who needs the hassle? The judge always honors the deal—after all, he was part of it. Everyone, including the defendant, has already agreed. It's all nice and neat, all wrapped up. We are supposed to rubber-stamp the package—and we do. Everyone is better off that way.

Diversion cases typically involve relatively minor offenses committed by those with no prior record, and are considered “a snap” by probation officers. In most cases, those referred for diversion have been screened already by the district attorney's office; the probation investigator merely agrees that they are eligible and therefore should be granted diversionary relief (and eventual dismissal of charges). In rare instances when there has been an oversight and the defendant is ineligible (because of prior criminal convictions), the probation officer informs the court, and criminal proceedings are resumed. Either situation involves minimal decision making by probation officers about what disposition to recommend. Presentence investigators approach diversion cases in a perfunctory, almost mechanical manner.

The last three typings generally refer to cases in which the sentencing recommendations are ambiguous and some decision making is required of probation officers. These types represent the major consequences of criminal sentencing: incarceration and/ or probation. Those categorized as joint (prison) cases are denied probation; instead the investigator recommends an appropriate prison sentence. In certain instances the nature of the offense (e.g., rape, murder, or arson) renders defendants legally ineligible for probation. In other situations, the defendants' prior record (especially felony convictions) makes it impossible to grant probation (see, e.g., Neubauer 1974:240). In many cases the length of prison sentences has been set by legal statute and can be increased or decreased only marginally (depending on the aggravating or mitigating circumstances of the case).

In California, the majority of defendants sentenced to prison receive a middle term (between

minimum and maximum); the length of time varies with the offense. Those cases that fall outside the middle term usually do so for reasons related to the offense (e.g., using a weapon) or to the criminal record (prior felony convictions or, conversely, no prior criminal record). Those typed originally as joint cases are treated differently from other probation applicants: concerns with rehabilitation or with the defendant's life situation are no longer relevant, and proper punishment becomes the focal point of inquiry. This perspective was described as follows by a probation officer respondent: "Once I know so-and-so is a heavy-duty joint case I don't think in terms of rehabilitation or social planning. It becomes a matter of how long to salt the sucker away, and that's covered by the code."

For those who are typed as probation cases, the issue for the investigator becomes whether to recommend some time in jail as a condition of probation. This decision is made with reference to whether the case is lightweight or heavy-duty. Straight probation usually is reserved for those convicted of relatively innocuous offenses or for those without a prior criminal record (first-timers). Some probation officers admitted candidly that all things being equal, middle-class defendants are more likely than other social classes to receive straight probation. The split sentence (probation and jail time) has become popular and is a consideration in most misdemeanor and felony cases, especially when the defendant has a prior criminal record. In addition, there is a feeling that drug offenders should receive a jail sentence as part of probation to deter them from future drug use.

Once a probation officer has decided that "some jail time is in order," the ultimate recommendation includes that condition. Although the actual amount of time frequently is determined late in the case, the probation officer's opinion that a jail sentence should be imposed remains constant. The following comment typifies the sentiments of probation officers whom I have observed and also illustrates the imprecision of recommending a period of time in custody:

It's not hard to figure out who needs some jail. The referral sheet can tell you that. What's hard to know is exactly how much time. Ninety days or six months—who knows what's fair? We put down some number but it is usually an arbitrary figure. No one has come up with a chart that correlates rehabilitation with jail time.

Compiling Further Information

Once an initial typing has been completed, the next investigative stage involves collecting further information about the defendant. During this stage most of the data to be collected consists of extralegal considerations. The defendant is interviewed and his or her social history is delineated. Probation officers frequently contact collateral sources such as school officials, victims, doctors, counselors, and relatives to learn more about the defendant's individual circumstances. This aspect of the presentence investigation involves considerable time and effort on the part of probation officers. Such information is gathered primarily to legitimate earlier probation officer typings or to satisfy judicial requirements; recommendations seldom are changed during this stage. A similar pattern was described by a presentence investigator:

Interviewing these defendants and working up a social history takes time. In most cases it's really unnecessary since I've already decided what I am going to do. We all know that a recommendation is governed by the offense and prior record. All the rest is just stuffing to fill out the court report, to make the judge look like he's got all the facts.

