

report on the workshop

**CRIMINAL JUSTICE
RESEARCH METHODOLOGY**

by
Bruce Swanton

australian institute of criminology

CRIMINAL JUSTICE RESEARCH METHODOLOGY

Report by

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Canberra 23-25 August 1976

The J.V. Barry Memorial Library has catalogued this work as follows:

AUSTRALIAN INSTITUTE OF CRIMINOLOGY

364

Criminal justice research methodology, Canberra
23-25 August 1976. Report by Bruce Swanton.
Canberra, Australian Institute of Criminology, 1976.

23 p., figs. 30 cm.

On cover: Report on the workshop.

Bibliography: p. 16-19.

1. Crime and criminals - Research. 2. Methodology.
I. Swanton, Bruce. II. Title.

ISBN 0 642 92728 6

This report is published by the Australian Institute of Criminology as an account of the proceedings of the workshop. However the views expressed in this publication are not necessarily endorsed by the Institute.

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Australian Institute of Criminology
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FOREWORD

Professor Leslie T. Wilkins, of the State University of New York at Albany, spent four months of his sabbatical leave during mid-1976 with the Australian Institute of Criminology.

Taking advantage of his presence, a research methodology workshop was held - under his direction - for interested persons in universities and criminal justice agencies.

The workshop was held during the period 23-25 August at Garran Hall, Australian National University.

This report is a selective account of Professor Wilkins' remarks made during the course of the workshop.

INTRODUCTION

The workshop program was flexibly designed to permit attention to problems and issues raised by attendees. The general pattern that evolved was that one or more 'major' topics were dealt with each day. The remainder of the time was spent dealing with attendee-specific matters or in free style discussion.

Such a format made coherent and comprehensive reporting impossible. This report is thus confined to providing a selective account of Professor Wilkins' comments relating to major topics only.

Major topics occurred as under:

- Day 1 - decision making and modelling, and game simulation
- Day 2 - research principles and strategies, recidivism prediction, and treatment v punishment
- Day 3 - futures.

At the commencement of proceedings, the Institute's Assistant Director (Training), Colin Bevan, welcomed attendees and introduced Professor Wilkins.

In addition to Professor Wilkin's recent work for the United Nations Quinquennial Congress, Mr Bevan also referred to his distinguished career as Deputy Director of Research with the British Home Office and as Professor and Acting Dean of the Criminology Department at the University of California at Berkeley.

It is recorded with regret that Professor Wilkins was unable to complete the second half of the last day of the program owing to illness.

An alphabetic list of those attending the workshop is shown at Annex 'A'. Six of the eight States and Territories of Australia were represented.

DAY 1

TOPIC - DECISION MAKING

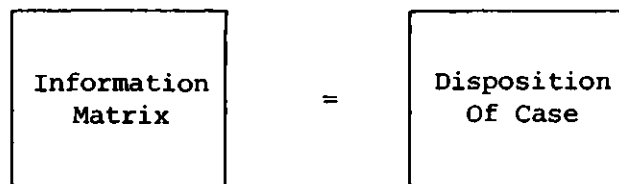
Decisions are more often described in terms of outcomes rather than the decision making processes involved, *eg*, we *arrive* at a decision. (See Wilkins, 1976).

Processual sequence is important in the understanding of decision making. A decision is in fact the termination of a search for information. Thus, a decision is a function of beliefs about the data gained.

The overall purpose of a decision, is action. Overload of information leads to inaction and confusion. But, as information is important with reference to particular tasks within the decision making process, we need to know the level of information necessary to permit the making of sound decisions.

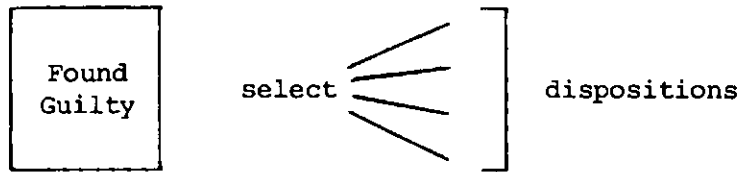
With human beings, the maximum number of information items that can be dealt with in the one decision process is eight. A greater number will inevitably create overload and thereby cause confusion.

