

What If Corrections Were Serious About Public Safety?

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The proposals of Wisconsin's 1996 Governors' Task Force on Sentencing and Corrections grew from an unconventional analysis of what public safety is, how it is produced, and what contribution to its production corrections departments can make. Building on developments in problem-solving community policing and in neighborhood-oriented probation and parole, the task force recommended a comprehensive re-deployment and a bottom-up management system for corrections departments. This article provides the rationale for those recommendations and traces the evolution of the ideas that animate them.

Key words: *public safety, community corrections, problem-solving, risk management*

Introduction

We had no warning of the intellectual, substantive and political satisfactions lying in wait, when we began our work on the Governor's Task Force on Sentencing and Corrections in Wisconsin. We hauled ourselves to the first meeting with sinking hearts. Not because Wisconsin's prisons were still overcrowded after a doubling of capacity between 1986 and 1996. Not because the state's penal politics seemed to be ever descending into harshness for its own sake. And not because the state's budget was increasingly unavailable to support the University of Wisconsin and other good things. Our spirits sagged because there was nothing the least bit surprising or unusual about this disheartening context. Perhaps it was because we could not yet imagine anything this Task Force could do that had not been done over and over again before—to little lasting effect—in Wisconsin and in other states. With the state relying almost exclusively on imprisonment to contain threats to public safety from convicted offenders, the Task Force seemed destined to recommend more (but presumably tolerable) risk to public safety, in order to check excessive

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growth in the Corrections budget. Such a recommendation is a problem for anyone who is politically accountability, or who prizes public safety.

We found the solution hidden in plain view. For years, the mission statement of the Wisconsin Department of Corrections—like the mission statements of correctional agencies everywhere—has required far more than confinement and supervision of offenders. It charges the department “to ensure the safety and protection of the public” and requires it to “strive constantly to increase our knowledge about crime and criminal behavior in order to be more effective.” If the department were to take this seriously—and the Task Force thought that a good idea—it would have to develop capacities to do more than warehouse and case-work known offenders. It would have to develop knowledge about the great variety of public safety problems, in hundreds of neighborhoods, and it would deploy its resources to counter them. In the end, that is what the Task Force prescribed. The unconventional deployment of correctional resources it recommended, to reduce risks to public safety, would have the effect of reducing growth in the corrections budget as well.

But the agenda tentatively mapped for the Task Force by the department (which had been made responsible for administrative support) anticipated the conventional solution—some combination of prison construction (but less of it than would be required to accommodate the department’s population projections) and guidelines or similar numerical instruments to force reduction in the length of prison terms and to reduce the proportion of convicted offenders sentenced to prison or revoked to prison from probation and parole.

We knew that this sort of tinkering could not do much lasting good—and could do some serious harm. These harms are of at least three kinds. First are harms to persons and property, caused by known offenders who are neither incarcerated nor adequately supervised in communities. Second are fiscal harms, the squandering of resources on public safety measures such as prison when they do not deliver, in the long run, the degree of safety that draws new investment to them. Third is a product of the first two—loss of confidence in the rule of law and the administration of our criminal justice system.

We sensed that the circumstances called for an evolutionary break—invention of a scheme by which

the state’s sentencing authority and correctional resources would actually be deployed to reduce threats to public safety rather than to process the state’s failures to do so. Our hearts sank because we didn’t have such a scheme in mind when the first meeting began with the predictable debate—“the projections show a shortfall of 10,000 beds by the year 2000,” against “we can’t build them without gutting education.”

The impatience of Task Force members with this discussion was immediately evident, in large part because we did not have, sitting at the table, the usual cast of characters. No District Attorney, no defense attorney, only one judge (who was within months of retirement from the bench and from political life), no one currently in corrections, and only one self-anointed “policy expert.” But we did have four wise heads from the business world. Politically sophisticated, active community members in four very different parts of the state, and successful problem-solvers in their own professional spheres, they were new to corrections.¹ They had no use for the euphemisms of the criminal justice system, or for its pitiable refrain, “if only we had enough resources.” In business, they pointed out, one would not make an investment without a plausible basis for believing it would return at least as much value; certainly one would not invest more in an existing enterprise without determining exactly what it aims to produce, why that would be valuable, and how efficient and effective the enterprise has been with the resources already committed to it. Their first questions were aimed at discovering what relationship exists between current expenditure on and deployment of correctional capacity, and its production of public safety. They were astonished and appalled at the replies.

After a half day of this, the Secretary of Corrections noted in an aside that, if nothing were to change, 30,000 felony offenders would reach their mandatory release dates or be released on parole over the next five years, while another 30,000 would be placed on felony probation.

Suddenly, the 60,000-felon problem put the 10,000-bed problem in perspective. One businessman asked: “How many felons are there per corrections agent, in the community?” Eighty and rising, was the answer. “In prison, how many prisoners per guard?” The answer (“about four”) was electrifying: “You mean we spend twenty times more ‘corrections’ to manage them when they’re locked up than

when they are wandering around where we live?" Yep. "How many probation and parole agents are there, all together?" About 800. "How many corrections agents would you have to hire to staff a 10,000-bed increase in prison capacity?" About 2,500. "That's not very smart," said one, "if public safety is what we're supposed to produce. What gain in public safety could we expect if we invested in community supervision instead?"

By the end of the second Task Force meeting, largely devoted to the difficulty of answering this question, dissatisfaction with business-as-usual had swamped the initial assumption that our purpose was to find and bless some conventional rearrangement of deck chairs.

From that point in February 1996 through January 1997 (when we met with the Governor to discuss the group's final recommendations), the Task Force worked at constructing, from what was known and from the new knowledge generated by its various inquiries, proposals for a new way of doing the state's public safety business. That required the authors of this article to re-examine and combine the lessons of twenty-five years of substantively related, but separately pursued, programs of action-research.² And it required the design and execution of a series of new probes, specific to public safety problems and correctional practices in Wisconsin today. The skepticism and enthusiasm of Task Force members, and of Department of Corrections personnel at all ranks who were drawn into our efforts, permitted us to gather and organize information and ideas about new allocations of correctional resources for public safety. The visibility of our enterprise, in this "open meeting" state, guaranteed repeated testing of our data and ideas in a volatile political environment.

In this article we summarize and reflect upon that work, and upon the blueprint for new corrections policy and practice that it produced. We telescope and give narrative order to what was a long and sometimes chaotic year, omitting much of the blueprint itself, which is set forth in the Task Force *Final Report*.³

I. The Nature of Public Safety

All of us—whether politically accountable or not—tend to define problems in terms suggested by the "solutions" we think we have at hand. It is discomfit-

ing, in public as in personal affairs, to concede the existence of a serious problem for which one cannot specify a solution. This surely goes a long way toward explanation of why it is so difficult to redefine a public policy problem—and why it is so difficult to get a fair trial of a new "solution" in the absence of consensus about how the problem should be redefined.

In the press and in political discourse, "public safety" is defined as more arrests, more tons of drugs seized, more prison sentences, and (when the data support it) fewer reported Index crimes per 100,000 of population. We think those definitions have the currency they do because politically accountable officials *do* know how to arrest and imprison offenders, *have* built a substantial capacity to do that, and *do* know how to count the number Index crimes reported to police.

But experience tells us that public safety is not principally the product of the criminal justice system—and that we are often most obviously without it when arrests and the number of prisoners are rising and when civilians despair of reporting crimes to the police (or their fear of crime so restricts their activities they stay home). How can we accept it as a gain in public safety when a band of teenagers roams the park looking for robbery victims and cannot find them because they are all home, behind locked doors?

Threats to public safety are local in nature. They exist in specific places—in that park, on this corner, in this house—and they often exist at certain times and not at others. While this feature of the public safety problem makes readily available aggregate statistics relatively useless as measures, it also introduces a level of complexity to which publicly accountable officials have an understandable aversion. They can with some confidence promise more arrests, prison cells, and prison time for those convicted. They cannot have the same degree of confidence that they understand what makes that corner dangerous, or, more pointedly, what might be done to make it safe. The agencies of government know relatively little about how to make neighborhoods, parks, bus shelters, street corners, and bedrooms safe. Nor is there any budgetary or bureaucratic reward for doing so, in part because there is no measure taken of it. For a conventional corrections agency, and for almost everyone else concerned except those at risk of criminal victimization, it works better to hold fast to the conventional definition of

our public safety problem: "too many offenders, not enough cells."

But if public safety were defined differently—if it were measured by the degree to which persons and property are free from threat of harm in particular places, at particular times—publicly accountable officials would face the daunting prospect of creating the conditions of safety in the many places and at the many times it is now lacking. We are suggesting that public safety is defined as it is because those officials and the body politic share a lack of confidence in government's capacity to produce the real thing.

