

# An Overview of the Contract Research Corporation Evaluation of Patuxent Institution

HAL B. SHEAR \*

Contract Research Corporation's (CRC) evaluation of Patuxent Institution was commissioned by the Governor of Maryland to obtain an objective basis for policy decisions in the face of the continuing controversy surrounding the theory and operation of the Institution. This controversy, while present almost from the original passage in 1951 of Article 31-B creating Patuxent, had become more strident in recent years, culminating in an attempt by the Maryland House of Delegates in 1976 to abolish the Institution. It thus became imperative to decide Patuxent's future during the 1976-77 legislative session, and our research teams, who began work in August, 1976, were accordingly faced with the time frame of about seven months for completion of the complex evaluation study.\*\*

Three concerns operated in the process of designing the study. The first, the identification of the "real" evaluation issues both from the research literature and as seen by proponents, opponents, and policy makers, required not only a review of the wide-ranging literature on treatment milieus for "psychopathic" personalities but a series of interviews with over a hundred public figures who could help identify the primary questions the study should address. The second, dealing with the time and resource constraints under which the study operated, was serious but did not unduly hinder effectiveness, since, given the focus of the study design, it called principally for administrative solutions rather than intellectual compromises. The third concern, dealing with the evaluation design itself, deserves some elaboration here.

## The Patuxent Evaluation Design

A primary source of confusion in the evaluation of any social institution is

\*Mr. Shear is Managing Director of Contract Research Corporation, Belmont, Massachusetts. He was assisted in the preparation of this article by Dr. Jan Schreiber of CRC. Portions of the Final Report on which this article is based were written by Dr. Schreiber and Dr. John Hudson, also of CRC.

\*\*After deciding to have the study performed by independent researchers, the Maryland Department of Public Safety and Correctional Services, the Agency given oversight responsibility for the conduct of the study, had to ask the legislature to pass a law allowing the researchers access to the inmate records, then prohibited by Maryland law. Such a law was introduced, considered and passed in May of 1976. On 4 June 1976 the Department issued a Request for Proposal to numerous public and private research firms giving the specifications, the technical approach, time frame, resources and other details necessary to compete for a contract to perform the study. Four weeks later, Contract Research Corporation, along with other firms, submitted proposals to perform the evaluation. After three weeks of Departmental analysis and oral briefings by some of the firms, Contract Research Corporation was chosen to begin work on 27 July 1976.

the difficulty of separating the assessment of actual practice from the evaluation of the theory behind that practice. For example, when the Maryland Coalition against Patuxent wrote that "There are always about 60 to 70 men . . . at Patuxent who have served more time under indeterminate sentences than they would have had to serve under the maximum expiration dates of their original sentences," it cannot be determined whether the objection is to a *policy* of not releasing any individuals before they are deemed no longer a danger to society or to a *practice* of unequal treatment whereby certain individuals remain confined even if they have given no evidence of dangerousness. This research effort was designed to clarify those issues by distinguishing between theoretical *models* (e.g., of decision-making or treatment) that governed the operations of the institution and the current *practice* of decision-making and diagnosis/treatment. A sufficient literature on corrections and defective delinquency existed to permit the assessment of such models with reference to previously gathered and analyzed data, while the design of the evaluation project specified comparison groups against which program outcomes could be assessed in order to determine their effectiveness.

By a "model" we mean a series of statements about actual conditions, which taken together, point to a means of achieving a particular end. If the statements are accurate and comprehensive, then the model can be put into operation and the end brought about. It is possible, however, for an institution to operate without any particular model, but with a set of program practices that can be catalogued and analyzed. In the case of Patuxent, the following three assumptions constitute the model on which the institution was established:

That there exists an identifiable group of "defective delinquents" who can be diagnosed and a substantial number of whom can be successfully treated by psychiatrists and other health professionals;

That the best environment for this treatment is one which provides the security of a prison and the therapeutic milieu of a mental hospital;

That a person committed to the facility for this treatment should remain under an indeterminate sentence for as long as he is deemed a danger to society.

While the relevance of this model could be surmised from the documents and legislation concerned with the establishment of Patuxent, we made no *a priori* assumptions in this evaluation about the actual *use* of this or any other model. We did, however, make certain broad assumptions about goals in terms of which program effectiveness could be assessed, based on the original purposes of the institution. Two such goals can be stated:

- to protect society by removing dangerous offenders (custody);
- to change dangerous offenders into non-dangerous persons (treatment).