Some important decision making research related to the identification and explication of the nature of information items. One example refers to a U.S. research undertaking in which the latent decision making processes of 400 State Supreme Court judges were studied. In its most basic form, a judge's decision making process can be modelled as:



In the development and alternation of such explicatory models, researchers need to weight individual items on the matrix side of the equation to better equate with the disposition side.

In the study referred to, it was initially hypothesised that upon a finding of guilty, judges would directly follow on with a decision as to disposition, thus:

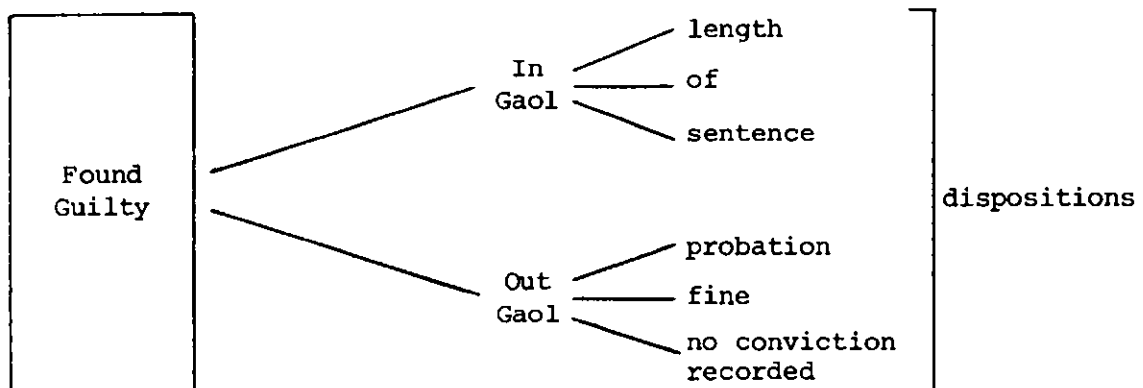


It was found that judges were unable to articulate their decision making processes. After some thought, they volunteered 218 relevant variables. There was obvious confusion as case files did not contain such an amount of information. Simulation research in cooperation with the judges revealed the underlying patterns of their decision making in such circumstances. As a result, the model was restructured.

There are no rules for the procedure of selecting models. It is necessary to exercise initiative and imagination and to explore several alternatives. The best model is usually the one which 'maps' (or fits) best to the activity or conditions under consideration. Sometimes there are boundary conditions and it may be useful to use a model which applies to the limiting cases. For example, in the model of jury determinations, there are two limiting cases; in one case we may assume that all jury members make independent decisions or at the other extreme we may imagine that the decision process is more like to 'skittles' where if one falls it is probable that all will fall with it. The true case must lie somewhere between these two extreme models. If the results obtained by use of either are similar to each other, the model is 'robust' (or insensitive to the assumptions). Other models not relating to jury decisions are like the steeple chase (where a fall at any fence is enough to lose the race) or a points system where one bad point may be compensated for by a good point. There are many more from which we may select as seems to be required.

When making sentencing decisions judges normally have recourse to case files, *ie*, 'information rich fields'. Initially, they are likely to select information items highly relevant to the task in hand, *ie*, decision focussed. Subsequently, they look at additional information related to the initial information, *ie*, information focussed. This transition in selection is not appreciated by most people.

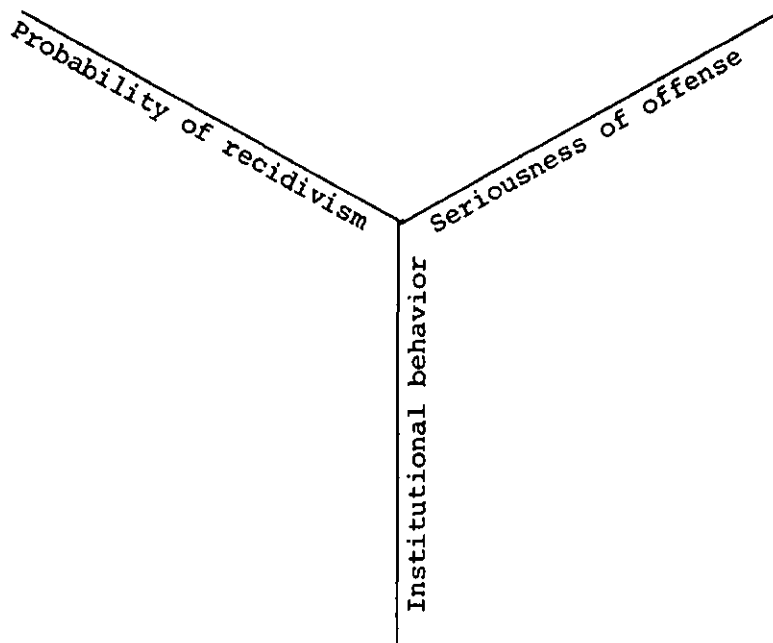
The restructured model appeared thus:



