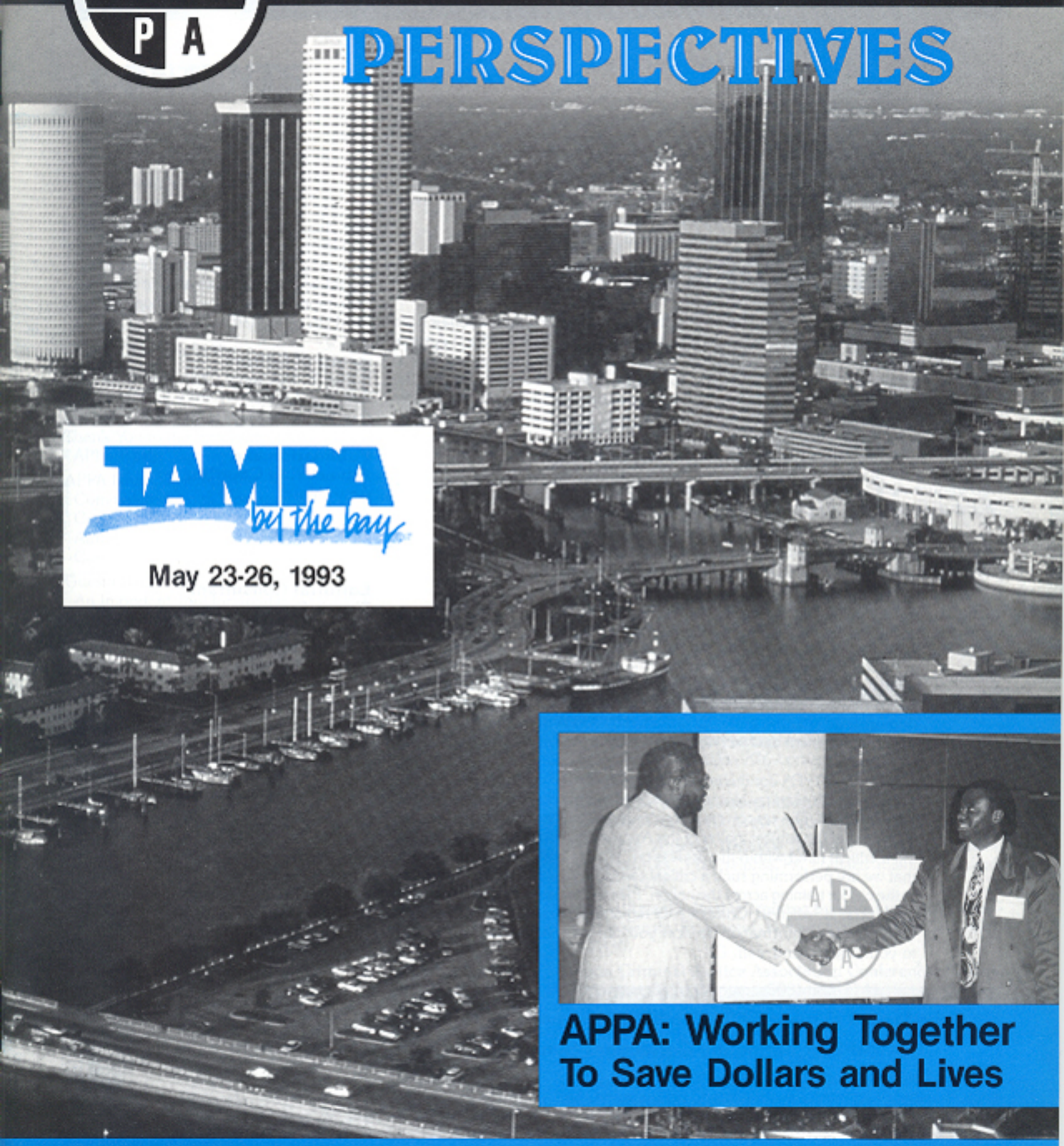
American Probation and Parole Association Spring 1993

PERSPECTIVES



TAMPA by the bay

May 23-26, 1993

APPA: Working Together To Save Dollars and Lives

Harvey Goldstein

PRESIDENT'S MESSAGE

Three hundred and seventy community corrections professionals from across the United States and Canada joined together at the Sixth Annual American Probation and Parole Association Winter Training Institute in Austin, Texas. As part of APPA's commitment to excellence in training, the Winter Institute provides intensive three-day training for line officers, middle managers, administrators and practitioners. This year, APPA conducted training on such cutting edge topics as:

- Life management for the line supervisor
- Managing diversity
- Executive focus
- Street level skills of working with addicted offenders
- Violence and youth: Exploring reasons children resort to violence and the strategies for working with the violent youth
- Personal safety
- Legal liabilities
- Supervising the sexual offenders
- Redefining intensive supervision
- Domestic violence: Be part of the solution
- Experimental strategies and techniques

Many of these courses have been developed from the grant projects APPA has won competitively from various federal funding sources. Others demonstrate effective curricula provided by APPA for some time. The remainder represent new technology and research that we are now bringing to the field.

Recently, APPA conducted a national survey of our membership. We polled our constituency along various lines to provide APPA with direction for the future. The responses to our requests to identify needed training confirm that the subject matter of the Annual and Winter Institutes is meeting a critical need within the profession. We are both pleased and proud that we are performing such a critical service. We stand ready to respond to the call for training across the nation. Please challenge us to provide training in your jurisdiction. Contact your regional representative or the APPA office for more information on how you can bring APPA training directly to your agency and staff.

Please turn to page 39 for complete information on the CSG/APPA Community Corrections Symposium May 23-26 • Tampa, Florida

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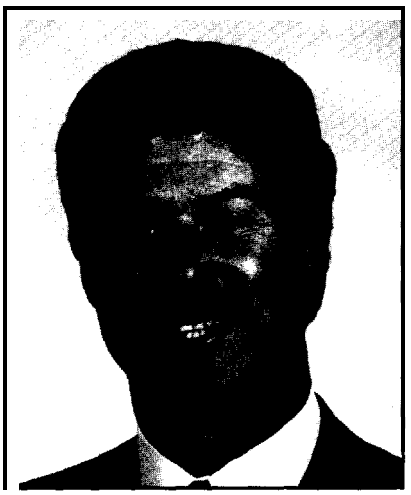

Robert E. DeComo

Arthur J. Lurigo

Dan Richard Beto

Letter from the Editors

by Robert E. DeComo, Ph.D., Chairman, Editorial Committee

Welcome to the Spring 1993 issue of Perspectives. For this issue we have compiled topics as diverse as the field of community corrections itself. Topics covered in this issue include substance abuse treatment, violence prevention, structured sentencing, community corrections programming for women and firearms training. This issue also contains information regarding the upcoming APPA/CSG Community Corrections Symposium which will be held in Tampa, Florida, May 23-26.

Our first special feature has been written by Professor Alan Harland from the Department of Criminal Justice at Temple University. Building on the concepts of Professors Morris and Tonry presented in their book entitled "Between Prison and Probation: Intermediate Punishments in a Rational Sentencing System," Professor Harland suggests methods that can be employed in translating the nation of a continuum of sanctions into a more practically useful application for guiding decisions about sanctioning options.

Our next special feature deals with the issue of arming probation and parole officers. The article outlines a recommended strategy for implementing and managing a firearms program in a community corrections agency. The authors, Albert Smith and Edward Veit, have based these recommendations on their 12 years of experience developing and managing the firearms program for the California Department of Corrections, Parole and Community Services Division.

The keynote speaker for this year's institute will be Deborah Prothrow-Stith, M.D. whose research and writing on violence prevention has drawn national attention in recent years. This issue of ***Perspectives*** contains a review of her recent book entitled "Deadly Consequences." This important book presents an alternative, public health model for violence prevention that is well grounded in both research and practical experience. Including this book review in this issue, and inviting Dr. Prothrow-Stith to present her ideas directly to our institute participants in Philadelphia, is just one part of a much broader effort by this year's program committee to bring the most forward-looking approaches from outside our profession directly to the attention of our membership.

Our third special feature is on the subject of women offenders in community corrections. In recent years the incarceration rate for women has increased more rapidly than the same rates for other groups of special offenders. This growth in their incarceration rates has spawned a re-examination of our correctional strategies for them. Our author, Barbara Bloom, a noted authority on programming for female offenders, reports on the results of a recent study funded by the National Institute of Corrections aimed at identifying community corrections strategies and programs for effectively intervening with this important and unique group of offenders. Community corrections practitioners and policymakers will find this research instructive for fashioning improved programming in their own jurisdictions.

The next special feature for this issue comes from the United States Sentencing Commission which oversees the implementation of the federal sentencing guidelines. The article was contributed by Michael Courlander, the Public Information Specialist to the Commission. He reports on the impact the guidelines have had on the functions of federal probation officers under the guidelines system as well as their views on its effectiveness compiled from a recent study conducted by the Commission.

Also in the area of promising approaches, our Guest Editorial discusses the application of acupuncture to the treatment of alcohol and drug addiction.

While acupuncture is an ancient technique in the Orient, its practice in the West and particularly in the criminal justice system is relatively new. Our editorial has been contributed by Jody Forman who has held prominent positions with the Justice Department and the White House in the areas of drug policy and programming. From her vantage point in these positions, Jody discovered acupuncture as a promising technique which improves amenability to treatment when used in conjunction with traditional psychological techniques.

In closing, I encourage you to direct your comments, suggestions and contributions for future issues of Perspectives, to the members of the Editorial Committee listed below. See you in Tampa!

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Rally 'Round *the* Flag *of Victim Justice*

National Crime Victim Rights Week
April 25 - May 1, 1993

Crime leaves in its wake many victims who suffer emotional trauma, physical injury and financial hardship. Each year one week is set aside by presidential proclamation for the nation to focus on the rights that victims have had to fight for in order to be informed, involved and heard throughout all phases of the criminal justice system.

Please join the American Probation and Parole Association in honoring the progress made by the victims' rights movement in its effort to elicit the support of community corrections in furthering victims' involvement within the system. As a co-sponsor of National Victim Rights Week, APPA encourages you to participate in, or even initiate activities which elevate the visibility of crime victims' pursuit of fair, decent and compassionate treatment. With your commitment to APPA and its goal of community justice, the needs and concerns of victims can be addressed by the future of corrections - community *corrections.*

As a member of APPA, you may obtain a free copy of the "Organizer's Guide to National Victim Rights Week" for 1993 by writing:

National Victim Rights Week Guide
c/o National Organization for Victim Assistance
1757 Park Road, N.W.
Washington, D.C. 20010

Be a part of the solution -
Join with others in your community to commemorate Victim Rights Week!

Information For Perspectives Contributors

The American Probation and Parole Association's Publication, Perspectives, disseminates information to the Association's members on relevant policy and program issues and provides updates on activities of the Association. The membership represents adult and juvenile probation, parole and community agencies throughout the United States and Canada. Articles submitted for publication are screened by a Board of Editors and, on occasion, selected reviewers, to determine acceptability based on relevance to the field of criminal justice, clarity of presentation, or research methodology. Perspectives does not reflect unsupported personal opinions. Submissions are encouraged following these procedures:

Articles should be submitted in triplicate to the Chair for the Board of Editors (refer to the "Letter from the Editors" for address) meeting the listed deadlines:

Summer 1993 Issue	**March 26, 1993**
Fall 1993 Issue	**June 25, 1993**
Winter 1994 Issue	**September 24, 1993**
Spring 1994 Issue	**December 21, 1993**

If possible, please submit articles in ASCII format on an IBM compatible computer disk along with three hard copies.

Unless previously discussed with the editors, submissions should not exceed ten typed pages which are numbered consecutively and double spaced. All charts, graphs, tables and photographs must be of reproduction quality. Optional titles may be submitted and selected after review with the editors.

All submissions should be in English. Footnotes should be used only for clarification or substantive comments and should appear at the end of the text.

References to source documents should appear in the body of the text with the author's surname and the year of publication in parenthesis, (e.g., Jackson, 1985). Multiple references to sources by the same author should be labeled alphabetically with each year, e.g., (Jackson, 1985a). If the same source is cited more than once, indicate the various pages of the source with each reference, e.g., (Jackson, 1985: 162-165). Alphabetize each reference at the end of the text using the following format:

Anderson, Paul J. 'Salary Survey of Juvenile Probation Officers." Criminal Justice Center, University of Michigan (1982).

Jackson, D.J. "Electronic Monitoring Devices." Probation Quarterly (Spring, 1985): 86-101.

While the editors of Perspectives reserve the right to suggest modifications to any contribution, all authors will be responsible for and given credit for final versions of articles selected for publication. Submissions will not be returned to contributors.

Some Research and *Policy* Development Implications:

Defining a Continuum of Sanctions

by Alan T. Harland, LL.M., Ph.D. Graduate Program Chair, Department of Criminal Justice, Temple University

Pressure to Expand the Range of Intermediate Sanctions

In an era in which alarm over public safety and the fiscal constraints upon government's capacity to respond both seem to be worsening, the criminal justice system's heavy reliance on the polar extremes of routine probation and traditional forms of incarceration has recently come under extensive scrutiny and criticism. Fears about inadequate control and punishment of high-risk probationers on the one hand (Petersilia et al. 1985; Langan and Cuniff 1992). and concern about the ineffectiveness, unconstitutional crowding and crippling construction and maintenance costs of penal institutions on the other (Gottfredson and McConville 1987), have prompted increasingly widespread calls for more extensive development and use of mid-range, "intermediate" sanctions (See generally, Byrne, Lurigio and Petersilia 1992). This is usually understood to mean doing something between the extremes of sentencing or revoking offenders to prison or jail, or releasing them under negligible probationary constraints in the community.

Advocacy for expanding the range of intermediate sanctions has emerged from perhaps an unprecedented broad alliance of critics from all shades of the academic, professional, and political spectrum (American Correctional Association 1990; Castle 1991; Morris and Tonry 1990; U.S. Justice Department 1990). Support in the United States at the national, state, and local level, has been matched internationally (Harland 1990). It has been met by rapid proliferation of a "new generation of alternatives" (Harris 1983-84), such as boot-camps (shock probation), day-treatment and day-reporting centers, intensive supervision probation and parole programs, day-fines, home-arrest/electronic monitoring, as well as by expansion and consolidation of earlier approaches such as community service, restitution, and traditional therapeutic and other treatment interventions (Byrne, Lurigio and Petersilia 1992).

