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PERSPECTIVES

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Restorative Justice and Offender Rehabilitation:



A Meeting of the Minds

PRESIDENT'S MESSAGE

Balance and Justice - Perfect Together

Have you noticed an increasing tolerance for correctional programs that speak to balance? I have. Perhaps the so-called "mean spirited" mood of the public was not so much predicated on the evolution of a mean public. Rather, it is predicated on their frustration borne of ideologies understood as mutually exclusive as well as their lack of information about which correctional strategies produce which results and for whom.

Initially, those debating offender rehabilitation versus punishment seemed bent on winning their point by annihilation of the other. Ideological purists, zealots in the extreme, find it impossible to co-exist with diverse perspectives. Moreover, purists are arrogant when they purport to know what is best for others, both in terms of desired results and strategies for getting there.

If a call for community justice has taught us anything, it is that the community has diverse needs and wants. As well, the community has a fair amount of tolerance for a balanced approach towards criminal justice. The community, however, is not particularly interested in ideological purism either from the rehabilitation or the punishment side. Thus, in the final analysis, correctional programs need to account for their ability or inability to provide a product or a service that is valued by society.

More and more, practitioners are calling into question how it is that they are working and what it is that they are producing. Community representatives are actively participating in the development of agency visions, missions and goals. The results-driven and performance-based measures work done by our association attest to the level of interest in our quest for community relevance.

By now you, the reader, may be wondering where I am going with this message. The answer is twofold: 1) H.R. 3606 – a federal bill that amends the 1994 Crime Act would permit states to use Violent Offender Incarceration and Truth in Sentencing (VOITIS) money for correctional treatment programs, even those that are community-based; and 2) The National Coalition of Community Corrections Associations (NCCCA) – a group of presidents from associations who meet quarterly to try to develop ways to collaborate, minimize association turf issues and, most importantly, enhance the practice of probation, parole and community corrections at the local level. Underpinning H.R. 3606 and the NCCCA are core values that are consistent with those of our association. They attempt to enhance correctional balance and relate that balance to a community justice model.

H.R. 3606

H.R. 3606 is a bill that brings significantly more balance back to our field. The bill proposes to amend the 1994 Crime Act by providing states with the flexibility to use VOITIS money for community-based drug testing and treatment programs for offenders during periods of incarceration and criminal justice supervision. The bill also gives states the option to spend residential substance abuse treatment (RSAT) dollars to provide for services during and after incarceration. Clearly, the VOITIS grants such as those proposed are a potential source of much needed revenue for offenders in a variety of community-based correctional programs. The RSAT grants target offenders who have completed a period of incarceration. In either case, the grants that would be authorized by H.R. 3606 and the ideological underpinnings of the bill speak to the core of what we profess.

Your support is needed in order to make H.R. 3606 the law of the land. I urge you to read the bill in its entirety (it's a short bill) on the APPA web site: www.appa-net.org. If you support the legislation, please let your feelings be known to your local congress people and senators. As president, I will be asking our legislative committee to spearhead an effort to let our legislators know how the bill benefits community corrections. As well, the APPA Issues, Positions and Resolutions Committee will be charged with examining the bill and making a recommendation as to an association position statement.

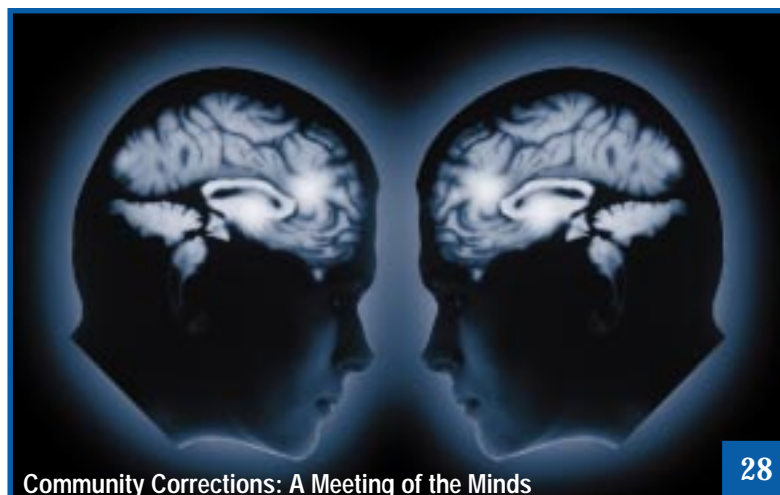
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The almost universal accessibility of personal computers and the Internet has greatly enhanced our ability to retrieve instant information and greatly expanded our ability to communicate. But these advances have also generated exponential growth in the abuse of the new technologies. This article discusses the concerns of Internet abuse by parolees and ways the criminal justice system can protect our communities from "cyber-crime."

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Though recent national polls claim that the public is punitive and unwilling to support corrections in the community, other polls suggest that the public may be more flexible and willing to support alternatives to incarceration. This article provides evidence that citizens will tolerate, if not prefer, community-based alternatives to prison when intensive supervision sanctions are developed and applied meaningfully.

By Jody L. Sundt, Francis T. Cullen, Michael G. Turner and Brandon K. Applegate

28 RESTORATIVE JUSTICE AND OFFENDER REHABILITATION: A MEETING OF THE MINDS

This article explores the blending of two criminal justice perspectives: Restorative Justice and Offender Rehabilitation. Both ideologies were discussed and debated by researchers and practitioners at a meeting held in July 1997. The conclusion reached was that these perspectives share common values but differ in implementation strategies. However, participants in the discourse agreed that further discussion and attempts to integrate these approaches are warranted.

By Ann H. Crowe

42 PROBATION IN THE UNITED STATES

This is the second part of a two-part article that focuses on the status of probation in the United States today. This article has assembled what is known about U.S. probation practices, so that public policy can be better informed.

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Articles should be submitted in ASCII format on an IBM-compatible computer disk, along with five hard copies, to Production Coordinator, *PERSPECTIVES* Magazine, P.O. Box 11910, Lexington, KY, 40578-1910, in accordance with the following deadlines:

- **Fall 1998 Issue-June 20, 1998**
- **Spring 1999 Issue- December 11, 1998**
- **Winter 1999 Issue-September 21, 1998**
- **Summer 1999 Issue-March 19, 1999**

Unless previously discussed with the editors, submissions should not exceed 6 typed pages, 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 must be in English. Notes 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 parentheses, 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.

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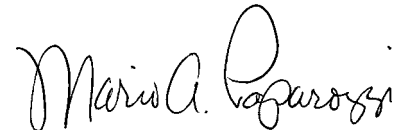
On a practical note, the FY 1998 Technical Assistance Plan published by the Corrections Program Office of the Office of Justice Programs is must reading for practitioners. The plan details numerous ways that local jurisdictions can receive assistance in implementing various components of programs adopted or planned relative to the 1994 Crime Act. In my view, the 1998 technical assistance plan is the most comprehensive that I have ever seen.

NCCCA

The National Institute of Corrections (NIC) supports the National Coalition of Community Corrections Associations. While the NIC provides funds and administrative staff support, the charge for the group is to take a leadership role on issues and projects that will have a direct benefit to the field of community corrections. Their respective associations elect the members of the NCCCA. They are presidents, past-presidents or presidents-elect. The work of this coalition can have a significant impact on issues that are very important to us. For example, one of the issues that I have been promoting since I first attended is the need to identify public needs and wants regarding our business. Once this task is completed, we can sensibly back into appropriate strategies for producing the desired result. Finally, performance measures that speak to the progress

that we make in everyday organizational life in moving through the strategies towards the desired outcome become important reality checks for practitioners. Also, they clarify for the public the relevance of our work. At the last meeting that I attended, the group decided to move forward with this process. Ron Corbett, *Perspectives* Editorial Committee chair, will serve as facilitator of the project just noted. This project is very exciting and has wide – ranging implications for community corrections. I look forward to providing you with updates as the project moves forward. If you would like to share your thoughts with me about the NCCCA, please do so either directly to me or through the APPA Secretariat.

Remember, if we pay careful attention to the needs and wants of the community, it will be possible to have sensible discussions about outcomes, our everyday work and our future directions. The question is not whether to punish or rehabilitate. Rather, it is to bring into focus the outcomes that we speak to when we punish or rehabilitate – the two need not, nor should they, be mutually exclusive. Both H.R. 3606 and the NCCCA deserve our support and attention.



<http://www.csg.org/>

EDITOR'S NOTES

Each era in criminal justice features one or more ideas that dominate discussion and constitute the "leading edge" of practice at a given moment. At the risk of using an exhausted phrase, the most compelling of these ideas can generate a "paradigm shift," leading to a fundamental rethinking of the way a discipline envisions its mission and its core competencies.

In the same way that the 1980's will be remembered for the emergence of the intermediate sanctions models, the 1990's may be distinctive for the development of the concept of restorative justice. Proponents of restorative justice challenge the current system to redefine perspectives and priorities, calling for a multilateral, participatory approach to responding to the ruptures caused by criminal events. In the place of the state, the parties become the prime movers for identifying strategies aimed at addressing the just claims of victim, community and offender to reparation and restoration.

This edition of *Perspectives* features a major piece on restorative justice and offender rehabilitation, the fruits of a meeting among researchers and restorative justice proponents, who met in July of 1997 to discuss and reconcile restorative justice concepts with recent work on effective rehabilitation interventions. Ann Crowe presents an enlightening summary of that important discussion.

In line with our recent attention to the topic of public opinion about community corrections (see "Examining the Public's Perception of Probation" in the Spring 1998 issue), we offer a related piece which provide additional data on public perceptions of sentencing options. We would particularly draw the reader's attention to the findings on attitudes toward "regular probation," which are unsettling. It behooves us all to attend to the gap between our own self-image and how we are actually registering with the public. In this connection, it would be most useful to hear from jurisdictions that have been able to build positive images of probation locally.

With this edition, we introduce a new legal column from Craig Hemmens of Boise State University in Idaho. Professor Hemmens has graciously agreed to provide a regular feature on legal issues germane to community corrections. In this inaugural column, he addresses the issue of the exclusionary role in probation and parole revocation hearings. Hemmens laments the fact that so little attention is paid to probation and parole law, for which his column is a welcome antidote.

As we approach the Annual Training Institute in Norfolk, the editorial committee would like to encourage all presenters to strongly consider translating their work into an article for a future issue of *Perspectives*.

See you in Norfolk!



Ronald P. Corbett Jr.

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The New York State Probation Officers Association

The New York State Probation Officers Association (NYSPOA) is a professional organization formed over two decades ago to represent the interest of line officers working in the field of probation. The association, recognizing the "need to preserve human dignity through acceptance, empathy and understanding, advocates the use of those corrective facilities, professions, skills and rehabilitative procedures that will best protect society through the reduction of crime and delinquency (Preamble, NYSPOA Constitution).

Over the years, the association has worked diligently to write, influence and/or support legislative endeavors that would permit probation officers to perform their functions effectively, efficiently and safely. As budgets dwindled and caseloads soared, safety became a primary goal of the association. Lobbying, letter writing, quarterly meetings and newsletters focused on the growing concern of line officers to meet the needs of their jobs while keeping themselves and the community safe. NYSPOA works with groups like the American Probation and Parole Association (APPA) to address these needs nationally.

Last year, at the Fifth Annual Conference held in Troy, New York, the association recognized and presented special awards to three outstanding individuals. All three recipients have been in the probation profession for many years and have contributed multiple talents and experiences to their departments. All three deserve to be recognized both by our association and by the members of APPA across the country.

The Medal of Honor Award is presented to a probation officer who performs a specific act that clearly involves extreme danger and demonstrates extraordinary behavior in the face of circumstances that could have led to grave personal injury or death. Bill Champlin of Nassau County Probation Department was the 1997 recipient of this award. While on his way to a home visit in the field, Officer Champlin witnessed an assault and robbery of an elderly woman. Officer Champlin verbally intervened, and when the offender fled from the assault, Officer Champlin pursued and



Officer Bill Champlin (left), receives the Medal of Honor from Jack Alonso.

apprehended him. Officer Champlin exhibited a selfless dedication to his profession and to the safety of the community when he intervened during the course of this crime.

The Presidential Distinguished Service Award is presented to a probation officer who has displayed to an outstanding degree the kind of efficient or distinguished service that represents the highest standards and ideals of devoted public service. To qualify, an officer should have displayed especially good judgment, initiative and competence in his or her discipline. The 1997 Presidential Award was presented to Nancy Waterman, Probation Supervisor of Erie County. Nancy rose through the ranks of her department, earned the respect of her colleagues, and worked tirelessly in her department's professional association. Nancy is currently the staff development officer for her department and involved in NYSPOA and the conference committee. A founding member of the New York State Organization of Probation Supervisors, she contributes a great deal of time to the activities of this organization.

The Award of Achievement is presented to an individual who has worked beyond required limits and achieve results that clearly deserve special recognition. Ingenuity, diligence and thoroughness in completing staff work, above standard degrees of proficiency, craftsmanship and professional competence are qualities that should be exhibited by this recipient. Karen K. O'Connor of Dutchess County was the recipient of this award. Karen O'Connor has been a probation officer for over



Nancy Waterman receives the Presidential Distinguished Service Award from Gerald Zimmerman.



Karen O'Connor (right), receives the Award of Achievement from Sheryl A. Zuna.

17 years. Throughout her tenure, she helped design, create and implement a variety of special programs that enhanced the services of the Dutchess County Office of Probation and Community Corrections. These programs, all intensive in nature, serve juveniles, alcoholics, sex offenders and domestic violence offenders. Mrs. O'Connor also serves as one of the Unit Administrators and supervises, supports and guides a staff of ten officers. Her dedication is unquestionable and greatly appreciated.

The association took pride in recognizing these outstanding individuals and presenting their accomplishments to the state-wide members. □

*To find out more about NYSPOA locate our web site at www.patco.com/probation.

Sheryl A. Zuna works at the Dutchess County Office of Probation and Community Corrections.

BY SHERYL A. ZUNA

Legal Issues in Probation and Parole

Introduction

The spiraling United States prison population has been the subject of much debate and discussion in recent years, in the media, academic circles and among criminal justice practitioners. While the number of people incarcerated has risen dramatically during the past decade, the number of people on probation or parole has been increasing at an even faster rate. There are approximately 3.2 million individuals on probation on any given day in the United States.¹ Interestingly, despite the significant numbers of people involved in probation and/or parole, considerably less attention has been paid to this vital segment of the criminal justice system.

This is particularly true in the legal arena. The number of lawsuits filed by inmates has been rising steadily for many years, and state and federal court dockets today are overburdened by inmate lawsuits. The United States Supreme Court decides several prison law cases every term, involving issues ranging from the death penalty to conditions of confinement. Comparatively few cases involving probation and parole are decided by the high court, however.

It is unfortunate that so little attention is paid to probation and parole law, for decisions in this area impact significant numbers of offenders and criminal justice personnel. A court decision restricting a probationer's privacy rights, or one imposing civil liability on a probation officer has widespread ramifications. The purpose of this new column is to provide a forum for discussion of important legal issues in probation and parole.

Topics to be covered in future columns include parolee and probationer rights, conditions of probation and parole, and civil liability of probation and parole officers. Also included will be summaries of leading Supreme Court cases, such as *Morrissey v. Brewer*; highlights of recent state court and federal decisions, and discussion of current "hot button" topics in probation and parole law, such as the implications of sexual offender registration laws. The emphasis will be on

providing information that will aid probation and parole officers in the performance of their duties. This first column focuses on an issues recently addressed by several state courts, the applicability of the exclusionary rule to probation and parole revocation hearings.

The Exclusionary Rule and Probation and Parole

An unsettled area of probation and parole law is the applicability of the exclusionary rule to probation and parole revocation hearings. The exclusionary rule states that evidence obtained as a result of an illegal search or seizure may not be admitted at trial. While the Supreme Court has made it clear that the exclusionary rule applies to criminal trials, the Court has not spoken directly on its applicability to probation and parole revocation hearings, which are generally considered extrajudicial proceedings. Lower courts have, however, explored the issue.

The primary purpose of the exclusionary rule is to deter police misconduct.² The Supreme Court in recent years has indicated it is not a constitutional rights, but merely a judge-made rule of evidence designed to enforce the Fourth Amendment prohibition against unreasonable searches and seizures. The scope of the rule has been limited in several recent cases. In 1984 the Court held that evidence obtained by police acting in good faith on a search warrant issued by a neutral and detached magistrate, that is ultimately found to be invalid, may be admitted.³ The Court stressed that the primary rationale for the exclusionary rule—deterrence of police misconduct—did not require exclusion of evidence obtained by police who act reasonably and in good faith. Three years later, the Court extended the good faith exception to the exclusionary rule to instances where the police act in reliance on a statute that is later declared unconstitutional.⁴ In 1995 the Court refused to apply the exclusionary rule to evidence seized by a police officer who acted in reliance on a mistaken computer entry by a court clerk.⁵

The Court has been reluctant to extend

the reach of the exclusionary rule to proceedings other than a criminal trial. Indeed, the Court recently reiterated that the primary purpose of the rule was deterrence of police misconduct, and that extension of the rule should be limited "to those instances where its remedial objectives are thought to be most efficaciously served."⁶ The Court has consistently refused to apply the exclusionary rule to evidence seized by private parties, if they are not acting in concert with, or at the behest of, the police.⁷ The rule does not apply to evidence presented to the grand jury.⁸ The rule is inapplicable in both civil tax assessment proceedings⁹ and civil deportation proceedings.¹⁰ The Court has been consistent in its message that the exclusionary rule is of limited application.

Thus far, the exclusionary rule has been applied by the Court to cases where the evidence was obtained as a result of police error or misconduct. If the error or misconduct was committed by anybody else other than the police, then the rule does not apply. In a dissenting opinion in the *Evans* case, however, Justice Souter observed that the issue of whether the exclusionary rule should apply to actions of all government officials instead of the actions of just the police is "an open one."¹¹

The Exclusionary Rule and Probation and Parole Officers

Would the exclusionary rule apply to evidence obtained by probation and parole officers? Unaddressed by courts in general, the answer would likely revolve around the issue of whether probation and parole officers are considered law enforcement agents. This is usually determined by state law or agency policy and varies from state to state. In some states, probation and/or parole officers are considered law enforcement officers. In these states, there is reason to argue that evidence obtained illegally by these officers in the performance of their responsibilities should not be admissible in a revocation proceeding.

In most states, however, probation and parole officers are considered treatment agents or rehabilitation counselors and not law

BY CRAIG HEMMENS

enforcement personnel. In some states, probation and parole officers are not specifically empowered to make an arrest or search for evidence, while in other states they are specifically prohibited from making arrests and conducting searches, agency or state rules instead mandating that these functions be left to the police. In these jurisdictions, chances are that evidence illegally obtained by probation and parole officers will not be subject to the exclusionary rule because the purpose of the rule (detering police misconduct) would not be served.