It can be seen that subsequent to a decision of guilty, a decision whether to commit is made before deciding disposition. This model permitted 85% accuracy in the prediction of sentencing decisions of a group of six judges.

Researchers may be comforted by the thought that all decision studies commence with inappropriate models.

Similar research with the U.S. Federal Parole Board indicated the essential variable in parole decisions was 'time served'. The pertinent vectors in a parole board decision information matrix were:



In studies of this nature it is found that complex statistical treatments are no better than simple, controlled, distribution free statistical models. Their very lack of assumptions concerning distribution makes the simpler models less error prone.

Models are not necessarily universal in application. They are better tailored to specific situations. For instance, parole boards in the south of the U.S. require a substantially different model to those in the north to reflect the sequence of their decision making and thus permit accurate prediction of their decisions.

Models of decision making in such cases are also indicative of the moral and social philosophy of the decision makers. The U.S. Federal Parole Board, for instance, always places greater emphasis (60%) on the seriousness of an applicant's offense than on the probability of recidivism (40%).

Researchers do well to remember that we never deal with reality. We only deal with models of reality within our own minds.

For example, when the Treasurer brings down his budget, he has a particular model of the economy in his mind. If his model poorly approximates economic reality, then his predictions will be awry and the budget will not have its desired effect. In models, in effect, we condense experience.

For the benefit of readers, a flow chart explaining the decision making logic system employed in the parole board study is shown at Figure 1.

The use of guidelines indicating the range of time a prisoner should serve prior to being granted parole, in accordance with the vectors indicated at page 4, enables consistent decisions to be made by parole boards. Subjectivity of board members is thus minimised. Of course, there are always cases that are exceptions to the rule and provision is made in such guidelines for a feedback loop by means of which the system may be modified when necessary, see Figure 2.

Models are best suited to static, administrative and policy situations where substantial data are available. Fast moving, operational situations presenting little data are least suited to such modelling efforts. The most important precondition to the design of effective models is the existence of adequate data sets.

TOPIC - GAME SIMULATION

Game simulation can be utilised amongst other objectives, as an aid to understanding decision making processes. For instance, in the U.S. Federal Parole Board study it was necessary to explicate criteria employed in parole application decisions.

A list of 50 relevant information items was compiled. See Annex 'B' for item list. The items were placed on transparencies and displayed on a screen by way of computer call up simulation. Parole board members were asked initially to select the four items most necessary to reach a parole application decision. The number was subsequently extended to six and then finally to eight items.

As a result of this game simulation, not only were essential decision criteria identified and ranked but, important insights were gained concerning cognitive processes in such decision making. Some 'members of the board' proved to be sequentialists, *ie*, they proceeded from item to item, each item supporting or rejecting the previous item and related directly to the decision in hand. Others were pattern seekers, *ie*, they made no inferences from individual information items but considered individual items in relation to each of a number of other items; decisions being based on the broad impression gained.

Alternative game playing techniques may be employed by using costing simulation with chips, by utilising voting and bargaining procedures, and 'wise-guy' situations. Probation type decisions can be realistically studied in monopoly type games - complete with