This definitional problem is compounded by the habit of discussing the public safety problem by reference to the threats posed by individual offenders (*e.g.*, Willie Horton). The dangers of doing so are twofold:

- First, this convention lends apparent plausibility to the idea that a growing prison population somehow produces "public safety" (because known offenders are behind bars), and it focuses inordinate attention on the presence in our midst of the individual offenders we know about (and can hope to "correct" or at least lock up). It would be folly to lose sight of known offenders in our midst, but watching them closely is hardly enough. Awkward though it is, we need to acknowledge that the offenders who get caught are likely to be the least skilled at their offenses, that a new cohort of adolescents arrives every year in the places where public safety is most in disrepair, and that the offenders among them will not be identified officially until after we have repeatedly exposed ourselves and our property to whatever risks they represent.
- Second, it is hard not to embrace this definition of our problem, because it so nicely suits the criminal justice system, on which we have come to rely inordinately for the production of public safety. Sentencing, in particular, seems a powerful source of solutions, because it authorizes the use of force—to incapacitate and to "correct" the individuals whose liberty, character, and circumstances are thought to put public safety at risk—and it is presented as a way to "send messages" to others like them, in hope that they will be listening and will calculate the cost of crime as too high.

Penal policy and practice have been grounded in these ideas for such a long time that political, popular

and even professional discourse on these subjects cannot comfortably accommodate the mounting evidence that they are, with somewhat exotic exceptions, implausible. That is: most of the time, it is quixotic to use sentencing power and particular applications of correctional resources to "send messages" to the criminally inclined,⁴ or to increase public safety by incarcerating selected subsets⁵ of all the offenders whose crimes deserve punishment.⁶ (Though correctional professionals and the public seem not to have abandoned hope that penal intervention will "correct" through treatment or socialization, the concept is largely absent from today's political discourse, which dwells on deterrence, incapacitation and retribution.⁷) For us, and for all but one Task Force member,⁸ common sense and reports of empirical research on the effects of penal measures rendered implausible the idea that significant public safety gains could be won by devoting yet more resources to current correctional practices.

Later in this article we detail some of the ways conventional correctional practice is unsuited to the public safety purpose. At this point, we wish only to draw attention to two unhappy effects of the conventional conception of how sentencing and corrections are related to public safety:

- Policy and practice has been so tightly focused on incarcerating and correcting individual offenders as the means for increasing public safety that little thought has been given to deployment of correctional resources to increase public safety by other means. (This became a central theme of the Task Force's work.)
- Because sentencing and corrections are rooted in individual-level applications of authority and force, it is everywhere assumed that if tax dollars for incarceration or proper correction of convicted offenders were made available in sufficient amounts, public safety could be assured—from which it seems to follow that state expenditure on education, health and everything else entails dollar-for-dollar compromising of public safety.

So, the Task Force needed first to expand its view of the ways correctional resources might be deployed, in order to escape the apparently insoluble problem it thought it had been handed (*i.e.*, restrict growth in the prison population and in the Corrections budget, without diminishing the public safety and account-

ability afforded by existing penal statutes, policies and practices). For this, the Task Force needed an understanding of what public safety is, what produces it, and what role the state (in particular, the Department of Corrections) can play in its production.

The Task Force came quickly to the view that, whatever public safety is, it is something more than the confinement or correction of individual offenders who have diminished it. More problematic was the strong suggestion to the Task Force, by one of the most powerful political figures in the state, that public safety is a lower crime rate and that, because the crime rate fell in 1996, there was no need to embark on a quest for a better way to produce it. But the Task Force's attention was drawn to the fact that the "crime rate" reflects the aggregate of very different crime problems, in very different neighborhoods, contained within very different urban and rural jurisdictions of the state. To members from the business world, it was nonsense to conceive of public safety as properly expressed by aggregate data reflecting the volume of complaints about a host of different crimes, arising in divergent communities where facts and circumstances likely to affect public safety change, in different directions, all the time. They understood that when reported crime falls five percent state-wide, for example, it can and often does rise 20 percent in one area while falling by even more in a jurisdiction nearby.

There are deeper substantive reasons why public safety is not the same thing as a lower crime rate, and not the same thing as conviction and punishment of villains:

- A fall of 10% in robberies in a particular area of the state, even a drop of 20% for a particular town in that area, is not obviously a significant gain in public safety if the risk of robbery in the parking lot everyone uses when shopping still keeps the fearful at home—or if they venture forth and get robbed.
- Arresting and imprisoning more thieves does not necessarily reduce thievery, for new thieves are born every day and the volume of theft is a function of the opportunities for theft as well as the supply of thieves.⁹

The concept of public safety cannot even be adequately expressed as "absence of danger," because the "domestic tranquillity" we seek through public

safety surely has subjective as well as objective dimensions.¹⁰

We found it a little too easy to identify things public safety is *not*. The Task Force needed, however, a rough understanding of what it *is*. How would we know it if we saw it? We settled on something like this: Public safety is a condition, specific to places, in which persons and property are not threatened by attack or theft.¹¹ It follows that risks to public safety arise when a vulnerable victim (one whose person or property is insufficiently protected) is in the same place as a potential offender motivated to commit that crime, at a time when the place is suitable to his purpose.

This understanding of threats to public safety was conveyed to us some years ago, by experienced police officers, but we have more recently discovered its roots in Routine Activity Analysis and Crime Pattern Theory. The former explains crime as the confluence of a motivated offender and a desirable target at a place and time when "controllers" are absent or ineffective. Control might be exercised by persons in protective relationship to a potential victim, by persons responsible for the place, or by persons in intimate or supervising relationship with the potential offender (e.g., parents, wives, children, friends, employers, even security guards). These "guardians" of people and places are abundant in safe places. But they can also be found in dangerous places. Effective police, probation and parole officers know how to find them and enlist their help. Crime pattern theory combines routine activity analysis with ideas about rational choice, to help explain the observed distribution of crime across places: rational offenders should be expected routinely to note places lacking effective guardians.¹²

Conventional correctional practices—aimed at incapacitating motivated offenders for periods of time and at improving their character or reducing their criminal motivation—seem artificially constricted when the public safety problem is understood in this more complex way. This line of thought leads to more complex engagements by police or others who aim to help produce or maintain public safety. For more than a decade, police have been learning to combine with naturally occurring guardians to solve crime and disorder problems.¹³ Probation and parole officers—quite literally "official guardians"—have the

same need to look beyond known and potential offenders, to find and invoke the authority of naturally-occurring guardians of the offenders under their supervision, guardians of the persons made vulnerable by proximity to these offenders, and guardians of the places where the resulting risks arise.

The Task Force was attracted to this theoretical framework, not least because the theories helped make sense of a crucial bit of testimony given at a Task Force hearing, convened in a Milwaukee neighborhood where public safety is known to be in serious disrepair. Representatives of that community made clear their belief that criminal conduct by adolescent and young adult members of their community should not go unpunished, though they also were clear that sentencing was undeservedly harsh in certain categories of cases (e.g., drug possession), and they bemoaned the lack of attention paid, in prisons and upon release, to the obvious mental health and substance abuse problems of members of their community sent there for correction. But they had almost no confidence that routine operation of the criminal justice system—in particular the Department of Corrections—would have any effect on the public safety problems they felt most acutely.

In the course of this hearing, a police officer detailed the conditions, as he knew them, at one street corner in the neighborhood. At 9th and Concordia, he reported, there had been 94 drug arrests in a three-month period earlier in the year. These arrests, he pointed out, were easy to prosecute, on the arresting officers' testimony. Despite the two-year prison sentences routinely imposed, he and the assembled community representatives reported that the drug market continued to thrive at the intersection, posing risks to the safety of all who lived nearby or had to pass through on their way to work or school.

To the Task Force members who heard that the removal to prison of those 94 felons did not produce a gain in public safety (as they now understood that term), it was obvious that further inquiry should be made before expanding prison capacity to accommodate the results of such police and prosecutorial activity—further inquiry, for example, about the nature of the problem at that location and about re-deployment of the correctional resources devoted to it (e.g., personnel and purchased services, such as drug treatment, transitional housing, job training

and the like). Our own casual inquiries suggested that those arrested for drug offenses at that location returned—typically after serving about twelve months of their two-year sentences—to parole “supervision” of the most passive kind by agents to whom they were assigned randomly, who did not coordinate or combine their supervision plans, who were apparently ignorant of each others' clients' connection to the same location, and who were therefore unable to tailor parole supervision to the public safety risks at that corner.