Individuals convicted of crime, whether on probation or parole, do not retain the privacy rights enjoyed by the average citizen. Thus the courts have upheld probation and parole conditions which impinge on the Fourth Amendment right to be free from unreasonable searches and seizures. What may be an unreasonable search when the subject of the search is an ordinary citizen may be reasonable when the subject is a probationer or parolee. There are other legal justifications for allowing searches of probationers and parolees. These include protection of the public, reducing recidivism through deterrence of criminal conduct by the client, promoting alternatives to incarceration, and possible rehabilitation through closer supervision.

While the Supreme Court has not addressed the applicability of the exclusionary rule to probation and parole revocation hearings, it has upheld warrantless searches and searches based on less than probable cause of probationers and parolees under the "special needs of law enforcement" exception to the warrant requirement. In *Griffin v. Wisconsin*,¹² the Court held that a state regulation allowing warrantless "reasonable" searches and searches based on "reasonable grounds" of probationers was constitutionally valid, on the ground that the warrant and probable cause requirement would unduly hamper the effectiveness of the state's probation system.

Lower courts are split in their interpretation of *Griffin*. Most jurisdictions have held that the case stands for the proposition that a search of a probationer is limited only by the scope of the search allowed in the conditions of probation.

Some courts have interpreted *Griffin* as requiring that all searches of probationers must be based on a showing of "reasonable cause," regardless of the terms of probation. This reading of the case is not widespread because it goes beyond the narrow facts of *Griffin*. Only two federal circuits and a handful of states have adopted this position.¹³

The Supreme Court has indicated that the rules of evidence barring hearsay and unauthenticated documents may not apply in probation or parole hearings, because of the purpose of the revocation hearing. In *Morrissey v. Brewer*¹⁴ the Court said the revocation hearing "... should be flexible enough to consider evidence including letter, affidavits and other material that would not be admissible in an adversary criminal trial."¹⁵ This language does not directly mention the exclusionary rule, but does strongly suggest the revocation hearing need not be treated as equivalent to a criminal trial.

The Exclusionary Rule in Probation and Parole Revocation: Lower Court Cases¹⁶

An overwhelming majority of states hold that the exclusionary rule generally does not



*The Court has
consistently held that
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safeguards.*

apply to probation or parole revocation hearings. The rationale usually relied upon is that since the purpose of the exclusionary rule is deterrence of unlawful police conduct, extension of the exclusionary rule to revocation hearings does not serve that purpose and would unduly impair the rehabilitative purpose of probation and parole. The goals of both probation and parole are the reintegration into society of the offender and the protection of the public from criminals. According to the majority rule, these goals "outweigh whatever marginal and speculative deterrent effect the imposition of the exclusionary rule may have."¹⁷

While a number of jurisdictions never apply the exclusionary rule to probation and parole revocation hearings, some courts have concluded that the rule applies, but only in limited circumstances. These circumstances

involve particularly egregious conduct, such as when the evidence is obtained by police acting in bad faith, harassing the individual, or where the evidence was obtained for the express purpose of revoking the individual's probation or parole. The circumstances when courts have applied the exclusionary rule include instances when police officers are acting in bad faith, or have focused their activities on the probationer or parolee precisely because they are that he/she is on probation or parole, or when police officers conduct a search for the express purpose of finding evidence to justify revocation. A number of state and federal courts have applied the exclusionary rule to circumstances when the police officer knowingly searches a parolee or probationer.

A few states and one federal court of appeal have held the exclusionary rule applicable to probation and parole revocation hearings. These courts focus on the promotion of judicial integrity. This rationale is somewhat suspect, however, because the Supreme Court has rejected it in recent years and has instead focused exclusively on the deterrence rationale.

Ten states have no cases dealing directly with application of the rule to probation and parole revocation hearings, but have case law indicating that the exclusionary rule may not apply to such proceedings. These states have cases which hold that the rules of evidence do not apply to revocation hearings, or that any "reliable" evidence is admissible in a revocation hearing. Such statements do not constitute outright rejection of the exclusionary rule, but at least suggest its application is inappropriate because it is a rule of evidence that tends to exclude reliable evidence.

Examination of the case law in federal and state courts indicates a clear trend towards holding that the exclusionary rule does not apply in probation or parole revocation hearings. This general rule is inappropriate. However, in cases where the evidence was obtained by a police officer who was aware of the status of the offender, or where there is evidence that the evidence was obtained during a search conducted in an attempt to harass the offender.

These decisions are consistent with the interpretation of the exclusionary rule by the Supreme Court, which has repeatedly held that the rule does not apply to evidence obtained by law enforcement personnel acting in good faith or to proceedings other than a criminal trial. The Court has consistently held that offenders are entitled to diminished constitutional rights and fewer due process safeguards. This logically extends to the

exclusionary rule's applicability to probation and parole revocations. Applying the exclusionary rule only to cases where there is bad faith on the part of the police officers is in keeping with its limited purpose of controlling police misconduct.

Endnotes

¹ Bureau of Justice Statistics, Correctional Populations in the United States, 1995. United States Department of Justice (May, 1997). Washington, D. C.

² A second purpose of the exclusionary rule is to promote the integrity of the judicial process by purging it of the taint of unlawful activity by state actors. See *Mapp v. Ohio*, 467 U.S. 643 (1961). While the Court in *Mapp* enunciated two rationales for the exclusionary rule, the Court in recent years has paid little attention to the promotion of judicial integrity, focusing almost exclusively on deterrence of police misconduct.

³ *Massachusetts v. Sheppard*, 468 U.S. 981 (1984).

⁴ *Illinois v. Krull*, 480 U.S. 340 (1987).

⁵ *Arizona v. Evans*, 115 S.Ct. 1185 (1995).

⁶ *Id.* at 1191.

⁷ *Burdeau v. McDowell*, 256 U.S. 465 (1921).

⁸ *United States v. Calandra*, 414 U.S. 338 (1974).

⁹ *United States v. Janis*, 428 U.S. 433 (1974).

¹⁰ *INS v. Lopez-Mendoza*, 468 U.S. 1032 (1984).

¹¹ *Arizona v. Evans*, 115 S.Ct. 1185 (1995).

¹² 483 U.S. 868 (1987).

¹³ Sean M. Kneafsey, The Fourth Amendment Rights of Probationers: What Remains After Waiving Their Right to be Free From Unreasonable Searches and Seizures? 35 Santa Clara Law Review 1237 (1995).

¹⁴ 408 U.S. 471 (1972).

¹⁵ *Id.*

¹⁶ The discussion on state and federal court case law in this section is based on Craig Hemmens and Rolando V. del Carmen, The Exclusionary Rule in Probation and Parole Revocation Proceedings: Does It Apply? *Federal Probation* 61(3): 32-39 (1997).

¹⁷ *United States v. Gravina*, 906 F.Supp. 50 (U.S.D. Mass. 1995). □

Craig Hemmens is with the Department of Criminal Justice Administration at Boise State University.

Abel Advertisement

CORPORATE PROFILE

Tracking Systems Corporation

Background

Serving corrections and criminal justice agencies, Tracking Systems Corporation is one of the largest electronic monitoring service providers in the United States. Since inception and incorporation in Pennsylvania in 1991 as a regional provider of electronic monitoring services, Tracking Systems Corporation has now expanded its geographic base to include programs throughout the United States as well as internationally.

In 1996, we became the exclusive worldwide distributor for Mitsubishi's MEMS 2000 product line which incorporates three methods of electronic monitoring supervision (visual recognition, radio frequency [ankle bracelet] technology and breath alcohol testing) in one "box."

Tracking Systems Corporation – Overview

Tracking Systems Corporation provides a complete line of electronic monitoring sales and services including radio frequency (RF), voice identification, visual recognition, breath alcohol testing (BAT) and text solution technologies. Our primary focus is concentrated on criminal justice agencies monitoring nonviolent offenders as an alternative to the prison overcrowding problem. Our services include providing assistance for program development and implementation, 24 hour monitoring services, equipment distribution and assessing/anticipating customer needs.

As part of our commitment to provide the highest level of program integrity and customer satisfaction, our stringent hiring procedures meet superior level. All employees have criminal history checks, are drug tested and maintain consistent and progressive training programs. Our monitoring facility, staffed primarily by criminal justice professionals, meets and exceeds all others in the industry in terms of quality, security and operational capabilities. Redundant computers and equipment provide a high level of system and operational integrity. This redundancy, along with our varied product line, enables Tracking Systems Corporation to provide an array of technologies that are dependable and reliable in the supervision of clients.

Our experience in providing the services is demonstrated by the level of satisfaction experienced by our current customer base. We provide monitoring service, support and equipment to hundreds of local, city, county and state agencies, both juvenile and adult programs. Our approach in providing these services is two-fold. The first is to provide the most reliable, sophisticated, state-of-the-art equipment to the end-user and to maintain the highest quality control standards. The second is to provide a very high level of customer support, service and training.

We continue to strive for excellence and customer satisfaction in our operations by providing training programs that include classroom, hands-on and continuous training.

Tracking Systems Corporation is fully supported by all electronic monitoring manufacturers and our personnel perform all equipment delivery and training. Our staff also assists the customer in the installation of equipment in the offenders' home environment until a high level of proficiency exists.

Tracking Systems Corporation — Product Line

Mitsubishi MEMS 2000

A professional tool, manufactured by Mitsubishi Electronics America, incorporating three (3) supervision methods (Visual Recognition, RF & BAT) that provides positive client identification for monitoring in-home detention programs.

Speaker Identification

A unique combination of hardware and software that uses voice identification technology and public switched telephone network to provide accurate, reliable and cost-effective home monitoring.

Pretrial/Probation Software

An information management system that allows supervision officers to manage a large caseload of offenders. The software enables the collection of client demographic, education, diagnostic/assessment, medical, client arrest history, court counseling and treatment data, while capturing the offender's picture and fingerprint as part of the file. It also permits subjects to remotely check in at a kiosk using biometric identification for verification.

Tracking Systems Corporation— A New Corporate Member

Tracking Systems Corporation is proud to become an American Probation and Parole Association Corporate Member. As a new member, Tracking Systems Corporation believes that we can assist APPA in their efforts by offering various alternatives and by supporting the programs implemented by probation and parole systems. Electronic supervision has been widely accepted as "The Better Alternative" to traditional incarceration in the case of non-violent offenders. The programs and support offered by Tracking Systems Corporation deliver a clear statement of our commitment to contribute to the entire criminal justice system.

Corporate Contact

Louis C. Fiocchi, Director and Executive Vice President, will be the Corporate Contact for Tracking Systems Corporation and will represent the company on APPA's Corporate Relations Committee. Lou can be contacted at Tracking Systems Corporation, 2404 Park Drive, Commerce Park, Harrisburg, Pennsylvania 17110. Telephone (717) 671-8700. Fax (717) 545-2270.

CORPORATE PROFILE

The VINE Company

Serving Criminal Justice through Automated Technology

Interactive Systems, LLC (d.b.a. The VINE Company) was incorporated in 1993 with its headquarters located in Louisville, Kentucky. The company was formed to develop and provide fully automated victim notification services.* These services provide victims of crime information and notification about their attacker.

Our primary product is VINE (Victim Information & Notification Everyday). It was first developed for the Jefferson County Corrections Department in Louisville, Kentucky. From this breakthrough in technology The Vine Company pioneered a new approach to notifying victims of violent crimes. VINE will notify victims when the following events occur:

✓ Arrest
✓ Release

✓ Transfer
✓ Parole Hearings

✓ Upcoming Court Events
✓ Probation/Parole Events

Additionally, victims can call the VINE system and receive updated information about the offender's status.

Today the VINE program is in 31 states and Canada covering more than 450 communities. It has proven to be a positive outreach to all types of crime victims.

The Vine Company is committed to developing a wide range of services dedicated to providing centralized, automated solutions to Criminal Justice Agencies. For more information call, **1-800-816-0491** or visit our web site at **WWW.VINECO.COM**.

VINE®

Victim Information & Notification Everyday

*Patent Pending Technology

Requests for Site Proposals APPA Institute – Bringing People Together

Our society has a strong tradition of coming together to decide what to do, both individually and collectively, to achieve common goals for ourselves, our workplace, our children and our communities. The APPA Institute unites people together for a common purpose– to boost performance and effectiveness of correctional programs, define national priorities for community corrections, create alternative ways to resolve the over crowded prison systems, link people with information and answers and build safer communities for our future. Hosting an APPA Institute can be a rewarding and exciting experience. We invite you to join together with APPA as we chart a course for innovation, excellence and growth.

Applications are being accepted to Host Future APPA Institutes

Applications to host the 2001 Winter Institute and 2003, 2004 or 2005 Annual Institute are now being accepted. Any board member, affiliate association or state agency wishing to request consideration of a particular city for these Institutes must complete an application. In order to be considered by the site selection committee, APPA must receive completed applications by July, 1 1998. Further information and applications may be obtained from:

Yolanda Swinford, APPA
c/o The Council of State Governments
P.O. Box 11910
Lexington, KY 40578
(606) 244-8194
fax: (606) 244-8001

Probation: Prevention's Sleeping Giant

Having served as commissioner of youth services in Massachusetts and nationally as U.S. Commissioner of the Administration for Children, Youth and Families, I've been, over the years, deeply impressed with probation's potential for improving the lot of America's children and youth. America's probation system is probably in contact with, and has authority over, more children and youth than any single nonschool entity in the United States, including the foster care system.

Magic Mandate

Sadly, probation's prevention potential is not being realized, though the potential is huge for reasons which are dual: knowledge and authority. No one knows better than probation the benefits of early intervention to staunch the wounds of clients before they fester. You see through your charges – as if in a prism focused backward to that which starts the trouble in the first place, whether it be physical abuse, neglect, educational problems, parental alcohol abuse, etc. And with MIS systems, you can track crime, informing public officials of trends. Couple this with your authority over young people and there is a potential for a gigantic force for prevention. In Salt Lake City, probation, as a member of the Community Action Team (an interagency, neighborhood-based, problem-solving team), works in neighborhoods. If a probationer's sibling is not yet delinquent but shows early signs of trouble (such as truancy), there is an intervention. The results have been striking. And the story of Boston, Operation Night Light – in which police and parole work the community together – is now often told.

Unfortunately the Salt Lake and Boston examples – citywide, comprehensive initiatives – stand out because they are the exceptions. Prevention gathers momentum across the country, and in some cases its success has been dazzling; but there has been one sobering note – with few exceptions, probation has been notable by its absence in these major initiatives.

I presume neither to be probation's historian nor its present day chronicler. I'm certain many readers of *Perspectives* are eager to correct me.

I am either enlightened by or made parochial by my own experience, and my experience with probation extends back about 25 years.

The '60s: Prevention on the Cutting Edge

In the late '60s and early '70s, probation seemed the pivot point for innovation in the criminal justice system. As director of the Justice Resource Institute, I helped design and launch the first pre-trial diversion programs in Massachusetts. We began with diversion of first time offenders; then diversion of drug offenders; of female offenders; and adult offenders; and, as the program's caliber improved, diversion of offenders with criminal histories. The turnstile through which we had to go, the cooperation and imprimatur we had to seek, was that of the judges and the probation officers. When we wanted to assess the quality of youth programs or of school teachers who had managed to cut down on truancy, or which community programs seemed most effective, we went to the probation department.

Struck by the number of offenders who said something like, "Yes, I ripped him off, but I had a lousy lawyer," a curious conjoining of admitted guilt, and denial of human connections or responsibility, we designed a program called Urban Court, one of the country's first neighborhood justice centers. Urban Court's core goal was simple: justice not only as guilt/innocence, right/wrong, but justice as responsibility and reconciliation of the offender to the victim or to the community. The message to the offender was dual: "You are responsible" and implicit but perhaps more important, "You have something of worth the community needs" – a message rarely felt by those entering the criminal justice system. We trained local people as mediators. Victimized met victims in the presence of mediators and experienced first-hand the impact of their crime. Together they worked out some sort of restitution. A precursor to today's restorative justice movement, the Urban Court strived to be, in essence, justice as healing. The program was cited by former U.S. Attorney General Griffin Bell as one of the nation's model

community courts.

Throughout it all, the probation system was central: helping us draft the concept; suggesting key community groups who might like to participate; joining us in the training; opening the court at night to community members; and sharing their authority with us on certain cases.

The Advent of Prevention: Where's Probation?

Let's fast forward to the late '80s and '90s. Working with the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, the National Crime Prevention Council, which I head, helped design and run a program called Community Responses to Drug Abuse (CRDA). Our core philosophy – or magnificent presumption – was (and remains) that crime prevention must be dual: stopping crime and building community. For example, gang members can be arrested, but unless some sort of community coherence and capacity is built or enhanced, those taken away will be quickly replaced by new gang members.

We piloted CRDA in 10 tough neighborhoods throughout the country, neighborhoods besieged by guns, drugs and violence; neighborhoods where people were too poor to move out. Residents either had to lock themselves away or confront the problem. We set no outcome goals, only four process goals:

- Define the boundaries of the "community" you wish to make safe and vital
- Form a task force; you cannot do it alone
- Set short-term goals
- Set a long-term goal, a mini-vision for the target area

Some rather remarkable things occurred. In the Park Avenue area of Hartford, Conn., several crack houses were closed (short-term goal), and a local school was convinced to open early and close late (long-term). In the Union Miles area of Cleveland, Ohio local people working closely with the church and local police chased dealers from a rubble strewn lot that had become an open-air drug market (short-term) and then, with city and other support, built moderately – priced housing (long-term).

BY JOHN CALHOUN

However, when reviewing the composition of the task forces in each of the ten communities, one finds city officials, the faith community, law enforcement, business, social services, tenants' groups and many others, but rarely, if ever, the probation department. To be specific:

In Oakland (run by the Oakland Community Organization) community partners included churches, businesses, Port of Oakland, city manager's office, parks and recreation, public works, city counselor, mayor's office, schools, the district attorney and law enforcement.

In Chicago, the South Austin Coalition Community Council counted among its community partners law enforcement, treatment centers, hospitals, church leaders, colleges, the mayor's Office of Information and Inquiry, the lieutenant governor, the Department of Alcohol, Tobacco, and Firearms and the State's Attorney.

The Northwest Bronx Community Clergy Coalition in New York partnered with religious institutions, law enforcement agencies, neighborhood associations, District Attorney's Office, the Department of Sanitation and the Department of Transportation.