FIGURE 1
 LOGIC OF THE DECISION MAKING SYSTEM IN PAROLE BOARD STUDY

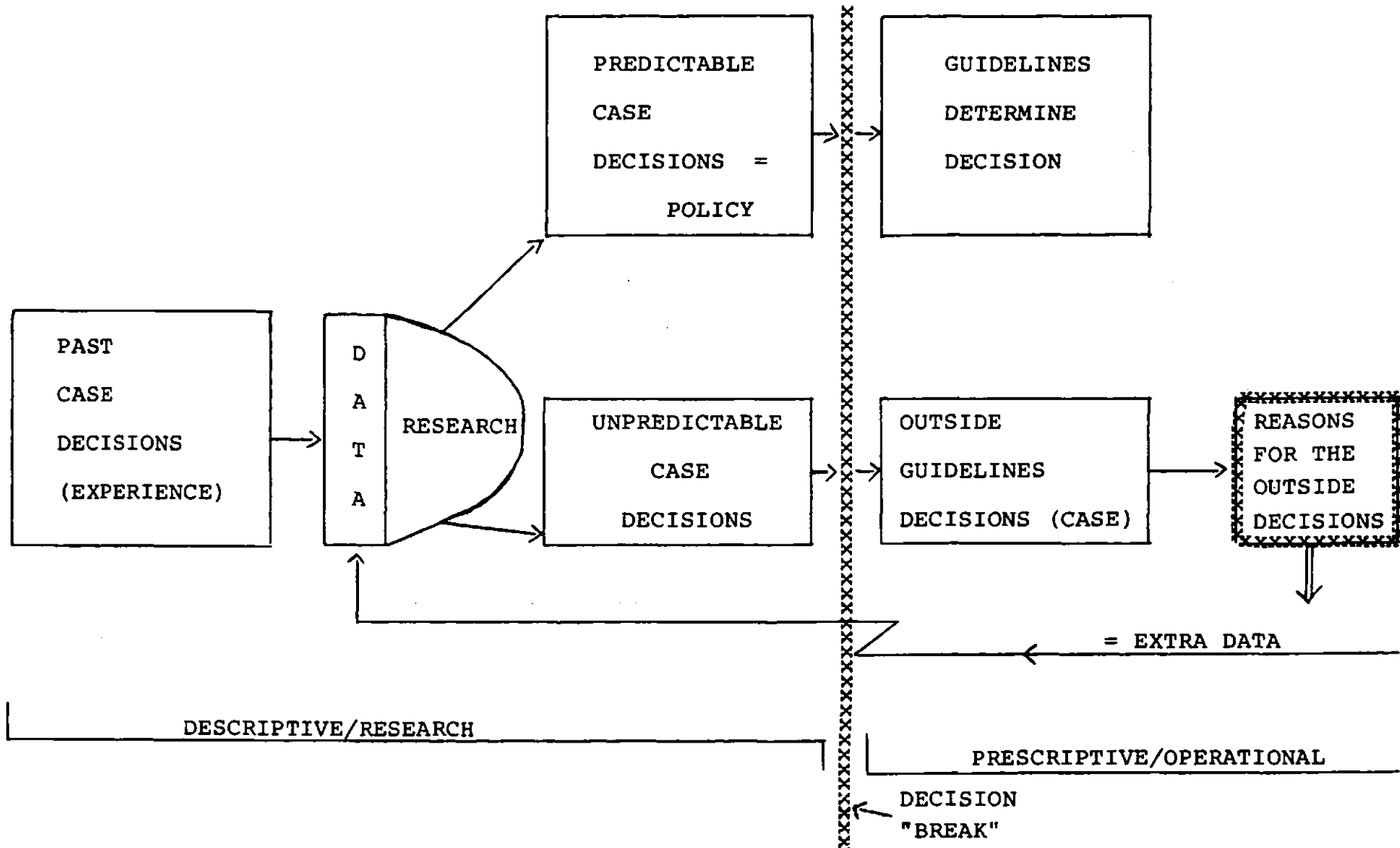
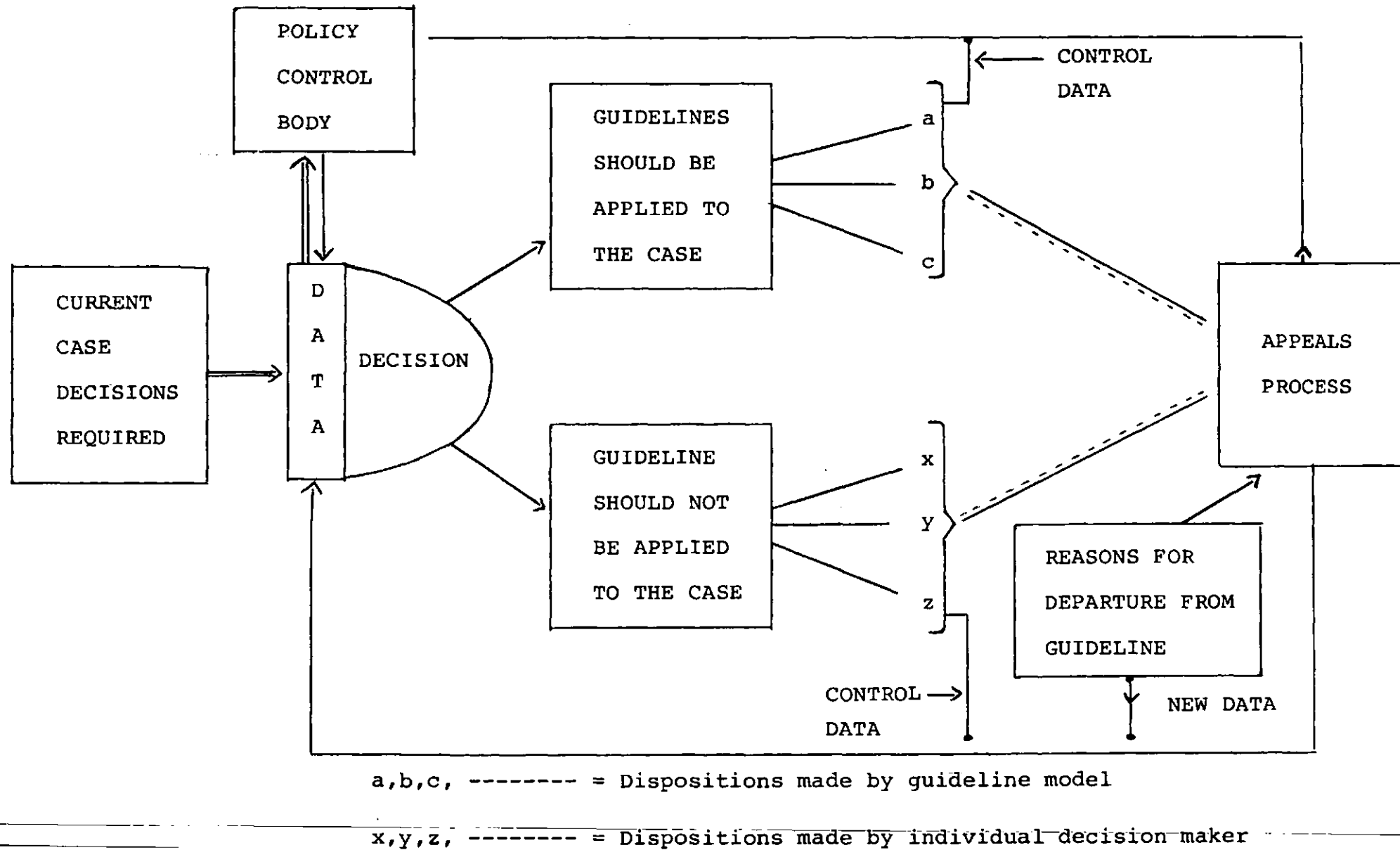