Presentence interviews with defendants (a required part of the investigation) frequently are routine interactions that were described by a probation officer as "anticlimactic." These interviews invariably are conducted in settings familiar to probation officers, such as jail interviewing rooms or probation department offices. Because the participants lack

trust in each other, discussions rarely are candid and open. Probation officers are afraid of being conned or manipulated because they assume that defendants “will say anything to save themselves.” Defendants are trying to present themselves in a favorable light and are wary of divulging any information that might be used against them.

It is assumed implicitly in the interview process that probation officers act as interrogators and defendants as respondents. Because presentence investigators select the questions, they control the course of the interview and elicit the kind of responses that serve to substantiate their original defendant typings. A probationer described his presentence interview to me as follows:

I knew that the P.O. wanted me to say. She had me pegged as a nice middle-class kid who had fallen in with a bad crowd. So that's how I came off. I was contrite, a real boy scout who had learned his lesson. What an acting job! I figured if I didn't act up I'd get probation.

A probation officer related how she conducted presentence interviews:

I'm always in charge during the interviews. I know what questions to ask in order to fill out my report. The defendants respond just about the way I expect them to. They hardly ever surprise me.

On occasion, prospective probationers refuse to go along with structured presentence interviews. Some offenders either attempt to control the interview or are openly hostile to probation officers. Defendants who try to dominate interviews often can be dissuaded by reminders such as “I don't think you really appreciate the seriousness of your situation” or “I'm the one who asks the questions here.” Some defendants, however, show blatant disrespect for the court process by flaunting a disregard for possible sanctions.

Most probation officers have interviewed some defendants who simply don't seem to care what happens to them. A defendant once informed an investigation officer: “I don't give a fuck what you motherfuckers try and do to me. I'm going to do what I fuckin' well please. Take your probation and stick it.” Another defendant told her probation officer: “I'm going to shoot up every chance I get. I need my fix more than I need probation.” Probation officers categorize belligerent defendants and those unwilling to “play the probation game” as dangerous or irrational (see, e.g., McCleary 1978). Frequently in these situations the investigator's initial typing is no longer valid, and probation either will be denied or will be structured stringently. Most interviews, however, proceed in a predictable manner as probation officers collect information that will be included in the section of the report termed “defendant's statement.”

Although some defendants submit written comments, most of their statements actually are formulated by the probation officer. In a sociological sense, the defendant's statement can be considered an “account” (Scott and Lyman 1968). While conducting presentence interviews, probation officers typically attempt to shape the defendant's account to fit their own preconceived typing. Many probation officers believe that the defendant's attitude toward the offense and toward the future prospects for leading a law-abiding life are the most important parts of the statement. In most presentence investigations the probation investigator identifies and interprets the defendant's subjective attitudes and then incorporates them into the report. Using this procedure, probation officers look for and can report attitudes that “logically fit” with their final sentencing recommendation (see, for example, Davis 1983).

Defendants who have been typed as prison cases typically are portrayed as holding socially unacceptable attitudes about their criminal actions and unrealistic or negative attitudes about future prospects for living an upright life. Conversely, those who have been typed as probation material are

described as having acceptable attitudes, such as contriteness about the present offense and optimism about their ability to lead a crime-free life. The structuring of accounts about defendant attitudes was described by a presentence investigator in the following manner:

When POS talk about the defendant's attitude we really mean how that attitude relates to the case. Naturally I'm not going to write about what a wonderful attitude the guy has—how sincere he seems—and then recommend sending him to the joint. That wouldn't make sense. The judges want consistency. If a guy has a shitty attitude but is going to get probation anyway, there's no percentage in playing up his attitude problem.

In most cases the presentence interview is the only contact between the investigating officer and the defendant. The brevity of this contact and the lack of post-report interaction foster a legalistic perspective. Investigators are concerned mainly with “getting the case through court” rather than with special problems related to supervising probationers on a long-term basis. One-time-only interviews rarely allow probation officers to become emotionally involved with their cases; the personal and individual aspects of the defendant's personality generally are not manifested during a half-hour presentence interview. For many probation officers the emotional distance from offenders is one of the benefits of working in presentence units. Such an opinion was expressed by an investigation officer: “I really like the one-shot-only part of this job. I don't have time to get caught up with the clients. I can deal with facts and not worry about individual personalities.”