Although different models may hypothesize quite different means for

achieving these results, all can be assessed by the same general criteria of effectiveness. This fact allowed us to move forward simultaneously with the search for the validation of a general model, on the one hand, and the evaluation of current practices at Patuxent, on the other.

## **Conduct of the Study**

The evaluation spanned four distinct phases, each of which is discussed below. Phase I involved the gathering of public comment on the preliminary evaluation design. In addition to providing material for the design revision, the interviews also served to assess the political nature of the institution's problems and to inform key decision-makers about the existence and substance of the evaluation.

Phase II involved revising and finalizing the evaluation design. This process took the original design, the interview data gained from Phase I, and the background materials on related evaluations, and interrelated them with the specific objectives of each study team to produce the final design.

Phase III was the data collection phase, involving on-site observations of institutional process, the file search, and interviews with Patuxent staff. Concurrently, the Federal Bureau of Investigation was searching its files for the recidivism data. A special tape was obtained from the Census Bureau to help in the cost-benefit analysis. This phase lasted nearly three months.

Phase IV began with the individual team analyses. Once that work was completed, the hypotheses were tested, the team reports integrated, and the final report written. The bulk of this process took place in a four-week period.

The study faced some problems which, if completely overcome, could have improved its quality but would not, in the judgment of the study team, have changed the basic thrust of the findings, conclusions, or recommendations. These problems occurred both in design and in implementation of the project.

On the design side, the study period and, in a more limited way, the amount of resources available dictated what the design could encompass. For example, with more time and resources, institutions in other states and countries could have been visited, more interviews with decision-makers held, and more extensive and rigorous observations made (in a longitudinal construct) of the internal operation of the institution, its treatment program, and the post-release experience of inmates. Specifically, many of our problems with the file search, discussed below, could have been overcome if time and resources for more psychiatrist and psychologist effort had been planned. The study design approved by the Department recognized these limitations and proposed the most practical study possible given the limited time available.

From an implementation standpoint, the study team encountered problems with the Patuxent manual file and computer tape. As we discussed in some depth in the report, the Patuxent program had been oriented toward security and operations, rather than toward treatment and research. This fact was directly reflected in the approach and quality of the Patuxent files and computer tape. While they were adequate for operational purposes, there

were serious omissions and inconsistencies both in the files and tape and in their organization. Much of the written record describing the basis for clinical decisions was subject to varying interpretations and required a much more sophisticated professional review than we anticipated. The progression file search highlighted this difficulty, as the low reliability of the answers to many of the questions required us to eliminate it from our analysis. In addition, inconsistent coding of the computer tape required much more analysis than had been planned. The result of these administrative problems was to decrease the study team's reliance on the file materials. However, the study team is quite certain that the design of the study and the data that were used are valid and support the resultant findings, conclusions, and recommendations.

### **Validation of the Patuxent Model**

Even though program effectiveness can be investigated apart from any particular model, we considered it important to identify and attempt to validate any model currently in use at Patuxent, and in particular to assess the validity of the model of defective delinquency on which Patuxent was ostensibly based.

The assessment of validity used in this study was concerned with *operational validity*, whereby previous applications of a model are found to have produced the results predicted by the model. Such a model characteristically contains a set of conditions for producing a desired result. Any one of the conditions is *necessary* to the outcome; taken together they are *sufficient*. Previous research literature should therefore demonstrate whether the conditions contained in the model are in fact necessary and sufficient in the sense defined.

In our discussion of models, it is important to keep in mind that a model can be pervasive, having application to the entire institution and the processes in which it participates, or limited and particular, concerning, for example, only the decision-making process by which offenders are referred, committed, paroled, or released. When we speak of a *general model* for Patuxent Institution, we mean the first type; when we speak of a *decision-making model* we mean a model governing the actions cited in the example; when we speak of a *program model* we mean one which covers everything that happens to a Patuxent inmate from the time he is committed to the time he is released: this includes treatment in the clinical sense, the distribution of punishments and rewards, actions taken to ensure the security of the institution (*i.e.*, the protection of society), etc. Thus the decision-making and program models, to the extent that they could be defined, contributed to the general model of the institution, but as they were implemented on a daily basis the *justice* of the first and the *effectiveness* of the second could be assessed.