Need for Structured Expansion

Although it is a vital first step towards the rational assessment and allocation of sanctions, a central premise of much recent discussion is that it is not enough, and, indeed, that it may ultimately be counterproductive, for jurisdictions simply to generate an expansive list of sentencing and revocation options. Attention is increasingly being drawn to the danger that, without clear guidance to structure discretion as to how and for whom the variety of sanctions might best be applied, such expansion may make the decisionmaker's task even more difficult and confusing, leaving greater chance for idiosyncratic and otherwise inappropriate results. Increasing the range of choices expands the prospect of improving sanctioning practices, but it also makes the task of deciding upon the "right" response to criminal conduct an even more complex and challenging proposition than in the past.

Expansion of options, without clear definition and a corresponding set of principles and standards to guide in their selection, application, and evaluation, raises starkly the specter of faddish adoption and unstructured discretionary use (and abuse) of intermediate sanctions. This, in turn, escalates the risk of applying them to inappropriate target populations, and the corollary dangers of trivializing them, weakening their public safety impact, and other threats to their integrity and credibility, such as net-widening, cost overruns, breaches of desert principles, inequity, undue disparity, and so on. The latter dangers are of more acute concern as the types of intermediate sanctions being introduced become more and more onerous, as they strive to approximate the punitiveness and control associated with the terms of incarceration with which they are being designed to compete (Petersilia 1990).

The fuller challenge, therefore, is not simply to meet a need for more sanctioning options, but for options that will have clear relevance and credibility in the eyes of practitioners and policymakers on whose understanding and support their long-term survival and success depends. This suggests a need to expand options in a comprehensive, principled, and highly goal-centered way, wary of repeating the frustrations and failures so widely documented in earlier alternatives efforts (Austin and Krisberg 1982; Blumstein et al. 1983; Smith 1983-84). It requires an awareness and high level of systematic attention to well-conceived and articulated development, implementation, monitoring and evaluation strategies; in short, approaching the task in a far more purposeful, information-driven process of carefully planned change, rather than the crisis-oriented, band-aid fashion in which sanctioning options have so often and so unsuccessfully been introduced in the past (Harland and Harris 1984; McGarry 1990; Harland 1991).

Emergence of the Concept of a Continuum of Sanctions

Recognition of the potential dangers of haphazard development and use of an increasingly diverse array of intermediate sanctions has led most recently to widespread calls for greater awareness of the need to go beyond simply the creation of more options. Emphasis is placed instead upon the far more conceptually and methodologically complex

undertaking of establishing a **continuum of sanctions.** The importance of considering sentencing and revocation decisions in terms of a continuum of choices is a theme that has been emphasized recently in both the professional and academic literature. In her recent article on intermediate sanctions, for example, McGarry suggests that a key to their successful implementation is the availability of "a continuum of sanctions scaled around one or more sanctioning goals" (1990:4). Similarly, in their book, *Between Prison and Probation,* Morris and Tonry call for a "rationally graded system of punishment" in which "choices are conceived as being made from a diversity of programs along a continuum of scaled control or punitiveness..." (1990: 198,228). The continuum of sanctions language has been seized upon at the highest levels of political attention. Then-Attorney General Thornburgh, for example, at a 1990 National Drug Conference, called for better approaches to dealing with drug offenders, and stressed the need to develop 'innovative techniques that provide a continuum of sanctioning options" (U.S. Justice Department 1990:1). It has been prominently advanced by the American Correctional Association (ACA 1992), and the Justice Department's National Academy of Corrections has used the concept of a continuum of sanctions as a theme in its program of training and technical assistance seminars for policymakers and practitioners from jurisdictions across the country (National Academy of Corrections 1992).

As is the case with so many other popular concepts in the criminal justice business, the ease with which an idea slips into common parlance often appears inversely related to the degree to which there is any appreciation or consensus as to its essential meaning and significance. The expression, a "continuum of sanctions" is no exception, being frequently used and misunderstood to mean simply a list or menu of criminal penalties or, more commonly, correctional programs, such as the boot-camps and others mentioned above. It is with the important difference between developing a wide-ranging **list or menu** of options, and the far more difficult but potentially more vital task of constructing and applying a **continuum of sanctions** that the balance of the present discussion will be concerned. More specifically, focus will be upon what the idea of a "continuum of sanctions" means, and how and why it is potentially important and helpful to those interested in improving sentencing and correctional policy and practice, especially to those faced with difficult choices about recommending or imposing sanctions in an individual case, or adopting or implementing them at a program or policy level. If the concept of a continuum of sanctions is to be useful to decisionmakers, and on the assumption that clear sanctioning policy is unlikely to emerge from fuzzy sanctioning jargon, and, more optimistically, that precision of language may have something to do with clarity of thought, analysis, and action, it seems worthwhile at the outset, to strive for at least a shared working sense of what it might entail.

Defining Basic Terms

The dictionary definition of the term "sanctions" is: Coercive measures **or** interventions taken to enforce societal standards. The dictionary definition of the term "continuum" identifies its basic characteristic as an ordering or grading on the basis of some fundamental common feature. Combining the two, the result is as follows:

> **Continuum of Sanctions** - A variety of coercive measures taken to enforce societal standards, ordered on the basis of some fundamental common feature.

An obvious aim behind the grading and scaling of sanctions, implicit in the continuum idea of providing some sense of order or sequence for their use, is to make it easier for judges and others to compare and make more rational decisions about the different options, rendering it more likely that those selected will achieve the goals they are expected or hoped to accomplish, and facilitating decisions about interchangeability or equivalence of intermediate sanctions, with terms of incarceration, and with each other. Understanding the concept, therefore, suggests the need for clarification in at least three areas:

- First, what is the precise nature and scope of the various coercive measures embraced within the term "sanctions?"
- Second, what are the essential common features (dimensions) in terms of which judges and other key decisionmakers might find it most helpful to have the various sanctions on the list ordered?
- Third, what techniques or methods might best be employed, in order to scale and grade sanctions according to each of the dimensions identified?

Advocacy for expanding the range of intermediate sanctions has emerged from perhaps an unprecedented broad alliance of critics from all shades of the academic, professional, and political spectrum.

The first question speaks to the range and complexity of sanctioning options available. The two additional lines of inquiry, one conceptual, and one methodological, together further frame the tasks required in order to move beyond an undifferentiated list to a continuum of sanctions. Let us begin with the term sanctions.

Clarifying Items on the Sanctions Menu

Figure I summarizes the range of sanctions or intervention possibilities typical in most jurisdictions, and illustrates the sizable number or alternatives which may compete for the decisionmaker's attention in any given case. It represents the type of menu from which sanctioning authorities will ordinarily be required to select, and offers a tentative list of agenda items to which any attempt to construct a continuum, or otherwise provide structure and guidance to their decisionmaking task, must address itself. Once fleshed out,

Figure 1. Summary Listing of Major Sanctioning Options

WARNING MEASURES *(Notice* **of** *consequences* **of** *subsequent wrongdoing)*	Admonishment/cautioning (administrative; judicial) Suspended execution or imposition of sentence	
INJUNCTIVE MEASURES *(Banning legal* conduct)	Travel (e.g., from jurisdiction; to specific criminogenic spots) Association (e.g., with other offenders) Driving Possession of weapons Use of alcohol Professional activity (e.g. disbarment)	
ECONOMIC MEASURES	Restitution costs Fees Forfeitures Support payments Fines (standard; day-fines)	
WORK RELATED MEASURES	Community service (individual placement; work-crew) Paid employment requirements	
EDUCATION RELATED MEASURES	Academic (e.g., basic literacy, GED) Vocational training Lifeskills training	
PHYSICAL AND MENTAL HEALTH TREATMENT MEASURES	Psychological/psychiatric Chemical (e.g., methadone; psychoactive drugs) Surgical (e.g., acupuncture drug treatment)	
PHYSICAL CONFINEMENT MEASURES	Partial or intermittent confinement	Home curfew Day treatment center Halfway house Restitution center Weekend detention facility/jail Outpatient treatment facility (e.g., drug/mental health)
	Full/continuous confinement	Full home/house arrest Mental hospital Other residential treatment facility (e.g., drug/alcohol) Bootcamp Detention facility Jail Prison
MONITORING/COMPLIANCE *MEASURES* (May *be* attached to all *other sanctions)*	Required of the offender	Mail reporting Electronic monitoring (telephone check-in; active electronic monitoring device) Face-to-face reporting Urinalysis (random; routine)
	Required of the monitoring agent	Criminal records checks Sentence compliance checks (e.g., on payment of $$ sanctions; attendance/performance at treatment, work, or educational sites) Third party checks (family, employer, surety, service/ treatment provider), via (mail, telephone, in-person) Direct surveillance/observation (random/routine visits, and possibly search, at home, work. institution, or elsewhere) Electronic monitoring (regular phone checks and/or passive monitoring device - currently used with home curfew or house arrest, but could track movement more widely as technology develops)

to reflect the actual legal and practical circumstances of an individual jurisdiction concerned about structuring the discretion of key actors in the sentencing process, this kind of list also could serve as sort of checklist in a "desk manual" for judges, or for probation presentence investigators preparing recommendations, or for defense based advocates preparing client-specific sentencing plans. It should also stand as a summary table of contents to the more detailed descriptive accounts of each substantive sentencing option, that such a reference work would also ideally provide,

An essential starting point in the development of a continuum of sanctions and in the pursuit of a more rational approach to their use, is that the options outlined in Figure 1 be defined and understood as thoroughly as possible. This suggests the need for extended discussion among key decisionmakers, aimed at establishing a shared vocabulary and thorough baseline understanding of precisely what options are in use or potentially available in their jurisdiction, and exactly what each one entails. Before it is possible to bring order to any list of ingredients for a rational sanctioning policy, moving from an unstructured array to a more organized continuum of sequenced and scaled alternatives, we must first develop a detailed grasp of what is on the menu to begin with. Judges and legislators are often woefully unfamiliar with the specifics of many of the options available in their own courts and communities. Only by fully identifying and defining the range of options available to sentencing authorities can judgments be made about whether and to what extent they are equivalent or interchangeable in any significant way, and how likely they are to satisfy any or all of the major goals of the decisionmakers involved. Among other things, the definitional task requires recognizing that:

- Intermediate sanctions can be interpreted to include a far broader range of choices than the narrower term "intermediate punishments," and the difference is of far more than semantic importance.
- Both sanctions and punishments can usefully be distinguished from the programs (e.g., boot-camps) of which they are a component, and the agencies (e.g., probation) by which they are administered.

Sanctions vs. Punishments

In their highly touted 1990 book, *Between* Prison *and* Probation: Inter*mediate Punishments in a Rational Sentencing* System, Morris and Tonry ask the question: Why "punishments" and not "sanctions'? Skeptics might answer that the former is more politically fashionable, insofar as it appeals to the sound-tough, law-and-order ideology prevailing in so much of the United States' criminal justice establishment today. Ex-Attorney General, Dick Thornburgh, for example, has lamented the gap between simple probation and prison, responding that we need to fill it with intermediate punishments (U.S. Justice Department 1990:1). Similar language is found in a recently enacted law in Pennsylvania (Act No. 1990-193, S.B. No.718 County Intermediate Punishment Act).

Morris and Tonry, while rather cavalierly defending their own preference as "almost, but not entirely, a question of taste rather than analytic substance" (1990:4-5), nevertheless offer an analytic defense of their choice. It is clearly flawed, and leads to consequences that emphasize that the difference is of far more than semantic importance, strongly attesting to the need to give more attention to substance than taste in matters as weighty as this. Basically, prefaced by the bald, unexplicated assertion that convicted criminals should not be spared punitive responses to their crimes **(why not, if alternative responses can be identified that appear to make more sense?),** their argument for the usage intermediate punishments appears in no small part to be that it is necessary from a sort of marketing perspective, to counter the popular view of prison being punishment and all other responses being alternatives **to** punishment rather than alternative forms **of** it:

> One of *the* reasons *why* American criminal *justice systems have failed to develop a* sufficient range of *criminal sanctions to apply to convicted* offend*ers is that the dialogue is often cast in the pattern* of *punishment or not, with prison being punishment and other sanctions being seen as treatment or, in the minds* of *most, "letting off"* (Morris and Tonry 1990:5).

> Recognition of the potential dangers of haphazard development and use of an increasingly diverse array of intermediate sanctions has led most recently to widespread calls for greater awareness of the need to go beyond simply the creation of more options.

If it is true, however, that a "punishment or not" mentality has impeded the development of responses to crime between the extremes of prison and probation, there is a danger that continuing to cast the issue exclusively in punishment terms, albeit now as "intermediate punishments or not," may tend to compound and perpetuate such limited thinking and resistance to change among policymakers and the public. A recent Justice Department report drew this conclusion in expressing a preference for the term intermediate sanctions, because "[o]ne advantage to not using the terminology 'intermediate punishment' is that 'punishment' is commonly equated with a single rationale for applying criminal sanctions - the rationale of 'retribution' or 'just deserts' - to the neglect of other traditional goals ..." (U.S. Justice Department 1990:3). This may be especially of concern insofar as it may tend to continue to undermine the legitimacy of responses imposed for treatment and other preventive ends, and trivialize the role of conciliatory, compensatory and other actual or quasi-civil options, such as restitution, forfeiture, costs, and fees in a truly comprehensive sanctioning scheme that candidly includes alternatives **to** punishment as well as simply different ways **of** punishing.'

Morris and Tonry, for example, themselves feel that fiscal options such as those just mentioned "can be disposed of swiftly" as merely "adjuncts to rational sentences, not sentences in themselves; additions to, not substitutes for, other punishments..." because, as they rightly point out, they are not **punishments** in the sense that they define the term (1990:220,126). They can, however, be significantly onerous **sanctions,** that, surely for some (many?) offenses might be adequate consequences of conviction in their own right, as in the case, for example, of restitution as a sole sanction, a disposition that has received considerable favorable attention in juvenile courts (Schneider 1986; Harland and Rosen 1990).

In short, the term sanction is far broader than punishment. Arguably, it may extend, for example, to include even coercive pretrial measures, such as bail, curfew and electronic monitoring to prevent flight and/or reoffending prior to case-disposition. In contrast, the notion of pretrial punishment is far more clearly untenable, at least in theory. (In fact, the practice of sentencing offenders to "time-served" in pretrial detention may be one of the most frequently used intermediate punishments of all). In addition, the term sanctions encompasses a broad range of coercive interventions of a civil, quasi-civil, and criminal nature, that can include but need not be limited to the purposeful threat or infliction of painful consequences that so uniquely characterizes and is the essential central defining element behind retributive and deterrent responses to criminal conduct. As a result, it allows the less ideologically blinkered decisionmaker far greater creativity and choice than the more limited and emotionally charged term it subsumes.