FIGURE 2
MODIFICATION FEED-BACK LOOP



resource and information cards. Imagination is the sole constraint. The prime aim of such methods is to design procedures in which actors reveal how they select information in relation to decision making.

Sequence is particularly important in the selection of information in risk taking situations, *eg*, risk v payoff. If payoff is selected or made known first, one type of decision can be expected. If risk is selected or known first, another type of decision may be expected. Thus, the laws of primacy and recency of presentation need to be considered in such circumstances.

DAY 2

TOPIC - RESEARCH PRINCIPLES AND STRATEGIES

There is, as has been frequently observed, no such thing as value-free research. But, researchers should be intensely aware of their own intruding values and assumptions. Values and assumptions inhering in research situations must be made explicit at the outset of such enterprises. It is particularly important clients be made aware of such factors. Expectations of both parties to a research contract should be explicitly stated.

As a general principle, clients should be permitted the freedom not to publish insofar as results affect them or their organisation directly. On the other hand, so far as they affect society generally researchers should be free to publish. Certainly, it is acceptable not to identify individual cases. All such agreements and contracts with clients need to be spelled out in considerable detail - even at the risk of being overly detailed.

It is particularly important that social action research be published. The New York City Police Department, for example, posed no objection to a corruption study, undertaken by a Doctoral student of Professor Wilkins at the School of Criminal Justice, within such guidelines. All parties, employers and employees cooperated. Results were fed back to both parties in suitably abstract form.