The probation officer has wide discretion in the type of collateral information that is collected from sources other than the defendant or the official record. Although a defendant's social history must be sketched in the presentence report, the

supplementation of that history is left to individual investigators. There are few established guidelines for the investigating officer to follow, except that the psychiatric or psychological reports should be submitted when there is compelling evidence that the offender is mentally disturbed. Informal guidelines, however, specify that in misdemeanor cases reports should be shorter and more concise than in felony cases. The officers indicated that reports for municipal court (all misdemeanor cases) should range from four to six pages in length, while superior court reports (felony cases) were expected to be six to nine pages long. In controversial cases (to which only the most experienced officers are assigned) presentence reports are expected to be longer and to include considerable social data. Reports in these cases have been as long as 30 pages.

Although probation officers learn what general types of information to include through experience and feedback from judges and supervisors, they are allowed considerable leeway in deciding exactly what to put in their reports (outside of the offense and prior record sections). Because investigators decide what collateral sources are germane to the case, they tend to include information that will reflect favorably on their sentencing recommendation. In this context the observation of one probation officer is understandable: “I pick from the mass of possible sources just which ones to put in the report. Do you think I'm going to pick people who make my recommendation look weak? No way!”

Filing the Report

The final stage in the investigation includes dictating the report, having it approved by a probation supervisor, and appearing in court. All three of these activities serve to reinforce the importance of prior record and offense in sentencing recommendations. At the time of dictation, probation officers determine what to include in the report and how to phrase their remarks. For the first time in the investigation, they receive formal feedback from official sources. Presentence reports are read by three

groups important to the probation officers: probation supervisors, district attorneys, and judges. Probation officers recognize that for varying reasons, all these groups emphasize the legally relevant variables of offense and prior criminal record when considering an appropriate sentencing recommendation.⁶ Such considerations reaffirm the probation officer's initial private typing.

A probation investigator described this process:

After I've talked to the defendants I think maybe some of them deserve to get special consideration. But when I remember who's going to look at the reports. My supervisor, the DA, the judge; they don't care about all the personal details. When all is said and done, what's really important to them is the offense and the defendant's prior record. I know that stuff from the start. It makes me wonder why we have to jack ourselves around to do long reports.

Probation officers assume that their credibility as presentence investigators will be enhanced if their sentencing recommendations meet with the approval of probation supervisors, district attorneys, and judges. On the other hand, officers whose recommendations are consistently "out of line" are subject to censure or transfer, or they find themselves engaged in "running battles" (Shover 1974:357) with court officials. During the last stage of the investigation probation officers must consider how to ensure that their reports will go through court without "undue personal hassle." Most investigation officers have learned that presentence recommendations based on a consideration of prior record and offense can achieve that goal.

Although occupational self-interest is an important component in deciding how to conduct a presentence investigation, other factors also are involved. Many probation officers agree with the idea of using legally relevant variables as determinants of recommendations. These officers embrace the retributive value of this concept and see it as an

equitable method for framing their investigation. Other officers reported that probation officers' discretion had been "short-circuited" by determinate sentencing guidelines and that they were reduced to "merely going through the motions" in conducting their investigations. Still other officers view the use of legal variables to structure recommendations as an acceptable bureaucratic shortcut to compensate partially for large case assignments. One probation officer slated, "If the department wants us to keep pumping out presentence reports we can't consider social factors—we just don't have time." Although probation officers are influenced by various dynamics, there seems little doubt that in California, the social history which once was considered the "heart and soul" of presentence probation reports (Reckless 1967:673) has been largely devalued.

Summary and Conclusions

In this study I provide a description and an analysis of the processes used by probation investigators in preparing presentence reports. The research findings based on interview data indicate that probation officers tend to de-emphasize individual defendants' characteristics and that their probation recommendations are not influenced directly by factors such as sex, age, race, socioeconomic status, or work record. Instead, probation officers emphasize the variables of instant offense and prior criminal record. The finding that offense and prior record are the main considerations of probation officers with regard to sentence recommendations agrees with a substantial body of research (Bankston 1983; Carter and Wilkens 1967; Dawson 1969; Lotz and Hewitt 1977; Robinson, Carter, and Wahl 1969; Wallace 1974; Walsh 1985).

My particular contribution has been to supply the ethnographic observations and the data that explain this phenomenon. I have identified the process whereby offense and prior record come to occupy the central role in decision making by

probation officers. This identification underscores the significance of private typings in determining official designations. An analysis of probation practices suggests that the function of the presentence investigation is more ceremonial than instrumental (Hagan 1985).