In 1992, I addressed a group of mayors representing the seven largest cities in Texas. The MUSCLE group (Mayors United on Safety, Crime, and Law Enforcement) had helped to propose some tough enforcement legislation. They invited me to speak to them on prevention. I'd like to claim that my eloquence persuaded them to jump into some of the most impressive, courageous and far-reaching prevention work in the country. But in all candor, I think prisons were beginning to break the civic budget, vitiating investments in essential infrastructure such as schools, bridges, sewage, etc. The issue was less prevention and more economic. They were going broke.

The core thesis of the resulting prevention program T-CAP (Texas City Action Plan To Prevent Crime) was basic: Nothing will change unless law enforcement and local government admit they cannot solve the crime problem alone. Rather the entire community must participate in and take their share of the responsibility for reducing crime and building healthy, crime-resistant communities.

Each city opened its doors, established task forces and hammered out what needed to be

done and who would take responsibility for what. After about 18 months of sometimes contentious meetings, recommendations were drafted and tasks assigned. Remarkably, independent of ideology or political party, the work fell roughly into three evenly divided categories: early intervention with children and families, building up neighborhood capabilities and services and sanctions. For example, San Antonio passed strict curfew and truancy laws (sanctions), but also concentrated heavily on preventing child abuse and domestic violence (early intervention); the city council invested almost \$2 million in after-school programs; and the Business Crime Council of South Texas promised and developed 5,000 summer jobs. San Antonio was not unique. The results were striking. Crime dropped in every city. In

governments and media.

In 1994, Nancy E. Gist, director of the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, launched the 16-city Comprehensive Communities Program (CCP). She grounded it on the philosophy that though single interventions may help, only comprehensive strategies with responsibilities shared among the community's many sectors – public, private, civic, business, even youth – provide the most promise of lasting results. The participating cities include: Metro Atlanta, Georgia; Baltimore, Maryland; Boston, Massachusetts; Columbia, South Carolina; Metro Denver, Colorado; Washington, DC; East Bay, California; Fort Worth, Texas; Gary, Indiana; Hartford, Connecticut; Metro Omaha, Nebraska; Phoenix, Arizona; Salt Lake City, Utah; Seattle, Washington; Wichita, Kansas; and Wilmington, Delaware.

The resulting plans were ambitious in scope and explicit in defining responsibilities and outcomes. Again, the probation system was seldom included. Salt Lake and Boston stand out as prime examples of the benefits of such inclusion that other cities missed.

Probation's role in Salt Lake is significant. Apparently, probation, reluctant to get involved at first, soon saw that the youth and family specialists on the Community Action Team (CAT) could help them with their work. On the other side, youth and family services specialists, the police and others often needed the authority of probation to have kids avail

themselves of services. At first, probation felt alone. They felt they had to do it all. Through involvement on the CAT teams, probation officers realized not only that they were not alone, but that they could tap a great deal of assistance in helping them to accomplish their objectives.

Whither the sleeping giant? Will the giant that has stirred in Salt Lake City, Boston and a few other communities awaken? I see some real signs of hope:

- Probation locating itself in schools to broker intervention and prevention services in several communities in Pennsylvania;
- Phoenix (Maricopa County) probation adopting a school, and arguing before the

Prevention gathers momentum across the country, and in some cases its success has been dazzling; but there has been one sobering note – with few exceptions, probation has been notable by its absence in these major initiatives.

Corpus Christi alone, crime dropped more than 20 percent. Whether T-CAP's presence caused the crime drop remains a question (there certainly were other factors), but the participating cities embraced T-CAP heartily and ascribe the crime reduction primarily to T-CAP.

The T-CAP task forces varied but rarely included probation or parole. For example, the sectors represented in Houston's T-CAP initiative included city agencies, city council, religious groups, businesses, schools and universities, youth services, concerned citizens and the Houston police department. In San Antonio, the sectors included religious, business, schools, law enforcement, community, human resources, council of

city council not for more probation officers, but for more funding for Head Start!

- Hibbing and Chisholm, Minnesota, where a probation officer spearheaded crime prevention education for and by teens through the Teens, Crime, and the Community program and won a statewide award from his peers.

Why the Long Slumber?

It's interesting to speculate why probation and parole are so rarely at the prevention table. There are some examples, but still, they are few in number.

- Probation's strong emphasis in the late '70s, the '80s, and the early '90s on supervision, control, and monitoring (get tough)
- Large case loads and overwork (though one wonders why not seek to share the burden or reduce the flow!)
- Fear of negative outcomes: In a highly-charged political atmosphere, a probationer or parolee who commits a heinous crime generates heat both high and swift
- No movement analogous to community-oriented policing
- Limited federal attention, especially with fiscal resources compared with COPS and "100,000 more officers on America's streets..."
- Huge expenditures on incarceration without attention to other parts of the system
- Weariness brought on by having to deal with clients whose needs, attitudes, and behavior can enervate
- Local leaders simply not inviting parole and probation to the table, for whatever complex of reasons

Certainly there are other reasons, and I feel equally certain that many of you will let me know of them.

The Future?

In my experience, with CRDA, T-CAP, CCP, and a similar 11-city initiative run privately by the National Funding Collaborative on Violence Prevention, probation's role has been faint to nonexistent. Recalling my rich partnership with probation in the past, I am perplexed, if not saddened.

Yet I continue to believe passionately that parole and probation officers can become a most important engine to improve the lot of

America's children, youth and families. Your knowledge and authority place you in a position that no one else holds. Your new and strong emphasis on community justice holds great potential to bring you to the forefront of prevention.

Your professional community is prevention's sleeping giant. We need your energy and skill; we need your experience. Awake and involved, you can benefit every community and both present and future generations. □

John Calhoun is the Executive Director of the National Crime Prevention Council

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Prohibiting Internet Abuse By Parolees

The U.S. Parole Commission's Special Report

In these days of Megan's Law, and calls for lifetime supervision of certain sex offenders, the U.S. Parole Commission came under fire from some quarters following our adoption of new parole conditions restricting access to the Internet by some parolees. The American Civil Liberties Union attacked our special condition as "unreasonable" and "irrational," and counter to "the point of parole . . . to integrate offenders back into society." The Electronic Privacy Information Center saw our action as part of a campaign to "demonize the Internet," claiming that "clearly they (USPC) are creating a presumption that the predominant uses of the Internet are suspect," and that parolees would now be prohibited "from developing the skills that they'll need to be employed. . . They might as well restrict access to public libraries if they're concerned about the kinds of information that are supposedly available on the Net."

The fact is that the U.S. Parole Commission was guided in the development of its special condition, not by a desire to censor or unnecessarily restrict parolees, but by an interest in improving their chances of successful reentry into their communities. Additionally, we cannot forget our primary charge of protecting public safety.

Those of us who work with offenders every day know the hard reality that many times special conditions of parole are needed by some parolees. Not only must paroling authorities place significant restrictions on such things as parolee travel and association, but we must sometimes tailor special conditions to specific problems and criminal behavior. A parolee with a history of substance abuse may be required to participate in drug or alcohol treatment, and a parolee with a history of child sexual abuse may be prohibited from working in a job that puts him in frequent contact with children. Just

as crime is ever-evolving (e.g., carjacking, tele-marketing fraud), conditions of parole must evolve as well.

The almost universal accessibility of personal computers and the Internet has greatly enhanced our ability to retrieve "instant information," and greatly expanded our ability to communicate. But

these advances have also generated exponential growth in the abuse of the new technologies.

By the mid-1990s, there was a heightening awareness of the potential for misuse of the Internet. A 1994 Carnegie Mellon University survey of pornography available on the Internet found 450,620 pornographic images on commercial "adult" bulletin boards that had been downloaded by consumers 6.4 million times. News reports of arrests of criminals using Internet chatrooms to lure children into sexual encounters had become common. Other news reports described search warrants executed in a nationwide on-line child pornography ring, hate crime plots hatched and advanced on-line, and bomb-making "recipes" readily available on the Net.

In 1996, the U.S. Sentencing Commission, responding to the Sex Crimes Against Children Prevention Act of 1995 (SCACPA), recommended that sentences be increased by 25 percent if computers were used to solicit production of child pornography. The Sentencing Commission reported that 35 of 112 child pornography cases involved the use of computers; 17 involved receipt, generally by downloading graphics from a bulletin board; 17 involved distribution of images, half by posting images to a bulletin board and half by sending images by electronic mail. Among all computer uses, posting images on bulletin boards or websites creates the most risk of harm to children because of the potential for wide dissemination.

Some, however, have not seen a problem. Even as the above-described events unfolded, there were conflicting reports—that there was nothing on the Internet that was not available in the local library, that it was an urban myth that bomb-making instructions were available on the Internet, and that—as reported in a "Cybertalk" article in *The Washington Post* in July 1996—there were "none of the awful things that have been invoked as reasons for government to monitor the Internet."

By the summer of 1996, however, the U.S. Parole Commission was convinced. Concerned that there might be a serious gap in our conditions of parole, we asked ourselves whether we had the ability, under standard conditions of parole, to address the problems. What if a parolee were misusing this new technology in ways that put the public at risk? The possibility might not apply to our entire caseload, or even a significant number of parolees. Yet there might well be a small, yet high-risk, number of parolees—pedophiles, sexual predators, terrorists, civil rights violators (e.g., white supremacists)—whose computer and Internet access should be monitored closely.

Like many people, most of us at the Commission were not skilled in using the Internet, so a decision was made to sign on with an Internet service provider, and we learned how to log on, cruise the Net, and search for ourselves. Despite our limited expertise, we soon located websites promoting hate and violence, along with numerous "recipes" for making bombs. (So much for the urban myth.) We also found hundreds of Newsgroups (Internet discussion groups) with names like

By MICHAEL GAINES

"alt.pedophilia.girls" complete with details on how to entice young girls to pose for pictures, and others with tips on how to have sex with toddlers. We found scores of graphic and clearly illegal images of nude children engaged in sexual activity as well as other Newsgroups (like "alt.activism" and "alt.anarchy") with postings claiming to offer prizes for the death of "government employees, officeholders, or appointees."

We then conducted a survey of U.S. Probation Officers, and found that while there was a general awareness of the seriousness of the problem, there was also a consensus among P.O.'s that special conditions of parole relating to the Internet might be difficult to enforce. Additionally, many felt that they lacked the skills to monitor computer use/abuse by parolees. So it was that USPC Commissioners and staff began to explore the feasibility of developing not only a new condition restricting computer and Internet use by specific parolees, but procedures for enforcement of the new condition.

At our December 1996 meeting, the Commission adopted a rule providing for a new special condition. Under the rule, a P.O. may request that the Commission impose the special condition if a compelling need is found for restricting parolee access to the Internet. The Commission's policy is to impose the least restrictive limits possible that will appropriately address individual situations. A parolee may simply be required to obtain prior written approval before obtaining access to an Internet provider, bulletin board system, or any other public or private computer network. Other restrictions might prohibit a parolee from possessing or using encryption software; require the parolee to agree to unannounced examinations of his computer by the P.O.; permit the installation of equipment, at the parolee's expense, to monitor computer use; and require the maintenance of a daily log of computer use.

Enforcement may be problematic—but that is true, to a greater or lesser extent, of all conditions of parole. Training is always a key to good enforcement, and that will be especially true with the breakneck speed at which computer technology is evolving. In that regard, the Probation Division of the Georgia Department of Corrections, following adoption of a special condition based on the USPC rule, has developed an excellent manual, "Computer Search Procedures for Resource Officers," to be used in the training of P.O.'s.

For those who may still doubt the seriousness of the problems outlined here, an anecdote: In testimony before a Congressional committee in March 1998, an FBI agent reported that while pretending to be a child signed on to a "chat room" limited to 23 children—all 22 other "children" were adults seeking to establish inappropriate contact with her.

Those familiar with the issues realize that the time has come for all of us in the criminal justice system to search for ways to protect our communities from "cyber-crime." Consideration should be given to the possibility of forming a probation and parole professional coalition to consider these rapidly evolving technologies and their impact on our clients—probationers and parolees alike. It should not be overlooked, either, that the Computer Age has also brought with it extraordinary advances, as well as virtually unlimited opportunities to facilitate the work we do. Workshops, seminars and indeed, conferences should be planned and implemented, to facilitate and train our staffs in developing the expertise needed to protect public safety. □

Mhaith
Commission.

is the chairman of the United States Parole

Announcing APPA Charter Members Club

The American Probation and Parole Association would like to invite its charter members to participate in the APPA Charter Members Club. The APPA Charter Members Club will have its next meeting at the APPA 23rd Annual Training Institute in Norfolk, Virginia, August 30-September 2, 1998. If you are a charter member and are interested in becoming a part of the club, please contact Rudy Szollar or stop by the APPA registration desk in Norfolk for more information.

Rudolph F. Szollar

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Rudy is a charter member of APPA and a retired officer from the Union County Probation Department, Elizabeth, New Jersey.

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What will the Public tolerate?

That the public wants to “get-tough” on crime has become somewhat of a truism. Recent national polls (Maguire & Pastore, 1995) ostensibly point to the validity of this characterization:

- 85 percent of respondents feel that the courts are not dealing “harshly enough with criminals” (p. 172);
- 82percent believe that parole should be made “more difficult” (p. 175);
- 86 percent endorse “life imprisonment for anyone convicted of a violent felony for the third time” (p.176); and
- 77 percent are in “favor of the death penalty for a person convicted of murder” (p. 181).

Given these numbers, it would appear that the public is indeed punitive and, by implication, unwilling to support corrections in the community.

In contrast, other polls suggest that the public may be more flexible and willing to support alternatives to incarceration. For example, a recent national survey found that more than 89 percent of the public favored “developing local programs to keep more nonviolent and first-time offenders active and working in the community” to help reduce prison overcrowding (Maguire & Pastore, 1996, p. 179). Furthermore, this option for reducing prison overcrowding was preferred over shortening sentences, allowing prisoners to earn early release for good behavior, giving the parole board more authority to release offenders early, and raising taxes to build more prisons.

Probation

These divergent views have led some to questions whether the public really knows what it wants when it comes to correctional policy. It would be misleading to suggest, however, that poll results such as those reported above are “wrong” or should be dismissed. Instead, it is fair to say that public opinion about corrections is more sophisticated and complex than opinion polls typically indicate. Two limitations of public opinion polls are of particular concern. First, many highly publicized opinion polls ask the public only about their views on punitive policies (e.g., capital punishment or “three strikes and you’re out” laws); in doing so, they ignore how citizens might feel about other correctional options. It is erroneous to assume, however, that support for punishing offenders precludes support for treatment programs. In fact, there is a considerable body of evidence that demonstrates that there are two sides to American public opinion: research reveals that the public favors both punishing and treating criminals (see, e.g., Applegate, 1997; Cullen, Skovron, Scott, & Burton, 1990; Doble, 1987; Duffee & Ritti, 1977; Innes, 1993; Johnson, 1994; McCorkle, 1993; Roberts, 1992; Steinhart, 1988; Sundt, Cullen, Applegate, & Turner, in press; Thomson & Ragona, 1987). Similarly, questions that ask only about support for incarceration are incapable of measuring support for community corrections.

Second, the apparent punitiveness of the public may in part be attributed to the method in which questions about crime control are asked. It has been demonstrated, for example, that when questions are contextualized—that is, when respondents are provided with detailed descriptions of criminal events—punitiveness is less pronounced (Applegate, Cullen, Link, Richards, & Lanza-Kaduce, 1996; Applegate, Cullen, Turner, & Sundt, 1996; Thomson & Ragona, 1987). In addition, punitiveness tends to be reduced when respondents are provided with complex sentencing options. There is an emerging literature, for example, which indicates that the public is willing to support intermediate sanctions, especially when these sentencing options are explained to them (Elrod & Brown, 1996; Harlow, Darley, & Robinson, 1995; Higgins & Snyder, 1996; Reichel & Gauthier, 1990; Senese, 1992; see also Welsh, 1993). Similarly, the public tends to be more willing to support community corrections when they are informed about the high cost of incarceration (Doble, 1987; Thomson & Ragona, 1987).

In brief, research reveals that public opinion about sanctioning offenders is complex and malleable. The public wants to achieve multiple goals through correctional options and is willing to shape sanctions to match the offense and the offender under consideration. In fact, it has been argued that the public’s attitudes are “mushy” and should not be thought of as “solid opinions” (Durham, 1993, p.8). Consequently, it makes little sense to try to measure complex, flexible

attitudes with broadly worded, single-item questions that appear in traditional public opinion polls--the very kind of polls that are reported in the media and relied on by policymakers to discern the "public will."

In light of these considerations, we propose that gauging public opinion should be approached in a different manner. We explore how flexible or mushy attitudes are by not simply asking people about the sanctions that they prefer, but also by asking people about the range of options that they find acceptable. Therefore, in our research we distinguish between "preferences" -- the sentence that the respondent would most want to give an offender -- and "acceptable sentences," which are those sentences that the respondent would be willing to live with or tolerate. While we expect that respondents will initially prefer stiff sentences, we also anticipate that our sample will display a willingness to tolerate less severe sanctions, including community interventions.

Given the importance that opinion polls play in shaping the debate about crime control and in forming the positions of policy makers and politicians, these issues are germane, particularly when it comes to understanding public attitudes toward community corrections. Given the movement to get-tough with offenders (see, e.g., Clear, 1994) and recent polls indicating that the public is punitive, it is easy to assume that citizens do not support community corrections. Thus, this research is potentially relevant to the formulation of correctional policy: It will help to inform the debate over whether citizens are in fact demanding the near universal incarceration of criminals, or whether they are open, under certain circumstances, to correcting offenders in the community.

Methods

Sample

In August of 1995, questionnaires were mailed to a randomly selected sample of 400 residents of Hamilton County (Cincinnati), Ohio. Using

Assessing Support and Tolerance for Community Corrections

The strategy for this analysis has two features. First, we provided respondents with a fairly detailed description (a "vignette") of an offender and an offense. Specifically, we used a "factorial design" method to construct vignettes. This method allows the researcher to identify a series of offender and offense characteristics to be randomly selected for inclusion in the vignette. We identified four crimes to examine: two types of robbery and two types of burglary. These offenses were chosen because they are crimes that typically result in a sanction of incarceration. As such, we wanted to provide a conservative estimate of the public's support and tolerance for community corrections. In addition, we also varied the characteristics of the offender including his age, drug use, prior record and employment status. Gender did not vary across the vignettes, however, and each offender was identified as a male ("John"). The addition of text linking the dimensions together created a vignette such as follows:

John, a 34 year-old man, who has never used drugs, has just been convicted of robbery. According to the police record, John pulled a woman's purse from her arm. The woman did not suffer any physical injury. John was carrying a gun at the time, but did not use it. John has never been arrested before. He is currently employed part-time.