Although Milwaukee's mayor and police chief resisted the suggestion bitterly,¹⁴ all but one of the Task Force members grasped at once that making crime-ridden locations safe would require attention to the ecology of the threats to safety peculiar to each one, and a responsive deployment of correctional resources. The Task Force put it this way in the *Final Report*:

If even half of the 94 arrestees were convicted and sentenced to prison (while the rest walked, or were placed in some looser form of supervision) the state would require 10 new correctional officers to guard the ones imprisoned—plus the roughly \$3,500 per-inmate addition to institutional operating expenses that increased inmate populations require. Ten new officers, to guard these 47, would cost about a half million dollars a year. If that Milwaukee corner were to remain unsafe (as it did), despite the expenditure of so much money, it is worth asking whether the half million dollars could have been better invested to create safety there.

If DOC had hired ten community supervision agents instead of 10 correctional officers, it could have had one on post, at that intersection, 24 hours a day, seven days a week, and have had six left over¹⁵ to work with the terrorized neighbors on improving their lives, liberty and safety. Through these agents, the Department could be exacting some punishment from offenders by enforcing requirements of labor on behalf of local community service projects (e.g., restoring abandoned houses and otherwise adding to or upgrading the housing stock); it could be supervising the offenders intensively, ensuring their accountability and preventing their slide back to the anonymity that fosters crime; it could be helping them find and keep jobs; it could be working to bring businesses into the area; it could be working with police on crime detection and prevention strategies; and more. Meanwhile, the \$3,500 pre inmate spent on meeting nutritional, health, and other basic needs of the offenders in prison could have been spent instead on making habitable the afflicted neighbor-

hood from which they came—and to which they will in due course return. In our view, if the Department of Corrections can do that, it should.

The Task Force concluded that because criminal threats to personal safety, property, and the quality of community life are quintessentially local in nature, the assets available to counter these threats are either local or, if they are the state's, they must be applied in particular places, at particular times, to match the particular risks posed by and to the people who live and work there. When the Task Force came to understand the problem of public safety this way, it concluded that public safety at such locations was not advanced by harvesting arrests and imprisoning the product of that routine police activity. And that, whether acting through the Department of Corrections or other agencies, *the state* was not going to solve the public safety problem on that Milwaukee corner or any other. But it came to the view that wise investments and strategic deployment of correctional resources could improve safety and the quality of life on that corner, in the whole neighborhood, and in the surrounding state. It would require nothing less than an altogether new way of doing business.

II. Bringing Useful Knowledge to Bear

At this point in our work with the Task Force, we were struck by the possibility that lessons we had learned from our separate experience and research over the years, could be drawn together to specify objectives and methods for correctional agencies that would create more public value than current ones. It became our aim to create a blueprint for such a re-deployment of one state's penal resources and statutory authority, having in mind that the effort might benefit other jurisdictions as well. As the blueprint emerged, it was apparent to all that the Department of Corrections of this or any state could not implement it overnight. It called for creation of new capacities—ones that must be built from the ground up. The *Final Report* rather boldly laid out a two-year implementation plan, which produced a desirable self-examination within the Department of Corrections and a necessary focus in the political environment. In Section IV, below, we report what we consider to be the happy outcome—the pilot-testing and refinement of key elements of the plan in two Wis-

consin counties. Here, we need to identify two substantive areas of our previous work on which we relied in drawing the blueprint.

Our understanding of problem-solving community-oriented approaches to public safety has been informed by years of exposure to the thinking and practices of police officers in several of the many departments that have moved, often haltingly, away from reliance on random patrol and opportunistic arrests, toward community-oriented problem solving as their core strategy.¹⁶ Of particular utility to our Task Force work was the series of research projects, mounted by the Vera Institute, which examined and informed the New York City Police Department's attempts to adapt the new style of policing to its circumstances over the decade following its introduction in 1984.¹⁷ Because detail and specificity characterize successful problem solving of this kind, most good illustrations do not fit easily in this article. But this one, drawn from the second year of community policing in New York City, illustrates some of the features quite well:

Vincent Esposito [an early volunteer in the Community Police Officer Program] soon discovered a major problem location on his beat—a playground on 5th Avenue between 49th and 50th Streets in Sunset Park. [It] featured handball and basketball courts for adolescents, a sandbox, swings and seesaws for small children, and benches that lured senior citizens from the surrounding apartment buildings to sit in the sun. [But there were] no children in the park and no seniors sunning themselves—like too many locations of this type, the park was overrun with drug users and their dealers. . . .

Residents of the surrounding apartment buildings told him that police officers in radio cars frequently came by, causing the drug market to vanish, but that it returned as soon as the officers left the scene. [Esposito] began to spend as much time as possible in the vicinity of the park. He would disperse the loiterers; when he actually observed drug sales, he made the arrests—and thereby removed the police presence from the park (and from the rest of his beat) for the balance of his tour while he processed the arrests. He knew the conventional police tactics were not solving the problem for the residents of this neighborhood, and that other neighborhoods have other problems, elsewhere in his beat. He couldn't just stand in the park and, by his presence, deter the trade.

[H]e began by convening meetings of tenants in the apartment buildings overlooking the park. He told them he needed their help to solve the problem, and in time he recruited a number of homebound residents . . . to watch

the drug dealing from their windows and to observe where the dealers hid their stashes (as the dealers did not want drugs in their possession when Esposito paid one of his visits). The residents undertook to call [Esposito's answering machine] and leave anonymous messages telling him where he could find the drugs. . . . and he would call in to get the messages. Armed with the information, he would enter the park and confiscate the drugs from each hiding place. . . . take the drugs to the precinct for vouchering as found property, and [return to] his beat.

Working this way, he was off patrol for only 20 to 30 minutes after each visit to the park. Some days, he would make five or six confiscation visits, some days none. But he quickly made the park an economically unbearable location for the dealers—who had to explain to their suppliers how they had parted with the drugs without being paid or arrested. . . .

Before a month had passed the park was free of the drug users and the dealers who had controlled it for years. . . . [Seven years later, when last checked by Vera research staff] children are playing, the swings are in use, teens are making baskets and playing handball—and the seniors are sunning themselves on the benches.¹⁸

From a decade of work developing, observing and evaluating problem-solving community policing techniques in New York City, we drew these lessons:

- Many a neighborhood crime problem, viewed as intractable from a more distant perspective, will yield to a remedial strategy constructed in response to careful analysis of local information about the problem.
- Information required for police problem-solving tends to be unique to the location where the problem arises and, because it is not routinely collected, it is not ordinarily available to higher levels of management.
- Because public safety problems require analysis at this level of local detail, centralized information systems, command-and-control management, and conventional performance measurement tend to stifle the line level creativity that is required to solve them.
- Similarly, top-down definition of public safety problems and top-down specification of responses tend to block effective oversight and supervision of problem-definition, data-gathering, data-analysis, and the design of solutions at the street level, thereby blocking creative redesign of responses in light of what initial implementation reveals.

While we drew on lessons learned in the development of problem-solving community policing, our understanding of how probation and parole agents might best be deployed to reduce threats to public safety was also grounded in field observations of alert probation and parole agents doing just that.¹⁹ While this article is not the place for extended description and analysis of what we observed, the following example of arson averted may help illustrate the relevance of this research to the Task Force's work:

Arnie, a man who had been under the supervision of [the parole agent until two years earlier] came to the agent for help. He had been in prison and on parole for incest with his daughter. . . . [Arnie] was greatly concerned because his wife was upset about the welfare of his son who, he claimed, was mentally disabled. The agent spent substantial time listening to Arnie [explain how he had] no meaningful relationship with his son, though it was clear he was very concerned about him but could not bring himself to say so, attributing concern to his wife. The son was living in an abandoned, unheated hotel in the middle of winter when the temperature was frequently around 20 degrees below zero. [Arnie] said his son was not eating or dressing properly and was wandering aimlessly around the countryside. The agent [called the police chief for the area where that hotel is located, who] was unaware of the situation and, after investigating, indicated that what [Arnie] said was true and that there was an immediate danger of fire because the young man was building small fires in the abandoned hotel to keep warm. The chief detained the young man under the emergency provision of the mental health Act at a mental health facility in a nearby community.²⁰

From these case studies of exemplary probation and parole agents in urban and rural Wisconsin, and twenty years of observing supervisory and casework personnel in the Department of Corrections, we drew these lessons:

- The quality of agents' supervision is greater when they gather and analyze data about the locations and actors peculiar to the discrete public safety risks in their areas—the vulnerable, the places that would bring them together with offenders under supervision, the other motivated offenders likely to be found there, and the naturally-occurring guardians of those potential victims, places, and offenders.
- Conventional casework does not focus agents' attention on identifying and mobilizing the individuals and organizations that constitute natu-

rally-occurring instruments of social control in the place where offenders are found; and failure to invoke them in the supervision of offenders places a greater burden on individual probation and parole agents than they can plausibly carry alone.