Programs vs. Their Component Sanctions

A second way to be clearer about the range of sanctioning options from which decisionmakers might select is to distinguish between individual or specific sanctioning measures and the programs or institutions that exist to administer them (or, more usually, some combination of them). It will be noted, for example, that the sanctions listed in Figure 1 do not include the term probation, nor its equally ambiguous extension, intensive supervision probation, which has become so diverse that it has almost ceased to have useful meaning. All of the options listed in Figure 1 may vary in intensity and in the degree to which individuals and agencies from the private or public sector, including probation, are appropriately involved in their implementation and enforcement. Indeed, one of the advantages of the type of sanction/program breakdown in Figure 1, is that it allows decisionmakers to consider separately precisely which supervision and enforcement agents (police, probation, parole, private) might be most appropriate (e.g., in terms of professional training, mindset, costs, and so on), for each of the specific sanctions that might be imposed. Enlisting the involvement of community policing units in the task of carrying out intensive surveillance conditions of community release, for example, may make more sense in certain circumstances than leaving it up to probation or parole agents. From the foregoing perspective, probation is perhaps more meaningfully considered as only one **agency** among several that can be made responsible for the administration of many of the sanctions listed, rather than a sanction itself. Similarly, practices such as "bench," "unsupervised," or "administrative" probation, are in most instances tantamount to suspended sentences for offenders who neither merit nor get any meaningful attention by probation officers. As such they undoubtedly contribute to the widespread public and professional image of probation as a slap on the wrist, letting-off. Better practice might be simply to sentence such cases to the restitution, fines, costs, and other conditions that are often imposed, without the pretense of probation supervision at all. We talk loosely of offenders being "given probation," when we mean that they have been sentenced to one or more of the specific sanctions in Figure 1, to be enforced under the supervision of the probation department. We do not say that offenders sent to prison or other institutions or programs administered by corrections departments have been "given corrections." It is perhaps this masking of actual sanctions behind the blanket of probation that leads to such widespread public and professional perceptions that probation does not mean anything, and that "getting probation" is tantamount to "getting off." Focusing on the specific sanctions may encourage legislators and judges to stop using probation departments unreflectively as dumping grounds for almost everyone who is not incarcerated. It may also provide some relief to besieged probation administrators, insofar as it allows legitimate criticism of probation as an agency (management weaknesses, staff deficiencies, etc.) to be separated from the more prevalent and unfair attacks that are really criticisms of the sanctions that probation agencies are required to implement and enforce.

In a similar vein, we hear and speak often about the virtues and deficiencies of boot-camps, day treatment centers, community service programs, intensive supervision, and so on. As if each one denoted some self-evident and agreed upon identifying characteristic (See, e.g., McCarthy 1987). The reality, of course, is that some boot-camps look more like treatment programs than many treatment centers, and any two of the other options listed are likely to be more different than alike from one jurisdiction to another, on critical dimensions such as target populations, length of participation, and in the richness and mix of service or surveillance requirements and resources involved. There are a number of options with particular potential for confusion, insofar as their labels appear to suggest reliance upon a unitary or at least relatively singular sanction and program purpose, whereas the reality is that they are much more multi-faceted and, therefore, much more difficult to categorize and evaluate. Some community service programs, for example, rely on individualized assignments, such as working in community

hospitals or soup kitchens, in which responsibility for on-site supervision of the offender may be negligible or in the hands of the employer; others involve far more public, shaming, types of labor, perhaps removing garbage from the highway in the heat of summer or the cold of winter, under the watchful (and expensive) eye of a probation or parole officer, sheriff, or other chain-gang-style supervisor. Obviously, assessments of the cost and punitive or preventive value of such a sanction for various offender groups may differ greatly depending on which type of community service is involved.

Prominent in the more variably defined sanctioning programs are residential restitution centers, house arrest and curfew programs (incarceration at the offender's own expense), electronic monitoring programs, and the latest fad in corrections, boot-camps. Restitution centers, such as those in Texas and Oregon, may have the payment of restitution as an important program element, but so do many boot-camps, half-way houses, and centers for work-release and day reporting. Conversely, restitution centers may also share many of the treatment, community service, and fee requirements of the others. Similarly, in what are generically referred to as house arrest or electronic monitoring programs in some jurisdictions, the labels usually greatly belie the diversity of other program elements involved, such as mandatory work, restitution, and treatment requirements, which make such programs virtually indistinguishable from day treatment and intensive supervision probation programs in other places, many of which also rely heavily on curfew and electronic monitoring.

Possibly the greatest potential for ambiguity and deceptive labeling among currently popular sanctioning programs (with all the eventual dangers of backlash for long term survival that false advertising inevitably presents) is in the use of the term boot-camp (See generally, McKenzie 1990). On the one hand, they are political favorites because of the get-tough appeal and punitive aura of military style boot-camps, with rigorous regimes and austere conditions of order and discipline to satisfy retributive emotions and possibly serve as a deterrent. At the same time, more treatment-oriented correctional practitioners and liberal reform proponents find themselves falling in line with the physical-drill and shaved-head routines, as a small price perhaps for the phenomenal political appeal and corresponding glut of funding they have engendered. The military toughness image frees politicians to give the money. The money frees designers and administrators of the actual programs to incorporate a rich assortment of unabashedly rehabilitative resources for which funding might otherwise have been far more difficult if not impossible to secure, such as "life skills improvement, self- esteem enhancement, educational and vocational training, confidence building, nutritional and personal hygiene improvement, and substance abuse treatment" (U.S. Justice Department 1990:6).

Identifying and separating relatively discrete **sanctions,** such as a fine, community service, or confinement, from more amorphous **programs or institutions** such as boot-camps, or day treatment centers, does not automatically eliminate confusion or assure a shared understanding of the meaning of the terms being used. Even something as seemingly simple as a fine, for example, is not so straightforward, for purposes of comparison, if one party to the debate is talking about day-fines while the other is thinking about traditional fining practices. The program vs. discrete measure distinction is a worthwhile effort, however, because the task of assessing an option's likely congruence (fit) with the decisionmaker's dominant goal(s), and comparing it to other alternatives, will be even more complex and susceptible to ambiguity and misunderstanding when the option under consideration is an institution or program in which an amalgam of sanctioning measures is involved. Consequently, the risk is higher that offenders may be subjected to all-or-nothing involvement in the standard regimes of, say, a day treatment center or boot-camp, when perhaps only one or more of the program elements is really warranted. Where judges are induced to make decisions about sanctioning options in terms of "kitchen-sink," or "black-box" programs, rather than on the basis of rigorous analysis of what might be the most parsimonious and otherwise appropriate combination of specific intervention measures of which they are comprised, the resulting potential is great for over-programming and wasteful and possibly counterproductive application of sanctioning resources.

Moving From a List to a Continuum Dimensions: Goats of Sanctioning Authorities

Faced with a growing number of choices, as the array of options such as those in Figure 1 expands, the need for clear information and guidance about the precise nature of the various options, and the likelihood of their satisfying different sentencing goals, in relation to each other and to incarceration, becomes an obvious priority for both policy-level and case-level decisionmakers concerned about the rational allocation of sanctioning resources in criminal courts. Clarity of purposes/goals is an obvious precursor to any meaningful assessment, comparison, and evaluation of the strengths and weaknesses of different sanctions. Selection and application of any of the listed options will be driven by a belief or hope that it is reasonably compatible with the decisionmaker's dominant values and goals.

Consequently, in addition to being well informed about the operational aspects of sanctions available to them, practitioners and policymakers must also be clear about the most essential fears and concerns to which their decisions about sanctioning choices are intended to respond. If one believes, along with Morris and Tonry (1990:96), that sentences can be devised that can meaningfully be said to be equivalent to imprisonment (or to each other), the question becomes: On what measures of equivalence or interchangeability might the

various sanctioning options best be scaled and graded to help decisionmakers, such as judges who are the major consumers from the sanctioning menu, to choose rationally among and between them? Equivalent in terms of what?

Recent efforts to respond to the need for guidance with respect co intermediate sanctions have focused heavily on ways to grade them in terms of their weight or value on a scale of severity or onerousness.

Surprisingly little attention has been paid to the issue of scaling criminal penalties in such a way as to aid decisionmakers to judge how well they are likely to "work," at all, and in relation to each other, in terms of satisfying concerns uppermost in the minds of sanctioning authorities. Recent efforts to respond to the need for guidance with respect to intermediate sanctions have focused heavily on ways to grade them in terms of their weight or value on a scale of **severity** or **onerousness** (Knapp 1988a, 1988b; Von Hirsch, Wasik and Greene 1989; Von Hirsch 1983, 1992; compare Sebba 1978). Among the most applied attempts along these lines have been the efforts of day-fines advocates to assign "units of punishment" to offenses rather than fixing dollar amounts, so that offenders of different financial means would be assessed the same number of punishment units for similar offenses, but would satisfy them in terms of their individual payment abilities (each might be required, for example, to pay a day's income for each unit assessed.) (Greene 1988).

Arguments that primacy of scaling and fixing exchange rates for different sanctions should be given to a value of assuring **equality of severity or suffering** have not gone unchallenged. Instead, it has been suggested that sanctions might be more usefully and realistically scaled, and equivalencies gauged, in terms of their value (or perceived value) in satisfying broader, more functional system goals, rather than simply on their ability to satisfy purely retributive demands for assuring that comparable levels of pain be inflicted on offenders committing similar offenses (McGarry 1990:4; Morris and Tonry 1990:104). The decisionmaker's demand might, for example, be for an ordering that allows ready comparison of the different options in Figure 1, not only (nor even principally) in terms of how much pain and suffering they each represent; rather, interest might also (or instead) call for a ranking and scaling on the basis of their perceived or demonstrated value as utilitarian techniques for controlling the rate of crime (value as a general deterrent measure), or recidivism [value as a rehabilitative, incapacitative, or specific deterrent measure).

In addition to traditional **retributive** and utilitarian **preventive** aims, scaling and comparison could also proceed along a restorative dimension, based on the value of different sanctions in terms of their ability to address goals such as **reparation** to the victim, community, or society. The term **"accountability"** - in the sense of holding offenders accountable for their crimes - is also used widely in recent years, especially in juvenile justice restitution circles, as if it were an independent goal of criminal sanctions (Schneider and Warner 1989). In my view, this is often only an unhelpful code word for retribution in many instances. Or, being more charitable to its proponents, it is, at best, no more than a rephrasing of the equally ambiguous desire to make offenders "pay" for their crimes, which can either mean pay in the sense of suffer (retribution), or pay in the sense of compensate (reparation). In either case, conceptual clarity and intellectual integrity are both better served by using the more specific underlying terms. As well as comparing sanctions in terms of their value in satisfying the primary goals **of** sentencing (restorative, preventive, and retributive), other dimensions of a continuum of sanctions might involve scaling and grading in terms of various limiting principles or goals **at** sentencing. At a program and policy level, for example, decisionmakers from budget and oversight agencies may have a more specialized concern to see sanctions graded and assessed according to the **economic** costs that each represents. Still a further possibility is to grade them in terms of their political implications, including their value on a scale of **public satisfaction,** or approval by different criminal justice professionals, victims groups, or other important constituencies.

In sum, the various intervention options might be scaled according to their relative value in relation to a number of important goals of sanctioning authorities. A very simplified graphic illustration of the type of decision tool to which such an undertaking might lead is presented in Figure 2.

Collectively, the resulting ratings would inform judges, and other decisionmakers involved in the sanctioning process, as. to how well each option is considered to "fit" or to "work" on the different dimensions or measures of effectiveness, efficiency, and fairness represented by the goals being measured. Assuming that a decisionmaking reference of this general nature would be of assistance to guide and structure discretion in the comparison and use of criminal sanctions, it remains to ask how feasible it would be, and what it would take to construct it.

The Mechanics of Scaling and Grading Sanctions

It is well beyond the scope of this brief discussion to delve into the class of methodological and statistical techniques that have developed around the tasks of classification and multi-dimensional scaling. They have emerged in fields as far removed from criminal justice as numerical taxonomy in biology and zoology, and been applied in equally foreign but analogous settings by economists and marketing researchers investigating consumer reaction to a wide variety of product classes (See, e.g., Everitt, B. 1974; Kruskal and Wish 1978; Rossi and Knock 1982). Their application in criminal justice, however, is not new, although emphasis has been less on the task of grading sanctions

Figure 2. Illustration of Scaling Possibilities for Criminal Sanctions: Type of Sanction, by Scaling Dimensions and Units of Measure

	Scaling Dimensions						
Type of Sanction	*Retributive Severity*	Crime Reduction (a)	*Recidivism Reduction (b)*	Reparation	Economic cost	Public *Satisfaction*	*Etc.*
	Units of Measurement/Assessment						
Sanction A **Sanction B** **Sanction C** **Sanction D** **Etc.**	Value in terms of pain and suffering (c)	Value in terms of impact on crime rate	Value in terms of impact on re-offense rate	Value in terms of compensating aggrieved parties (d)	Value in terms of cost efficiency	Value in terms of public approval ratings	Etc.

(a) General deterrence effects.
(b) Specific deterrence, incapacitation, rehabilitation effects.
(c) Or in terms of units of onerousness, intrusiveness or deprivation of autonomy/liberty.
(d) Direct victims and possibly indirectly affected individuals, groups, or entities (e.g., family members, insurers, taxpayers, community, society).

than in attempts to bring numerical precision to assessments of crime seriousness (See, e.g., Sellin and Wolfgang, 1964; Rossi, Simpson and Miller 1985; Wolfgang et al., 1985; Warr, 1989). Efforts to create 'Seriousness-index scores" for different offenses have demonstrated the complexity of the task, and the multi-dimensionality of the concept, varying as it does according to the extent of harm sustained, characteristics of the victim and the offender, and situational factors, such as, for example, whether a burglary was committed by day or night, in occupied or empty premises, by an armed or unarmed person, and so on.

The problem of fixing units of value to different sanctions, whether in terms of severity or some other scale, is no less challenging an undertaking than grading the seriousness of offenses. Opinions and facts about the relative merit, equivalence, or interchangeability of different sanctions on almost any of the dimensions in Figure 2 will likely vary depending upon the rater's understanding of the precise nature **(quality of sanction),** and the duration and intensity **(quantity of sanction)** of the options under consideration. They may also be influenced by different **aspects of the case** as a whole, including judgments about degrees of **culpability,** and the probability **(risk)** and consequences **(stakes)** of subsequent offending, as indicated by the **characteristics of the offense and the** offender being targeted to receive the sanction. If we are considering, for example, how many hours of community service, or how high a fine might be the equivalent of six months incarceration, the answer is likely to be somewhat different if the time is to be served in an overcrowded, violence-plagued, dungeon-style jail, or in a state-of-the-art, modern correctional facility. Likewise, the calculation might vary depending upon whether the type of community service to be performed is of the individual placement or supervised chain-gang variety, or if the fine is assessed in traditional form or on a day-fine basis. Still further variation in ratings might be encountered on some scales if the person upon whom the sanction is to be imposed is an employed, middle class, first-time property offender vs. a homeless derelict with a history of violent offending.