The advantage of the factorial design method of constructing vignettes is that it provides each respondent with a unique detailed description of a crime and a criminal. This detail provides a more realistic case for respondents to judge. Furthermore, this method allows us to examine whether support and tolerance for community-based sanctions varies by offense type and offender characteristics.

Second, we wanted to assess not only what sentences respondents preferred for John but also what sentences they would tolerate--that is, the sentences they would find acceptable, even if this sanction was not initially selected as the sentence that the offender should receive. Thus, respondents were first asked to select the one sentence that they would most like John to receive. Possible sentences included the following sanctions:

- No punishment at all;
- Regular probation: John would live in the community, but must meet with a probation officer once per month for two years;
- Strict probation: John would live in the community, but must meet with a probation officer five time per week for years;
- House arrest: John would be confined to his house for one year, except for work, church and to go to the doctor;
- Halfway house: John would be confined in a

supervised home with other offender for one year, except for work, church and to go to the doctor;

- Shock incarceration: John would be sent to prison for three months, then would be released and placed on probation for two years;
- Prison: John would be sent to prison for at least one year.

We refer to this response as the "preferred sentence." We then asked respondents to report which sentences they would find acceptable for John, apart from the sentence that they would like the offender to receive. We refer to these responses as "acceptable sentences." This strategy allows

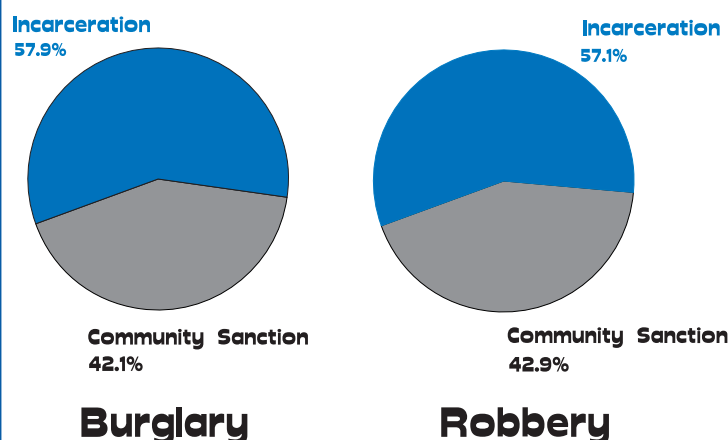
Table 1:

Distribution of Preferred Sentences by Offense Type				
Sentence	Burglary		Robbery	
	\$250.00	\$1000.00	No Injury	Injury
No Punishment	0.0	0.0	0.0	0.0
Regular Probation	6.2	8.8	6.9	12.5
Strict Probation	9.2	7.0	13.8	3.6
House Arrest	10.8	10.5	8.6	8.9
Halfway House	16.9	15.8	19.0	17.9
Shock Incarceration	21.5	22.8	27.6	21.4
Prison	35.4	35.1	24.1	35.7

a modified version of Dillman's (1978) "total design method," each person in the sample was mailed a questionnaire, a letter introducing the survey and a postage-paid return envelope. A reminder letter was mailed one week later. Three weeks after the initial mailing, replacement surveys were mailed to all those who had not responded. This process was repeated again at four weeks after the first mailing.

This process resulted in the return of 237 usable questionnaires. In addition, three surveys were returned unanswered because the respondents were deceased. Thus, the final response rate was 59.2 percent.

Figure 1
Percent Preferring Community Sanction
For Most Serious Burglary and Robbery



us to know (a) which sentence the respondents most preferred and (b) which sentences they were willing to tolerate or accept.

Results

Below we begin by discussing the sanctions that respondents initially preferred for John to receive. Next, we appraise whether respondents are willing to tolerate community corrections by considering the least restrictive sanction that those in our sample were willing to accept or live with.

Preferred Sentences

Table 1 presents the distribution of preferred sentences by the four offenses examined. Not surprisingly, none of the respondents preferred that the offender receive no punishment. Across the four offenses, between 51.7 percent and 57.9 percent of the respondents preferred a sanction that included a period of incarceration (i.e., prison and shock incarceration). Thus, the results presented here appear to be partially consistent with previous research suggesting that Americans find imprisonment to be the most desirable sanction for convicted offenders (Warr, 1994; also see Jacoby & Cullen, 1996).

Still, a sizeable minority of the sample preferred a community-based sanction. Between 42.1 percent and 48.3 percent of the respondents indicated that John should be sentenced to regular probation, strict probation, house arrest, or a period of time in a halfway house (see Figure 1). Further, it is also instructive to examine the two incarceration options—prison and shock incarceration—separately. The shock option is often seen as an intermediate sanction because it involves only a brief stay in prison followed by supervision in the community. Thus, we found that from three-quarters to two-thirds of the respondents selected as their preferred sentence either shock incarceration or one of the community-based sanctions.

We should also note, however, that respondents did not favor the lenient treatment of offenders. There was no support for the no punishment option and only minimal support for regular probation (6.2 percent to 12.5 percent). The respondents were more supportive of sentencing offenders to halfway houses, house arrest and, to a lesser degree, strict probation.

Tolerance for Community Sanctions

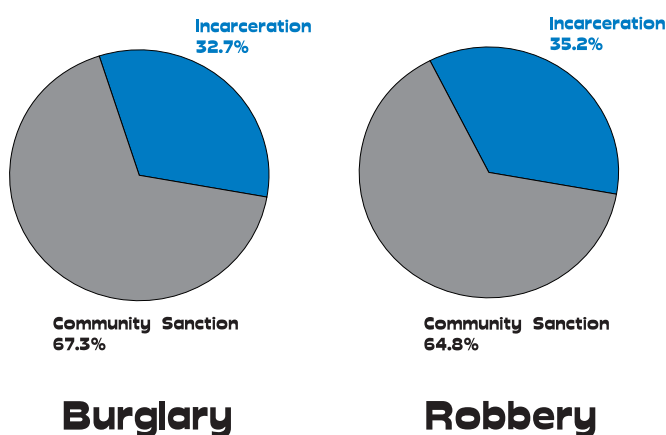
As mentioned above, we measured tolerance for community sanctions by asking respondents to indicate whether they would find each of the sentencing options acceptable, even if it was not their initial preference. In Table 2 we report the “least restrictive” or least punitive sentence that the respondents selected for each of the four crimes examined in the study. For example, if a respondent stated that he or she would find as acceptable the sanctions of halfway house, house arrest and strict probation, the least restrictive acceptable sentence in this case would be strict probation. Consequently, this response demarcates the minimal level of punishment that the respondent is willing to tolerate.

The results of this second analysis reveal that between 14.5 percent and 22.2 percent of the respondents supported prison as the least restrictive acceptable sentence for John. The addition of the shock incarceration sentence to the prison sentence increases the support for imprisonment to between 26.8 percent and 35.2 percent across the four offenses (see Figure 2). In comparison to the percentage of respondents initially preferring these sanctions—between 50 percent and 60 percent—the data reveal that support has markedly decreased: only between one-quarter and one-third of the sample now support incarceration. Thus, it was discovered that support for incarceration substantially decreased when respondents were asked what they would tolerate or find acceptable.

In contrast, the results portrayed in Figures 2 reveal that a majority of the respondents chose some form of a community-based option as their least acceptable sanction. While 42.1 percent and 48.3 percent of the sample preferred a community-based sanction, between 64.8 percent and 73.3 percent of the respondents were willing to tolerate such an option (compare Figures 1 and 2). Comparing preferred and acceptable sentences across the four offenses, there was an average increase in support for community-based corrections of 24.6 percentage points.

Nevertheless, the results displayed in Table 2 suggest that the public is reluctant to tolerate community-based sanctions that do not include close monitoring of offenders. Across the four offenses, for example, none of the respondent said that they would tolerate no punishment and tolerance for regular probation did not exceed 20 percent. The largest percentage of respondents chose strict probation as their least acceptable sentence, indicating that they expected, in the least, that offenders would be closely supervised while in the community. Still, it appears that support for intermediate sanctions is extensive. For the

Figure 2
Percent Accepting Community Sanction
For Most Serious Burglary and Robbery



crime of robbery with injury, for example, 50 percent of the respondents viewed a sanction between halfway house and strict probation acceptable. When the option of shock incarceration is added this figure rises to a full 63 percent.

Discussion

In 1996, the Council on Crime in America admonished policymakers by reminding them that, when it comes to crime, "voters are not fools" (p. 4). While we should not ignore the often wide gap in citizens' knowledge about crime (see Warr, 1995), the message from the Council on Crime in America is a useful reminder that citizens, at least in a broad way, possess a measure of complexity and judiciousness in their thinking about crime-control. The complexity and richness of public thinking about crime is often obscured, however, by polls that ask simplistic, single-item questions that are capable of eliciting only broad ideological sentiments. The depth of public opinion is further clouded by polls that ask mainly about punitive policies and ignore how citizens feel about alternative to incarceration, treatment programs and community corrections. Using a more flexible and sensitive method of assessing public opinion that is typically used in traditional public opinion polls, we found substantial support for community corrections when we examined the range of sentencing options the public is willing to tolerate. Taken together, the data on sentencing preference and tolerance suggests that the public is, as Thomson and Ragona (1987) conclude, moderate rather than authoritarian in its attitudes. These data do not mean, of course, that citizens are demanding that offenders be sanctioned in the community. Rather, our research suggests that the public is generally open to community-based sanctions. It would therefore appear that ideological space exists to implement reforms that place offenders in the community rather than in prison.

Our results are also clear in suggesting that support for community-based sanctions depends on the content of these sanction. To a limited extent, our study demonstrates not only what citizens will tolerate but also what they are unwilling to tolerate: regular probation. Support for this sanction may have increased if we had informed our sample that regular probation can involve numerous lifestyle restrictions and various types of monitoring such as drug testing (Langan, 1994). Nevertheless, the respondents were clear in their views that minimal supervision of felons is not acceptable. Given the community-based options we presented, respondents preferred sentencing offenders to halfway houses or house arrest, and they were not willing to tolerate less than strict probation or intensive supervision probation for convicted felons. It appears, therefore, that citizens will tolerate, if not prefer, community-based alternatives to prison when these sanctions are developed and applied meaningfully. These findings raise questions about the validity of characterizing the public as punitive. Instead, they reveal that citizens want a rational system of crime control. The challenge for correctional reformers is to address the public's desire for community-based sanctions that intervene sufficiently in the offenders' lives to exact a measure of retribution, to reduce the risk offenders pose and to increase the chances that offenders will not recidivate. In short, citizens want community-based sanctions that "work" (see Gendreau, Cullen, & Bonta, 1994;

Table 2:

Distribution of Least Restrictive Acceptable Sentences by Offense Type				
	Burglary		Robbery	
Sentence	\$250.00	\$1000.00	No Injury	Injury
No Punishment	0.0	0.0	0.0	0.0
Regular Probation	12.9	20.0	14.3	14.8
Strict Probation	24.2	30.9	28.6	22.2
House Arrest	19.4	7.3	14.3	16.7
Halfway House	12.9	9.1	16.1	11.1
Shock Incarceration	16.1	9.1	12.5	13.0
Prison	14.5	20.0	14.3	22.2

Harland, 1996).

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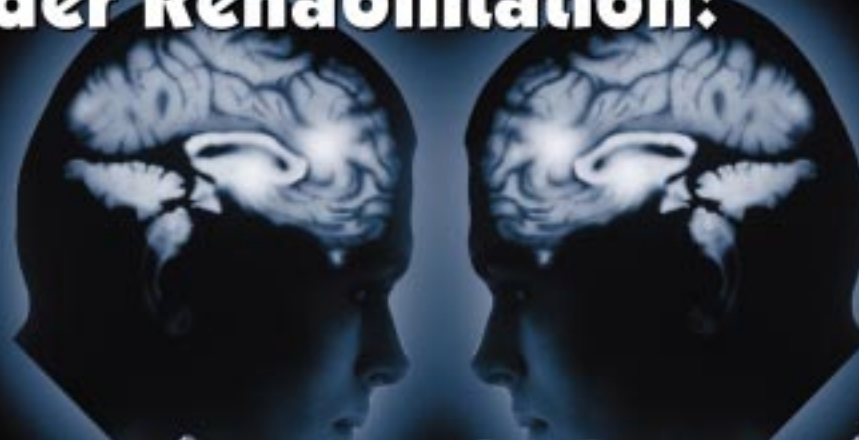
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Restorative Justice and Offender Rehabilitation:



A Meeting of the Minds

Two Parables of Justice

Parable One

Once upon a time (and very far away), a man stole a wagon load of hay from his neighbor. The neighbor was very upset, because he needed the hay to feed his cow during the cold winter months. He needed the cow's milk to nourish his children, and he feared that, without the hay, the cow would starve to death and so would his children. He also planned to trade some of the hay for necessities he could not grow or make. He would not be able to barter for new shingles for the roof of his cottage, and his family would suffer with the cold and damp winter weather, perhaps becoming ill.

The victim of this theft was named Jacob. Now Jacob started going to each of the families in his village and asking if they knew what happened to his hay. None of them knew, but they told Jacob how sorry they were about his loss. They assured him they would help him if they could. Some of them offered to share small amounts of their hay with him to see him through the winter. Two of his friends joined him as he went from house to house asking about his hay. Many of the villagers returned to their fields to gather their own hay as quickly as possible and store it securely. They posted watches over their invaluable hay, lest they should experience the same fate as their neighbor, Jacob. There was a feeling of uneasiness among the villagers.

Jacob and his friends continued their search for the missing hay. They came to the home of Bartholomew and asked his wife if they might speak with him. She said he was not at home. They told her why they had come, and she promised to give Bartholomew their message. Bartholomew's wife seemed uncomfortable and eager for them to leave. This being the last house in the village, Jacob and his friends turned to go home. They passed Bartholomew's field and saw that his cow looked fat and healthy. They went to his shed and found a lot of fresh hay.

Jacob and his friends waited for Bartholomew to return. When he did, they asked him where he got the hay, for they knew he had not grown it himself. Bartholomew reluctantly confessed to taking Jacob's

hay. He said his cow was hungry because his crop of hay had failed. He knew his children would be malnourished without the cow's milk. He said he did not want to steal Jacob's hay, but he had no money to buy hay and he saw no other way to resolve his problem.

Jacob and the elders of the village called a meeting. Bartholomew was questioned about his theft of the hay. He explained how he had been able to take the hay without being caught by Jacob. Jacob told him what the loss of the hay meant to him. He said his cow and his children would go hungry, and he felt betrayed and violated by his neighbor, Bartholomew. Other villagers also spoke to Bartholomew. They said that once they had felt their property was safe, but now they were afraid and had started hiding their possessions. Bartholomew said he was very sorry for what he had done and the suffering he had caused.

The group then discussed how Bartholomew could amend his wrong. He was to return the unused hay to Jacob, and he promised to help Jacob plant his new crop of hay in the Spring to repay the hay he had already fed to his cow. Jacob said he felt that would repair the harm that had been done. The villagers then turned to the question of Bartholomew's family and their need. If Bartholomew's cow was hungry and his children didn't have enough to eat, they would not be able to learn at school or work effectively. Some of the villagers were afraid that Bartholomew's children would begin stealing food from other children. The villagers decided to start a hay bank. Each person would donate any extra hay they could spare, and it would be given to Bartholomew and his family to see them through the winter. Several of the farmers also offered to show Bartholomew how to plant his hay crop next year so it would be more likely to survive. In return, they asked Bartholomew, who was good at woodworking, to carve an ornament for the town's place of religious worship. Many years later, villagers referred to Bartholomew's sculpture as the "Work of Justice."

Parable Two

In a more recent time (and not so far away), a teenager named

Tiffany stole some jewelry from a store. She traded the stolen items for alcohol. She and her friends went to a vacant building and got drunk. They became boisterous and broke all the windows in the building.

The next day, police investigated the two crimes. They took a report from Mr. Miller, the storekeeper where the shoplifting occurred, and they spoke with Mrs. Stevens, the woman living next to the vacant building. Mrs. Stevens told the police the group of youth had vandalized the building the night before. She said she thought she recognized one of the girls who lived in her neighborhood, but she did not want to identify the suspect. She said she feared that if the youth thought she had reported them, they might damage her property or even hurt her for revenge. She also expressed her concern that, now that the building was in disrepair, it would attract other groups of trouble-making youths.

The police advised her to stay in her house and keep all the doors locked. They suggested she also warn her neighbors to do the same. They assured her they would investigate the incident and, if they could find the perpetrators, they would be brought to justice.

The police used their excellent investigative skills to find and arrest the youth involved in the incident. They filed a report with the prosecutor who felt they had enough evidence to try the case.

A defense lawyer was appointed for Tiffany, the teenager who had shoplifted. Her attorney negotiated a plea bargain with the District Attorney. As a result, Tiffany was sentenced to a year of supervised probation, 200 hours of community service, and treatment for her alcohol abuse. She completed all of the requirements for her probation, including her community service work picking up trash along the highways on the outskirts of town, and was discharged a year later.

Meanwhile, one year after the incident, Mr. Miller, the store owner, and Mrs. Stevens, the neighbor, did not know what had happened. Tiffany had "paid her debt to society" through her community service work. She had achieved sobriety because of her substance abuse treatment program. She was even doing well in school and looked forward to a future as a law abiding citizen. Mr. Miller had reported the theft of merchandise on his business income tax return, and therefore, he contributed slightly less in taxes to state and federal governments. However, because he feared ongoing shoplifting, Mr. Miller had gone to the additional expense of installing sophisticated detection equipment in his store. All totaled, the theft cost him more than \$5,000.

The vacant building next to Mrs. Stevens' house still has broken windows, and there have been reports of drug deals and drug use occurring there. Mrs. Stevens and many of her neighbors are very frightened of all teenagers in their neighborhood. Some members of the neighborhood have moved away, saying they want to live in safer areas of the city. Others have made fortresses out of their homes and seldom interact with their neighbors now. The crime rate in the neighborhood has increased markedly during the past year.

The Legacy Of Criminal "Justice"

Billions of dollars are spent annually in the United States, its territories, and Canada to arrest, prosecute, and punish law violators. However, our ancestors and some present-day indigenous people may have found more effective ways to achieve justice. Synonyms of justice include fairness, equity, fair play, and impartiality. However, contemplation of these terms begs the question of justice for whom and fairness to whom.