### **Assessment of Patuxent as an Operating Institution**

Given such an explicit statement of purposes and rationale, it was relevant to ask whether or not Patuxent had accomplished its goals, or any other

discernible goals, either in addition to or instead of the officially stated ones. While the processes might turn out to be unclear, the anticipated *impact* might be found to have occurred. This possibility suggested two lines of analysis. The first was *documentation* of the *processes* in order to determine whether or not they conformed to the theoretical model, and to identify those factors which appeared to contribute to outcome. The second was *assessment* of the *impact*, best done not in any absolute sense, but relative to the measurable impact of alternative programs.

Accordingly, two major efforts in the research project concerned the study of process: the *decision-making* study by which the research team attempted to learn the basis on which offenders were committed to or released from Patuxent, and the *diagnosis and treatment study*, whose focus was on the services provided to inmates once they were incarcerated at Patuxent. Likewise, two efforts were devoted to assessing the impact of Patuxent on inmates and on society in general; the *recidivism study*, which documented the institution's ability to return inmates permanently to society, and the *cost-benefit analysis*, which sought to determine the marginal costs of enhanced recidivism rates that might be obtainable through the Patuxent program.

### **Analysis of Findings**

In the following discussion, following the analysis just presented, we formulate our research procedures in terms of a series of discrete steps, at each one of which certain policy questions must be answered. The policy questions follow:

1. Is there a model for the operation of Patuxent Institution?
2. Is the Patuxent model of decision-making and treatment scientifically valid?
3. Are current practices of decision-making effective and fair?
4. Are current practices of diagnosis and treatment effective?
5. Are maximum benefits being achieved for resources being used, in comparison to incarceration in a correctional institution?

The study itself was conducted by four study teams, which sought to:

Represent the actual decision-making processes of referral, commitment, and release, comparing them to the requirements of Article 31-B and to the processes available to similar offenders elsewhere in the criminal justice system;

Examine the quality and results of the diagnostic techniques employed and the various treatment modalities available to patients at Patuxent;

Determine outcomes of treatment at Patuxent by comparing recidivism rates of Patuxent inmates with those from Maryland prisons;

Compare the costs and benefits of commitment, diagnosis, and treatment at Patuxent with the costs and benefits of alternatives

available in the Maryland correctional system.

Given the results of the study, which of course were too complex to present in a simple "go/no-go" form, the compelling logic of the situation required decision-makers to select among several alternatives, namely: (1) to continue Patuxent Institution and its embodiment of the indeterminate sentence concept as is, (2) to change the institution and its program in certain specified ways, (3) to eliminate the "defective delinquent" label, (4) to repeal the indeterminate sentence law, (5) to terminate the program. While analysis and understanding can take account of complexities and subtleties in the situation, a policy decision must inevitably come down to a position which some critics will claim oversimplifies a complex reality. Nevertheless, after a scrutiny of both the theory and the practice behind the institution, the study team's report concluded that the indeterminate sentence and the concept of defective delinquency should be repealed and that the program at Patuxent should be significantly modified. The basis for these conclusions derived from the structure of this study, which has already been outlined in terms of five major policy questions. The first two questions are theoretical ones, dealing with the existence and validity of a conceptual model behind the incarceration and treatment program at Patuxent, and the remaining ones are practical, dealing with the assessments of actual operations at the Institution.

In answer to the first question, *Is there a model for the operation of Patuxent Institution?* the study found that there was in fact a dual model with treatment and custodial components, both operating concurrently and each producing its own expectations for staff and inmates.

This dual model is contained in the following three assumptions on which the Institution was founded:

That there exists an identifiable group of "defective delinquents" who can be diagnosed and a substantial number of whom can be successfully treated by psychiatrists and other health professionals;

That the best environment for this treatment is one which provides the security of a prison and the therapeutic milieu of a mental hospital;

That a person committed to the facility for this treatment should remain under an indeterminate sentence for as long as he is deemed to be a danger to society.

The question that precipitated this portion of the investigation can then be expanded as follows: Do current practices of decision-making and treatment of offenders follow the mode on which Patuxent Institution was based? The evidence presented in the following article, based on interviews and observations, indicates that both facets of the model, the incapacitation and the treatment objectives, were followed reasonably well. Offenders were identified by decision-makers in the system as defective delinquents, they were incarcerated for long periods of time, and they were subjected to psychotherapy and group counselling. A modified behavior therapy program

existed in the Graded Tier system.