Finally, assuming numerical scores could be inserted in the cells for every sanction and scaling dimension in Figure 2, selection and interchangeability decisions must further be guided by policies and rules determining the relative weight and priority to be given to each dimension when conflicts (e.g., between punishment and treatment) arise. Assuming adequate specification and description of the different options on any list of possibilities from which a sanctioning response to a given case might be crafted, the next question that arises is: Given such a range of choices, is there a consistent, principled order or sequence in which the various measures should be factored into the construction of an appropriate sanctioning response? In any given case or class of cases, how does the sanctioning decisionmaker know where to start the selection process, where to stop, and how to resolve conflicts that may arise between competing possibilities on the list? All things being equal, for example, should a comprehensive sanctioning

scheme afford primacy of attention to compensating victims, and other interests of restorative justice? Or must those goals be subordinate to the public safety concerns of prevention advocates? Where does either rank in relation to retributive demands that our primary concern should be to make sure that offenders are made to suffer some appropriate degree of pain and suffering for their crimes, regardless of considerations of social utility? And how should costs (direct, opportunity) and public satisfaction factor into the final analysis?

The problem of fixing units of value to different sanctions, whether in terms of severity or some other scale, is no less challenging an undertaking than grading the seriousness of offenses.

Conclusion

The research and policy development agenda is obviously a substantial one before the notion of a continuum of sanctions can be translated into a more practically useful application for guiding decisions about sanctioning options. The task is essential, however, if we are to reduce an otherwise undifferentiated and potentially bewildering mass of choices to a more organized, meaningful, and readily comparable format within which judges and others can have some clear sense of expected outcomes, and of how different intermediate sanctions fit in relation to imprisonment and to each other (equivalencies). Its importance is emphasized starkly by the realization of how almost completely lacking in information we are at the moment to fill in any of the cells in Figure 2 with any degree of confidence whatsoever (Byrne and Pattavina 1992; US. General Accounting Office 1990). Yet judges and other sanctioning authorities are obviously doing such scaling and grading implicitly, at least on the dimensions they consider salient, whenever sanctioning decisions are made.

Grappling with the development of a continuum of sanctions is both a conceptually and methodologically complex undertaking. It is an easy expression to use, but a difficult one to understand, and an even more difficult one to operational&. If methodologists can supply the skills and tools for the job, what I have tried to emphasize here is that practitioners and policymakers who are the key decisionmakers in sentencing must be the ones to supply the raw materials, by specifying as clearly and thoroughly as possible the sanctioning options to be scaled, and, most importantly, the dimensions or goals on which they deem it most important that grading and sequencing of sanctions should be based. In the present discussion only the outlines of policy and research implications of the continuum of sanctions concept have been introduced. The result may be as much confusion as enlightenment. The only consolation is perhaps that confusion is often the best catalyst for intellectual inquiry and growth.

Note

[1] Going further, responding to criminal behavior and its consequences need not, of course, be limited to sanctions either. Besides responding through coercive measures, a wide variety of empowering, enabling, facilitative, exhortative, and undoubtedly other ways of dealing with offenders can be imagined.

References

American Correctional Association. *(1990). Intermediate* Punishment: *Community Based* Sanctions. Laurel, Maryland: American Correctional Association.

Austin, J. and B. Krisberg (1982). "The Unmet Promise of Alternatives to Incarceration." Crime and *Delinquency* 28:374-409.

Blumstein, A., Cohen, J., Martin S., and M. Tonry (eds.) (1983) *Research on Sentencing: The* Search *for Reform, Vols. I and* II. Washington, D.C.: National Academy of Sciences.

Byrne, J., Lurigio, A.J. and J. Petersilia (eds.). (1992). *Smart Sentencing: The Emergence of Intermediate Sanctions.* Newbury Park, California: Sage Publications.

Byrne, J. and A. Pattavina. (1992). "The Effectiveness Issue: Assessing What Works in the Adult Community Corrections System." In Byrne, J., Lurigio, A.J. and J. Petersilia (eds.) (1992). *Smart Sentencing: The Emergence of* Intermediate Sanctions 281-303. Newbury Park, California: Sage Publications.

Castle, M.A. (1991) "Alternative Sentencing: Selling It to the Public," Washington, DC.: U.S. Department of Justice, National Institute of Justice, Research in Action.

Everitt, B. (1974). *Cluster Analysis:* An *SSRC Review* of Current Research. London: Heinemann Educational Books.

Gottfredson, S.D., and S. McConville (eds.) (1987). America's Correctional Crisis. New Jersey: Greenwood Press.

Greene, J.A. (1988). "Structuring Criminal Fines: Making an 'Intermediate Penalty' More Useful and Equitable," *Justice System* Journal 13:37-50.

Harland, A.T. (1991). "Jail Crowding and the Process of Criminal Justice Policymaking." Prison Journal 71(1):77-92.

Harland, A.T. (1990) "Intensive Supervision Probation: A U.S.A. Perspective." In Jones, A. (ed.) *The Offender* in *the* Community. England: Bristol Centre for Criminal Justice.

Harland, AT. and C.J. Rosen. (1989). "Impediments to the Recovery of Restitution by Crime Victims." Violence *and Victims. 5(2):127-40.*

Harland AT. and P.W. Harris. (1984) "Developing and Implementing Alternatives to Incarceration: A Problem of Planned Change in Criminal Justice." University of Illinois Law *Review* 1984 (2): 319-364.

Harris, M.K. (1983-84). "Strategies, Values, and the Emerging Generation of Alternatives to Incarceration." New *York University Review* of *Law and So*cial Change 12(1):141-170.

Jankowski, L. (1991, November). "Probation and Parole 1990." Washington, D.C.: U.S. Department of Justice, *Bureau* of *Justice Statistics Bulletin.*

Knapp, K. (1988a). "Structured Sentencing: Building on Experience." *Judicature 72:46.*

Knapp, K. (1988b, Winter). "Assistance for Structured Sentencing Projects. Next Step: Non Imprisonment Guidelines." *Perspectives 8-10.*

Kruskal, J.B. and M. Wish. (1978). Multidimensional Scaling. Beverly Hills, California: Sage Publications.

Langan, P.A. and M.A. Cuniff. (1992, February). "Recidivism of Felons on Probation, 1986-89." Washington, D.C.: U.S. Justice Department, Bureau of Justice Special Report.

McCarthy, B.R. (ed.). (1987). Intermediate Punishments: Intensive Supervision, Home Confinement, and Electronic Surveillance. New York: Criminal Justice Press.

MacKenzie, D.L. (1990). "Boot Camp Prisons: Components, Evaluations, and Empirical Issues." Federal Probation 54(3):44-52.

McGarry P. "Improving the Use of Intermediate Sanctions." Community Corrections Quarterly l(3) : 2-6 Spring 1990.

Morris N. and M. Tonry. (1990). Between Prison and Probation: Intermediate Punishments in a Rational Sentencing system. New York: Oxford University Press.

National Academy of Corrections. Intermediate Sanctions Seminar 92. SO701. Boulder, Colorado 80301. February 23-28, 1992.

Petersilia, J. and S. Turner. (1990). Intensive Supervision for High Risk Probationers. Santa Monica, California: Rand Corporation.

Petersilia, J. (1990). "When Probation Becomes More Dreaded Than Prison." Federal Probation 54(5):23-27.

Petersilia, J., Turner, S., Kahan, J., and J. Peterson. (1985). Granting Felons Probation: Public Risks and Alternatives. Santa Monica, California: Rand Corporation.

Rossi, P.H., Simpson, J.E. and J.L. Miller. (1985). "Beyond Crime Seriousness: Fitting the Punishment to the Crime." Journal of Quantitative Criminology 1:59-90.

Rossi. P.H. and S.L. Nock (eds.) (1982). Measuring Social Judgments: The Factorial Survey Approach. Beverly Hills, California: Sage Publications.

Schneider, A.L. and J.S. Warner. (1989). National Trends in Juvenile Restitution Programming. Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. Restitution Education, Specialized Training and Technical Assistance Program.

Schneider, A.L. (1986). "Restitution and Recidivism Rates of Juvenile Offenders: Results from Four Experimental Studies." Criminology 24:533-52.

Sebba L. (1978). "Some Explorations in the Scaling of Penalties." Journal of Research in Crime and Delinquency 15:247-263.

Sellin, T. and M.E. Wolfgang. (1964). The Measurement of Delinquency. New York: John Wiley and Sons.

Smith, M.E. (1983-84). "Will the Real Alternatives Please Stand Up?" New York University Review of Law and Social Change 12(1):171-207.

U.S. Department of Justice. (1990). Survey of Intermediate Sanctions. Washington, D.C.: Government Printing Office.

U.S. General Accounting Office. (1990). Intermediate Sanctions: Their Impact on Prison Crowding, Costs, and Recidivism Are Still Unclear. Washington, DC.: Government Printing Office.

Von Hirsch, A. (1992). "Scaling Intermediate Punishments: A Comparison of Two Models." In Byrne, J., et al. (eds). Smart Sentencing: The Emergence of Intermediate Sanctions. 1992:211-228. California: Sage Publications.

Von Hirsch, A., Wasik, M. and J.A. Greene. (1989). "Punishments in the Community and the Principles of Desert." Rutgers Law Journal 20:595-618.

Von Hirsch A. (1983). "Commensurability and Crime Prevention: Evaluating Formal Sentencing Structures and their Rationale." Journal of Criminal Law and Criminology 74(1):209-248.

Warr, M. (1989). "What is the Perceived Seriousness of Crimes?" Criminology 27(4):795-821.

Wolfgang, M.E., Figlio. R.M., Tracy, P.E. and S.I. Singer. (1985). The National Survey of Crime Severity. Washington, D.C.: Government Printing Office.

A Primer:

The Arming of Probation and Parole Officers

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The prospects of arming probation and parole officers remains controversial and still generates considerable debate whenever the subject is discussed. However, what is very clear is that an ever increasing number of departments nationwide are opting to arm all or a portion of their staff. Departments which, five years ago, would not have even considered allowing their officers to carry a gun while on duty are now doing so. Others are currently weighing the pros and cons of arming some or all of their officers, either by choice or at gunpoint (pun intended). A number of departments are getting considerable pressure from their rank-and-file employees, including collective bargaining contract demands, or are being threatened with court action under the OSHA laws. No matter what the motivation, if an agency has decided or is likely to decide to arm its officers, there are a number of issues to consider before any program is actually implemented.

This article does not focus on the arguments for or against arming nor is it intended to, in any way, make a case for arming. Rather, it is intended to provide helpful information to an agency that has made, or is about to make, a decision to arm.

By way of establishing credibility, the authors were administratively responsible for implementing a firearm program under court order in the California parole system in 1979. In a matter of only six months (by order of the courts), they were responsible for taking a totally unarmed agency of some 1,000 employees and turning it into an armed agency. In doing so, they were faced with the same issues and making all of the same decisions that management today are faced with in implementing such a program.

This article will, therefore, discuss the relevant issues in arming a probation or parole agency, including preparation of a written firearm policy, selecting equipment, initial and ongoing training requirements and an ongoing monitoring/feedback system.

Policy. The cornerstone of any firearm program is the written policy. It must be sufficiently comprehensive to provide clear direction to armed personnel, but not so explicit that it removes all discretion from the employee. In reviewing a number of written policies from both police and probation/parole departments, the authors found some that were so general that they provided almost no guidance to the officer and others that were so detailed (and restrictive) that they, in effect, took the gun out of the hand of the employee. Looking at policies from other agencies can be enormously helpful in terms of identifying specific areas that need to be addressed. However, the final policy must reflect the specific philosophy and intent of the issuing department.

Failure to adequately address agency philosophy has the potential to allow the firearm to unnecessarily impact the mission of the department. The firearm perhaps more than any other "tool" has the potential to disproportionately affect the role and function of an agency. This is the reason most often expressed for their apprehension by individuals who have been or are opposed to arming. However, based on an ever increasing body of experience and knowledge, if this is adequately addressed in the written policy and reinforced by all *other aspects* of the firearm program, this need not happen.

The written policy must address the following areas:

- Who may be armed, when and under what conditions.
- When deadly force may be used.
- What type(s) of firearms (departmentally issued or officer owned), type of ammunition and other equipment (holster, ammunition carrier, speed loader, weapon modification permitted), etc., will be permitted.
- Training requirements, both initial and ongoing.
- Weapon maintenance including cleaning, inspection and repair.
- Procedures for monitoring "use" of the weapon (here, "use" includes both discharge and unholstering), procedures for investigating any discharge of the firearm and the steps to be followed in the event of a shooting.
- Specific restrictions regarding the firearm; i.e., off-duty carrying of the service firearm (if departmentally issued), warning shots, shooting at or from moving vehicle, "hide out" guns, etc.

The written policy must provide clearly spelled out direction, guidelines and restrictions, but must ultimately allow the individual *employee* the ability to make the final determination, within an enforced set of limits, *when the use of the firearm is necessary in a given situation.*

Selection of Equipment. The selection of specific equipment must reflect and reinforce the basic firearm philosophy stated in the departmental policy. If, for example, the philosophy is that the weapon is for self-defense only (as opposed to offensive or tactical use), a light-weight revolver with a two- or

three-inch barrel holding six soft, hollow point rounds, is more appropriate than a semi-automatic handgun holding 14 to 16 rounds of fully jacketed metal piercing ammunition. The semi-automatic may communicate something far different than simply self-defense.

Firearm. In law enforcement there are primarily three uses for a firearm: defensive, i.e., when the individual or some other person is in immediate jeopardy and deadly force is the only reasonable alternative available; offensive, i.e., where the weapon is intended to manage a situation that is clearly known to be dangerous, and without the firearm the person would not continue to pursue the matter (entering a building where an armed suspect is known or believed to be located, for example); and tactical, i.e., where a firearm is used to manage a hostage or barricaded suspect situation (SWAT or SERT activities, etc.).

Failure to adequately address agency philosophy has the potential to allow the firearm to unnecessarily impact the mission of the department.

The firearm issued or allowed to be carried should reflect and reinforce that which policy permits. A firearm intended exclusively for self-defense is a far different type of weapon than one intended for offensive or tactical use.