A further example relating to the identification of assumptions and expectations concerns the U.S. Federal Parole Board study. A strategy employed at the very outset was for all parties, eight in number, to spend a weekend together, exploring each others views, values, and general positions. In this manner, biases were reduced and assumptions and expectations were articulated.

As a general principle, researchers should make provision for an opting out clause in their research contracts. To permit such a provision, the research design from feasibility study through conclusion must be highly explicit. No promises should be made regarding end products. Rigid adherence to time schedules should be observed. Thus, if a certain phase of the research program is not completed on time for whatever reason, the researcher may drop out and the project discontinued.

Researchers, when writing proposals, should develop approximate models - based on feedback from a variety of sources - before even approaching principals. It is considered that the U.S. National Institute of Mental Health research fund application kit represents a very good proposal format.

TOPIC - RECIDIVISM PREDICTION ...

Recidivism prediction models are a weak point in social science. The present situation is little better than that pertaining 20 years ago. A major consideration concerning recidivism predictions in western countries is that even if we knew with certainty that an individual or individuals will reoffend, there is little that can be done to prevent such reoffending.

Statistically speaking, we still have too many false positives in potential offender populations to permit satisfactory predictions. In fact, we can do no better than break even in such cases.

It is noteworthy that predictions regarding property offenders are significantly more accurate than those pertaining to violent offenders. Profiles of violent offenders tend to be similar to those of non-offenders. (See Wenk & Emrich, 1972).

From a philosophical viewpoint, it is considered improper by some to predict criminal behavior in relation to non-offenders. There is no moral objection, though, in predicting such behavior in relation to already convicted offenders.

In a general sense, there is much merit in prediction research. Success ultimately lies not in the path of statistical sophistication but in the refinement of data bases.

... AND THE QUESTION OF TREATMENT V PUNISHMENT

Generally speaking treatment of offenders has not been successful. There is little or no evidence to suggest that treatment in corrections has achieved a significant level of success. Robert Martinson (1974) undertook a comprehensive study of correctional treatment in the U.S. At the commencement of the study he felt that treatment had generally been effective. However, at the termination of his study, he was convinced of the universal failure of treatment programs. The sponsoring authority, the New York City corrections agency, shelved the study report. It only became public property due to the legal manoeuvres of a socially committed group of New York City lawyers.

Further evidence of the demise of the treatment philosophy is in the acceptance of the consequences of this for California - the state considered to be the most advanced in the treatment model, having completely indeterminate sentencing by the judiciary and with time set by the 'Adult Authority'. Richard McGee, the architect of the California system has adopted the 'just deserts' model and California offenders are now given dates. In U.S. Federal prisons treatment is voluntary and there are no rewards in terms of parole dates for accepting treatment.

Detention facilities in the U.S. are now primarily seen as employed in insulating society from offenders. Superficially, at least, the straight detention policy is cheaper than supplying large-scale treatment programs. On the other hand, if prison is significantly criminogenic, then detention may prove to be uneconomic.

DAY 3

TOPIC - FUTURES

The main objective of futures prediction is to outline a variety of possible states, rather than a specific state. In this way, planners and decision makers are provided alternatives for consideration. Unfortunately, in criminal justice, we lack good data bases for mathematically based predictions.

The nature of a particular field strongly determines the level of predictive quality possible. For example, if a field is subject to or likely to be subject to sudden breakthroughs in knowledge, such as in biology or physics, forecasting is extremely difficult. Alternatively, in fields not subject to discontinuation relatively high quality predictions can be made.

With regard to the behavioral field, much of the future is already in the pipeline, *eg*, tomorrow's delinquents are already born.

In the short term, little in the way of radical social change is forecasted. Thus, most futures research tends to be centered on mid-range prediction - 10 to 15 years ahead. Most long range research, *ie*, in excess of 25 years is largely speculative and, in some cases, approaches fiction.

Probably all future states are capable of desirable as well as undesirable exploitation. As new states become closer, we need to consider the possible undesirable consequences of such forthcoming events in case they do in fact eventuate.