Among the earliest written codes of law is the Code of Hammurabi. During the rule of King Hammurabi of Babylon, (1792 to 1750 B.C.), an extensive written code of laws was engraved in stone. It consisted of a collection of 282 judgments used in actual cases that subsequently

became the jurisprudence of the land. These applied to situations that would be defined today as both criminal and civil law matters. Principles undergirding this code included "the strong should not injure the weak and. . . punishment should fit the crime." Laws often prescribed "an eye for an eye, a tooth for a tooth" (New Grolier Multimedia Encyclopedia, 1993). Based on these case laws, if someone wronged another, repayment (often with interest) or a punishment in kind was required (Klein, 1996).

On the way to their current status, United States and Canadian laws were influenced by many legal perspectives, primarily Roman Law, religious canons, and English common law. King William I, who conquered England in 1066 imposed royal authority on the courts to ensure the supremacy of the king. He decreed that crimes were a disruption "of the King's peace."

Therefore, offenders were held accountable to the King's Courts rather than their victims and communities. This system secured the king's power over his subjects and increased his wealth through the collection of fines paid to the court rather than restitution being paid to victims (Quinn, 1996).

American jurisprudence has evolved to a system that is controlled by the state and focused on the offender. This perspective has resulted in a burgeoning criminal justice system that each year processes millions of cases and increasingly incarcerates, supervises, and "treats" larger numbers of offenders. The victims' rights movement, begun in the 1970s, has slowly focused attention on the missing pieces of the system - the wronged victim and the community (Klein, 1996).

Presently, the criminal justice system finds itself being redefined and reshaped by several perspectives that often are competing for prominence, but are not necessarily mutually exclusive. Deterrence, retribution and incapacitation are employed to punish offenders, thus theoretically meeting the needs of the State and assuaging citizens' fears of crime. Rehabilitation of offenders is intended to reduce recidivism and prevent future criminal acts. Clearly in third place at present is the restoration of victims and communities and reparation of the harm caused by the offense. However, this perspective is gaining acceptance as an overarching principle for the implementation of a justice system, returning us full circle to our earliest roots, and perhaps the truest meaning of justice.

Restorative Justice/Offender Rehabilitation: Opening Discussions

Two seemingly discrepant approaches to the problem of criminal behavior may be more compatible than previously thought. That was the conclusion of a panel of criminal justice researchers, academicians, community advocates and restorative justice adherents who came together to explore theories, practices, and evaluations of restorative justice and offender rehabilitation at a one and one-half day meeting held in Lexington, Kentucky in July 1997.

Sponsored by the National Institute of Corrections, in conjunction with the American Probation and Parole Association and the Council of State Governments, the goal of the meeting was to examine these two perspectives to determine the potential for their integration and practical implementation.

The impetus for this gathering was concerns recently expressed by advocates of both restorative justice and offender rehabilitation theories and practices. Some researchers in the area of offender rehabilitation questioned whether or not restorative justice principles adequately incorporated the research-supported principles of offender rehabilitation. Conversely, advocates of restorative justice voiced concerns that assertions made by researchers regarding offender rehabilitation programs

did not adequately consider the needs of victims of crime and the community. The meeting's purpose was to examine the principles, values, and goals driving each of these movements within corrections and to discern commonalities upon which agreement and mutual benefit could be based.

While proponents of each ideological position defended their particular perspective, they also listened to, questioned, and ultimately valued the viewpoints and positions of others. (Please see the sidebar on page 39 for a list of the participants attending the meeting on restorative justice and offender rehabilitation.)

This article provides a summary of the discussion and conclusions reached during this meeting. After synthesizing the group's deliberations, as well as literature reviews of the restorative justice and offender rehabilitation perspectives, the potential linkages and congruent implementation of these approaches will be explored as discussed by the group.

A Comparison Of Justice Paradigms

Traditional Approaches

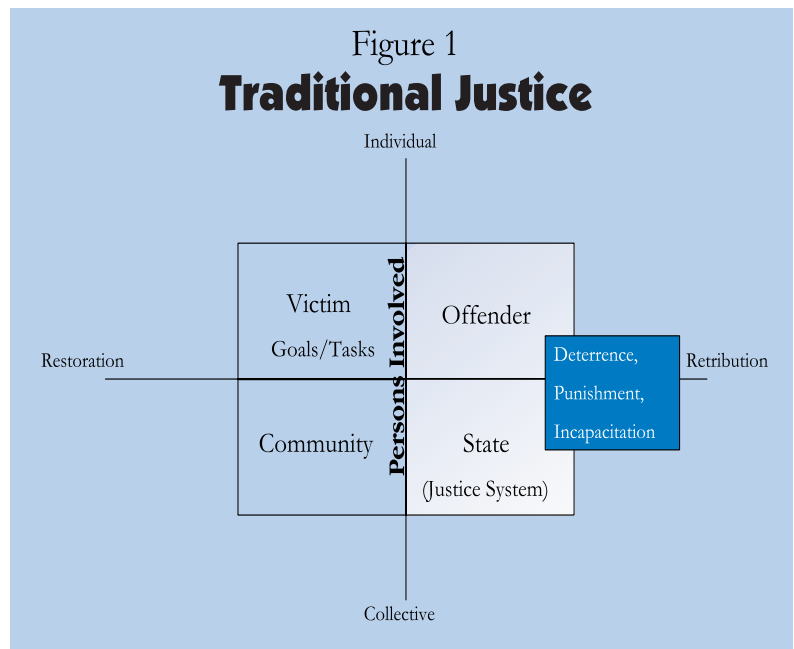
Increasing professionalization and depersonalization of the modern American justice system (especially as it evolved during the 1970s and 1980s) has been disquieting for both practitioners and observers. Offenders, victims, or litigants often come in contact with justice system professionals who earn their income and career advancements based on their ability to sort out facts and people. Moving "cases" through the justice system often outweighs responding to the needs of individual victims and offenders. Once offenders are fit into similar groupings, sanctions are provided according to pre-determined ranges for the category. Offenders who commit certain crimes are eligible for probation, while those who commit different offenses face incarceration. Equity takes precedence over individualization. To enhance equity, individual differences and circumstances are ignored.

The system increasingly focuses on the crime and the offender. Punishment, both to hold the offender accountable and to deter others from wrong-doing, is the primary concern. Less attention is paid to victim and community concerns. Victims often are left to bear the cost of the crime, both economically and emotionally, and their needs and concerns seldom are addressed.

American jurisprudence of recent vintage, drawing on English Common Law, primarily viewed crimes as offenses against the State. Therefore, the State was responsible for arresting the offender, investigating the crime, prosecuting the case, and punishing the offender. Offender rehabilitation also must be included in the State's response for the purpose of reducing the probability that a particular offender would continue to engage in criminal conduct. Despite this rather complex and costly system that increasingly relies on sophisticated technology, the offender population continues to grow.

Traditional justice system responses to crime provide very little for victims and the communities in which crimes occurred. Restitution of victim's losses often are not ordered, and if ordered, frequently are not collected from offenders and disbursed to victims. Without any direct involvement, victims often have no sense of whether or not an offender feels remorse for his or her behavior, nor does the offender have the opportunity to appreciate the consequences of his/her actions. While offenders may receive help with employment, schooling, substance abuse, and other issues, victims are often left on their own to pay for any losses suffered, including needed medical or mental health treatment.

Figure 1 graphically depicts the focus of the traditional justice system. The possible participants are located in the center of the graphic, in-



cluding victims, offenders, the community and the State, whose interests are served by the justice system. The perpendicular axis represents the persons involved moving from individuals to collectives. The horizontal axis depicts the goals and tasks of justice, ranging from restoration to retribution. In the Traditional Justice system, both offenders and the State (Justice System) are actively involved, while victims and the community have minimal to no involvement. The primary goals and tasks of the traditional justice approach involve attempts to deter crime and punish or incapacitate offenders.

Offender Rehabilitation

Offender rehabilitation subscribes to a concept that providing a balance of supervision, sanctions and treatment to offenders will lead to safer communities by encouraging prosocial lifestyles and reduced recidivism. It has evolved out of the traditional justice system and incorporates both the concept of punishing offenders (i.e., holding them accountable for their actions) and protecting the public by engaging in risk management activities. This approach relies heavily on assessment of offender risk and providing a range of interventions appropriate to the individual offender. These interventions include sanctioning or punishing the offender to ensure accountability, and they symbolically demonstrate societal disapproval of wrongful acts. The punishment rendered is commensurate with the severity of the act. For example, with a relatively minor law violation, and where the risk of continued criminality is also relatively low, the intervention may simply be restitution, community service, a fine, etc., and no more. However, for more serious acts, and where risk is higher, the type and intrusiveness of the interventions increase. This would include appropriate and empirically validated treatment services designed to enhance the offender's own ability to control his/her behavior and thereby reduce the risk of future criminal acts (D. Dillingham, personal communication, January 26, 1998).

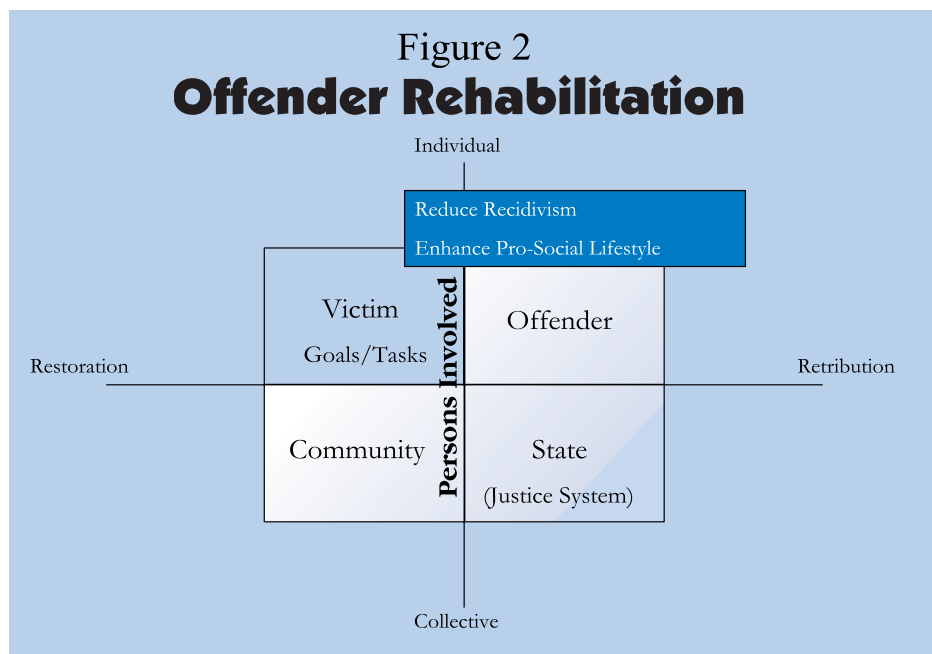
For more serious and higher risk offenders, offender rehabilitation and its risk management stance also provides external controls through criminal justice interventions such as surveillance, monitoring, and incapacitation. Again, the issue is public protection. However, simultaneously, the offender is learning internal, personal control through the rehabilitation process (D. Dillingham, personal communication, Janu-

ary 26, 1998). When this occurs, potential victims benefit from the offender's diversion from future criminality. Similarly, communities are enhanced by reduced criminal behavior and increased productivity and participation by former offenders. The State (justice system) is involved in the process of supervision, sanctioning, and treatment, but other agencies and professionals often are drawn into the provision of services offenders need. Services often furnished to offenders include alcohol and other drug abuse treatment, education, employment training and referral, and cognitive behavior therapies. Clients are matched with appropriate services based on their assessed needs (Lattin, 1993).

The offender rehabilitation approach recognizes that fear of punishment is a weak deterrent to criminal behavior. Rather, general socialization practices and the community's stance toward crime are more powerful. Without a moral relationship to the community, offenders are minimally affected by the sanctions placed on them by the State (Andrews, 1996). This change in their thinking about their behavior and their relationship and responsibility to others is fostered through the treatment process.

The primary target of offender rehabilitation strategies is the offender. However the foremost goal of intervention is public protection. Rehabilitation of the offender is "an intermediate step necessary to achieve the end goal of reduced recidivism, lower crime, and a better community in which to live." Offender accountability is a central tenet of this approach. Punishment is directed toward moral accountability for wrongdoing, while service interventions attempt to change higher-risk offenders as a means for promoting public safety, decreased victimization, and community well being (D. Dillingham, personal communication, January 26, 1998).

Figure 2 pictures the locus of intervention and primary objectives of Offender Rehabilitation. The offender is the immediate target for ser-



vices. Both the State and professionals in the community are involved in providing the services. The purpose of the intervention is not just true retribution (i.e., holding the offender accountable), but also the reduction of recidivism and, therefore, making potential victims and the community safer. Supervision, sanctions and treatment are combined in helping the offender develop a prosocial lifestyle

Restorative Justice

As in the first parable, restorative justice would redefine the criminal justice system in very fundamental ways. While the victim, offender, and the community are all involved, the focus is on resolving the problem and restoring the harm done. Emphasis shifts from the offender to the victim and the State gives up its central role in dispensing justice. It assumes the function of facilitating reparation of the harm done to the victim and the community. The harm caused the victim and community is assessed by the parties involved, and the offender is accountable for restoring the victim and community, as much as possible, to their pre-offense condition.

The participants in the meeting discussed the following three fundamental concepts that define the essence of a restorative justice approach. (These concepts are discussed in greater detail later.):

- Victims
- community residents and
- the offender should be involved in resolving the problem.

It is focused on the harm done by the offender's criminal behavior. Offenders incur an obligation to repair the damages caused and are held accountable for doing so.

Figure 3 illustrates restorative justice concepts. It focuses greater attention on victims and the entire community. The goals and tasks depicted in the outer perimeter include restoration of victims, reparation of the community and improved quality of life for all citizens.

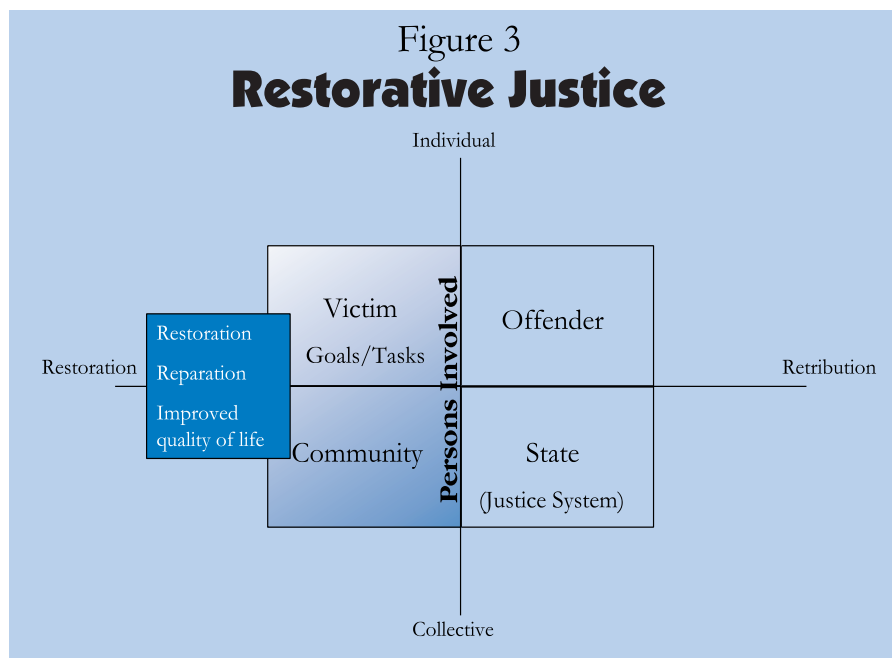


Table 1: Comparison of Restorative Justice, Offender Rehabilitation, and Criminal Justice Models

Criteria	Restorative Justice	Offender Rehabilitation	Criminal Justice System
Primary Focus of Attention	Victims and Community	Higher-risk Offenders	The criminal offense
Goals	Safe communities with improved quality of life for all citizens, Restoration of Victims and Community; reparation of harm	Safe communities with improved quality of life for all citizens, Rehabilitate offenders and reduce probability of re-offending	Safe communities with improved quality of life for all citizens, deterrence, retribution and incapacitation
Role of Government	Limited	Moderate	Extensive
Principal Methods used	Personal Interactions	Cognitive/Behavioral interventions	Surveillance and isolation of offenders from community
Community members involved	Victim, offender, community members, community agencies	Primarily offenders, criminal justice agencies, and select community agencies	Offenders and criminal justice agencies and personnel
Flow of resources	From offenders to victims and community	From offenders, victims and community to treatment programs	From victims and community to criminal justice services

Comparison Of Approaches To Achieve “Justice”

Throughout the process of the meeting on restorative justice and offender rehabilitation, participants compared and contrasted the two models with each other and with our present criminal justice system. Table 1 captures some of the readily apparent differences between the three paradigms.

Implementation

Offender Rehabilitation - “What Works”

“What Works” in offender rehabilitation is so named because it espouses several principles and practices for intervening with offenders based on research findings that, in general, studies have shown are effective and can be replicated in other settings to achieve similar results with different offenders. Related to the general goals of public safety and improved quality of life shown in Table 1 above, the more immediate goal of offender rehabilitation is to reduce the probability that an individual will re-offend. It focuses on diminishing the possibility of future victimization of individuals and communities. To oversimplify, one measure of the effectiveness of offender rehabilitation is recidivism rates.

A meta-analysis conducted on a large sample of research studies of juvenile and adult corrections yielded findings that led the researchers to formulate three principles of effective offender rehabilitation (Andrews et al., 1990):

- 1) Offender services should target higher risk offenders;
- 2) Rehabilitation services should be directed toward changing offenders' criminogenic needs; and
- 3) Offenders should be matched with programs in which the treatment mode, structure, and staff are appropriate for the needs of a given offender.

Risk Level of Offenders

Research makes it possible to determine those factors most likely to predict an individual's risk of reoffending. These factors include (Andrews et al., 1990; Huizinga, Loeber, & Thornberry, 1992; as cited by

Wicklund, 1995):

- Antisocial/delinquent associations without sufficient influence from others who are not engaged in criminal behaviors;
- Antisocial/anti-authority/procriminal attitudes, values and beliefs;
- Temperament and personality factors conducive to criminal activity (e.g., weak socialization, impulsivity, egocentricity, below average verbal IQ, proclivity to engage in risky activities, poor problem solving and self regulation skills, lack of empathy);
- History of antisocial behavior from an early age;
- Family factors including criminality, mental health problems, substance abuse, lack of parental affection, poor supervision by parents, absent or harsh parental discipline, family reliance on welfare, poor work habits and history;
- Difficulties in relationships with others;
- Preference for unsupervised leisure and recreational activities; and
- Being male.

While some of these characteristics are not inherently negative, the compilation of multiple factors increases the level of risk.