In selecting the appropriate firearm, several other areas need to be considered including:

- Size, weight and the ability for concealment. Given the way most officers routinely dress, a firearm that is lightweight and easy to conceal is desirable. Particularly in probation and parole work, the firearm must be concealable and concealed at all times. Not only is this a critical safety matter, it also reduces the potential that being armed will negatively impact the relationship with probationers and their families.
- The reliability and "life" of the weapon. Since this will be a major investment and an individual's life may depend on it, it is important to select a firearm that will be reliable and last.
- Effectiveness. Since most policy shootings occur within seven feet (and are over in about three seconds), the firearm selected need not be manufactured for distance shooting. Short barrelled guns (in the two- to three-inch range) are effective at a short range and have the bonus of being very concealable.

Ammunition. The ammunition selected depends largely on the firearm chosen and the use of the weapon (defensive, offensive or tactical). In addition to being the same caliber as the firearm, it must have sufficient muzzle velocity to stop an assailant. A bullet with too much velocity (particularly if it is also fully jacketed) can go completely through the intended target (frequently without doing much damage) and hit an unintended target. Too little velocity will not always have sufficient impact to stop an assailant.

For a two- to three-inch barrel revolver, a 125 grain, semi-jacketed hollow point is a good choice. It has sufficient velocity to stop most targets but not so much as to go through the assailant, and the semi-jacketed round flattens out on contact, resulting in maximum force on impact. To use an analogy, compare the stopping power of an ice pick delivered at a high rate of speed (a fully-jacketed, high velocity round) with the blow from a sledge hammer (a lower velocity, semi-jacketed hollow point).

Another advantage of a semi-jacketed hollow point bullet is that, because it flattens out upon contact, there is less chance of it ricocheting and doing unintended damage. By way of explanation, a fully-jacketed bullet has a hard metal completely covering the softer metal in the projectile, while a semi-jacketed round has the harder metal only partially covering the soft metal.

Other Equipment. The holster selected or approved should ideally be a "strong side" (right side for a right-handed person and left side for a left-handed) with a safety strap, and should fasten securely to the clothing. Cross-draw, shoulder, and purse holsters all have disadvantages and create some safety problems. Both cross-draws and shoulder holsters require that the firearm be arced across the body when drawn (due to the strong hand having to reach across the body to unholster the weapon). The danger is that the individual may discharge the firearm before it is completely down range and hit an unintended target. This can be a major safety problem on the practice range, particularly with novice shooters. If a department opts to permit cross-draw or shoulder holsters, special training, including a modified qualification range, should be provided. Purse holsters have proven to be very difficult to unholster from and re-holster (and are, therefore, unsafe), and there is always the danger of having the purse taken or lost in an altercation.

Speed loaders have proven to be a good alternative for carrying spare ammunition. Particularly with inexperienced shooters during timed re-qualification, speed loaders have considerably reduced the number of individuals who have failed the course. They would, therefore, likely prove to be more efficient in real life situations also. The only potential problem with speed loaders is that they can communicate some expectation that officers are expected to engage in multi-round fire fights. This issue, if it is a problem, can be adequately managed through the written policy and training.

Any mechanical modifications to the firearm should be prohibited. Some experienced shooters sometimes attempt to modify the spring to the trigger mechanism. This reduces the amount of force required to pull the trigger. A "hair trigger" as it is sometimes called, is unsafe and significantly increases the potential for an accidental discharge. Weapons can easily be tested for this modification during routine inspection of the weapon. Grip adapters (i.e., adapters placed on the gun's handle to better fit an individual's hand) do not affect the safety or accuracy of the firearm and, therefore, should be permitted.

Training. As noted, the training program must have two phases, initial and on-going. Additionally, these two phases must have two components, classroom and range. The initial training must be

successfully completed before any firearms are issued.

It is preferable for a probation and parole department to select and train their own firearm instructors and rangemasters so as to assure that *departmental* policies and procedures are taught.

Initial Classroom Training: This component of the training must focus on a variety of issues that provide the necessary information and background for someone who will carry a killing instrument and will have the legal authority to use deadly force. The actual skills training with the firearm itself will occur during the range component of this training phase. The classroom training should minimally include the following subject matter:

- Complete familiarization with the department's written policy.
- Familiarization with the officer's scope of authority; i.e., where, when and in what situations does the officer's authority extend (and a definition of his or her peace officer powers, if any). Also, some definition of when an officer is on duty for purposes of exercising that authority (i.e., 24 hours a day, only when working a pre-approved schedule, only when engaged in a probation/parole matter, etc.).
- Defining situations when deadly force can be utilized, both from a legal point of view and from a tactical standpoint. The tactical decision, or "shoot/don't shoot" decision must focus on specific probation/parole field situations. Visual aids (movies and video tapes) that are commercially available were made for police agencies and, therefore, do not depict probation and parole situations and, as such, are usually not appropriate for use by these departments. It is more appropriate for a department to make or have made their own visual aids to assure that they reinforce the agency's own policy and depict believable correctional field situations.
- Firearm retention, i.e., techniques for protecting the firearm and helping to assure that it will not be taken from the officer.
- Familiarization with mutual aid situations. Probation and parole frequently work in cooperation with other law enforcement agencies. As such, some knowledge and familiarization with general law enforcement procedures and tactics, particularly as it relates to the firearm, can be useful and can increase officer safety in these situations.
- General safety procedures. This part of the training should include such things as voice commands, storage of the firearm both at home and in the off ice, use of one's senses to anticipate and avoid potential dangerous situations, preplanning procedures for potentially dangerous activities that are known in advance, the range of available alternatives to using deadly force, etc.
- Pre-range orientation to the firearm and range safety procedures and rules.

Initial Range Training: Both initial and ongoing range training have two important prerequisites: a range and certified rangemasters/firearm instructors. Since most probation and parole agencies do not or will not have their own range, arrangements must be made to use one belonging to another department. Nearby law enforcement departments or correctional institutions offer the best possibilities. In the absence of these options, a private for-profit range is another alternative. Most of these options will cost money, although some will excuse all or part of the cost in exchange for the brass used in the practice firing. Obviously, depending on the size and geography of your agency, several such arrangements may be necessary.

Some of the contract ranges can also provide certified rangemasters. However, most departments have found it preferable to train and utilize their own rangemasters. They are more familiar with the agency's particular weapon, policy, range course and, most importantly, the role and function of probation and parole.

The initial range training must include the following elements:

- Firearms and range safety.
- Nomenclature of the weapon parts and how they work.
- Ongoing cleaning and maintenance procedures.
- Firearm inspection.
- Firing a sufficient number of rounds so that the individual becomes familiar with the firearm and its effectiveness at various distances. During this familiarization firing, the gun should be fired from 25 yards and closer (15, 7 and 3 yards).
- Fire the standard departmental qualification range course for initial qualification. Since many officers will likely be inexperienced shooters, several opportunities should be provided to qualify during this initial phase. Individuals who experience problems should be identified at this point and scheduled for remedial training.

Ongoing Classroom Training: There is a need for periodic follow-up classroom training focusing on a number of issues. These areas of focus will include changes in the department's firearm policy, changes in statutory and case law that may impact the use of firearms, problems identified through the ongoing monitoring program and other problem areas identified by management. A general refresher on critical subject areas can also be useful.

Ongoing Range Training: There is an obvious need to periodically re-qualify all armed officers and to provide additional assistance to individuals who are having problems becoming proficient with the firearm. This not only maintains officer competency and, therefore, personal safety, it avoids potential vicarious liability to the department. The time frames for re-qualification may be spelled out in state law (as in California). If not, the recommended time frame is no less than quarterly. Anything less frequent can increase the potential for liability to the department.

Any qualification range course should make certain that the following are included:

- The course must be adaptable to all ranges used. It is vital that the course selected by the department can be adequately fired on the most primitive range used.
- Before officers fire a course, all firearms must be inspected by a trained and certified rangemaster to detect any possible malfunctions in the firearm.

- The course must, as closely as possible, simulate situations that probation and parole officers are likely to face in the real world, i.e., mostly reactive shooting rather than Camp Perry-type target practice, firing from close range - 3, 7 and 15 yards are most appropriate, some form of target recognition and response, etc.
- The course must be fired while the individual is dressed in clothing that officers normally wear while working, i.e., the firearm must be covered by a coat, jacket, shirt or blouse, and the individual qualifying must fire from the holster they will use on the job.
- If a department provides any special type of special clothing, such as soft-body armor, the policy should require that this clothing be worn while qualifying. Particularly with soft-body armor, special training will be required in how to safely holster and unholster the firearm while wearing this type of safety clothing.

When the officers become competent in the use of the firearm, it can be helpful to have several different qualification ranges that can be rotated from time to time. This will reduce boredom - that can cause safety problems - and allow the department to have different courses focus on different aspects of firearm use. In California parole, for example, three different courses were used on alternating quarters. One focused on good shooting technique, another on movement away from the target with some target recognition required, and the third required firing under artificially produced stress (increased firing and reloading times).

If at all possible, it is desirable to have all shooters go through some type of a "Hogan's Alley." This will provide experience to the officers in all aspects of firearm use, including shooting under stress, target recognition and reactive shooting. Unless the department's firearm policy infers an expectation for offensive or tactical use of the weapon, firing from prone, kneeling or barricade positions is not terribly useful.

In addition to all of the requirements discussed heretofore, it is necessary to have a remedial course of instruction available for the problem shooter.

Monitoring and Feedback Systems. The final element in a firearm program is to have in place an ongoing monitoring and feedback system. It is critical for management to know to what extent the firearm policy is being adhered to, how and when the firearm is being used and, most importantly, what impact it may be having on the overall mission of the department. Such a system must monitor and/or track the following areas:

- If departmentally issued, who has been assigned what weapon. If privately owned, what weapon (type and serial number) is being carried while on duty. It is critical that all firearms be accounted for at all times and that a sufficient number of firearms be available for issuance to new officers.
- Where, when, how and by whom are the firearms being used. For this purpose, "used" should include both discharge and unholstering of the weapon. Reports should be required from the participants whenever a firearm is introduced in a job-related situation. These reports should include sufficient detail upon which to make a judgment as to the appropriateness of the decision to use the firearm. These reports should be reviewed by the first-line supervisor (who should add his or her comments regarding the appropriateness of the decision to display or discharge the firearm), at least one level of administration and by the individual(s) responsible for the ongoing firearm training program (much of the content for the refresher training will be generated from these reports).
- A procedure for providing rapid feedback to the employees whenever a problem or a positive is found. Particularly when a shooting occurs, it is important to have a system in place that provides immediate and accurate information to all staff as to the events that transpired (for rumor control).

After a period of time it may be that the unholstering reports can be simplified or discontinued. However, in the developmental stages of a firearm program, it is absolutely critical to know under what conditions the firearm is being introduced in field and office situations

Summary. This article is not intended to add to the debate over whether or not arming of probation and parole officers is a good idea. Neither is it intended to make a case for or against arming. Rather, it is directed towards those departments who have already decided that arming is in the interest of officer safety. Since the arming of officers is a relatively new concept for probation and parole in most parts of the country, there is not a great body of knowledge available. There is, therefore, a tendency to simply borrow procedures and techniques from agencies that have had a history and presumed expertise with firearms. Unfortunately, in most places that this has been done, more - rather than fewer - problems have resulted. Probation and parole has a very different role than do other law enforcement agencies and its firearm program should reflect that difference.

This article is intended to provide information and guidelines for the implementation of *probation* and *parole* firearm programs that, hopefully, will result in greater officer safety while, at the same time, minimizing the negative impact arming can have on the historic mission and role of correctional field services, There is an ever-increasing body of knowledge that this can be successfully accomplished.

About the Authors. Edward Veit retired in 1989 after a career of some 30 years in corrections, From 1973 to 1985 he was the Assistant Deputy Director for the Parole and Community Services Division of the California Department of Corrections. From 1985 until his retirement in 1989, he served as the Deputy Director of that agency.

Albert G. Smith retired from the same department in 1990 after more than 31 years in probation and parole. From 1973 until his retirement, Mr. Smith was an administrator with the California parole system working in its central office.

Both authors were administratively responsible for the implementation and ongoing management of the department's firearm program from its inception in 1979 until their retirement.

Deadly Consequences by Deborah Prothrow-Smith, M.D., with Michaele Weissman (HarperCollins, 1991)

BOOK REVIEW

Reviewed by William D. Burrell, Chief, Supervision Services Administrative Office of the New Jersey Courts

In August 1992, the FBI reported that the rate of violent crime committed by juveniles increased by more than 25 percent over the past decade. The rate of violence was up not only among poor youths in urban areas, but in all races, social classes and lifestyles. In the past, many pundits and policymakers have responded to this kind of information with calls for tougher sentences and more incarceration.

In the past several years, a number of interesting and challenging pieces have appeared in both the popular and scholarly press, calling into question this punitive approach to dealing with violence and criminal behavior. While there is not yet a movement with sufficient strength to change the course of public policy, there appears to be a great deal of interest in and support for rethinking our approach.

One of the most compelling and readable books in this vein is Deborah Prothrow-Stith's *Deadly Consequences.* Prothrow-Stith is a physician and former Commissioner of Public Health for Massachusetts. She begins her book with a retelling of her introduction to the problem of violence. Unlike many Perspectives readers, who gained their experiences in the criminal justice system, Dr. Prothrow-Stith learned about violence in the emergency room of a Boston hospital. It was there as a medical student that she encountered the incredible violence of urban America as she stitched up the gunshot and stab wounds of countless young males, predominantly minority.

The sheer number of these cases and the seeming inability of society and its institutions to do anything about the problem of violence led Dr. Prothrow-Stith to investigate further. She explored the criminal justice system and its response to violence. One of the problems she found with the justice system is that it is fundamentally reactive, in that generally speaking, nothing happens until a crime occurs.

Further investigation led Dr. Prothrow-Stith to examine the mental health system response to violence, as well as the attempts by the biological sciences to explain, and deal with violence. These also were found wanting in terms of an effective way to understand, and then to treat the causes of violence.

Dr. Prothrow-Stith's education was furthered by an unnamed probation officer, who described why he felt that young males growing up in poverty were so vulnerable to violence. Such youth often grow up without a positive male role model, rarely see people control anger and impulses, and are themselves likely to be victims of violence. For a young person growing up under such circumstances, resorting to violence is predictable.

The approach finally embraced by Dr. Prothrow-Stith is a public health model, which has been championed by former Surgeon General C. Everett Koop. The public health model calls for a variety of interventions, all intended to prevent unwanted behavior. The most well-known examples of a public health model include the campaign against smoking (to prevent lung cancer) and parts of the war on drugs (simplistically captured in the phrase "just say no"). By preventing the undesirable behavior in the first place, we can avoid the consequences which, in the case of violence, are very often tragic as well as very expensive. Estimates cited in the book suggest that we spend $1 billion a year treating gunshot wounds, and that injuries from violence cost some $60 billion each year! (p. 20).