I show that early in the investigation probation officers, using offense and prior record as guidelines, classify defendants into types; when the typing process is complete, probation officers essentially have decided on the sentence recommendation that will be recorded later in their official designation. The subsequent course of investigations is determined largely by this initial private typing. Further data collection is influenced by a sentence recommendation that already has been firmly established. This finding answers affirmatively the research question posed by Carter (1967:211):

Do probation officers, after “deciding” on a recommendation early in the presentence investigation, seek further information which justifies the decision, rather than information which might lead to modification or rejection of that recommendation?

The type of information and observation contained in the final presentence report is generated to support the original recommendation decision. Probation officers do not regard defendant typings as tentative hypotheses to be disproved through inquiry but rather as firm conclusions to be justified in the body of the report.

Although the presentence interview has been considered an important part of the investigation (Spencer 1983), I demonstrate that it does not significantly alter probation officers’ perceptions. In most cases probation officers dominate presentence interviews; interaction between the participants is guarded. The nature of interviews between defendants and probation officers is important in itself; further research is needed to identify the dynamics that prevail in these interactions.

Attitudes attributed to defendants often are structured by probation officers to reaffirm the recommendation already formulated. The defendant’s social history, long considered an integral part of the presentence report, in reality has little bearing on sentencing considerations. In most cases the presentence is no longer a vehicle for social inquiry but rather a typing process which considers mainly the defendant’s prior criminal record and the seriousness of the criminal offense. Private attorneys in growing numbers have become disenchanted with the quality of probation investigations and have commissioned presentence probation reports privately (Rodgers, Gitchoff, and Paur 1984). At present, however, such a practice is generally available only for wealthy defendants.

The presentence process that I have described is used in the great majority of cases; it is the “normal” procedure. Even so, probation officers are not entirely passive actors in this process. On occasion they will give serious consideration to social variables in arriving at a sentencing recommendation. In special circumstances officers will allow individual defendants’ characteristics to influence their report. In addition, probation officers who have developed credibility with the court are allowed some discretion in compiling presentence reports. This discretion is not unlimited, however; it is based on a prior record of producing reports that meet the court’s approval, and is contingent on continuing to do so. A presentence writer said, “You can only afford to go to bat for defendants in a few select cases; if you try to do it too much, you get a reputation as being ‘out of step.’”

This research raises the issue of probation officers’ autonomy. Although I depict presentence investigators as having limited autonomy, other researchers (Hagan 1975; Myers 1979; Walsh 1985) contend that probation officers have considerable leeway in recommendation. This contradictory evidence can be explained in large part by the type of sentencing structure, the professionalism of probation workers, and the role of the district attorney at

sentencing. Walsh's study (1985), for example, which views probation officers as important actors in the presentence process, was conducted in a jurisdiction with indeterminate sentencing, where the probation officers demonstrated a high degree of professionalism and the prosecutors "rarely made sentencing recommendations." A very different situation existed in the California counties that I studied: determinate sentencing was enforced, probation officers were not organized professionally, and the district attorneys routinely made specific court recommendations. It seems apparent that probation officers' autonomy must be considered with reference to judicial jurisdiction.

In view of the primacy of offense and prior record in sentencing considerations, the efficacy of current presentence investigation practices is doubtful. It seems ineffective and wasteful to continue to collect a mass of social data of uncertain relevance. Yet an analysis of courtroom culture suggests that the presentence investigation helps maintain judicial mythology as well as probation officer legitimacy. Although judges generally do not have the time or the inclination to consider individual variables thoroughly, the performance of a presentence investigation perpetuates the myth of individualized sentences. Including a presentence report in the court file gives the appearance of individualization without influencing sentencing practices significantly.

Even in a state like California, where determinate sentencing allegedly has replaced individualized justice, the judicial system feels obligated to maintain the appearance of individualization. After observing the court system in California for several years I am convinced that a major reason for maintaining such a practice is to make it easier for criminal defendants to accept their sentences. The presentence report allows defendants to feel that their case at least has received a considered decision. One judge admitted candidly that the "real purpose" of the presentence investigation was to convince defendants that they were not getting "the

fast shuffle." He observed further that if defendants were sentenced without such investigations, many would complain and would file "endless appeals" over what seems to them a hasty sentencing decision. Even though judges typically consider only offense and prior record in a sentencing decision, they want defendants to believe that their cases are being judged individually. The presentence investigation allows this assumption to be maintained. In addition, some judges use the probation officer's report as an excuse for a particular type of sentence. In some instances they deny responsibility for the sentence, implying that their "hands were tied" by the recommendation. Thus judges are taken "off the hook" for meting out an unpopular sentence. Further research is needed to substantiate the significance of these latent functions of the presentence investigation.