Measuring risk improves the accuracy of providing the appropriate interventions for each offender, thus reducing reoffending. The intensity of treatment services should increase in conjunction with rising levels of risk. Treatment effectiveness is greater when services are provided higher risk cases. Conversely, it is a waste of resources to focus on lower risk cases where the likelihood of committing new offenses is already relatively low, and it is dangerous to rely on treatment where the risk is very high. For a very small number of offenders, risk is so great, and our present knowledge of effective interventions so limited, that public protection demands physical incapacitation.

Criminogenic Needs

Some risk factors discussed in the previous section are static, that is, they are impossible or extremely difficult to change (e.g., being male, I. Q., previous criminal behavior, some family characteristics, and some personality factors). On the other hand, some risk factors are dynamic,

or amenable to change (e.g., criminal attitudes, beliefs and values; attitudes toward authority figures; antisocial peers; substance abuse). It is the latter set of factors, described as criminogenic needs, that should be targeted for intervention by the criminal justice system (Fulton, Stone, & Gendreau, 1994).

Participants in the Restorative Justice and Offender Rehabilitation meeting stressed that risks and needs should not be collapsed into one description of the offender, thus losing sight of the difference between factors that are likely to increase one's risk for criminal conduct and those that should be targeted for intervention and change. The former are valuable for case classification, but the latter are essential for developing an effective case plan. Similarly, participants stressed the need for using research-based risk and needs assessment instruments to obtain the most accurate predictions of continued criminal involvement and to target those characteristics or deficits most closely linked to criminal behavior and that will change with appropriate intervention.

Matching Offenders with Treatment Programs

To be effective, programs must be capable of intervening with the specific criminogenic needs presented by a given offender, and these interventions must be conducted in a way that is compatible with the offender's learning style. Social and behavioral learning experiences can be used to influence offenders' skills, cognitions and interpersonal relationships. Program staff, structure, and treatment modalities must be appropriate for individual clients (Andrews et al., 1990).

When working with offenders, cognitive behavioral social learning models are most effective when targeting criminogenic needs. Programs should model and reinforce prosocial attitudes and behaviors, and provide concrete problem solving and social skills training. Staff should be firm but fair, and capable of relating to offenders in a warm, flexible, and enthusiastic manner (Andrews et al., 1990). Where feasible, treatment programs should be provided for offenders in the community. Community intervention provides opportunities for learning different attitudes and skills through instruction, role playing and other activities in a treatment setting and a "real life" laboratory for immediately applying these in day-to-day situations. Community members can play a vital role by providing effective feedback to offenders as they implement new learning in their jobs and other settings.

Restorative Justice

Several important principles, including the following ones, underlie the restorative justice perspective.

Engage Victims, Community and Offender

The hallmark of restorative justice is its inclusiveness and approaches that involve interactions among victims, communities and offenders. Those most directly affected by a crime are involved in responding to it. It does not imply that justice system professionals have better solutions to crimes than victims and communities. This approach is apparent when a specific victim is injured, suffers economic or property losses, or experiences emotional trauma because of a crime. In such cases, a restorative justice response proposes the victim will have the option of being included in determining how the criminal behavior is addressed. This does not, as some might fear, give *carte blanche* to a victim to decide on a course of retribution for the offender without protection of the offender's due process rights. It does mean that victims play an active role, if they choose to, from the beginning to the conclusion of the process. Victim impact statements and victim-offender mediation approaches are examples of including victims in a restorative justice system.

Justice system professionals who have engaged victims with trepidation have been pleasantly surprised and relieved to find they usually are quite reasonable with their requests. They typically do not exaggerate their trauma or losses, and many are quite genuinely concerned about the well-being and rehabilitation of the offender. When given the opportunity to participate in the process, victims feel validated and can turn their energies toward constructive resolutions of problems.

Crime goes beyond a specific offense committed against a known victim. It is also "a rupture in society. . . [and] is better conceived as a crisis, pointing to a three-fold breakdown: in an individual's self control, in the community's ability to maintain healthy behavior standards, and in society's obligation to provide its inhabitants avenues for meeting their physical, psychological and social needs" (Chupp, 1997, p. 2).

Some crimes may be considered "victimless" if specific individuals cannot be identified as those who are harmed by the offense. Air and water pollution and drug trafficking are two examples of such "victimless crimes." Nevertheless, there are victims of such crimes. When an entire community suffers the consequences of a crime, the community-at-large becomes the victim. Unsafe conditions that decrease the overall quality of life for the community are true detriments to everyone living there. If a large plant discharges pollutants, it affects the air and/or water quality for all citizens; if drug dealers wield terror in the community, fear affects everyone. Thus, in such cases, "victim impact statements" and "victim-offender mediation" may include many people from the community interacting with the offender and the justice system to identify the aftermath of the crime and search for acceptable ways of addressing it.

Communities play another valuable role in restorative justice. Indeed, some proponents of restorative justice refer to the community as "the ultimate customer of the system" (Barajas, 1996). Bazemore and Day (1996) assert that the justice system should be restructured "to make it community-focused rather than bureaucracy-driven" (p. 10). In the first parable, community members coalesced to support the victim of the crime. However, they also came together to discuss possible solutions and hold the offender accountable. Not only were they involved to see that justice was done regarding a specific crime, they also recognized a problem in the community (Bartholomew's lack of hay) and took steps to resolve it (creating a hay bank and teaching him to grow a better crop of hay).

In a truly restorative justice context, communities would provide leadership to the entire process. However, involving communities in restorative justice strategies is very difficult, in part because this practice has not been undertaken routinely in the recent past. Community members often express strong sentiments about crime and justice, but they have typically had few roles in the criminal justice process. Crime represents both financial and social costs to communities which often leads to disorganization, distrust between community members and an inability for the community to ensure public safety. Although challenges facing communities have never been greater, members often have inadequate skills and resources to address these (Full Circle, 1997).

Restorative justice approaches seek to involve community and neighborhood residents more directly in addressing issues related to crime. The participants in the Restorative Justice and Offender Rehabilitation meeting grappled with the concepts of neighborhood and community without fully resolving them. The *New Webster's Dictionary* defines community as "a body of people living near one another and in social relationship." "Common ownership" and "sharing" also are meanings of the term (p. 198). The dictionary definition of neighborhood is "a district. . . , the people in a district. . . , an area of a town planned as a unit

with its own shops, services and amenities . . .” (p. 670). Meeting participants discussed the difficulty in modern society of identifying and uniting “communities” to address problems of crime. People tend to define neighborhoods by smaller and smaller areas. One’s primary community is not necessarily a geographic area. Allegiances and obligations may be felt more readily to diverse areas than to one’s own immediate neighborhood. While some people live and work in the same geographic area, others live, work, and socialize in multiple communities. Chupp (1997, p. 2) characterizes this complexity by saying, “Community is more than a place . . . [but] restorative justice ultimately means a recognition of the importance of place, community as diverse people in interdependent relationship linked by geography, if by little else.”

Because of these realities, there tends to be less cohesion and more disorganization at neighborhood and community levels. However, the extent of criminal activity in a location affects the quality of life for all residents. Overcoming the apathy and disaffection of neighborhood and community residents becomes a particular challenge for implementing a restorative justice framework. Nonetheless, involving citizens in creative problem-solving and resource development is a vital part of a restorative justice approach.

Focus on Harm

By shifting all responsibility for crime to the State, the harm caused victims often is overlooked. Focusing on the harm caused by offenses to victims and communities necessitates a shift in the response to crime. Instead of committing resources solely to punishment and rehabilitation of the offender, emphasis is placed on natural and logical consequences of his or her criminal behavior. If the victim was injured, an offender might have to pay for medical costs or do tasks the victim cannot perform while healing from the injuries. If the offender stole from or damaged property of the victim, the consequence might be repaying the cost of items or repairing damages. If victims suffer emotional trauma from the criminal incident, the offender may have to apologize and pay for the victim’s counseling services needed to restore him or her to more productive functioning.

Offender Obligation, Accountability, Reintegration

Active, rather than passive, participation of offenders in the justice process also is a feature of restorative justice. Typically, offenders are treated as objects of the traditional justice process, being acted upon in response to their offenses. They often are stripped of the opportunity to make choices or have a voice in criminal justice proceedings. They also often are deprived of human dignity. However, restorative justice approaches involve the offender in active encounters with victims and community members. Offenders must hear about the consequences of their behavior from their victims and they must respond to victims’ and community members’ questions about the cause of the behavior. They also are engaged in designing appropriate ways of restoring victims and the community, as much as possible, to their condition before the crime occurred.

The concept of restorative justice encompasses an obligation on the part of the offender to repair the harm caused and restore victims and the community, as nearly as possible, to their condition before the crime occurred. The specific requirements of this obligation may be reached through a consensus process engaged in by the victim, community, and offender, as discussed in the two previous sections. Accountability, therefore, must be viewed differently than it is presently. From a restorative justice perspective, accountability is not synonymous with punishment. Accountability literally means to answer to, explain something, or to

give an account. The offender, then, has responsibility for reaching a conclusion about what the harm is, owning it, and taking action to repair it. Accountability is victim-focused rather than offender-focused. It involves the development of empathy for victims and an understanding of the harm done. The primary obligation is to restore the victim, not change the offender. Often, through both restorative justice and offender rehabilitation methods, offenders do grow, learn, and renounce their criminal behavior, but that is not the chief reason for offender accountability in a restorative justice context.

Many people who work with offenders recognize that they (the offenders) often are victims too. A person who grows up in a violent home, subsists in poverty, experiences discrimination and harassment, is addicted to alcohol or other drugs, or generally has been victimized and experienced harm in the past, may engage in criminal behavior for a variety of reasons related to his or her own victimization. However, it should be recognized that the majority of such victims do not participate in a criminal lifestyle, and such victimization cannot become an excuse to relieve offenders of their obligations and accountability. In restorative justice, the instant offense is the focus of the justice process. The previous experiences are checked at the door to be dealt with in other contexts.

However, the two issues – the offender’s victimization of others and his or her previous experiences of victimization – are not as incongruous as they might seem. Through restorative justice approaches that include offenders in associations with victims and community members, relationships sometimes are formed, skills are learned, and offenders may experience reparation as well.

Reintegration of the offender is an objective of offender rehabilitation and often is an outcome of the restorative justice process, although it is not the primary intent of restorative justice. Rather than seeking to exclude offenders from society, both approaches strive to include reintegration of offenders as productive, law-abiding citizens. By assuming and carrying out tasks to restore victims and the community, offenders may learn valuable skills and form supportive associations that will lead to more prosocial lifestyles. Anecdotal accounts of victims and community members providing mentoring and other benefits to offenders after participating in this process are found in the growing literature on restorative justice.

Role of the Justice System

Adoption of a restorative justice framework requires a shifting role for the State and the present justice system. The role of justice professionals becomes somewhat diminished. They become advocates, coaches, and protectors of due process and human rights principles. One would expect to see a reduction of government involvement with a commensurate increase in the community’s role. Restorative justice approaches do not require standardized responses to various situations. Fairness is an important issue, but different perspectives and diversity in problem resolutions can be tolerated. In restorative justice, the interests of those directly involved are central. Oversight of the process would be a legitimate role for government to ensure that victims, communities, and offenders view it as fair, not necessarily to provide “equal” responses to every participant. In reality, with present systems of plea bargaining and differences in sentencing practices and sanctions, defendants who commit the same offense do not necessarily receive the same consequences or services.

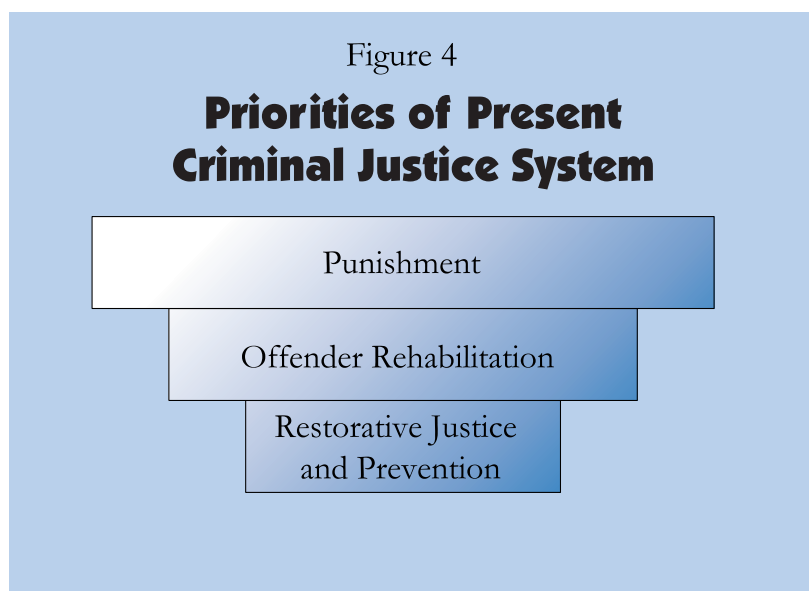
Restorative justice advocates do not envision the complete demise of the justice system as it is now known. There are some offenders who are too violent or otherwise antisocial to remain in the community. Some

victims are too frightened to encounter their offenders. Some communities are unable to provide needed services and treatment for offender rehabilitation. There likely will always be a role for supervision and treatment of many offenders and incapacitation of some offenders. But proponents of restorative justice do believe that roles and responsibilities should shift, the balance of power should be re-distributed, and priorities should change for many criminal cases, especially those that are less serious in nature.

Exhibit 1 on page 36, is a summary of fundamental concepts of restorative justice as outlined by Zehr and Mika (1997). Beginning on page 10, examples of programs based on restorative justice goals are provided.

Integration Of Restorative Justice And Offender Rehabilitation Practices

Throughout the meeting, participants acknowledged that, while differences between restorative justice and offender rehabilitation are inherent, the two models share common ground, and in practice, bridges should be built to link the two more closely. Such a relationship would necessitate a fundamental restructuring of our present justice system and the priorities to which it subscribes. As shown in Figure 4, the current criminal justice system is top heavy, with the majority of atten-



tion and resources being directed to programs of incapacitation, moderate focus and funding allotted to offender rehabilitation, and minimal consideration paid to prevention or victims' and communities' needs in a restorative justice context.

Figure 5, on the other hand, depicts the priorities and resource allocations for a system that is undergirded by a philosophy of prevention and restorative justice. Prevention provides the largest building block because it theoretically affects the largest portion of the population. Through effective crime prevention, capital currently being used for criminal justice interventions would go toward the greater good of the general community and thus avert crime from occurring in the first place. At the next level, if crime does occur, resources and attention would be directed toward the implementation of restorative justice principles, engaging the next largest portion of the population. Restorative justice promotes community responsibility for public safety and focuses first on

the needs of victims and the community. However, it also incorporates obligation, accountability, and reintegration of offenders. As illustrated in Figure 5, offender rehabilitation activities are undertaken concurrently within a restorative justice strategy, as these ultimately increase public safety and address offenders' accountability to victims when their criminogenic needs are addressed. Finally, for the few intractable cases that were not averted or resolved through the earlier steps, typical criminal justice services would be applied. This approach would focus traditional criminal justice services on violent and persistent criminals who must be removed from the community for the safety of other citizens.

Common Ground

The foregoing parts of this paper primarily emphasized the differences between restorative justice and offender rehabilitation, rather than their commonalities. However, as the meeting progressed and participants examined the principles of each paradigm, clarified underlying values and discussed differences, it became apparent that there were ample points upon which there was congruity. At the most visionary level, both approaches seek to improve the quality of life within a community by promoting public safety, albeit using somewhat different strategies. In practice, both approaches advocate victims' rights and both are concerned about the reintegration of offenders as productive members of the community. Both approaches also recognize that some offenders cannot remain in the community and must be incarcerated for the protection of the public, but both also agree that lower risk offenders can be managed in the community and held accountable through appropriate means.

In reality, it appears that there is much overlap between restorative justice and offender rehabilitation. The two perspectives might appropriately be viewed on a justice continuum ranging from victim restoration at one end to offender interventions at the other. However, between the two extremes are shared goals and practices, including promotion of public safety, prevention of future crime, and reintegration of marginalized individuals.

A program example that illustrates a beginning in co-mingling of the two approaches is the Youthful Offender Pre-Trial Intervention Program in Polk County, Iowa. It is for youth who commit felony crimes for which they may be waived to adult court. Youthful offenders must plead guilty to a non-felony charge, usually receiving a deferred judgment and then are released on pre-trial status to complete the program requirements. Approximately 75 percent of the program participants complete the program and then are placed on formal probation.

First-time youthful offenders are provided with services that are unavailable in the adult corrections system. These include substance abuse evaluation and treatment, educational assessment and opportunity to earn a GED, courses in lifestyle changes, street law, and pre-employment skills as well as curfew restrictions and random drug testing. In addition, there are victim-offender meetings to discuss the impact of the crime on the victim and to reach a restitution agreement plus community work service and mentoring (Gay, 1997).

While Figure 5 showed the relative weight and position of different components of a restorative justice system, Figure 6 illustrates the integration of Offender Rehabilitation within a Restorative Justice Framework. Within the broader socio-political system, restorative justice and prevention frameworks form the backdrop for all activities within the community and the criminal justice system. A given community becomes the focal point of that system, and within each community, there

Exhibit 1: Fundamental Concepts of Restorative Justice

1.0 **Crime Is Fundamentally A Violation Of People And Interpersonal Relationships.**

- 1.1 Victims and the community have been harmed and are in need of restoration.
 - 1.1.1 The primary victims are those most directly affected by the offense but others, such as family members of victims and offenders, witnesses and members of the affected community, are also victims.
 - 1.1.2 The relationships affected (and reflected) by crime must be addressed.
 - 1.1.3 Restoration is a continuum of responses to the range of needs and harms experienced by victims, offenders, and the community.
- 1.2 Victims, offenders and the affected communities are the key stake-holders in justice.
 - 1.2.1 A restorative justice process maximizes the input and participation of these parties – but especially primary victims as well as offenders – in the search for restoration, healing, responsibility and prevention.
 - 1.2.2 The roles of these parties will vary according to the nature of the offense as well as the capacities and preferences of the parties.
 - 1.2.3 The state has circumscribed roles, such as investigating facts, facilitating processes and ensuring safety, but the state is not a primary victim.