Dr. Prothrow-Stith presents a great deal of chilling and compelling data in her book. One cannot read it without being struck by the dismal circumstances our urban youth endure, or without gaining an appreciation for the seemingly casual and yet pervasive nature of youthful violence. Fortunately, she spends the last quarter of the book discussing a model designed to help prevent violence - in families, in schools, and in communities.

The model is well-grounded in both research and practical experience. Reading through the three chapters on families, schools and communities, the reader is given example after example of theory and practical application of violence prevention. There is also a directory of violence prevention programs across the country, and a rich compilation of references and notes.

The violence prevention model presented is not a quick fix; it will take a great deal of work and commitment, and the cooperation of many people. As the author notes

> "We who are committed to using public health strategies to reduce violence cannot do the job alone. It is time now for all those weary of the violence to rise up and take a stand." (p. 143)

The book goes well beyond the wringing of hands or cautionary tales. It provides a way of looking at the problem of youth violence which is both realistic and hopeful. Rather than being solely reactive, officers can use this book to help them engage in preventive and rehabilitative efforts with young people, their families and their communities.

It is only through such comprehensive and forward-looking approaches that there can be any hope of stemming the tide of bloody violence washing over our society. The message delivered here by Dr. Prothrow-Stith was recently echoed by a report from the National Academy of Sciences. It called for greater emphasis on understanding the causes of violence, so that more of it can be prevented. The Academy noted that our massive program of prison construction and increased incarceration has had very little impact on violent crime.

This is an important book for probation and parole officers. Violence, both by offenders under supervision and others in the community, is a real and personal concern. Certainly, we are weary of it. Perhaps our voices, along with many others, will be able to redirect our efforts.

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Female Offenders in the Community

by Barbara Bloom, Criminal Justice & Human Service Consultant, Barbara Bloom and Associates, Petaluma, CA

Introduction

Although women traditionally have represented a small proportion of the total adult and juvenile offender populations (5-10 percent), their presence in the nation's correctional facilities has been expanding at a rate that exceeds their male counterparts. The number of women imprisoned in the United States has tripled in the last decade. Over 87,000 women were incarcerated in our nation's jails and prisons in 1991 (BJS, 1991, 1992).

The Bureau of Justice Statistics (BJS) reported that in total, there were nearly 500,000 adult women under the control of the criminal justice system by 1989. The majority (approximately 78 percent) of these women were on probation.

What explains these dramatic increases for women? The number of women arrested has increased over the past decade but more arrests do not account for these increases. The expansion of the female jail and prison populations has been fueled primarily by increased rates of incarceration for property and drug offenses - not by commitments for crimes of violence. The majority of women offenders are arrested for nonviolent, economic related crimes. Common charges include larceny, theft, check forgery, drug offenses, and violation of probation or parole. The "war on drugs" has played a significant role in the rise in women's incarceration. Current data show that the number of women arrested for drug law violations increased by 307 percent between 1980 and 1989.

Changes in criminal justice policies and procedures over the last decade have contributed to the dramatic growth in the women's prison population. Mandatory prison terms and sentencing guidelines are gender-blind, and in the crusade to get tough on crime, policy makers have gotten tough on women, drawing them into the criminal justice system in unprecedented numbers.

Special Needs of Women Offenders

Women of color are disproportionately represented in our criminal justice system. The American Correctional Association's national survey of imprisoned women in the United States found that the majority were young single mothers of at least two children under the age of eighteen.

Most were poor, undereducated, unskilled, and victims of past physical and/or sexual abuse. Women enter the criminal justice system with a host of unique medical, psychological and financial problems and needs which distinguish them from male offenders. Historically, correctional programs have not been able to properly meet the special needs of women. Designed to serve the predominantly male offender population, until recently, most correctional agencies have not addressed the multi-dimensional problems faced by women. Issues such as health care (especially prenatal care), education, job training, substance abuse, homelessness, and maintaining mother-child relationships continue to challenge correctional systems throughout the country.

A growing number of states are beginning to explore non-incarcerative strategies for women offenders. Commissions and task forces charged with examining the impact of criminal justice policies on women offenders are recommending sentencing alternatives and expansion of community-based programs that address the diverse needs of women who come into conflict with the law.

Assessment of Women-Specific Community-Based Programs

In response to the lack of information on female offenders under community supervision, the National Institute of Corrections (NIC) brought together a cross-section of practitioners and researchers in 1989 to identify concerns and experiences regarding community supervision strategies for women offenders. As a result, this group recommended that a national assessment be conducted to identify existing female offender programs and their characteristics.

NIC funded a study of women in community correctional programs, entitled *Female Offenders in the Community: An Analysis of Innovative Strategies* and *Programs,* which was conducted by the National Council on Crime and Delinquency (NCCD). The study identifies and provides a descriptive analysis of strategies and programs that appear to provide effective supervision and/or treatment of women offenders in community settings. Although the study was not intended to gather information on all women under community supervision (mostly probation and parole), it describes the known universe of community programs administered by public and private agencies which oversee women in pre-trial through post-institutional release status.

NCCD surveyed community programs that were exclusively designed for women. Through a national mail survey and telephone interviews, approximately 100 programs were identified that serve women, and in some cases, their children, in residential and nonresidential settings. Sixteen of the residential and 12 of the non-residential programs provided services to children.

Of these 100 programs, 23 were selected for more intensive onsite assessments. These sites were selected to represent a variety of programs, diverse referral sources (courts, probation, jails, prisons, parole, etc.), private and public agencies, program approaches and geographic locations. Information from site visits formed the basis for an analysis

of the most promising strategies for supervising women offenders in the community.

Key Strategies in Community Programs for Women

One of NCCD's objectives was to identify programs or approaches considered to be the most promising intervention strategies for supervising female offenders in the community. The most promising community programs all employed parallel women-specific strategies and treatment. Although they targeted distinct populations and/or emphasized different service components, the most effective programs combined supervision and services to address the needs of women in structured, safe environments where individual accountability, self-reliance and independence are stressed. They emphasized the participant's strengths rather than her weaknesses, and built on those strengths.

Although program evaluation data was limited and difficult to compare, NCCD identified several major conditions that appear to positively influence the outcome of correctional treatment interventions for women. These include: a continuum of care design, including clearly stated program expectations, rules and potential sanctions; consistent supervision; ethnically diverse staff, including a balance of professionals, recovering addicts and ex-offenders; coordination of community resources; and access to ongoing practical and emotional support.

The array of program services included alcohol and drug treatment, life skills training, parenting, mentoring, counseling for physical and/or sexual abuse, education and vocational training, job placement, family counseling and reunification, referral to affordable housing and aftercare.

While day-to-day operations of community programs varied widely, NCCD identified several characteristics that appear to promote good management and positive program outcomes. These included: clear program goals, consistent admission criteria, a diversified financial base, follow-up of client outcomes and ongoing needs assessment.

In summary, the most effective strategies and methods for supervision and treatment of female offenders in community settings combine innovative program design and sound program operations

Conclusion

As the number of women under the control of the criminal justice system escalates, increased attention must be directed to providing this growing population with the supervision and services that are needed. Policy makers and correctional agencies can ill afford to overlook women offenders.

The number of existing community-based intermediate sanctions for female offenders is insufficient to meet the needs of this growing population. Many jurisdictions continue to rely primarily or exclusively on costly incarceration and correctional programs designed for men.

The dramatic increase in women's incarceration during the past decade and the related overcrowding of jails and prisons has raised the need to explore the potential for more effective intermediate sanctions which provide supervision and address the unique social and economic problems of women offenders.

These intermediate sanctions are needed at every point in the criminal justice system. Every program for women offenders should be designed to meet their potential risk to public safety as well as their critical needs related to addiction, physical and sexual abuse, unemployment and family relationships. Programs must provide the supervision necessary to foster both accountability and responsible, law abiding behavior.

Developing a rational and compassionate justice system which promotes accountability, while acknowledging the underlying causes of women's conflict with the law, is not an overwhelming task. A range of promising programs throughout the country can serve as examples of integrated, thoughtful and purposeful designs to provide much needed expansion of the programs for women offenders in the community. This will require the commitment of the criminal justice system to adequately plan, implement and support policies and programs which address the multi-dimensional problems of women.

As the **number** of women under the control of the criminal justice system escalates, increased attention **must** be directed to providing this growing population with the supervision and services that are needed.

For further information regarding the NCCD study entitled Female Offenders in the Community: *An* Analysis *of Innovative* Strategies and *Programs,* please contact Barbara Bloom, NCCD, 685 Market Street, Suite 620, San Francisco, CA 94105.

References

American Correctional Association, 1990, The Female Offender: What Does *the Future Hold?* Washington, DC, St. Mary's Press.

Austin. James, Barbara Bloom and Trish Donahue, (in press), Female Offenders in *the* Community: *An Analysis* of Innovative *Strategies* and Programs. NCCD. Washington, DC, National Institute of Corrections.

Immarigeon, Russ and Meda Chesney-Lind, 1992, *Women's Prisons:* Overcrowded and *Overused.* San Francisco, California, NCCD.

U.S. Department of Justice Bureau of Justice Statistics, 1992, "Jail Inmates in 1991." Washington, DC.

U.S. Department of Justice Bureau of Justice Statistics, 1992, "Prisoners in 1991." Washington, DC.

U.S. Department of Justice Bureau of Justice Statistics, 1991, "Special Report on Women in Prison," Washington, DC.

A Blueprint **for** Justice:

The Federal Sentencing Guidelines

by Michael Courlander, Public Information Specialist, United States Sentencing Commission

Rosie Lewis slumped against the wall of the Aurora federal courthouse. A friendly reporter tried to comfort her, but Rosie waved her away and slowly slid down the side of the wall. Rosie had been ruined, yet the swindler who had sweet-talked her out of her life savings had just walked out of the courtroom Scot-free.

While Rosie huddled in the corner, Frank Hargrove, the defendant, was beaming. He was all too glad to talk to the press. Frank, the mayor's son, lived life in the fast lane. He spent his father's money freely, and frequently infuriated the neighbors and police with his raucous parties and new speed records for the three-mile thoroughfare that went through the center of town. And this was the man who had once beheaded the 100-year-old statue of Joshua "Duff" Dougherty, the town's founder.

Frank Hargrove had just received a sentence of probation. Four weeks earlier, he had been convicted of swindling frail and elderly citizens, persuading them to invest in a nonexistent silver mine. Silver Mills Mining Company, he had called it. His claim was that the mine was glistening with veins of silver and that it ran underneath 15 acres of land owned by the company.

Outside town, investigators discovered a half-acre lot overgrown with weeds. In the center of the lot was a small limestone cave full of beer cans and broken stalactites. There was no silver. Beside the entrance to the cave stood a white wooden sign. Spray painted on the sign were the words "Silver Mills Mining Co." Frank Hargrove had bilked a dozen unwary elderly citizens of $45,000 of their hard-earned savings.

As part of the probation he was to serve, Frank Hargrove had been ordered to perform 20 hours of community service each week for one year. His assignment was the local boys club where he was to teach boxing to the neighborhood boys. He also had been ordered to receive individual counseling from a private, clinical psychologist so that he could come to understand his wayward behavior.

The town was enraged. People were angry that Frank had been able to afford a high-priced, big city lawyer. They were angry that his case had been heard by one of the district's more lenient judges. They were upset by his special treatment. And above all, they were angry that he had walked out of the courtroom without having to serve any time in prison for his crime.

Over 300 miles away to the west, 30-year-old Sam Stockard of Blue Pointe was about to be sentenced, also for a swindle. Sam did auto body painting for a company located on the edge of the city. He was one of the company's most reliable workers; he almost never took a sick day, and shortly was due to receive his ten-year certificate. His salary amounted to about $22,000 **a** year.

Three years earlier, a friend of Sam's had approached him with a scheme to make some money by defrauding elderly citizens. Sam thought of the difficulty he and his wife were having supporting their four young children. Sam agreed to go along with the plan.

Sam and his friend bought radio time in various small towns in the neighboring state. They advertised a special offer for senior citizens only. For just $19.95, seniors could purchase special ear drops that would improve their hearing. The money was to be sent to a post office box located about 60 miles from Sam's home. Once the take from this scheme reached $45,000, Sam and his friend cancelled their rental on the box and split the money. The drops did not exist and were never sent.

By the time he was arrested, Sam had spent all of the money he had received from the scheme. He was unable to afford a high-priced attorney and was represented by a young attorney fresh out of law school. Furthermore, Sam's sentencing judge was known locally as a "hanging judge." Sam's sentencing hearing was not covered by the press, nor was it attended by throngs of citizens. Sam was sentenced to five years in the federal penitentiary.

The cases of Frank and Sam are hypothetical, yet they illustrate a problem that has hovered over our criminal justice system since its beginnings. Two people committing basically the same crime could receive two very different sentences. While one offender might receive a slap on the wrist, another might be shackled with a long prison term.

These different sentences were occurring for many reasons. To begin with, judges' personalities, values, philosophies and life experiences vary, and judges are apt to respond differently even when placed in similar situations. For example, while one judge might be impressed by the remorse shown by a defendant, another might be more influenced by the feelings of the victims.

Inconsistency in sentencing can also be due to factors that unconsciously influence a judge. Many fear that factors such as the defendant's age, race, and income can influence a sentence. The social and political setting in which a sentencing takes place also may affect the outcome.

In Frank Hargrove's case, it is likely that his status as the mayor's son and his privileged background played a role in the lenient sentence he received. It no doubt helped that he drew a judge known for his lenient sentencing. Sam Stockard, on the other hand, lived the

life of an average citizen. And unfortunately for him, his judge had a well-earned reputation for sentences that were harsh.

The sentencing guidelines provide federal judges with fair and consistent sentencing ranges to use when sentencing defendants in their courts.

In 1984, Congress addressed the issue of fairness in sentencing by passing the Sentencing Reform Act. This Act created a new federal agency, the United States Sentencing Commission, and instructed it to develop uniform guidelines for sentencing in federal cases. These guidelines were to take account of the classic purposes of sentencing: just punishment, rehabilitation, deterrence, and incapacitation. The guidelines were to be fair; similar offenders convicted of similar behavior were to receive similar sentences. The guidelines were also to be honest; the sentence received was to be the sentence served. Parole would be abolished. No longer would parole turn what appeared to be a long sentence into a short one. (Inmates could still earn credits for good behavior, but this was to be limited to 54 days a year.) And the guidelines were to be certain. A person convicted of an offense would have a clear idea of the range of sentences he could receive.