Surveys of criminal justice planning agencies in the United States indicate little imagination is employed in relation to futures research. Basically, most prognostications from these agencies and practitioners in the field suggest more of the same - particularly in the short range. The impact of fields outside criminal justice upon criminal justice is an area receiving insufficient attention by criminal justice planners, *eg*, medicine, transportation, values and social institutions, and computer technology.

One method of considering future states and their implications is that of speculative analysis. Postulates are stated and supported by the best evidence available. Such postulates are not required to be theoretically grounded, they can as in the present instance be rooted in current observations. A series of six postulates together with supporting statements are presented in the succeeding paragraphs. They represent the sorts of topics criminal justice planners need to keep well in mind.

Postulate #1: The level of crime will expand to fill the opportunities available.

Situations never present opportunities for purely legitimate or purely illegitimate exploitation. Opportunities are in themselves value free. Their profitable exploitation will be undertaken along both legitimate and illegitimate dimensions. Marketplace economics do not define opportunities for profit in terms of ethical dimensions. Thus, future opportunities will contain potential for both legitimate and illegitimate behaviors.

The use of credit cards represents a great attraction to criminals. As society becomes increasingly demonetised, goods and services will be as obtainable by use of credit as they were previously obtainable by use of money. Thus, forging and thieving of credit cards can be expected.

Improved transportation facilities can remove criminals from scenes of crime more effectively. In the international sense, easier travel, devised to improve tourism makes pursuit and apprehension of criminals far more difficult.

Economic fluctuations favor certain forms of economic behavior, some of which are criminal and many of which are marginally criminal. Growing human populations lead to commodity shortages - some long term, some short term. Market prices are affected accordingly. We thus see the hoarding of grains and vegetable oils in order to manipulate market prices. The stealing of cattle and timber has also been noticed in recent years in the U.S., as the price of such commodities has risen through shortages and their profitability is thus increased.

Phenomena conducing to future serious shortage, *eg*, strikes, droughts, or to increasing future opportunities, should be examined in terms of their criminogenic potential.

Postulate #2: There is a possibility of 'side effects' which may be undesirable (and criminalised) in respect of any technical innovation.

The legitimate exploitation of a technological innovation may have undesirable side effects. Such side effects could result in prohibiting or criminalising legislation. Technologically created situations in which previously worthless commodities acquire value are cases in point.

In the immediately preceding centuries human cadavers acquired economic worth as a result of their value to anatomists. As human organ transplants become more ambitious a blackmarket in human organs could possibly arise. It's not inconceivable that persons could be

mugged for their limbs and organs as well as their blood, *etc.* The prime consideration in a question of this nature is, whether as a result of situations created *by our other choices*, *eg*, advances in surgical techniques, we will create an opportunity for profit.

Postulate #3: It is often easier (and politically more desirable) to displace objectives, substituting the symbolic for the instrumental.

Attempts to suppress undesirable features resulting from new technologies may create a product, opportunity, or market conducing to further illegal opportunities. Thus, the level of crime may be inadvertently increased.

The prohibition era in the U.S. resulting from the passing of the Volstead Act is an example of what is meant by this postulate. Prohibition of specified behaviors creates risk. In suitable circumstances risk creates initiative. 'Risk is a highly saleable commodity - whether legally, as in insurance business or illegally, as by "pushers", "bootleggers", or "bookmakers' runners". (Wilkins, 1975: 25).'

Similarly, the commodity of fear can be made highly profitable, whether in the form of propaganda, sales persuasion, or blackmail. In some areas related to the manipulation of fear it is extremely difficult to distinguish between permissible and non-permissible behaviors. For example, the political exploitation of people's fear of crime to promote the interests of individual politicians or political parties or perhaps manufacturers or certain occupations could result in the public fearing an artificially created threat.

Postulate #4: The complexity of society will increase and new styles of control may become necessary.

Fraudulent practices can be well hidden in the complexity of multiple companies transactions, particularly if international in scope. Complex situations cannot be combatted by simple countermeasures. Complex problems require complex solutions. With the potential of sophisticated credit and computer systems, the opportunity for camouflaging fraudulent activities may be expected to increase. Governments will in such cases need to create more complex controls.

Postulate #5: Every action taken against criminals has a reaction which tends to reduce, rather than to increase the liberty of the non-criminal in the society.