2.0 **Violations Create Obligations And Liabilities.**

- 2.1 Offenders' obligations are to make things right as much as possible.
 - 2.1.1 Since the primary obligation is to victims, a restorative justice process empowers victims to effectively participate in defining obligations.
 - 2.1.2 Offenders are provided opportunities and encouragement to understand the harm they have caused to victims and the community and to develop plans for taking appropriate responsibility.
 - 2.1.3 Voluntary participation by offenders is maximized; coercion and exclusion are minimized. However, offenders may be required to accept their obligations if they do not do so voluntarily.
 - 2.1.4 Obligations that follow from the harm inflicted by crime should be related to making things right.
 - 2.1.5 Obligations may be experienced as difficult, even painful, but are not intended as pain, vengeance or revenge.
 - 2.1.6 Obligations to victims such as restitution take priority over other sanctions and obligations to the state such as fines.
 - 2.1.7 Offenders have an obligation to be active participants in addressing their own needs.
- 2.2 The community's obligations are to victims and to offenders and for the general welfare of its members.
 - 2.2.1 The community has a responsibility to support and help victims of crime to meet their needs.
 - 2.2.2 The community bears a responsibility for the welfare of its members and the social conditions and relationships which promote both crime and community peace.
 - 2.2.3 The community has responsibilities to support efforts to integrate offenders into the community, to be actively involved in the definitions of offender obligations and to ensure opportunities for offenders to make amends.

3.0 **Restorative Justice Seeks To Heal And Put Right The Wrongs.**

- 3.1 The needs of victims for information, validation, vindication, restitution, testimony, safety and support are the starting points of justice.
 - 3.1.1 The safety of victims is an immediate priority.
 - 3.1.2 The justice process provides a framework that promotes the work of recovery and healing that is ultimately the domain of the individual victim.
 - 3.1.3 Victims are empowered by maximizing their input and participation in determining needs and outcomes.
 - 3.1.4 Offenders are involved in repair of the harm insofar as possible.
- 3.2 The process of justice maximizes opportunities for exchange of information, participation, dialogue and mutual consent between victim and offender.
 - 3.2.1 Face-to-face encounters are appropriate in some instances while alternative forms of exchange are more appropriate in others.
 - 3.2.2 Victims have the principal role in defining and directing the terms and conditions of the exchange.
 - 3.2.3 Mutual agreement takes precedence over imposed outcomes.
 - 3.2.4 Opportunities are provided for remorse, forgiveness and reconciliation.
- 3.3 Offenders' needs and competencies are addressed.
 - 3.3.1 Recognizing that offenders themselves have often been harmed, healing and integration of offenders into the community are emphasized.
 - 3.3.2 Offenders are supported and treated respectfully in the justice process.
 - 3.3.3 Removal from the community and severe restriction of offenders is limited to the minimum necessary.
 - 3.3.4 Justice values personal change above compliant behavior.
- 3.4 The justice process belongs to the community.
 - 3.4.1 Community members are actively involved in doing justice.
 - 3.4.2 The justice process draws from community resources and, in turn, contributes to the building and strengthening of community.
 - 3.4.3 The justice process attempts to promote changes in the community to both prevent similar harms from happening to others, and to foster early intervention to address the needs of victims and the accountability of offenders.
- 3.5 Justice is mindful of the outcomes, intended and unintended, of its responses to crime and victimization.
 - 3.5.1 Justice monitors and encourages follow-through since healing, recovery, accountability and change are maximized when agreements are kept.
 - 3.5.2 Fairness is assured, not by uniformity of outcomes, but through provision of necessary support and opportunities to all parties and avoidance of discrimination based on ethnicity, class and sex.
 - 3.5.3 Outcomes which are predominantly deterrent or incapacitative should be implemented as a last resort, involving the least restrictive intervention while seeking restoration of the parties involved.
 - 3.5.4 Unintended consequences such as the co-optation of restorative processes for coercive or punitive ends, undue offender orientation, or the expansion of social control, are resisted.

Excerpted from Howard Zehr and Harry Mika (1998), *"Fundamental Concepts of Restorative Justice," Contemporary Justice Review*, 1(1) 47-55.

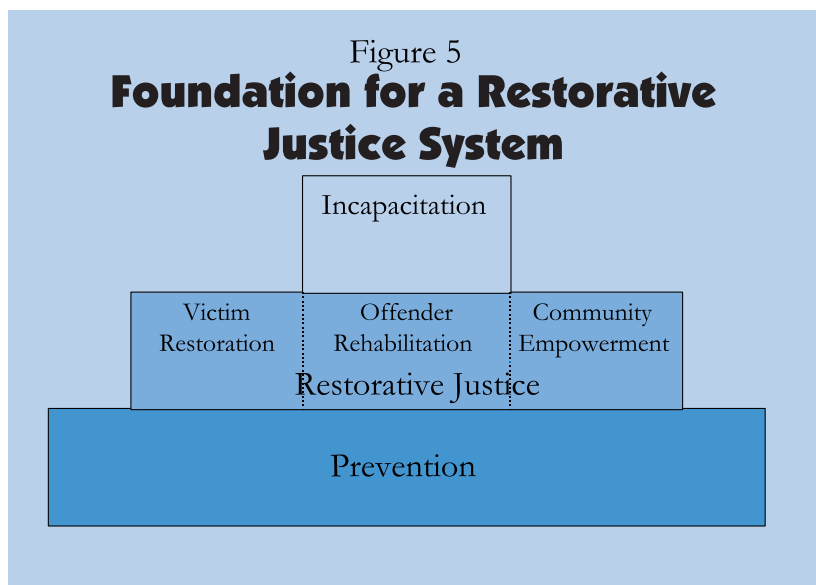
are victims, offenders, and other community members. Restorative justice activities involving victims, offenders, and the community are at the forefront of a community justice model. These activities include victim-offender mediation, victim restitution, and many other activities focused on repairing the harm caused by criminal behavior, where possible. The offender remains in the community and receives rehabilitative services with a goal of reintegration and return to full acceptance and productivity within the community. The justice system in this model assumes a supportive role to victims, offenders, and the community. One of its primary, State-delegated tasks would be insuring fairness to all involved. Only if crimes are so violent as to jeopardize community safety, or if repeated attempts at restorative justice and offender rehabilitative activities fail, would the justice system become more prominent by causing an offender to be incapacitated within the community or excluded from the community. Community members and victims drive this system rather than criminal justice professionals.

Meeting participants agreed that attention to victims and the community should be a part of a risk management and offender rehabilitation strategies and offender rehabilitation was an important element that should operate within a restorative justice framework. Priority within this conceptual frame is ultimately a safe community where all citizens are valued and enjoy a positive quality of life. In practice, restoration of victims and the community would become a central focus, with rehabilitation of offenders also contributing to the primary goals by preventing further criminality and victimization.

Additionally, the participants felt that restorative justice and offender rehabilitation concepts needed to infuse other social systems so that all citizens become familiar with these approaches and are able to participate knowledgeably in these processes. As an example, blending these concepts and practices into the education system was discussed. Table 2 summarizes these ideas.

Practitioners who use restorative justice principles have developed creative approaches to answer the questions:

- Who has been harmed?
- What can be done to make things right?



Treatment providers who work in the area of offender rehabilitation similarly have developed skills for effectively helping offenders change attitudes and behaviors toward more prosocial and productive lifestyles.

The challenge, however, remains in changing social attitudes and political priorities so that these principles become more generally accepted and receive the needed resources for full implementation. As allies, the supporters of restorative justice and offender rehabilitation present a more convincing case and can better support each others' efforts than each can do separately. The participants in this meeting left with a conviction to continue the dialogue, explore further the compatibility of the two perspectives, and to attempt to advance practice and demonstrate effective implementation of these two responses to criminal conduct.

Examples of Restorative Justice Programs and Strategies

Although the following examples are presented in a context of restorative justice, many of them also contain instances of offender-focused rehabilitative strategies and illustrate the compatibility of the two approaches.

Family and Community Involvement

Many Native American and other indigenous people around the globe have forums such as family gatherings and talking circles, presided over by family elders or community leaders. Interpersonal issues are usually the focus of these encounters, and traditional tribal laws and practices are followed (Melton, 1996).

The Honorable Robert Yazzie (1997) describes the Navajo response to crime as one that includes a "peacemaker," the victim and his or her family, the offender and his or her family, and friends, neighbors, and anyone else who is involved in the matter or affected by it. These persons are engaged in a "talking out" process that includes a traditional opening prayer, venting, and discussion to reach a consensus about what should be done.

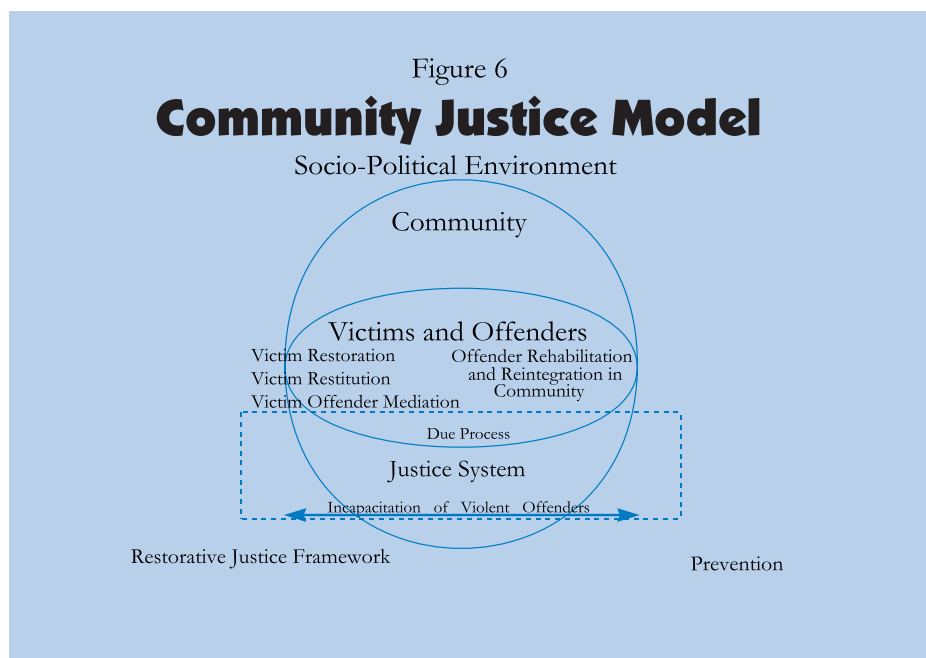


Table 2: Restorative Justice and Offender Rehabilitation Principles in Educational Settings

Restorative Justice

- All school curricula should include conflict resolution, and teachers should be trained in conflict resolution.
- Curricula should focus on the harm of wrong-doing and should make students aware of victimization.
- Students and staff should be trained in mediation.
- Family conferencing techniques should be employed.
- Family involvement in schooling should be stressed, and competency development in family life should be a goal of education.
- Students should be involved as the community in addressing harmful behaviors that occur in the school.
- Problems should be viewed as learning opportunities and restorative justice principles should be used to process incidents. They should be accepted, and creative solutions should be sought.
- Schools should use peer development, support, and problem-solving strategies rather than always imposing adult standards and discipline.
- Restorative justice strategies should be used rather than suspensions and expulsions.
- Students should be required to participate in community projects, and community services should be brought into the school.
- Mutual respect, relationships and rituals that affirm people should be instilled.

Offender Rehabilitation

- Students should be prepared to succeed in the larger society through educational achievement and attachment to work.
- School culture, atmosphere, and activities that promote prosocial attitudes, values and beliefs should be encouraged.
- Healthy, prosocial, inclusive relationships should be developed.
- There should be a sufficient variety of appropriate activities to appeal to all students.
- The school curriculum and instruction should be sensitive to different learning styles.
- Good assessment strategies should be routine and identify risks and needs and respond appropriately to them.
- Cognitive skills and conflict resolution should be an integral part of the curriculum.
- Schools should be open to the community after hours; they should be responsible and responsive to community needs.
- Schools should be sensitive to children who are victims.
- School should be connected to other social and justice systems in the community.

The goal of this process is not punishment or correction of a person; rather, the aim is correction of the action and remedy of the harm caused by the offender's conduct. Families of both the offenders and victims are involved to help speak for them and to take responsibility for their relatives.

New Zealand has developed a system of family group conferences for juvenile justice cases based on a Maori tradition. The victim and offender and both of their families come together for a conference facilitated by a social service worker. This approach involves a discussion of the impact of the crime on the victim and the community and public shaming of the deed (not the offender). The offender earns his or her way back into the community's favor. This program has been evaluated and shown to be effective in diverting cases from prosecution and reducing commitments to youth correctional facilities (Quinn, 1996).

Involvement of Other Community Systems and Professionals

The justice system cannot single-handedly mediate all law violation and civil disagreements. Conversely, educational systems, child welfare programs, mental health providers and other community resources should be enlisted to share in the mission and delivery of restorative justice. For example, schools can incorporate conflict resolution skills, peer mediation, and other skill development into the curriculum. Schools can be peace sites and use appropriate and constructive disciplinary approaches (Anderson, 1996).

Victim-Offender Reconciliation and Mediation Programs

These programs involve face-to-face meetings between victims and offenders. Both tell their account of the incident, and a trained mediator helps them discuss the harm and negotiate an agreement (Gehm, 1995). Victim-Offender Reconciliation and Mediation Programs vary widely. They may be situated in court, State, or community agencies. Some are related to religious and other nonprofit and volunteer organizations. The origin of referrals may vary among police, prosecutors, judges, probation officers, victims' advocates, and others. The occurrence of victim-offender meetings ranges from pre-adjudication to post-incarceration. Types of crimes and offenders for whom victim-offender reconciliation or mediation programs are used is also diverse. Age, type of crime and emotional state are some of the factors used to determine eligibility (Fahey, 1997).

Community Policing

Community policing departs from traditional law enforcement strategies by developing partnerships with the community and empowering community members to make their neighborhoods safer. It is decentralized and personalized and involves community-based problem-solving approaches within a results-oriented system (Bucqueroux, 1996).

An example of restorative justice/community policing strategies is the beat meetings held in Chicago. Residents and law enforcement officers come together in small groups around the city to discuss community problems. In turn, police work with other community resources to address identified problems and promote residents' feelings of security (Skogan, 1996).

Community Prosecution

Burgeoning caseloads, crowded prisons, and overburdened community corrections programs are among the realities with which prosecutors must contend when making charging decisions, pre-trial detention,

and sentencing recommendations. In Polk County, Iowa, the County Attorney's Office uses trained mediators to resolve disputes that otherwise might be prosecuted through the courts (Gay, 1997).

In Dakota County, Minnesota, the County Attorney diverts many first-time juvenile offenders from the court process. This is done with the condition that they pay victim restitution and perform 15 to 35 hours of community work service. The diverted juveniles and their parents also are required to attend educational classes related to restoration of community values, respect for others, and healthy decision making (Rubin, 1997).

Community Courts

Judicial leaders also can implement restorative justice programs such as the ones in Dakota County, Minnesota. Dispositions of juvenile cases often include orders to pay victim restitution, perform community work service and write letters of apology to victims. Juvenile offenders may be given the option of performing community work service or making a cash donation to a victim restitution fund(Rubin, 1997).

Community Corrections

There are many examples of ways restorative justice principles can be implemented in community corrections agencies to make communities safer and strengthen the community's ability to address its own needs. Placing probation offices in neighborhoods from which offenders come, and assigning probation officers to particular geographic areas facilitates communication with victims and community members and problem-solving work within the neighborhood (Dickey, 1996).

Vermont has developed the reparative probation program consisting of five or six trained community volunteers who form a citizen reparative board. The program diverts many cases from traditional probation services, allowing more resources to be allocated toward the most serious offenders. Judges may place offenders in a reparative program if they admit their guilt, are deemed willing to avoid further offenses, and agree to complete the conditions imposed by the community reparative board. Examples of offenses that might qualify an offender for the program include possession of stolen property, retail theft, bad checks, use of forged credit cards, and similar nonviolent crimes. The offender comes before the community reparative board and the offense and its effect on victims are discussed. Victims are invited, but not required, to participate. The board considers and concurs upon a restorative agreement and then discusses it with the offender. Sanctions are explained and all parties sign an agreement stating what the offender must do. Four goals are considered for offenders: 1) restore victims; 2) make amends to the community; 3) learn how their crime impacts victims and the community; and 4) learn ways to avoid re-offending (Dooley, 1996, pp. 32-33). Expectations of offenders might include written apologies, victim restitution, community service, participation in skill development courses, victim-offender mediation, and family group conferences. Compliance with these conditions is monitored by the community reparative board. This process shifts responsibility away from the corrections department and toward the community, families, and offenders (Dooley, 1996; Sinkinson & Broderick, 1997).

The Deschutes County, Oregon Probation Department developed a Restorative Justice Corps that provides community work service opportunities for offenders. Offenders have built a seventy-bed shelter for the homeless, stocked firewood for poor elderly residents, and accomplished other services for the community (Klein, 1996).

Dakota County, Minnesota has developed a Crime Repair Crew for both juvenile and adult probationers. The purpose of the program is to

repair property that has been damaged by criminal activity. Victims are informed of the availability of the service by law enforcement officers when they answer complaints. The victim then may contact the program to schedule the needed repairs. These crews can perform tasks such as replacing broken windows, removing graffiti, and repairing damages caused by vandalism. In addition to restoring the damages inflicted on victims and learning valuable skills, offenders also are exposed to the offensive destruction caused by other offenders (Rubin, 1997).

Institutional Corrections

Restorative justice does not have to be a foreign concept even in incarceration facilities. Although the concept of restorative justice would place only the most violent or persistent offenders away from the community in jails and prisons, it is still possible to provide opportunities for them to experience the benefits of giving back something to the community. Lund (1997) describes her encounters with restorative justice concepts in the Minnesota Correctional Facility - Shakopee. She participated in a speakers' bureau through which she gave talks to teenagers in area high schools about her personal story and attempted to reach at-risk youths with a message of avoiding criminal behavior. She also raised a small puppy that was later turned over for specialized training to assist an impaired person. Finally, she took part in a project sponsored by the prison that allowed inmates to assist elderly and indigent persons in the community with home repairs and other household tasks. Another project at the prison allowed inmates to assist a local elementary school through fund-raising, cleaning the school and grounds, and making and donating needed items such as banners, costumes for the children, and benches and boxes. Lund says these opportunities allow incarcerated women to learn to care for others. She says, "They get a chance to make a difference and they are learning that it feels really good to affect someone's life in a positive way. Restorative Justice is more than it appears on the surface because the more you do it the more you learn about and care for yourself, others, and the world around you" (p. 55).

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Meeting on Restorative Justice and Offender Rehabilitation
Lexington, Kentucky
July 28-29, 1997

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Epilogue

(Editor's Note: This article is an epilogue to *Restorative Justice and Offender Rehabilitation: A Meeting of the Minds* by Ann Crowe, research associate, APPA.)