- Periodic re-assessment of the means and the goals of supervision, and amendment of them in light of changes in the risks an offender poses in a changing local context, while characteristic of the most effective and efficient agents and supervisors, is nearly invisible to policy and management levels in conventionally managed state correctional agencies.
- The value of community supervision of offenders is increased when agents look for and respond to patterns in the public safety threats a community faces, whether or not the patterns arise from the presence of offenders currently under correctional supervision.
- Bureaucratic definitions of "risk" tend to focus on the chances of an offender violating the conditions of probation or parole, rather than on the gravity of the harm risked by the offender's liberty and the likelihood of it occurring under various terms of supervision.
- Worse, when conventional casework is not a plausible way to contain the public safety risks an offender poses (or when a threat to public safety exists independently of supervised offenders' presence), accountability measures that force agents into casework mode aggravate rather than ameliorate an area's public safety problems.

Both of us had learned another lesson over these years: culture, habit, inadequate leadership, and the elevation of bureaucratic objectives over public safety purposes can turn well-meaning police and correctional agents into passive employees engaged in "harvesting the failures." When probation and parole officers lacking resources and plausible technique are made responsible for dispersed caseloads of individuals who proved themselves motivated offenders in the past, who are located where crime and vulnerable victims abound, and who are effectively anonymous because they are without formal or informal supervision for weeks on end, the agents are inclined to let nature take its course—to wait for police to arrest those offenders under their supervision

who, unsupervised, commit new crimes. Shifting the appetites of such an agency from business as usual (passive supervision and defense against external demand for public safety) to active supervision for public safety would require extraordinary commitment of time, resources, energy and imagination.

But we had also learned that shifting resources and authority toward problem-solving for public safety can become nearly inevitable (if no less difficult to execute) when sustained demand for the new approach rises internally and externally from grassroots levels. In particular neighborhoods, demonstrations of the new approach's capacity actually to reduce or remove public safety problems stimulates political demand for more of it, gives rise to new consensus about what is politically "smart" and, by raising officers' job satisfaction, dissolves internal agency resistance to the reform.²¹

In addition to the lessons of our past experience and research, we drew directly on our periodic observations of and discussions with several teams of Wisconsin probation and parole agents who, for experimental purposes, have been made responsible for neighborhoods (and the offenders and public safety risks within them) rather than for geographically dispersed "caseloads."²² There, we found confirmation of our hypothesis that it would be possible to redefine the community supervision function to blend the problem-solving techniques of exemplary community police officers with the active supervision techniques of the most effective probation and parole agents.

After much discussion of these lessons and other bits of practical knowledge, both in Task Force meetings and between the two of us, the Task Force was able to derive from them seven principles to guide a correctional agency's management of public safety risks:

1. While other purposes are properly served by execution of sentences imposed in criminal cases—particularly the normative purpose of punishment for just desert—punishment imposed for normative purposes is best understood by a correctional agency as a constraint on the use of its authority to control the risk posed by offenders, in particular places, at particular times.
2. The nature and degree of supervision and control of an offender should be directly related to the risk of harm he or she poses to others. That

is: correctional measures should be tailored to the nature and gravity of the harm, and to the likelihood of it occurring in the absence of those measures. So, for example, corrections should not devote the same kind or amount of resources to control and supervision of the petty thief (though the chances of another theft are high), as it devotes to the opportunistic burglar (where chance of another offense is less, but the gravity of potential harm is greater).

3. The more grave the potential harm an offender might cause and the more likely it is to occur if nothing is done to reduce the risk, the more *active* must be the supervision of the offender when not in a prison setting. Over time, change in the nature of control and supervision exercised over an offender should be a function of change in the risk to public safety he presents. Generally, offenders, whether in prison or under supervision in the community, should be subject to the level of supervision appropriate to the shifting risks they pose.
4. Alacrity, flexibility and parsimony characterize effective responses to changes in the risks to public safety posed by offenders under supervision. Correctional staff, in prisons as well as in communities, therefore need both legal authority and resources configured in ways that permit them to tailor correctional measures to changing circumstances. Proper management of staff in the exercise of such discretionary power must also be active, and cannot unduly rely on procedural formalism.
5. The requirement of "active supervision" means that offenders posing risks to public safety should not be allowed to remain anonymous—not in our communities and not in prison—because in anonymity they can hide from naturally-occurring agents of social control as well as from correctional agents. Active supervision, then, is the broad engagement of correctional staff with offenders in whatever setting they are found, with police, with other members of the offender's community, and with their families, neighbors, employers, friends and enemies. This approach requires reorganization and a new management style for corrections agencies, so they can replicate (in large communities, where anonymity is more the norm) the

active supervision and neighborhood orientation we find more often in small communities.

6. Active supervision also requires more creative program development by correctional agencies, so that every offender under supervision in the community is in stable housing, is in the labor market, and is bound to a supportive network (of family and neighbors, if such a network exists, or of others brought into play by correctional agents in the community). These requirements represent major challenges to conventional practice, because most corrections agencies have not developed capacity, for example, to *create* jobs and job placement services where they are lacking in the offenders' environment.
7. Finally, while demanding, from the Department of Corrections, far more specific and intense supervision of offenders and engagements with the communities in which they are found, the Task Force was anxious that state interventions be mounted in ways that engage (and not conflict with) the naturally-occurring forces of social control that are found in every neighborhood—even the most crime-ridden. Active supervision, then, would require familiarity with those intensely local forces, and with their operation in the lives of offenders and others living and working where corrections agents have public safety responsibilities.

III. Allocating Correctional Resources for Public Safety

These thoughts about the nature of public safety, the capacity of the state to assist in its production, and the limits of that capacity animated our analysis of the policy problem facing the Task Force. But these thoughts were hardly sufficient. Indeed, the analytic framework that emerged from our inquiries and discussions demanded generation and analysis of a host of data not routinely collected.

Our aim, within the Task Force mandate, was to build a working but stripped-down model for deployment of correctional resources toward public safety objectives, for monitoring and revising such a deployment plans (at the individual agent level and the state level), and for managing a corrections agency in the implementation of such plans. Because our work on policing made it evident that victim vulnerability

and public safety assets and deficits vary greatly by place, we needed a way to plan and oversee variation in the state's correctional investments in response to factors more complex, changeable and subtle than "caseload"—we needed a starting point for specifying public safety threats and the naturally-occurring community capacities to contain them, neighborhood by neighborhood, around the state. And we needed a method by which the Task Force could build, upon varying local specifications, a plan for regional and local allocation of correctional resources (*e.g.*, prison cells, temporary beds in local jails, treatment slots, transitional housing capacity, community supervision officers of various kinds, job training and drug treatment programs). Finally, although the time, authority and resources available to the Task Force were too limited for the product of this bottom-up planning to be applied directly to management of the Department of Corrections, we understood that, however crude the Task Force's approach to meeting these information needs, it would properly be viewed as a test of the practicality of whatever new way of doing business the Task Force would recommend.

With these needs in mind, we launched three "probes," as we came to call them.

A. Probing for Specification of Public Safety Problems by Location:

Because we thought it likely that different communities would, if asked, nominate different public safety problems as deserving of the state's attention, we felt it important to ask. We were not interested in, nor did we think it really appropriate to launch, a poll of public opinion about what state policy should be, or about how many more prison cells might be needed, or about what the sentence ought to be for X or Y crime. The Task Force agreed that these are questions that ought not be avoided by the policy-making apparatus of government (including the Task Force itself). But it seemed just as clear that, without inquiry, the state's policy-making apparatus was in no position to specify the nature and patterns of public safety threats encountered by individuals in different parts of the state, and would remain ignorant about what, in the view of those closest to those threats, might be done about them.

Systematic inquiry about perceived threats to public safety could and should take many forms, if ad-

ressing public safety problems at the local level is to be taken seriously as a responsibility of a state corrections department. For Task Force purposes, time and resource constraints led us to commission a survey that tested the antecedent proposition that the perceived threats vary by location around the state. Variation is what we found.²³ Respondents' fears were specific to where they live, where they work, where they visit, and where they fear to go. And the patterns of concern varied markedly by place (even though the survey sample was not large enough to break location-specific patterns down further than Milwaukee versus all the other counties combined).²⁴

B. Probing for Knowledge in the Department of Corrections, about Categories of Public Safety Risk Presented by Felony Offenders, and about "Best Practices" for Managing Those Risks, By Location:

Because the Task Force wanted specification of the Department of Corrections' work to flow from the bottom to the top, and because no routinely-collected data would reveal what custodial and non-custodial resources that workload might require, we needed a way to extract from knowledgeable DOC personnel a manageable set of commonly-occurring categories of public safety risk associated with offenders in custody or under supervision. We would also need to extract from them estimates of the volume of each category, in different parts of the state, and estimates of the intensity of supervision and services required, in each setting, to manage the anticipated risks as effectively as best practice would allow.