Anti-crime activities within a community are never unilateral in their effect. In reducing the utility of crime to offenders, *eg*, by

introducing personal controls, society also suffers. Thus, if crime and criminals are too forcibly combatted, law-abiding persons may exchange their fear of crime for a fear of anti-crime measures, a situation not necessarily representing gain. (See Wilkins, 1974).

An obvious example of anti-crime efforts causing inconvenience to the public is the searching of passengers at airports as a result of aircraft hijackings. Anti-shoplifting activities result in television surveillances and in some jurisdictions personal searches.

Postulate #6: Criminal law of 1985 will be closely tied to political philosophies and to moral values.

Definitions of crime depend upon the classification of events rather than the nature of events. Rational attempts at classification, given the human genius for irrationality, cannot realistically be expected. The tendency is noted to declare illegal social problems not easily dealt with otherwise.

We may expect the criminal justice procedures of 1985 to remain symbolic rather than instrumental and for the criminal law to still be largely aligned with moral values. However, certain criminally proscribed actions may be reallocated to other forms of control.

The main purpose of futures research, however speculative it may be, is to anticipate possible future states with a view to either obviating or encouraging their occurrence depending on how desirable such future states are perceived to be. 'It would be better if we could learn before the crises, but we have not done so in the past and it is unlikely that we will do so in the future. (Wilkins, 1976: 31).'

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ANNEX 'A'

ALPHABETIC LIST OF PERSONS ATTENDING METHODOLOGY WORKSHOP,
23-25 AUGUST, 1976

BARNES Ralph	Senior Training Officer, Australian Institute of Criminology.
CARTER Ian	Director, Planning & Research Branch, Queensland Police Department.
FOX RG	Reader in Law, Monash University.
FURLER Bruce	Chief Superintendent, Traffic Branch, South Australian Police Department.
GOEDEGEBOURE Willem	Chief Inspector, Criminal Investigation Branch, Northern Territory Police Force.
JUBB WN	Detective Inspector, Homicide Squad, Victoria Police.
KUPKEE Lawrence	Supervisor, Education and Justice Sub-Section, Australian Bureau of Statistics.
LEFFERS RG	Sergeant 3/c, Research & Development Section, Australian Capital Territory Police Force.
McKENZIE Donald	Principal Director of Court Counselling, Australian Family Court, Principal Registry, Sydney.
MINER Maureen	Research Officer, Department of Corrective Services, NSW.
MURRAY John	Inspector, Australian Crime Intelligence Center, Commonwealth Police Force.

PENNINGTON Anne	Research Officer, Department of Correctional Services, SA.
SUTTON Jeffrey	Director, Bureau of Crime Statistics and Research, NSW.
SWANTON Bruce	Research Officer, Australian Institute of Criminology.
WARD PG	Senior Lecturer (Criminal Statistics), Institute of Criminology, Sydney University.
WILKINS LT	Professor, School of Criminal Justice, State University of New York at Albany.

ANNEX 'B'

NUMERIC LIST OF INFORMATION ITEMS - NARRATIVE FORM WITH 50 ITEMS

Number	Title
1	Age
2	Ethnic group
3	Type of admission to the system
4	Educational level and adjustment
5	Marital status and relationship
6	Homosexuality
7	History of mental problems
8	IQ score
9	SAT score
10	Drug use
11	Alcohol use
12	Indications of 'nomadism'
13	Susceptibility to influence
14	Number of prior arrests
15	Early home environment
16	Living arrangement prior to incarceration
17	Contact with family members
18	Job skill
19	Recent employment history
20	Age at first arrest
21	Age at first conviction
22	Longest prior incarceration
23	Longest time spent in the community
24	Number of prior convictions
25	Type of prior convictions
26	Prior parole and probation revocations
27	Escape history
28	Reason for first arrest
29	Reason for first conviction
30	Instant offense - official description
31	Instant offense - inmate's description
32	Use of weapons
33	Codefendants
34	Number of previous convictions for instant offense
35	Mitigating factors
36	Time served prior to present hearing
37	Time remaining to full term expiration
38	Time remaining to mandatory release
39	Parole eligibility
40	Detainers
41	Academic progress in the institution
42	Vocational training in institution

Number	Title
43	Institutional work experience
44	Number and type of disciplinary infractions
45	Number of prior incarcerations
46	Changes in attitude noted
47	Letters and visits from family
48	Release plan living arrangements
49	Release job prospects
50	Financial resources