To answer the second question, *Is the Patuxent model of decision-making and treatment scientifically valid?* a comprehensive literature review was conducted in the area of psychology, psychiatry, corrections/criminology, and sociology, with particular attention to the psychiatric/medical model on which Patuxent is based. Previous studies demonstrating reasonably consistent favorable outcomes from certain defined treatment procedures would be taken as validating this model. However, the review concluded, "it seems clear that the clinical medical model is inadequate and inaccurate as a basis for any theory or practice of the treatment of offenders." It further concluded that on the basis of present knowledge it is impossible to predict dangerousness. To ensure, therefore, that all or most dangerous offenders were incarcerated, far more offenders were included in that category than were in fact potentially dangerous. Thus the indeterminate sentence, whose justification rests on keeping the dangerous offender behind bars until he is no longer dangerous, was actually applied to a great many non-dangerous offenders as well, and for this reason could not be considered any more valid than the medical treatment model.

Under the large question addressed by the study team concerned with decision-making — *Are current practices of decision-making effective and fair?* — were subsumed two subordinate questions: Is decision-making effective? and Is it fair? The focus in this portion of the study was on the judicial decisions outside of Patuxent Institution (though affected by input from the institutional staff) that resulted in an offender's being committed to Patuxent with an indeterminate sentence. The evaluation rested on statutory and case law analysis, a review of Patuxent records, a search of court files, and interviews with a number of judges, prosecutors, and defense attorneys. Other pertinent information on decision-making was gleaned from interviews conducted during the Public Input phase of the study, when outside authorities, experts, and decision-makers were asked to provide comments on the focus of the study and the nature of the information to be sought. Decision-making was found to be effective to the extent that those committed to Patuxent did in fact meet the statutory definition of defective delinquent. On the other hand, as a crime control measure the process was seen to be of dubious effectiveness, since it required the commitment of far more persons than were actually dangerous in order to ensure that those who were dangerous were removed from society. In spite of court decisions that the statute (Article 31-B) was not so vague as to violate due process, the study found it not to be even-handedly applied, there being a wide variation in number of commitments made within different counties and by different judges, and therefore essentially unfair in its effect.

Two phases of the study were devoted toward answering the question *Is program practice effective?* The first, conducted by the diagnosis and treatment team, sought to describe in detail the services provided in the institution, in the areas of psychiatric evaluation, treatment (primarily psychotherapy and behavior therapy), medical services, education and training, discipline, and pre-release and parole services. These services were evaluated according to the best professional practice currently obtaining in each field. In addition, inmate attitudes and observations were sampled to

round out the perspective on Patuxent, and staff morale was assessed by observers from the study team. The second phase of the study, aimed at determining program effectiveness, was carried out by the recidivism team. Using FBI data and a sampling design that compared Patuxent inmates who had received the full treatment program with four other groups, each selected for specific points of comparison, the team sought to determine whether Patuxent parolees were arrested significantly less often during the time when they were at risk than the members of the comparison groups. The results of these investigations failed to establish the overall effectiveness of the Patuxent treatment program.

The psychotherapy offered at Patuxent was found to be vitiated by the essentially custodial nature of the institution; that is, the goal of unquestioning obedience to authority characteristic of a custodial institution was in conflict with the goals of self-reliance and personal autonomy which psychotherapy attempts to foster. As for behavior therapy, the Graded Tier System, under which inmates were supposed to progress from minimal privileges and responsibilities to a readiness for the Pre-release Center and the responsibilities of the outside world, was found only moderately effective because inmates received no clear or consistent set of behavior guidelines by which they could advance. These findings, interpreted in conjunction with the conclusions from the literature review, would indicate that psychotherapy at Patuxent was and could be no more successful than previous psychotherapeutic programs, which had never demonstrated consistent effectiveness in changing patient outlook or altering behavior. The Pre-release Center, Halfway House, and parole program enjoyed moderate success and may be worth future emphasis. Furthermore, the results of the recidivism study indicated that, overall, Patuxent inmates entered Patuxent with more serious criminal histories than the comparison groups and did about the same or slightly better on all indicators of recidivism. The differences were very minor, however, and may in a few cases be traceable to the higher average age of Patuxent parolees in relations to the comparison groups, since it is known that criminal activity tends to decrease with advancing age.