A handful of the most experienced probation and parole personnel had come to understand the Task Force's perspective from attendance at most of the meetings and from regular discussions with us. We relied on them to gather into small focus groups the staff they respected most, in various locations around the state. These focus groups performed a set of related tasks.

- Because they and the Task Force were persuaded that criminal justice labels (*e.g.*, burglar, thief, drug offender) do not capture crucial distinctions in the risks offenders pose, the focus groups were used to subdivide the offender population by behavioral categories that more accurately reflect the degree of risk presented and that permit allocation of greater correc-

tional efforts and resources to offenders who pose greater risks, at the places and times they pose them.

- Because available databases categorize offenders by crime, not by the behavioral categories developed in the focus groups, the groups were also charged with estimating, within each conventional crime category, the percentage falling into each risk subgroup. From this, we were able to generate rough estimates of the volume of each behavior type flowing annually to the Department of Corrections from sentencing courts of each jurisdiction within the state.
- Because we anticipated that penal authority and penal measures would be differently configured and applied, if public safety were placed at the center of the correctional mandate, the focus groups were also used to describe what "best practice" would require for confinement and supervision of the various subgroups of offenders, in the different parts of the state.

From our work with the focus groups came the following typology of public safety risks presented by offenders in the Department's prisons or under its supervision in the community. We identified 24 behavioral categories:

Assaults	Drug Offenses
Domestic	Chemical Dependency
Non-Domestic	Street Level Sales
Armed (Gun)	Major Dealers
Burglaries	Frauds
Opportunistic	Impulsive
Lifestyle/Thrill	Monetary Gain
Armed (Gun)	Predatory
Homicide	Sex Offenses
Crime of Passion	Child Victim
Incidental/Accidental	Situational
Premeditated	Adult Victim
Public Order	Theft Offenses
AODA	Theft
Trouble Maker	Embezzlement
Mentally Disabled	Robbery

With respect to each of those 24 categories of risk to public safety, we asked what "best practice" would require if public safety were the objective—what provision of prison cells, local confinement capacity, community supervision agents, drug treatment, jobs

and housing. We asked separately about Milwaukee, about the next four largest counties (Dane, Rock, Racine and Kenosha), and about the remaining communities around the state. This was a very crude sorting by place, but we thought it useful as a test of whether sorting by place would prove important if the Task Force scheme were implemented. These inquiries revealed local differences in the distribution of these behaviors among offenders, and in the circumstances in which they threaten public safety (including differences in the community and correctional assets locally available to contain those risks), led the Task Force to do the remaining analysis and estimates for each of 72 categories of risk to the public safety of Wisconsin citizens.

From these beginnings, we constructed a computer application, in which variables of the kind provided by the focus groups could be combined with routinely gathered data and with alternative policy choices (e.g., if resources are insufficient to mount "best practice" responses to every sub-category of public safety risk presented in a particular place, what compromises should be made, in which categories?). This software application (detailed in Appendix B to the *Final Report*) freed the Task Force (and was intended to show how the state itself might be freed) from reliance on the sort of "population projections" by which many departments of corrections live. It illustrated for Wisconsin's department, and for the Task Force itself, a method by which a "bottom-up" public safety strategy might be specified and implemented.

C. Probing the Law for the Legal Authority Needed

As states vary enormously in the extent of discretion afforded sentencing judges (and others who shape sentencing outcomes) it is useful to specify this dimension of current law in Wisconsin. Wisconsin retains an almost pure indeterminate sentencing scheme. Indeterminate, that is, with respect to the duration of confinement in a prison sentence.²⁵ The Task Force built upon this base and, although our blueprint could be adapted to determinate sentencing schemes, the importance we assign to flexible responses to changing individual circumstances (when they bear on risk to public safety) is incompatible with what is commonly thought to be the heart of determinate sentencing. Indeed, in the commentary

on our *Final Report* so far, some critics of indeterminate sentencing have been genuinely puzzled by what they see as our embrace of it.²⁶

Half the states are still properly characterized as indeterminate, though the category embraces great diversity in sentence structure and in the distribution of responsibility for determining what the sentence is. To us, sentences with public safety purposes, whether determinate or indeterminate as to duration, need to be *indeterminate as to content*.²⁷ The Task Force *Final Report* was not sufficiently clear on this point, as it was not aimed at an audience beyond Wisconsin. To clarify: if public safety is taken seriously as the principal (or even an important) objective of applying penal measures to individuals, the objective will be harder to achieve to the extent that the content of the sentence is fixed at the time it is imposed.

The *Final Report* provides considerable detail about how relevant state law would need to be amended to support "best practice" as the Task Force determined it to be. This article only sketches the major points. Central is the Task Force recommendation that a new form of confinement be created—one that merges features of regular prisons with varying degrees of liberty and obligations in the community. This new penal measure, Community Confinement and Control (CCC), was designed to provide substantially more supervision and control of behavior, and substantially more treatment, employment, and other socializing programs than conventional and even "intensive" probation had done. In addition, the Task Force thought public safety required that no felony offender sentenced to prison should be released on parole without successful completion of some period in the CCC status, because the parole status is too close to unsupervised liberty, both in law and in fact, for active supervision to be engaged, and because parole's cumbersome revocation proceedings would hamper the kind of flexible response to changing conditions that the Task Force believed essential to effective management of public safety risks.²⁸ It followed that offenders sentenced to CCC would be paroled from it, just as those sentenced to prison would be paroled from CCC, after serving at least a brief time in that status on their way out.

Our review of best practice alerted us to the need agents have, in many cases where public safety risks are serious, for brief periods of confinement of of-

fenders whose circumstances and behavior have changed—but have not changed enough to suggest transfer to prison. To meet that need, the Task Force recommended creation of a wide variety of secure and semi-secure facilities—Confinement and Control Centers—some quite small and none very big, in the communities where CCC supervision cases were likely to be concentrated.²⁹

There was remarkably little objection, from any quarter, to the abolition of felony probation,³⁰ and the use of CCC when purposeful supervision of offenders in the community is required. Active supervision in CCC would be far more intense and demanding (of offenders and of agents) than past probation or parole practice, but offenders would pass through it to parole—a legal status rather than a type of supervision—thereby preserving DOC resources for offenders needing active supervision because of the risks they still present. The desire to do away with probation flowed from a near universal lack of confidence in it, and from a sense that offenders convicted of felonies in Wisconsin either presented risks too serious for conventional probation to manage at the commencement of sentence, or require very little supervision at all (when all that is intended is fulfillment of a particular condition such as treatment or restitution).³¹ For the latter, the Task Force recommended creation of a new sentence of Conditional Supervision, which would require almost no supervisory resources unless the condition were not met.

IV. Planning, Budgeting and Managing a Correctional Agency from the Bottom Up

The Task Force anticipated that, if its recommendations were adopted, a great deal of attention would have to be devoted to creation and management of new information. There would be need to know more about the specific risks to public safety posed by individuals under supervision, headed to supervision, or previously on supervision; about conditions in the places where the threats might be manifested; about the persons and property most vulnerable to those threats; and about the other forces at work to preserve or undermine public safety there. Agents and supervisors would also need to track changes in these dimensions of the public safety problems in each locale, and the threat posed by each person of concern to supervising agents there. An acute need

would exist to build and preserve local knowledge about naturally occurring "guardians" and about the potential for collaboration with them and for the identification of more.

The Task Force anticipated that information of these kinds would be required at different levels of detail, at different levels of the Department. One level is that of the correctional agent assigned responsibility for a particular place: a neighborhood, a community or a cell block. The information required at this level is very specific and relates very directly to the public safety needs at the particular location. So we constructed a computer application (and working model of a management information system) that permits:

- specification, by location, of the types and volume of the various threats to public safety found within the Department of Corrections' reach there, and the cost of the personnel and resources best practice would require to meet them;³² and
- immediate assessment of the resource implications of varying any assumption upon which the local or aggregate projections are built (*e.g.*, the volume of offenders in various behavioral categories of risk, the resources thought to be required to manage the risks they present, the duration and intensity of the various stages through which offenders might move from conviction to ultimate discharge from sentence).