In addition, the guidelines would be tough. No longer would white collar offenders be able to count on special treatment. No longer could a serious, repeat offender escape with light punishment. The more violent the crime, the more harsh would be the sentence. And a life sentence would finally mean just that - life in prison without the possibility of parole.

The Commission submitted its initial set of guidelines to Congress in April 1987. Congress reviewed the guidelines before they became effective on November 1, 1987. All federal crimes committed on or after that date were subject to these new sentencing guidelines. The sentencing guidelines provide federal judges with fair and consistent sentencing ranges to use when sentencing defendants in their courts. The guidelines take into account the actual nature of the criminal behavior and the criminal history of the defendant.

The guidelines do not rely solely upon the type of crime with which the defendant is charged. They go beyond that and take into account additional important factors. For example, the guidelines distinguish between a bank robbery in which a gun was fired at a victim and one in which a gun was merely possessed, under the theory that a robber who uses a gun should receive a stiffer sentence than one who merely possesses a gun. And a theft of $100 is treated less severely than a theft of $30,000. The guidelines assign each offense a number that can be either decreased or increased depending upon the circumstances of the particular case. These factors vary by the type of offense and are clearly spelled out in the guidelines.

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Once the offense conduct and criminal history have been examined, the judge uses a table to determine the sentencing range for the defendant. Judges may choose a sentence anywhere within that range. This limits the judge's flexibility, and vastly reduces large inconsistencies in sentences. The judge must sentence the defendant within the range unless there are unusual circumstances that the guidelines have not considered. In those instances, a judge can impose a sentence outside the guidelines, but must state in open court why the sentence was chosen.

Returning to the cases of Frank Hargrove and Sam Stockard - had the federal sentencing guidelines been in effect at the time of their crimes, both would have been assigned the same sentencing range. Both were first time offenders and would have been placed in the lowest criminal history category. Because their crimes were basically the same, both Frank Hargrove and Sam Stockard would most likely have been assigned sentencing ranges of 18-24 months. This range would provide a much harsher sentence than Frank Hargrove received, but would be roughly the same sentence Sam Stockard received when parole is taken into account. (Sam had a good likelihood of serving 20 months of his five-year sentence under the old parole system.)

Although the guidelines are now firmly in place, the mission of the U.S. Sentencing Commission continues. The Commission carefully tracks the use of the guidelines by the courts. In fact, to date, the Commission has recorded detailed sentencing information on more than 100,000 cases sentenced under the guidelines. Fiscal year 1991 data show that judges sentenced defendants within the applicable guidelines ranges 80.6 percent of the time. In 11.9 percent of the cases, judges sentenced below the guideline range because of the substantial assistance the defendant provided the government in its investigation of other criminal conduct. Judges departed below the guideline range 5.8 percent of the time for other reasons and departed above the guideline range 1.7 percent of the time. A recent four-year study of the sentencing guidelines found that the sentencing guidelines decrease unwarranted sentencing disparity. The study found that sentences imposed on offenders convicted of bank robbery, cocaine trafficking, heroin distribution, and bank embezzlement were dramatically more uniform under the guidelines compared to sentences for similar offenders before the guidelines.'

In addition to tracking sentencing information, the Commission continues to train thousands of criminal justice professionals in the proper use of the guidelines. It also researches special topics such as the public's view of crime seriousness. And on a yearly basis, it submits to Congress recommended amendments to the guidelines.

Before the sentencing guidelines took effect on November 1, 1987, federal probation officers submitted to the court pre-sentence reports that included prosecution and defense versions of the offense, personal and family data on the defendant, the probation officer's

evaluation of these factors, and information regarding the parole guidelines. Frequently, the reports included sentencing recommendations.

Under the sentencing guidelines system, the pivotal roles of the probation officer include those of preliminary information gatherer and verifier of facts, guideline expert and, at times, preliminary resolver of disputes between prosecution and defense.

Under the guidelines system, probation officers continue to prepare presentencing reports, but the nature of this report has changed substantially. The pre-sentence report now contains only one version of the offense conduct. The probation officer performs an independent assessment of the facts of the case, and performs an initial calculation of the guidelines and determination of the guideline sentencing range. Of course, it is the court that makes the final determination about guideline application and that selects the sentence within the guideline range.

As noted by deputy chief probation officers Jerry Denzlinger of the Southern District of Texas and David Miller of the Southern District of Ohio, the probation officer must now also take on the role of "guideline expert." According to Denzlinger and Miller, "[T]he officer's required knowledge base increased significantly and became considerably different from that required in the prior system."[2]

The probation officer also has a new, significant role in resolving disputes that includes performing further investigation to resolve conflicts of fact and mediating disagreements about initial guideline application.

The recent four-year evaluation of the sentencing guidelines examined the areas of influence probation officers have over the sentencing process. Fifty-seven percent of the court practitioners interviewed mentioned "determining appropriate guideline application" as such an area of influence. Thirty-two percent viewed "providing information to the court" as an important influence. "Preparing the [presentence] report" and "making sentencing recommendations" were other areas frequently cited.

How do federal probation officers view these new sentencing guidelines? The four-year report revealed that more than two-thirds of the probation officers interviewed reported that sentences imposed under the guidelines are "mostly appropriate." The following response from a probation officer illustrates this sentiment:

> . I favor determinate sentences; it's constructive in that sense, easy to buy into. I also like the concept of having a third party outside the adversarial process intervene and give the court an objective analysis. It was difficult in the past to see a guy with a ten-year sentence get out in six months.[3]

Most probation officers participating in this study discussed both benefits and problems of the sentencing guidelines. Fifty-nine percent of the officers identifying benefits of the guidelines system believe the guidelines have decreased sentencing disparity. Other benefits mentioned include: good construction of the guidelines, easier sentencing, increased accountability, increased deterrence, longer sentences, encouraging respect for the law, and advance notice of what the sentence is likely to be.

The concern with the guidelines most frequently identified by probation officers is that they overburden the judiciary. Forty-five percent of those interviewed expressed this concern. One supervising probation officer noted:

> The guidelines have affected the PO most. Today 60 to 65 percent of their time is spent dealing with something with reference to the guidelines; probably 25 to 30 percent of the time managing their caseload, a very important facet of their work.[4]

Other concerns were that the guidelines have no impact on disparity, overburden the prisons, or are too harsh, complex, or inflexible.

Conclusion

The sentencing guidelines increase public safety by mandating prison sentences for offenders who rightly deserve to be there. "Guideline sentences are fairer, more rational, and more consistent," says Judge William W. Wilkins, Jr., Chairman of the U.S. Sentencing Commission. "Guidelines, together with the abolishment of parole, have greatly improved the sentencing process in our federal courts."

And by dispensing even-handed sentences, the guidelines take us a giant step closer to a criminal justice system in which there is justice for all.

[Note: All case accounts, along with the names of individuals and companies mentioned within, are entirely fictional. An earlier version of this article was published in the July/August edition of Legal Assistant *Today;* a portion of this article appeared in the February 1992 issue of *Grit,* a bimonthly family magazine.]

References

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[2] Jerry D. Denzlinger and David E. Miller, "The Federal Probation Officer: Life Before and After Guideline Sentencing," Federal Probation (December 1991), p. 50.

[3] Evaluation Report, p. 105.

[4] Evaluation Report, p. 112.

A Blueprint **for** Justice:

The Federal Sentencing Guidelines

by Michael Courlander, Public Information Specialist, United States Sentencing Commission

Rosie Lewis slumped against the wall of the Aurora federal courthouse. A friendly reporter tried to comfort her, but Rosie waved her away and slowly slid down the side of the wall. Rosie had been ruined, yet the swindler who had sweet-talked her out of her life savings had just walked out of the courtroom Scot-free.

While Rosie huddled in the corner, Frank Hargrove, the defendant, was beaming. He was all too glad to talk to the press. Frank, the mayor's son, lived life in the fast lane. He spent his father's money freely, and frequently infuriated the neighbors and police with his raucous parties and new speed records for the three-mile thoroughfare that went through the center of town. And this was the man who had once beheaded the 100-year-old statue of Joshua "Duff" Dougherty, the town's founder.

Frank Hargrove had just received a sentence of probation. Four weeks earlier, he had been convicted of swindling frail and elderly citizens, persuading them to invest in a nonexistent silver mine. Silver Mills Mining Company, he had called it. His claim was that the mine was glistening with veins of silver and that it ran underneath 15 acres of land owned by the company.

Outside town, investigators discovered a half-acre lot overgrown with weeds. In the center of the lot was a small limestone cave full of beer cans and broken stalactites. There was no silver. Beside the entrance to the cave stood a white wooden sign. Spray painted on the sign were the words "Silver Mills Mining Co." Frank Hargrove had bilked a dozen unwary elderly citizens of $45,000 of their hard-earned savings.

As part of the probation he was to serve, Frank Hargrove had been ordered to perform 20 hours of community service each week for one year. His assignment was the local boys club where he was to teach boxing to the neighborhood boys. He also had been ordered to receive individual counseling from a private, clinical psychologist so that he could come to understand his wayward behavior.

The town was enraged. People were angry that Frank had been able to afford a high-priced, big city lawyer. They were angry that his case had been heard by one of the district's more lenient judges. They were upset by his special treatment. And above all, they were angry that he had walked out of the courtroom without having to serve any time in prison for his crime.

Over 300 miles away to the west, 30-year-old Sam Stockard of Blue Pointe was about to be sentenced, also for a swindle. Sam did auto body painting for a company located on the edge of the city. He was one of the company's most reliable workers; he almost never took a sick day, and shortly was due to receive his ten-year certificate. His salary amounted to about $22,000 **a** year.

Three years earlier, a friend of Sam's had approached him with a scheme to make some money by defrauding elderly citizens. Sam thought of the difficulty he and his wife were having supporting their four young children. Sam agreed to go along with the plan.

Sam and his friend bought radio time in various small towns in the neighboring state. They advertised a special offer for senior citizens only. For just $19.95, seniors could purchase special ear drops that would improve their hearing. The money was to be sent to a post office box located about 60 miles from Sam's home. Once the take from this scheme reached $45,000, Sam and his friend cancelled their rental on the box and split the money. The drops did not exist and were never sent.

By the time he was arrested, Sam had spent all of the money he had received from the scheme. He was unable to afford a high-priced attorney and was represented by a young attorney fresh out of law school. Furthermore, Sam's sentencing judge was known locally as a "hanging judge." Sam's sentencing hearing was not covered by the press, nor was it attended by throngs of citizens. Sam was sentenced to five years in the federal penitentiary.

The cases of Frank and Sam are hypothetical, yet they illustrate a problem that has hovered over our criminal justice system since its beginnings. Two people committing basically the same crime could receive two very different sentences. While one offender might receive a slap on the wrist, another might be shackled with a long prison term.

These different sentences were occurring for many reasons. To begin with, judges' personalities, values, philosophies and life experiences vary, and judges are apt to respond differently even when placed in similar situations. For example, while one judge might be impressed by the remorse shown by a defendant, another might be more influenced by the feelings of the victims.

Inconsistency in sentencing can also be due to factors that unconsciously influence a judge. Many fear that factors such as the defendant's age, race, and income can influence a sentence. The social and political setting in which a sentencing takes place also may affect the outcome.

In Frank Hargrove's case, it is likely that his status as the mayor's son and his privileged background played a role in the lenient sentence he received. It no doubt helped that he drew a judge known for his lenient sentencing. Sam Stockard, on the other hand, lived the

life of an average citizen. And unfortunately for him, his judge had a well-earned reputation for sentences that were harsh.

The sentencing guidelines provide federal judges with fair and consistent sentencing ranges to use when sentencing defendants in their courts.

In 1984, Congress addressed the issue of fairness in sentencing by passing the Sentencing Reform Act. This Act created a new federal agency, the United States Sentencing Commission, and instructed it to develop uniform guidelines for sentencing in federal cases. These guidelines were to take account of the classic purposes of sentencing: just punishment, rehabilitation, deterrence, and incapacitation. The guidelines were to be fair; similar offenders convicted of similar behavior were to receive similar sentences. The guidelines were also to be honest; the sentence received was to be the sentence served. Parole would be abolished. No longer would parole turn what appeared to be a long sentence into a short one. (Inmates could still earn credits for good behavior, but this was to be limited to 54 days a year.) And the guidelines were to be certain. A person convicted of an offense would have a clear idea of the range of sentences he could receive.

In addition, the guidelines would be tough. No longer would white collar offenders be able to count on special treatment. No longer could a serious, repeat offender escape with light punishment. The more violent the crime, the more harsh would be the sentence. And a life sentence would finally mean just that — life in prison without the possibility of parole.

The Commission submitted its initial set of guidelines to Congress in April 1987. Congress reviewed the guidelines before they became effective on November 1, 1987. All federal crimes committed on or after that date were subject to these new sentencing guidelines. The sentencing guidelines provide federal judges with fair and consistent sentencing ranges to use when sentencing defendants in their courts. The guidelines take into account the actual nature of the criminal behavior and the criminal history of the defendant.

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[4] Evaluation Report, p. 112.

APPA Issues Development Committee Report:

Pros and Cons of Increasing Officer Authority to Impose or Remove Conditions of Supervision:

How much authority should line officers have to impose punitive conditions or lessen the rigors of existing sanctions without review by the sentencing or paroling authority? Is there a current trend for an increase in this authority? Have some field officers chosen to modify certain conditions of supervision on an informal basis in the absence of specific, official authorization? Does this issue have the potential for undermining the authority of judges or parole boards?

APPA invites responses and welcomes feedback from its constituency on this report. Please send all comments to:
Tim Matthews
Conditions of Supervision
American Probation and Parole Association
3560 Iron Works Pike
P.O. Box 11910
Lexington, KY 40578-1910

Current Policies and Actual Practices

In a recent survey of APPA Board members, less than half (46%) of respondents indicated that field officers have authority to modify conditions of supervision. However, a substantial majority (69%) felt that officers modified conditions "informally." It is apparent that, in most jurisdictions, line officers feel justified in altering some aspects of an offender's supervision strategy - regardless of whether this is a matter of written policy. Two states, Oregon and South Carolina, have programs that provide specific guidelines for officer imposed sanctions. In South Carolina, for example, field officers have a range of options which include:

- Placing the offender in a half-way house for up to 75 days;
- Placing an offender in residential or non-residential treatment;
- Restructuring the supervision "plan of action;"
- Increasing supervision contacts; or
- Ordering up to 40 hours of community service.