The presentence report is a major component in the legitimacy of the probation movement; several factors support the probation officers' stake in maintaining their role in these investigations. Historically, probation has been wedded to the concept of individualized treatment. In theory, the presentence report is suited ideally to reporting on defendants' individual circumstances. From a historical perspective (Rothman 1980) this ideal has always been more symbolic than substantive, but if the legitimacy of the presentence report is questioned, so then is the entire purpose of probation.

Regardless of its usefulness (or lack of usefulness), it is doubtful that probation officials would consider the diminution or abolition of presentence reports. The number of probation workers assigned to presentence investigations is substantial, and their numbers represent an obvious source of bureaucratic power. Conducting presentence investigations allows probation officers to remain visible with the court and the public. The media often report on controversial probation cases, and presentence writers generally have more contact and more association with judges than do others in the probation department.

As ancillary court workers, probation officers are assigned the dirty work of collecting largely irrelevant data on offenders (Hagan 1975; Hughes 1958). Investigation officers have learned that emphasizing offense and prior record in their reports will enhance relationships with judges and district attorneys, as well as improving their occupational standing within probation departments. Thus the presentence investigation serves to maintain the court's claim of individualized concern while preserving the probation officer's role, although a subordinate role, in the court system.⁷

The myth of individualization serves various functions, but it also raises serious questions. In an era of severe budget restrictions (Schumacher 1985) should scarce resources be allocated to compiling predictable presentence reports of dubious value? If social variables are considered only in a few cases, should courts continue routinely to require presentence reports in all felony matters (as is the practice in California)? In summary, we should address the issue of whether the criminal justice system can afford the ceremony of a probation presentence investigation.

Notes

1. For a full discussion of the insider-outsider perspective in criminal justice see Marquart (1986).
2. In a few jurisdictions, officers who prepare investigations also supervise the defendants after probation has been granted, but, this procedure is becoming less prevalent in contemporary probation (Clear and Cole 1986). It is possible that extralegal variables play a significant role in the supervision process, but this paper is concerned specifically with presentence investigations.
3. There was no exact way to determine whether the 25 percent of the officers I was unable to interview conducted their presentence investigations significantly differently from those I interviewed. Personal observation, however, and the comments of the officers I interviewed (with whom I discussed this issue) indicated that those who refused used similar methods in processing their presentence reports.

4. On occasion police reports are written vaguely and are subject to various interpretations; rap sheets are not always clear, especially when some of the final dispositions have not been recorded.

5. I did not include terminal misdemeanor dispositions, in which probation is denied in favor of fines or jail sentences, in this typology. Such dispositions are comparatively rare and relatively insignificant.

6. Although defense attorneys also read the presentence reports, their reactions generally do not affect the probation officers' occupational standing (McHugh 1973; Rosecrance 1985).

7. I did not discuss the role of presentence reports in the prison system. Traditionally, probation reports were part of an inmate's jacket or file and were used as a basis for classification and treatment. The position of probation officers was legitimated further by the fact that prison officials also used the presentence report. I would suggest, however, that the advent of prison overcrowding and the accompanying security concerns have rendered presentence reports relatively meaningless. This contention needs to be substantiated before presentence reports are abandoned completely.

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DISCUSSION QUESTIONS

1. Rosecrance argues that the myth of individualized justice is important for defendants, as it discourages post-conviction challenges. Do other individuals within or outside of the criminal justice system, such as the average citizen, subscribe to the myth of individualized justice?
2. The article illustrates a divide between the individualized investigation and the actual sentence. The latter does not take into account much of the information in the report beyond offense severity and prior record. What would happen to the court system if judges truly considered the extralegal background information provided by presentence investigators? Would the process be fairer? More efficient? Explain.
3. What repercussions would a presentence investigator face if he or she prepared a report with a recommendation contrary to the typical sentence delivered by the court? Is the probation department independent of the court?