There is a long history of "projecting" future correctional needs—for prison cells and for probation and parole agents—by drawing a trend line through the volume of prisoners, probationers and parolees in custody in each of some number of prior periods, and extending it into the future. Sometimes predictions of this sort turn out right, sometimes wrong, but as the connect-the-dots method does not capture the many mutable processes by which offenders come into the department's custody, it remains a mystery why the prison or probation population should rise in the pattern predicted or actually experienced. Projection methodology of this kind makes it nearly impossible to assess the impact of alternative policies and practices that might be adopted by the lawmakers, prosecutors, sentencing courts, probation and parole agents, and potential offenders—all of whose discretionary decisions in fact determine how many offenders will come to the department, under what sanction, and for how long.

In their first cut at redefining the offender population by the public safety risks their behavior presents in different places, the most experienced members of the Department's senior staff, working with focus groups of line agents and corrections officers in different regions of the state, reported back with best practice prescriptions for managing the public safety risks of the 72 categories of behavior sketched above (really 24 behavioral definitions of criminal conduct, assessed differently in the three regions into which the state was divided for this purpose). To accommodate the product of their efforts, we built a software application, to track the volume of offenders, of each type, in each legal status through which they might move during the course of their sentences. For example, in any given month, offenders are admitted to prison facilities from court, with known discharge dates and, therefore, known parole eligibility and mandatory release dates. But also received each month are some number of former prisoners who have violated parole, and some number of probationers whose probation has been revoked. Revocations of probation and parole account for nearly 50% of prison admissions, which highlights the importance of understanding the flow of offenders through various legal statuses, and the interdependent effects on that flow of myriad policies (charging, plea bargaining, sentencing, parole and revocation policies), if reliable predictions are to be made about future resource requirements.³³

Neither the senior probation and parole staff nor the Task Force believed that this first attempt to specify and categorize public safety risks presented by offenders in the department's custody was more than a start; experience of doing business differently would surely sharpen, shift and refine these initial judgments. Nevertheless, with the product of these inquiries in hand, the Task Force was able to use its software application to estimate the resource implications of various proposals for the department's response before settling on the one it recommended to the Governor.³⁴

V. Positioning the Department of Corrections to Implement the Task Force Recommendations

The Task Force saw that its recommendations would require radical re-structuring of the depart-

ment. Most important, its managers would have to be equipped with new methods for oversight and supervision of line workers, and a new information system would have to be built from scratch—to facilitate problem-solving at all levels, to permit bottom-up production of data about public safety problems, to plan and monitor the allocation of resources in ways responsive to specific locations, to hold agents and their immediate supervisors accountable for the quality and efficacy of their problem-solving approaches, and to compare the resource and public safety implications of competing policy proposals.

We needed to engage the imagination of the top and middle managers of the department in this restructuring. To that end, we accompanied small groups of them to New York City, where we arranged for them to observe police managers making use of a sophisticated location-based management information system to monitor and direct the performance of problem-solving police work at all levels of the New York City Police Department. Exposure to these COMPSTAT sessions,³⁵ and discussions with the police managers and line supervisors engaged in them did spark, among the department's managers, ideas about how to restructure the Wisconsin Department of Corrections to meet the challenges rising from the Task Force recommendations. Shortly after the *Final Report* was released, when it was widely thought that chances were good that the legislature would at least authorize several pilots to test the recommendations, the Secretary of Corrections and his top staff convened a COMPSTAT-like session to review public safety problem-solving work in two local offices in the Central Division (Dane and Rock Counties). It was a fascinating start, and (after initial anxieties about exposing to criticism the local officers' gathering and analysis of data about what were quite serious public safety problems) it whet the appetite for the new methods, for a broad segment of the department's mid-managers.

The legislature's response to the *Final Report* was to allocate eight million dollars for the department to test whichever of the Task Force's recommendations it might choose, in two county-wide pilot projects. After six months of planning, the department broke the two pilot counties into neighborhoods to which agents are being assigned (instead of being assigned conventional caseloads), it hired and deployed 87 new agents, and it is building (and beginning to use)

GIS-coded databases that enable agents and supervisors to trace connections between offenders, past and potential victims, vulnerable locations, and local public safety assets and liabilities. From our point of view, the experience of these pilots should yield more of the practical knowledge the department needs before the new way of doing business can be taken statewide.

Conclusion

We take seriously government's obligation to deliver the preconditions for life, liberty and the pursuit of happiness. So did the Task Force. Government is obliged to work at delivering us from crime and the fear of crime, which constrict liberty and can bring life or the pursuit of happiness to an end. It has not been doing a convincing job of it. If it is to do so, incremental investments in existing strategies and tinkering with current arrangement of institutional responsibility will not suffice. Radical restructuring is required—restructuring our conception of the public safety problem, of the legal instruments aimed at it, of the strategies and penal measures employed against it, and of comfortable but ineffectual institutional arrangements in the criminal justice system.

ENDNOTES

1. We focus, at this point in the story, on the contributions of these particular Task Force members, but we hasten to add that the membership included a former Milwaukee Deputy District Attorney, now law professor, whose many contributions included expressing the Task Force recommendations in statutory form; two experienced legislators who were quick to see the dangers in the accepted political wisdom about our subject matter and were eager to chart a smarter course; and, for some of our deliberations, a local chief of police.
2. Though we have conventional scholarly interests, each of us has relied heavily on action-research to generate knowledge we hope will prove useful in application. We are attracted to Thomas Matheson's definition of action-research: "the gathering of information [that is] first of all related to the action itself, in an attempt to refine and improve the action, and not first of all to a general sociological theory. In other words, the loyalty is towards the action, and not... towards the theory. The assumption is that the information... improves the action, which in turn leads to a new disclosure of information, and so on..." Thomas Matheson, *The Politics of Abolition* (Universitetsforlaget: Oslo, 1974). See notes 17 through 22 and accompanying text, below, for examples of the action-research upon which we drew for our work with the Task Force.