As is the case in the examples noted above, the primary intent is to impose a basically punitive sanction in response to an offender's violation. There appears to be little interest in lessening the severity of conditions of supervision without some type of judicial, or board, review.

Pro: Officers Need Authority So They *Can Be* Credible

The basic argument for officer-imposed modification of supervision conditions is that, in encouraging a proactive and proportionate response to a violation, offenders are held accountable for their actions in a timely manner. The officer need not spend valuable time in obtaining a warrant and scheduling a case to be heard before a judge or board unless it is absolutely necessary. Providing an immediate response to a violation, such as a positive urine screen, gives the officer the flexibility to explore treatment options that will hold the offender accountable, and effectively address his or her substance abuse before it escalates. (In the APPA survey, 78% felt that expanding officer authority would increase effectiveness.)

Con: The Potential for Abuse and Conflict *with* Judges *or Boards* Outweighs Advantages

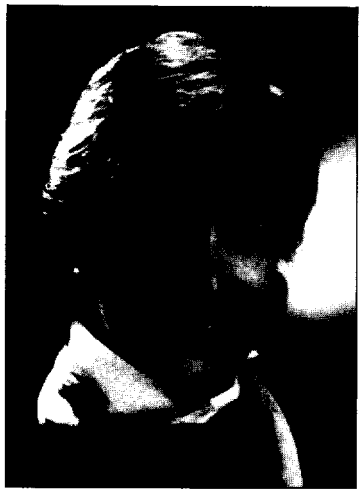
Most opponents of increasing officer authority point out that it can cause confusion on the part of the offender as to who has jurisdiction. Some feel that a sanction has more impact when it is imposed by a court or board. There is also some concern that the potential for abuse or misuse will raise liability concerns. Lastly, some opponents feel that maintaining a good relationship with judges and boards is more important than increasing officer response options. (The APPA survey revealed that 16% of respondents were of the opinion that authority should not be increased.)

Recommendations

The concept of increasing officer authority to impose conditions of supervision is valid and deserves support. To promote consistency in the response to violations, detailed policies and procedures should be established and included in a comprehensive training program for all relevant personnel. The current practice in many states of agent-imposed sanctions on an informal basis can result in "vague, misunderstood, and often misapplied discretion" instead of a "policy-driven, risk-based ... violation process."[1]

References

[1] Stroker, Richard P. "A Reassessment of Violations Policy and Practice," *Community* Corrections *Quarterly, 1991.*



GUEST EDITORIAL

An Important Tool for Treating Drug Dependent Offenders: Acupuncture

by Jody Forman, former Manager for the U.S. Department of Justice's Bureau of Justice Assistance

Although the Chinese have been using acupuncture since antiquity to treat a wide range of disorders and diseases, the practice of acupuncture in the West and particularly its application as a treatment for alcoholism and drug dependence, is relatively new.

According to David Eisen, OMD, L.Ac, MSW, and Director of the Portland (Oregon) Addictions Acupuncture Center, the use of acupuncture to treat drug addicts began about 25 years ago with Dr. Wen of Hong Kong. It seems that Dr. Wen, an acupuncturist and thoracic surgeon, used acupuncture post-operatively to hasten recovery. Dr. Wen noticed that certain points, especially those in the ear, helped ease the drug withdrawal symptoms of his post-operative patients who were also addicted to drugs.

The general use of this technique for alcoholics and drug addicts filtered to North America, according to Eisen, and began to attract the interest of drug treatment professionals who were discouraged with methadone maintenance and other more accepted methods of drug treatment. At the invitation of several such individuals in Montreal, a group of Chinese doctors conducted a formal training (dates unknown) on the specific application of acupuncture for drug withdrawal.

Acupuncture programs for drug addicts began in the U.S. in the Bronx, New York at Lincoln Hospital. According to Eisen, community activists from the black and Puerto Rican community in the South Bronx were also disillusioned with the accepted methods of alcohol and drug treatment. Their efforts lead to the establishment of an acupuncture addictions program at the hospital in 1974. The program was operated then, and still is, by Dr. Michael Smith, MD, D.Ac.

In 1985, the National Acupuncture Detoxification Association (NADA) was established to promote the adoption of acupuncture as a alcohol and drug treatment technique and to bring it into the mainstream of the alcohol and drug treatment field. Both Smith and Eisen serve on the Board of that organization.

I became aware of acupuncture through my work in the Federal Government. I spent many years as a program manger in the Departments of Justice and Health and Human Services focusing on drug abuse, drug treatment and the criminal justice system. In that capacity, I traveled across the country exploring many approaches and methods for treating drug addicts.

Acupuncture was, by far, the most impressive. The best known city criminal justice systems employing it to treat intractably addicted offenders who keep cycling through their systems are New York City; Miami, FL; and Portland, OR. Several other state and local criminal justice authorities also use acupuncture - Philadelphia, PA; Minneapolis, MN; Dayton, OH and Baltimore, MD - or are planning to establish programs, Washington, DC., among others. Others are making serious inquiries about employing acupuncture for this particularly problematic population.

Reports from existing programs are promising. At worst, acupuncture appears to be at least as successful as any conventional treatment methodology. At best, it gets a hearty endorsement from many as a detoxification technique and method for improving treatment retention. Sadly, there are few options to help alcohol and drug abusers. There are even fewer large programs, those that can treat up to fifty people a day, other than acupuncture addiction programs for people dependent on the smorgasbord of drugs available on the streets.

The current acupuncture addiction protocol is simple. Extremely thin needles (the width of two human hairs) are inserted into specific points just under the skin of the ear cartilage ridges and the concha of the ear. Occasionally, other points on the limbs are also used. The needles are left in for approximately 30-45 minutes. Typically, the treatment is rendered in one large room filled with others who are also sitting quietly with needles in their ears. At first, addicts come for treatment every day for several weeks or months.

An essential and equally important component of the treatment protocol is frequent - sometimes daily - urinalysis. Urine tests for the presence of drugs in the body serves as an external monitor of the person's ability to remain drug free while undergoing treatment. The information from these tests keeps the criminal justice system informed of the individual's progress and gives the person an external yardstick that they can't "con." Urinalysis also helps to keep the relationship between the acupuncturist and drug abuser free from judgments and the vagaries of the therapeutic relationship.

Alcohol and drug abusers receiving acupuncture report a reduction in drug craving, a sense of relaxation and a general feeling of well-being after treatments. According to Dr. Smith, "Acupuncture seems to act through a composite field effect rather than through any single physiological system. That is, it has a general capability to coordinate and enhance physiological networks." Acupuncture seems to be able to improve and restore physical and mental balance.

Treatment providers report that these clients tend to show up again for more treatments. The importance of this cannot be overemphasized, as it is now axiomatic that the longer a person spends in treatment, the more likely that person is to complete treatment and remain largely drug-free. Although limited evaluative data are available describing the relationship of acupuncture to improved treatment retention, there is ample anecdotal evidence for this correlation.

Assuming that a positive relationship between acupuncture and treatment retention exists, the ability of acupuncture to improve treatment retention has a far-reaching benefit. As drug craving is reduced and drug use decreases, the person may eventually achieve a more balanced mental and physical state. In a more balanced state, the person is better able to form a productive therapeutic relationship with a trained drug treatment counselor that will contribute to lasting behavioral change. Thus, acupuncture can serve to improve the readiness of an individual to accept the rigors and difficulties of conventional drug treatment. Conventional drug treatment includes assessment, evaluation, individual and group counseling, self-help groups, family support groups, education, job and life-skill training, etc.

So, why would the criminal justice system care? Because the courts and corrections systems are inundated with drug cases. Because most drug offenders are also drug users. Because most drug offenders are not incarcerated. And, if they are it's not for very long. We simply do not have the space in our jails and prisons. Besides, the notion that incarceration improves future behavior is simply incorrect.

Most drug offenders are put on probation. Then, it is the responsibility of the probation officer to find treatment and other social services, provide counseling and supervision and generally monitor the progress of usually more individuals than is reasonable. With probation caseloads so high, with the potential danger to the probation officer significant, with conventional treatment resources extremely limited, the benefits of acupuncture to detoxify, induce a more relaxed and balanced mental and physical state and to enable addicts to remain in treatment is attractive to criminal justice authorities.

Indeed, it is the criminal justice system that seems to be leading the way in acupuncture treatment. All of the city programs noted earlier are either supported through criminal justice agencies or have strong links to local criminal justice systems.

Acupuncture is attractive to criminal justice because it doesn't screen-out particularly hard cases or eliminate people who are dependent on many drugs. The cost of treatment delivery is low, since many addicts may be treated at one time by relatively few acupuncturists. The equipment is inexpensive and the physical plant is simple - one large room with many chairs.

Costs are also checked by the fact that acupuncture can be performed on large numbers of people on an out-patient basis. Out-patient acupuncture treatment allows for relatively inexpensive long-term follow-up and monitoring for supervision and control purposes. A regimen of daily acupuncture and urinalysis at 3 to 5 times a week keeps people in treatment, provides monitoring data on the progress of each individual and monitors the effectiveness of the program by identifying who attends and how successful each person is in staying off of drugs.

Acupuncture is attractive to criminal justice because it doesn't screen-out particularly hard cases or eliminate people who are dependent on many drugs.

It is not my belief that acupuncture alone is sufficient for treating this particular group of people. I believe that acupuncture's role in the treatment of alcohol and drug dependence is detoxification, treatment readiness, treatment retention and as a supportive adjunct to conventional treatment. Unquestionably, much cognitive and emotional work must take place for an individual to make significant and lasting changes in thinking patterns and in behavior. Conventional drug treatment is essential and there's not enough of it.

Acupuncture is another tool, an enhancement, an additional technique to meet a situation desperately in need of all the help it can get.

About the author

A former manager for the U.S. Department of Justice's Bureau of Justice Assistance, Jody Forman also served for 18 months in the White House Drug Policy Office under President Reagan and was the Director of Women's Drug Programs at the National Institute on Drug Abuse from 1976-1979.

Ms. Forman now lives in Portland, Oregon where she is studying Oriental Medicine. She can be reached at (503) 235-9889.

APPA Position Statement:

Staff Safety Standards

The position statement listed below on staff safety standards was approved by the Board of Directors at their meeting in Austin on January 31, 1993. The APPA Constitution stipulates that positions and resolutions must next be submitted to the general membership for adoption at the membership meeting. Approval of the position statement listed below will be requested at the membership meeting in Philadelphia on September 19, 1993. The purpose of presenting this position statement in Perspectives is to seek comments and feedback from the membership before seeking such approval. It is important that members wishing to comment on this position statement send any comments by June 1, 1993, to:

Nancy Lick, Chair
Resolutions and Positions Committee
American Probation and Parole Association
c/o Westchester County Probation Department
111 Grove Street, 5th Floor
White Plains, New York 10601
Fax # (914) 285-3507

Staff safety is a matter of significant concern to community corrections workers. The rise in the number of felons under supervision, the impact of drugs, the availability and use of weapons, the increase of violent behavior, and the fact that service systems are overloaded all contribute to the danger facing community corrections personnel.' Community corrections personnel work in a volatile and potentially dangerous environment which requires that individuals and their agencies take every precaution to provide and protect staff in the office and in the field.

POSITION: The American Probation and Parole Association considers staff safety a critical issue and recommends that all probation and parole agencies have mechanisms in place to assess staff safety; to offer adequate training for staff; to maintain clear and decisive policies and procedures related to safety; and to investigate and respond to hazardous incidents. APPA supports the provision of equipment necessary to reduce risk and the incorporation of safety considerations into caseload management practices.

RECOMMENDED ACTION: APPA recommends that each probation/parole agency empower a Safety Committee which include all levels of staff in the agency safety needs of agency staff in all areas of operations. The comprehensive plan shall include, but not necessarily be limited to, the following areas.

A. Pre-employment

Before being hired, all staff candidates shall be informed of the duties and responsibilities of the positions for which they are being hired. They must know what is expected of them and what potential situations they will be expected to face. Conversely, managers must ensure that candidates have the qualifications and are trained to do the job properly and successfully.

B. Caseload Supervision

Principles of staff safety shall be considered and incorporated into techniques of caseload supervision. Methods of case management should focus some attention on minimizing danger to staff performing the supervision activities.

C. Office Safety

Since probation and parole agencies deal with the same offenders who appear in the courts and are housed in jails and prisons, probation and parole facilities should be operated under similar safety precautions and with comparable security equipment as used in court houses, jails and prisons. Special attention shall be paid to controlling the movement of offenders within the physical location. Other precautions must be taken to ensure a safe working environment where the staff are prepared to handle emergencies as they arise.

D. Safety *Plans*

The safety plans shall place particular emphasis on issues concerning field operations specific to the various local communities served by the probation/parole agencies. Careful consideration should be given to organizing field staff in pairs for doing field work and taking other precautions in neighborhoods which pose more than a minimal amount of risk. Special effort shall be put forth to ensure cooperation of local law enforcement agencies.

E. Incident Reporting

All arrests and every incident which involves verbal abuse and verbal threat (including bribery and extortion), or actual harm to probation/parole staff shall be written up by the employees involved and reported to management as prescribed by policy and procedure. All reports made on a standard from promulgated by the Safety Committee, will result in an investigation into the circumstances leading up to and surrounding the event. Management shall recommend any changes in policy and/or practice which could reasonably be expected to prevent a similar occurrence in the future or lessen its impact. The chief executive of the agency is responsible for maintaining an Incident File which is accessible to the Safety Committee for periodic review.

F. Training

Training in staff safety skills and issues appropriate to their level of responsibility and function shall be given to all employees as part of orientation and on a regular, on-going basis. In the area of skill training, all instructors should be certified in their subject matter. Likewise, probation staff participating in skill training shall be evaluated and certified proficient in the particular skill.

G. Policies and Procedures Manual

Each local probation/parole agency shall promulgate policies and procedures regarding all applicable staff safety issues suggested in this position statement and any others relevant to the particular agency. These policies and procedures must be kept current through periodic review.

H. *Organizational Strategy*

The agency must ensure that the organizational environment is conducive to receiving and responding effectively to issues, concerns, and incidents related to staff safety. A valid assessment must be done of each job function in regard to safety issues and a wide range of appropriate responses developed to address these issues.

Reference

[1] Studies of this phenomenon include the work of Parsonage and Miller in 1990 for the Middle Atlantic State Correctional Association (A *Study* of Probation and Parole Worker Safety in *the* Middle *Atlantic Region);* Ely's *Report on* the Safety Concerns of Probation *and* Alternatives to Incarceration Staff *in New York* State (1989); and the Parsonage and Bushey study of hazardous incident in Pennsylvania (1988).