To answer the question: *Are maximum benefits being achieved for resources being used, in comparison to incarceration in a correctional institution?* the cost-benefit study team analyzed the costs of keeping inmates in Patuxent, in comparison with similar costs for other institutions in the Maryland corrections system. The team then compared the results of this analysis with the benefit obtainable by the institutionalization at Patuxent. Benefits were defined in terms of reduced likelihood of reincarceration. The results of this two-fold analysis indicated quite clearly that Patuxent was not cost-effective. When costs were defined as direct state expenditures, Patuxent proved considerably more expensive than its alternative. In particular, the direct cost to the state of committing a typical offender to Patuxent was nearly twice the cost of sending him to the Division of Corrections instead. It was projected that during the nearly ten-year analysis period offenders who had spent time in Patuxent would have a 69 per cent chance of being reincarcerated. This would be compared with the 72 per cent chance experienced by offenders sent to the Division of



Corrections. In short, there were very modest benefits resulting from the substantially higher costs of Patuxent. Since these benefits were very small relative to the large differential costs, the study team concluded that the benefit of Patuxent did not justify its costs.

## **Recommendations**

The following recommendations were designed to respond to the general policy conclusion by suggesting specific changes or elements to be terminated:

*1. The indeterminate sentence provision of Article 31-B, under which all defective delinquents are currently involuntarily committed to Patuxent Institution, should be repealed.*

Comment: The available evidence indicates that one important basis for the indeterminate sentence, namely, the ability to predict dangerousness, is invalid. This resulted in many inmates being held when in fact they were no longer dangerous. Therefore, the study team concluded that the indeterminate sentence then authorized by Maryland law for defective delinquents committed to Patuxent Institution did not provide an essential incentive for inmates to cooperate with the Institution's rehabilitative program, and might in fact impede rehabilitation for some inmates.

*2. The designation "defective delinquent" as defined currently by Article 31-B should be abolished.*

Comment: Legally, the designation "defective delinquent" connotes either past dangerousness (primarily in terms of crimes against the person) or a presumption of future dangerousness, or both. Since the study team found that dangerousness cannot be accurately predicted, it concluded that many non-dangerous offenders were unfairly held beyond their original sentences. But since the legal definition of defective delinquency includes the dimension of dangerousness, a practical difficulty existed in separating the defective delinquent from the others.

*3. Patuxent should be continued as a special program facility, but the current Patuxent program should be modified to allow for a range of program alternatives indicated by the current state of knowledge to be appropriate and effective for the population being served. As an integral part of the new program, an effective research and development effort should be established to evaluate and recommend improvements on an on-going basis.*

Comment: It should be clearly understood that the study team focused its attention on the current Patuxent program, not on alternatives. Therefore, the details of the recommendations that follow are based only on knowledge of Patuxent and on the team's general experience. Nevertheless, the study team believed that the conditions that gave the initial impetus to the establishment of Patuxent Institution still existed: the need for

rehabilitation programs, within secure facilities, for the habitual serious offender. All observations, however, led to the conclusion that involuntary commitment for an indeterminate sentence under a defective delinquent statute requiring prediction of dangerousness was counterproductive, whereas the greatest likelihood of success occurred when inmates willingly participated in their own rehabilitative regimens. It appeared, then, that Patuxent could best serve those offenders who faced very long sentences for multiple convictions, as well as those who, though not multiple offenders, already faced long prison terms.

### **Implementing the CRC Recommendations**

Following submission of the report containing these recommendations, members of the CRC research staff were asked to testify before committees of the Maryland Legislature to explain its major points. In preliminary meetings with the drafters of the initial legislation, the researchers assisted in translating the language of the report into amendments to the proposed bill. The finalized bill was then approved by committees of the House of Delegates and Senate respectively. Notable provisions of the bill, based on the CRC recommendations,

Eliminated the indeterminate sentence at Patuxent and made admission to the institution voluntary for offenders who believed they might progress through Patuxent's Graded Tier System to parole faster than they would reach parole-eligible status in a regular prison. Both Patuxent and the offender had to agree that the latter's admission was desirable.

Eliminated the designation "defective delinquent." Persons considered qualified for admission to Patuxent are referred to in the statute as "eligible persons."

Provided for a permanent research facility as part of the institution, to permit on-going evaluation of the program and assure flexibility of response to advances in the science of corrections.

Committee approval was followed by the consideration of the bill in the full House and Senate. After debate, it was passed on by the 1977 Maryland legislation and signed into law by Governor Marvin Mandel on May 26, 1977. The complete text of the bill appears on pp. 260-267.