3. *Final Report of the Governor's Task Force on Sentencing and Corrections* (1996), hereafter, *Final Report*.
 4. See, Philip J. Cook, "Research in Criminal Deterrence: Laying the Groundwork for the Second Decade" in *Crime and Justice* vol. II (University of Chicago Press: Chicago, Ill.: 1980) pp. 100-150; Franklin E. Zimring & Gordon J. Hawkins, *Deterrence: the Legal Threat in Crime Control* (University of Chicago Press: Chicago, Ill., 1978).
 5. Franklin Zimring & Gordon Hawkins, *Incapacitation* (University of Chicago Press: Chicago, Ill., 1996); Walter Dickey, "What Every Policymaker Should Know About Imprisonment and the Crime Rate (Public Policy Report, Campaign for An Effective Crime Policy: Washington, D.C., 1995).
 6. We are not concerned at this point with the normative value of punishment, but with conventional utilitarian justifications for its imposition and for the capital and expense budget allocations that support it. We should also acknowledge that, although judges and correctional officials point to public safety as the purpose of sentences and of the various correctional interventions, and although they identify incapacitation, rehabilitation, and deterrence as the means by which they hope to achieve it, judges often have other purposes in mind (such as reform of the offender for its own sake, punishment for just desert, and restoration of the victim and/or the community). Sometimes these goals have public safety dimensions as well, but it is clear that their desirability is not infrequently seen as independent of any prospect for gain in public safety. Of course, this might be more likely to occur when, whatever the rhetoric, those imposing and executing sentences have little confidence that the penal measures at hand would actually be useful to increase public safety in the places where it is in disrepair.
 7. See, e.g., Flanagan, T. and Longmire, D., eds., *Americans' View of Crime and Justice: A National Public Opinion Survey*, pp. 157-158 (Sage Publications, 1996); John Doble Research Associates, *Crime and Corrections: The Views of the People of North Carolina* (1995); Wisconsin Survey Research Laboratory, *The Governor's Task Force on Corrections Statewide Crime Survey* (1997).
 8. See, "Mitchell Dissent: Chairman's Reply," in *Final Report* (Appendix III).
 9. There is a finite number of serial killers, and if we could incapacitate, deter or cure them all, we would have no serial killing. In contrast, arresting and imprisoning more drug dealers (while perhaps satisfying other desires) does not necessarily reduce drug dealing, for new dealers reach adolescence every day and the volume of drug dealing is a function of more than the supply of drug dealers. This is also true of thieves, some burglars and many others who threaten public safety. See, Franklin Zimring & Gordon Hawkins, *Incapacitation* (University of Chicago Press: Chicago, Ill., 1996).
 10. For a citizen to be said to enjoy domestic tranquillity, as we understand this term, she would both have to be subjectively and objectively free from risk of criminal injury to her person or property, in the places where she lives, works, and routinely travels, and also have subjective confidence that the core requirements for public safety are met in other communities to which she feels some connection. Even when one's neighborhood is safe, and one knows it, fear and insecurity can and do arise from knowledge that fellow citizens are without public safety elsewhere. Walter Dickey and Michael Smith, "Common Sense About Safety, Accountability, Crime and Prison" (paper presented to the Steering Committee of the Campaign for Effective Crime Policy: Washington, D.C., September 6, 1995).
 11. In addition, we think the core requirements for public safety in a place might include:
 - an agreed set of rules for behavior;
 - a shared appreciation that rule-breaking will be punished; and
 - a further appreciation that playing by the rules will be rewarded.
 Viewed this way, establishment and maintenance of public safety also requires teaching the lessons of responsibility and accountability, and reinforcing them in the raising of children, the supervision of adolescents and the production of law-abiding young adults. This is properly the work of parents, neighbors, schools, churches, athletic teams, voluntary community service groups, the labor market and, on what needs to be relatively rare occasions, a local police, probation, or parole officer. This is not work that can safely be left to the state, nor can it be achieved by focusing on criminals and crimes.
- This conception of public safety gives rise to the animating idea of "community policing": Instead of riding around waiting for an opportunity to arrest a bad guy, goes an important argument in favor of this style of policing, an officer does more to create safety by finding ways to bring other adults into a neighborhood's public spaces—particularly on days and at hours when no police officer is there—helping them to displace their fear of crime with actions that prevent it, helping them to organize themselves to restore and maintain a sense of mutual obligation throughout their neighborhood, and getting them to help devise the most effective deployment plan for the officer's own patrol. In contrast, if the conventionally deployed police officer is the only active representative of adult authority on the street, there is no adult authority—except when and where the cop is on duty (and not responding to an emergency call for service). We think there are powerful analogies to the role and capacities of probation and parole agents who, in the Task Force's view, should be working with the informal forces for social control in neighborhoods, to contain the public safety risks offenders pose there, rather than passively waiting for offenders to re-offend. The implications of this are more fully developed in Section III, below.
12. Drawing on the work others, particularly L. E. Cohen and M. Felson, "Social Change and Crime Rate Trends: A Routine Activity Approach." *American Sociological Review* (1979), John E. Eck and David Weisburd summarize these ideas nicely in Eck and Weisburd, "Crime Places In Crime Theory," in their *Crime and Place* (Criminal Justice Press: Monsey, NY, 1995).
 13. See, e.g., Herman Goldstein, *Problem-Oriented Policing* (McGraw-Hill: New York, 1990); *Problem-Solving Training Manual* (New York City Police Department and the Vera Institute of Justice: New York, 1987); Jerome E. McElroy, Colleen A. Cosgrove, and Susan Sadd, *Community Policing—The CPOP in New York* (Sage Publications: Newbury Park, CA., 1993).
 14. "Norquist Denounces Prison Plan," *Milwaukee Journal Sentinel*, Nov. 8, 1996, p. 1; "Prison Plan Would Be a U.S. First," *Milwaukee Journal Sentinel*, Nov. 11, 1996, p. 1. In an Op-Ed speculation about the direction being taken by the Task Force, Mayor Norquist wrote:

The State ought to focus on its principal responsibility in the effort to reduce crime: keep convicted felons locked up This must be the goal of state

prison policy: to protect the public by incarcerating violent lawbreakers and reinforcing that protection by focusing resources on prisoners when they are firmly under lock-and-key, so they will not commit more crimes after they are released.

"In My Opinion," *Milwaukee Journal Sentinel*, December 15, 1996, p. 5.

15. We now see a number a problems with the way this is stated in the *Final Report*: First, the Department of Corrections formula for staffing a post 24 hours a day, seven days a week, is 5 FTEs. Such posting has in the past occurred only in the prisons, where food is brought to the post and staff are compensated for break time plus the time required for shift changes. The field equivalent should be roughly 5.5 FTEs per post.

Second, the officer's testimony suggests we should have annualized the arrests, as this location continued to produce them. Further, Milwaukee Police Department practices at the time made it unlikely that, if 9th and Concordia dried up, the flow of arrests would stop—rather, the officer time would have been focused on another location so that drug arrest volume would not drop. In fact, the residents of this area subsequently reported that police arrest activity at this intersection had the undesirable effects of pushing some of the market indoors and some of it to an intersection one block away. "Mayor Denies Street Corner In Report Is Unsafe," *Milwaukee Journal Sentinel*, January 7, 1997, p. 1; "Residents Near Drug Dealing Corner Say Situation Improving," *Milwaukee Journal Sentinel*, January 8, 1997, p. 1.

Third, nothing suggests that half of arrests of this kind in Milwaukee are dropped or pled out without prison time. To the contrary, the District Attorney's policies (a point of considerable friction with a number of Milwaukee felony judges) pretty much assure high conviction rates on arrests of this type, and routine imposition of 2-year sentences.

Taking all of this into account, a better way to estimate the correctional resources required by the law enforcement response at 9th and Concordia might be as follows: (a) at least one arrest a week, (b) 80% of which draw 2-year sentences, (c) 12 months of which are served, on average, (d) yielding 40 prisoners at any given time, (e) requiring 8 correctional officers to be hired. The 8 FTEs, if deployed at 9th and Concordia, would permit posting officers there 24 hours a day, 7 days a week, while two officers attend full-time (and one attends half-time) to the other public-safety producing activities noted in the passage quoted above.

16. Much of this activity was itself inspired by the thinking and writing of our colleague at Wisconsin Law School, Herman Goldstein. See, *Problem-Oriented Policing* (McGraw-Hill: New York, 1990).
17. Michael Smith, when President of the Vera Institute of Justice, oversaw a series of research and planning projects through which the New York City Police Department experimented with and (after some successes and some embarrassments) adopted community-oriented and problem-solving techniques in place of some very conventional and ineffective practices. See, Vera Institute, *The Community Police Officer Program—CPOP* (NYPD and Vera: New York, 1986); *Twenty-fifth Year Report* (Vera: New York, 1987); *Problem-Solving Training Manual* (NYPD and Vera: New York, 1987); Jerome E. McElroy, Colleen A. Cosgrove, and Susan Sadd, *Community Policing—The CPOP in New York* (Sage: Newbury Park, CA., 1993)
18. *Problem-Solving Annual for Community Police Officers and Supervisors* (New York City Police Department and the Vera Institute: New York, 1993), pp. 48-49.
19. Walter Dickey, *From the Bottom Up: Probation and Supervision in a Small Wisconsin Community* (Wisconsin Department of Corrections and University of Wisconsin Law School: Madison, 1988); *From the Bottom Up: Probation and Parole Supervision in Milwaukee* (Wisconsin Department of Corrections and University of Wisconsin Law School: Madison, 1990); *From the Bottom Up: The High Risk Offender Intensive Supervision Project* (Wisconsin Department of Corrections and University of Wisconsin Law School: Madison, 1990). Walter Dickey, "Why Neighborhood Supervision?" in *Community Justice: Striving for Safe, Secure, and Just Communities* (U.S. Department of Justice Monograph, 1996).
20. Walter Dickey, *From the Bottom Up: Probation and Supervision in a Small Wisconsin Community*, p.31.
21. When New York City began experimenting with community policing, in 1984, it began, without wider notice, in one of its 75 precincts. Long before the pilot project ran its course, word spread from community to community about the attention to local crime and disorder problems that came with the new style of policing, and the demand for it from community organizations and, in short order, local political figures around the city forced the police department to move to city-wide implementation long before the model had been fully developed. (See, Vera Institute, *Status Report on Work with the New York City Police Department* (1985) and Jerome E. McElroy, Colleen A. Cosgrove, and Susan Sadd, *Community Policing—The CPOP in New York* (Sage Publications: Newbury Park, CA., 1993).
22. Three experimental "neighborhood supervision" offices were established in Madison, Wisconsin, as laboratories in which to develop new roles and techniques for agents and their immediate supervisors, in response to a series of proposals growing out of Walter Dickey's *Bottom Up* research. See, Dickey memoranda to Department of Corrections Secretary Michael Sullivan dated March 30, 1994 and June 15, 1995. In 1995, the Department of Corrections drew upon the experiences we reported from these experimental offices to establish three additional neighborhood supervision offices in Madison, and 10 in Milwaukee. By 1996, the Task Force was able to secure testimony about this innovation in deploying probation and parole personnel from agents and supervisors facing different public safety problems in diverse settings.
23. Wisconsin Survey Research Laboratory, *The Governor's Task Force on Corrections Statewide Crime Survey* (Madison, WI, 1996)
24. We were also interested to note that, when asked what the state could most usefully do about the local public safety problems they identified, adding more prison cells was near the bottom of their wish lists (10 percent) while more police officers (38 percent) and more sentences to drug treatment and employment programs (43 percent) were at the top. Given our view of conventional probation and parole practice, we were not surprised to find only 4 percent thinking that additional parole agents would be the best that government could do to address the public safety problems concerning them.
25. Within maxima set by the legislature for various levels of offense gravity, Wisconsin sentencing courts have for the most part been free of legal restraint on whether to imprison and, if imprisoning,

on the duration of the sentence. In addition, initial parole eligibility is at 25% of the term set by the court, and inmates not granted parole before two-thirds of sentence are mandatorily released to a period of community supervision, which can be forfeited if its conditions are not met.

26. Andrew Von Hirsch, "Why Return to the Indeterminate Sentence?" *Overcrowded Times* (vol. 8, No. 1, February, 1997), p. 3; but see, Norval Morris, "Task Force Report—A Breath of Fresh Air" *Ibid.* and Jonathan Simon, "Wisconsin Report Addresses Failure of New Penology" *Ibid.*, pp. 5-6.
27. Administering penal measures in ways that take account of individual characteristics, individual circumstances, and the interaction of these with place, seems crucial because threats to public safety vary by these same quite mutable factors. But the "reforms" of the past 25 years, in almost uniform flight from "indeterminacy" and disparity (which have been assumed to go hand in hand), have been very hostile to taking such variations into account in the fixing of individual sentences. While the resulting grid-guide-line systems appear to reduce disparities, we think they are more properly understood as having led to an overemphasis of the two most easily graded individual characteristics of offenders—prior criminal history and gravity of current offense. These crude variables sometime define important differences in either the gravity of the public safety threat, or in the likelihood of the harm occurring when an individual so defined is unsupervised in the community. But, even when these variables point accurately to such difference, they are of little use in specifying the conditions of confinement or supervision most likely to reduce or eliminate the threat.
28. We took the view that any offender sentenced to or placed in CCC could—given the many prison-like and liberty-constraining features of this new legal status—be returned to prison without time-consuming, litigious revocation hearings. We thought this necessary because it would afford the department's agents greater flexibility in sanctioning offenders who are not satisfactorily meeting supervision terms or in stabilizing them at early signs of trouble, returning them to active community supervision when appropriate, without finding or pretending to find a "violation" basis for the action. We thought it necessary because it would give the department much greater control of offenders, of risks, and of resources. We thought it desirable because it would allow the department to sanction "minor" misbehavior that is currently ignored when it should not be, or is met by inappropriate revocations because no lesser response is thought available. And we thought it essential if we were to insist on early and measured interventions designed to prevent more serious violations—ones that harm persons or property.

In stressing that these provisions would make "cumbersome revocation hearings" unnecessary, we did not mean to suggest that agents of the Department of Corrections should be permitted to be arbitrary in decisions to sanction offenders or to exercise greater control over them—whether or not that would entail moving them from CCC to temporary confinement or even to prison. For DOC to be effective in its public safety mission—and certainly for it to be effective in delivering justice and in making parsimonious use of state authority and resources—it would be essential for such decisions to be based on accurate information, be fairly made, and be wise. Our sense that it is time to break out

of the sterile legalisms of *Morrissey* is reinforced by our observations of parole revocation proceedings, in which waiver of the hearing is the most common procedure in Wisconsin, and our observation of the regular population of local jails with probationers and parolees who are held by agents "for investigation" of possible violations where there is no intent to investigate or violate.

29. The Task Force was tempted to specify the size and placement of these centers, but to do so would have been inconsistent with the bottom-up thrust of the rest of its recommendations. If threats to public safety, and the measures likely to reduce them, are intensely local, then specification of the Centers' details should be shaped by the variety of specific uses to which they would be put in the specific locations they are needed. We merely sketched some of the diverse functions they would likely have to serve:
 - (a) short term detention facilities, for use when a minor violation of the conditions of supervision warrants a mild penalty, or when short term detention would help regain control over offenders whose circumstances or behavior show signs of deterioration;
 - (b) transitional living facilities for offenders not able to find suitable residence at the beginning of a stay in CCC;
 - (c) facilities where offenders whose CCC sentences begin with a period confinement could (if it were desirable from a supervision point of view) serve the time without removal to state prison; or
 - (d) secure settings for upfront treatment as part of a CCC sentence without a confinement element, when a secure setting is required for the treatment.

The Task Force thought the location, size, and infrastructure of these facilities should reflect the particular uses to which they would be put in particular places. As the *Final Report* puts it: "One facility might be Spartan with little more than cells and eating facilities, a place where offenders are confined for days—not months—after minor misbehavior. Another might include programs, because it is designated for treatment of offenders who should not be returned to the community without it. A third might be designed as a center from which community service projects are mounted, or at which relapse prevention groups or employment training sessions are conducted.

30. The judge member of the Task Force initially expressed strong reservations about the wisdom of this course, fearing judges would react badly to it. He came to the view, however, that the Task Force's proposal of a new legal status that blended confinement and intensive supervision would be much more responsive to the sentencing problems judges actually face, particularly as it was coupled a proposal to introduce conditional supervision—under which an offender not posing serious public safety risks would be discharged from sentence upon completion of a specified condition (e.g., restitution). After some discussion in the Task Force, and some probing of experienced probation and parole personnel, the Task Force recommended that probation be retained for offenders convicted of misdemeanors. But it recommended that misdemeanor probation also be refocused to emphasize reduction of risk as its purpose and to avoid burdening agents with cases in which active supervision is warranted by any likely public safety gain. This recommendation was made in full awareness of the view that many casework-oriented probation agents

have of their misdemeanor caseloads—that these are the cases for which their social work skills are most suitable.

31. While our discussions with judges and agents tend to confirm this view, probation's reputation consists largely of historical baggage. In Wisconsin it was often little more than a legal status to which *could* be attached much of what the Task Force recommended. In this sense, the Task Force opted to create a new set of legal conditions rather than to build them upon the damaged foundation of probation.
32. The Task Force took responsibility for costing its proposals for retooling the department. But it was contemplating so dramatic a departure from existing probation and parole practices and current confinement policies that it seemed necessary to build its cost projections from the bottom up, upon specifications of the risks to be managed, place by place, and the correctional resources needed, place by place, to do so.
33. The computer program consisted of nearly 175 spreadsheets. Each of the 72 behavioral categories has its own spreadsheet, in which movements from month to month, between all of the possible legal statuses are calculated. The formulae for these calculations use values entered on a master spreadsheet where policy choices are expressed for each location (e.g., what changes should be expected in the volume of this risk-defined behavior coming before sentencing courts there, what percent of this category is likely to be sentenced to prison, what percent of those sentenced to CCC are likely to require drug treatment, what percent are likely to be detained in a local CCC facility or prison facility in any given month, and so forth).

Whenever possible, initial values for the policy and practice variables expressed in the master spreadsheet were drawn from the department's computerized reports for recent periods. But for

most values it was necessary to mine the experience of prison, probation and parole staff (e.g., to figure out what percentage of convictions from a given court is likely to fall into each of three different types and degrees of risk associated with it (e.g., domestic assault, non-domestic assault, assault with a gun). Similarly, revocation rates, time-to-parole, and other such variables have important but not immutable historical values, for each basic crime type. Those values also express quite differential policies about treatment and enforcement responses to offenders' behavior, because each behavioral category is defined by the different risk of harm the offenders present to the person and property of others. The experience of staff, distilled in focus groups, was mined for estimates of these values too. Of course, as the Task Force vision matured, more variables and corresponding values had to be added, to account for resources needed that were not historically available—or not used in the way the Task Force believed they should be used to generate greater public safety.

34. To estimate the cost of adding agents for implementation of CCC, an initial CCC ratio of 17 offenders to each agent was established and was set to increase in subsequent 60-day periods of the sentences. The rate of reduction in supervision intensity was specific to each of the 72 behavioral categories, reflecting the "best practice" findings of the focus groups. Changes could be made to any of these values, permitting estimate of the personnel and other correctional resources required for the initial "best practice"—or any other—policy assumptions. (See the "Resources" section of the *Final Report*.)
35. COMPSTAT has been much written-about, not always in flattering terms. We felt the Wisconsin correctional officials would be able to take away what might be valuable to them, leaving the superfluous behind.