Last summer's meeting in Lexington, Kentucky was a minor but important part of an ongoing and much larger debate about the role of the justice system in the United States and its function within our society. It is reflective of wider societal concerns about a diminished quality of life in our communities, threatened families, and an erosion of support for common values. At a time when spending on public safety and corrections is rapidly climbing, the fear of crime is unabated and citizens are increasingly asking if they are getting good value for their dollar. Reliance on harsher punishments and longer prison sentences to solve the problem is questioned. Out of this, two new approaches are vying for attention. Based on evidence that appropriate interventions can and do work – rehabilitation, as a means for promoting safety by reducing recidivism, is again gaining favor. Also growing in popularity is restorative justice with its attention to problem solving, victim reparation, and community inclusion.

The purpose of the meeting was not to find the best approach but rather to better understand the principles underlying both, open lines of communication between proponents of each, explore commonalities and differences, and

to see how supporters of either might work together in seeking a common goal of better and safer communities. At the end of the meeting, it was clear that the final chapter in the search for the answer to crime has yet to be written. The treatment approach and restorative justice both have much to offer but neither can yet claim the high ground of superiority.

The existing criminal justice system, even at its best when using risk assessment, diverse sanctions, and proven treatment interventions has not always paid sufficient attention to needs of victims nor sought to include the larger community in its operation. At the same time, restorative justice is still being defined and is only in the early stages of converting a philosophy to principles that can be demonstrated and empirically tested. What represents "good practice" in restorative justice is still being debated and evidence of demonstrable outcomes has yet to be collected. The boundaries of offenders, offenses and victims that fall inside the parameters of restorative justice is unclear and how the old and the new systems will mesh when dealing with these "unsuitables" is uncertain. Finally, in both arenas there are competing and sometimes conflicting values.

American justice is based on an adversarial process that holds individual rights, innocence until proven guilty, and equality before the law as keystones. How do these fit with a view that looks at future risk or places the needs of the community and victim paramount? Likewise, in a community-based system of justice, what does it mean that communities vary in their resources and skills they can muster to deal with crime? These are all issues to be worked through.

In sum, the story is still being written and dialogue must go on. It is much too early for anyone to claim victory in finding the answer to crime. As part of this effort, the National Institute of Corrections will continue to explore these issues and support activities related to both treatment interventions and restorative justice. For example, this summer there is a seminar at its National Training Academy looking at the framework and goals for community corrections in light of these two approaches. Also being planned are a series of regional meetings over the next two years that will explore the business of community corrections again against the backdrop of treatment and restorative justice. □

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BY DAVID DILLINGHAM

Sex Offender Management Information Specialist Council of State Governments American Probation and Parole Association.



This position provides support to the Office of Justice Programs' Center for Sex Offender Management project managed by the Center for Effective Public Policy and APPA by researching, compiling and disseminating information on policy and practice issues related to sex offender management in the community. This position requires five years of criminal justice experience with demonstrated understanding of policy and practice issues germane to the management of sex offenders in the community. An advanced degree in a related field or equivalent education/experience is also required. Applicant must be able to organize and manage diverse tasks and have excellent writing, communication and analytical skills. Applicant must also be an independent worker and team oriented. Travel is required. Computer skills are necessary. Starting salary range is \$36,068-52,357. Excellent benefits are offered. Submit letter, writing sample resume and other helpful documentation by **July 1, 1998** to: CLJ/APPA, P.O. Box 11910, Lexington, KY 40578-1910. AA/EOE



Probation

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Part II

Part II

****Editor's note:** This is the second part of a two part article. Part one of this article appeared in the Perspectives Spring 1998 issue.

V. Does Probation Work?

A. Offender Recidivism

The most common question asked about probation is "Does it work?" And, by "work" most mean whether the person granted probation has refrained from further crime, or reduced his/her recidivism. Recidivism is currently the primary outcome measure for probation, as it is for all corrections programs.

We have no national information on the overall recidivism rates of juvenile probationers, and we only know the "completion rates" for adult misdemeanors. This omission is very important to take note of, since summaries of probation effectiveness usually report the recidivism rates of felons as if they represented the total of the probation population, and adult felons make up 42 percent of the total probation population (Macquire and Pastore 1995). Failure to make this distinction is why we have profoundly different assessments about whether or not probation "works."

For example, a recent review of community corrections by Clear and Braga suggests that adult probation is very successful. They write: "Studies show that up to 80 percent of all probationers complete their terms without a new arrest" (1995:430). But Langan and Cuniff, summarizing data from the same source, conclude: "Within 3 years of sentencing, while still on probation, 43 percent of these felons were rearrested for a crime within the state. Half of the arrests were for a violent crime (murder, rape, robbery or aggravated assault) or a drug offense (drug trafficking or drug possession). The estimates (of recidivism) would have been higher had out-of-state arrests been included" (1992:5).

How can these respected scholars summarize the evidence so differently? The difference is that Clear and Braga are summarizing probation completion rates (not rearrests) for the entire adult felon and misdemeanor population—and most misdemeanants complete probation, whereas Langan and Cuniff are referring to rearrests, and including only adult felons—many of whom are rearrested. In most writings on probation effectiveness, the felon recidivism rates are presented as representing the entirety of the probation population. Figure 1 shows adult probationer recidivism outcomes, separately for felons versus the entire population.

In reality then, there are two stories to be told in terms of probationer recidivism rates (similar to the one told in part one on sentencing practices). On the one hand, recidivism rates are low for the half of the population that is placed on probation for a misdemeanor—data suggest that three-quarters of them successfully complete their supervision. Of course, previous data has shown us that misdemeanants typically receive few services and little supervision, so in essence, they were "rehabilitated" either as a result of their own efforts or simply being placed on probation served some deterrent function and encouraged them to refrain from further crime.

One might then question the wisdom of placing such low-risk persons on probation in the first place, given that probation departments are strapped for funds. Even if one argues that such persons aren't receiving direct supervision, there are transactional costs to their being on probation (e.g., staff training, administrative costs, office space for files).

More importantly, if these offenders do commit a new crime, probation

takes the heat for not providing adequate supervision and perhaps preventing their recidivism. Such bad publicity further tarnishes probation's image. And recently, the practice of not carrying out court-ordered supervision has also served as legal grounds for successfully suing probation departments who failed to adequately supervise offenders who subsequently recidivated, referred to as "negligence in supervision." (for a discussion, see del Carmen and Pilant 1994).

The other story is that for felons placed on probation, recidivism rates are high, particularly in jurisdictions that use probation extensively, where offenders are serious to begin with, and supervision is minimal. In 1985, RAND researchers tracked, for a three year period, a sample of 1,672 felony probationers sentenced in Los Angeles and Alameda Counties in 1980. Over that time period, the researchers found that 65 percent of the probationers were rearrested, 51 percent were reconvicted, and 34 percent were reincarcerated (Petersilia et al. 1985).

Other agencies replicated the RAND study and the results showed that felony probationer recidivism rates varied greatly from place to place, depending on the seriousness of the underlying population characteristics, the length of follow-up, and the surveillance provided. Geerken and Hayes (1993) summarized 17 follow-up studies of adult felony probationers and found that felony rearrest rates varied from a low of 12 percent to a high of 65 percent. Such wide variation in recidivism is not unexpected, given the wide variability in granting probation and monitoring court-order conditions, as previously discussed.

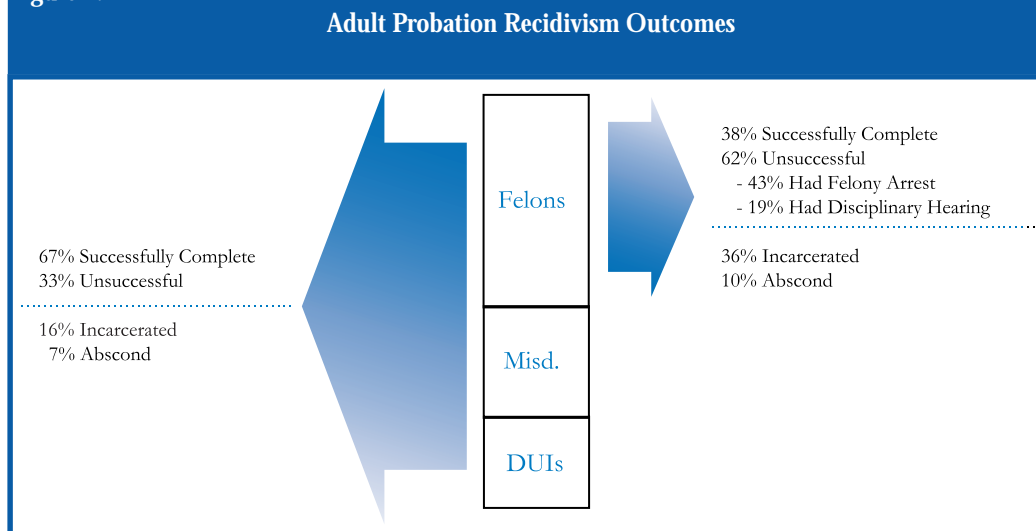
B. Predicting Probationer Recidivism

Several research studies have examined probationers' backgrounds and criminal record in an attempt to identify those characteristics that are associated with recidivism (e.g., Petersilia et al. 1985; Petersilia and Turner 1993; Langan 1994). The results are consistent across studies, and Morgan (1993) recently summarized them as follows: the kind of crime conviction and extent of prior record:

- Offenders with more previous convictions and property offenders (burglary as compared to robbery and drug offenders) showed higher rates of recidivism;
- income at arrest: higher unemployment/lower income are associated with higher recidivism;
- household composition: persons living with spouse and/or children have lower recidivism;
- age: younger offenders have higher recidivism rates than older offenders; and
- drug use: probationers who used heroin had higher recidivism rates.

In the Petersilia and Turner (1986) study, these factors were shown to be correlated with recidivism, however the ability to predict recidivism was limited. Knowing the above information, and using it to predict which probationers would recidivate and which would not, resulted in accurate predictions only about 70 percent of the time. The authors concluded that the probation programs the offender participated in, along with factors in the environment in which the offender was super-

Figure 1:



vised (family support, employment prospects), predicted recidivism as much or more than the factors present prior to sentencing and often used in recidivism prediction models. Despite the desire to predict offender recidivism, it appears that data and statistical methods are simply insufficient to do so at this time.

C. Comparing Probationer and Parolee Recidivism

Proponents of probation often argue that although probationer recidivism rates may be unacceptably high, parolee recidivism rates are even higher. To buttress their arguments, they usually compare the recidivism rates of all released prisoners with the recidivism rates of all probationers to show the greater benefits of probation versus prison. Generally—and not surprisingly—the probationers' recidivism rates are lower compared with prisoner recidivism rates. But this conclusion rests on flawed methodology, since there are basic differences between probationers and prisoners, as groups, and these differences certainly influence recidivism.

Petersilia and Turner (1986) conducted a study using a quasi-experiment design that incorporated matching and statistical controls to tease out the issue of comparative recidivism rates. They constructed a sample of 511 prisoners and 511 felony probationers who were comparable in terms of county of conviction, conviction crime, prior criminal record, age, and other characteristics, except that some went to prison while others were placed on felony probation. In the two year follow up period, 72 percent of the prisoners were rearrested, as compared with 63 percent of the probationers; 53 percent of the prisoners had new filed charges, compared with 38 percent of the probationers; and 47 percent of the prisoners were incarcerated in jail or prison, compared with 31 percent of the probationers. However, although the prisoners' recidivism rates were higher than the probationers', their new crimes were no more serious, nor was there a significant difference in the length of time before their first filed charge (the average was about six months for both groups).

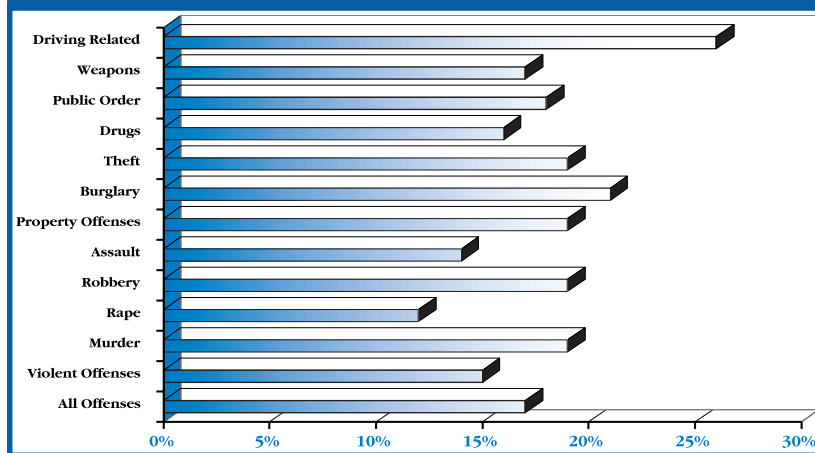
This study suggests that prison might have made offenders more likely to recidivate than they would have without the prison experience, although only a randomly designed experiment—where identically matched offenders are randomly assigned to prison versus probation—could confidently conclude that, and as yet, none has ever been conducted.

D. Other Probation Outcome Measures

1. The Contribution of Probationers to the Overall Crime Problem.

Another way to examine probation effectiveness is to look at the contribution of those on probation to the overall crime problem. The best measure of this comes from BJS's National Pretrial Reporting Program, which provides data on the pretrial status of persons charged with felonies, collected from a sample which is representative of the 75 largest counties in the nation. The most recent BJS data is from 1992 and contained in Reaves and Smith (1996). Figure 2 shows that of all persons arrested and charged with felonies in 1992, 17 percent of them were on probation at the time of their arrest.

Figure 2:
Percent of Felony Arrestees on Probation at Time of Arrest



From other BJS data, we can determine what percent of offenders status' were on probation at the time of their arrest (Figure 3). Of those in prison during 1991 (BJS 1993) and included in the BJS nationally-representative Survey of State Prison Inmates, 29 percent were on probation at the time of the offense that landed them in prison. BJS further reports that 31 percent of persons on death row in 1992 reported committing their murders while under probation or parole supervision (BJS 1994c).

2. Alternative Outcome Measures: Probationer Participation in Treatment and Work Programs

Probation practitioners have expressed concern about the use of recidivism as the primary, if not sole, measure of their program's success (Boone and Fulton 1995). They note that crime is the result of a long line of social ills—dysfunctional families, economic and educational deprivation, and so on—and these social problems are clearly beyond the direct influence of probation agencies. Moreover, using recidivism as the primary indicator of probation's success fails to reflect the multitude of goals and objectives of probation, and it serves to further erode the public's confidence in probation services, since correctional programs, by and large, have been unable to significantly reduce recidivism.

The American Probation and Parole Association (APPA), the well-respected national association representing U.S. probation officers, has begun to argue persuasively that recidivism rates measure just one function, while ignoring other critical probation tasks, such as preparing presentence investigations, collecting fines and fees, monitoring community service, and so on (Boone and Fulton 1995). Other scholars

have specified how community corrections outcomes might appropriately be measured (Petersilia 1993).

The APPA has urged its member agencies to collect data on alternative outcomes, such as: amount of restitution collected, number of offenders employed, amount of fines/fees collected, hours of community service, number of treatment sessions, percent financial obligation collected, enrollment in school, days employed, educational attainment and number of days drug-free. Some probation departments have begun to report such alternative outcomes measures to their constituencies, and believe it is having a positive impact on staff morale, public image and funding (Griffin 1996).

VI. How Can Probation Be Revived?

Probation finds itself in a unique position in the U.S. It was originally advanced by liberal reformers, who sought to help offenders overcome their problems and mitigate the perceived harshness of jails and prisons. The public is now less concerned with helping offenders than they are with public safety and deserved punishment. But the public's tough-on-crime stance has caused jail and prison crowding nationwide, and the costs of sending a greater number of convicted offenders to prison has proven prohibitively expensive.

The public has now come to understand that not all criminals can be locked up, and so renewed attention is being focused on probation. Specifically, policymakers are asking whether probation can implement less expensive but more credible and effective community-based sentencing options. No one is advocating the abolition of probation, rather everyone is calling for its reform. But exactly how should we begin?

1. Implement Quality Programming for Appropriate Probation Target Groups

We need to first regain the public's trust that probation can be a meaningful, credible sanction. During the past decade, many jurisdictions developed "intermediate sanctions" as a response to prison crowding. These programs (e.g., house arrest, electronic monitoring, intensive supervision) were designed to be community-based sanctions that were tougher than regular probation, but less stringent and expensive than prison (Gowdy 1993; Tonry and Lynch 1996; Clear and Braga 1995).

The program models were good and could have worked, except for one critical factor: They were usually implemented without creating an organizational capacity to ensure compliance with the court-ordered conditions. Intermediate sanctions were designed with smaller caseloads, enabling officers to provide both services and monitoring for new criminal activity, but they never were given the resources needed to enforce the sanctions or provide necessary treatment.

When courts ordered offenders to participate in drug treatment, for example, many probation officers couldn't ensure compliance because local treatment programs were unavailable (Turner et al. 1993). Programs that were available often put offenders at the back of the waiting list. Similarly, when courts ordered fines or restitution to be paid, or community service to be performed, it often was ignored because of a lack of personnel to follow-through and monitor such requirements (Petersilia and Turner 1993). Over time, what was intended as tougher community corrections in most jurisdictions didn't materialize, thereby further tarnishing probation's image.

As Andrew Klein, former Chief Probation Officer in Quincy, Massachusetts (1997:311) so eloquently put it:

Unenforced sanctions jeopardize any sentence, undermining its credibility and potential to address serious sentencing concerns...they are like sentences to prison with cell doors that do not lock and perimeter gates that slip open. The moment the word gets out that the alternative sentence or intermediate sanction is unmonitored, is the moment the court loses another sentencing option.

While most judges still report being anxious to use tougher, community-based programs as alternatives to routine probation or prison, most are skeptical that the programs promised “on paper” will be actually delivered in practice (Sigler and Lamb 1994). As a result, some intermediate sanction programs are beginning to fall into disuse (Petersilia 1995).

But not all programs have had this experience. In a few instances, communities invested in intermediate sanctions and made the necessary treatment and work programs available to offenders (Klein 1997). And, most importantly, the programs worked: in programs where offenders received both surveillance (e.g., drug tests) and participated in relevant treatment, recidivism was reduced 20-30 percent (Petersilia and Turner 1993). Recent program evaluations in Texas, Wisconsin, Oregon and Colorado have found similarly encouraging results (Clear and Braga 1995). Even in national BJS probation follow-up study by Langan (1994), it was found that if probationers were participating in or making progress in treatment programs, they were less likely to have a new arrest (38 percent) than either those drug offenders who had made no progress (66 percent) or those who were not ordered to be tested or treated (48 percent).

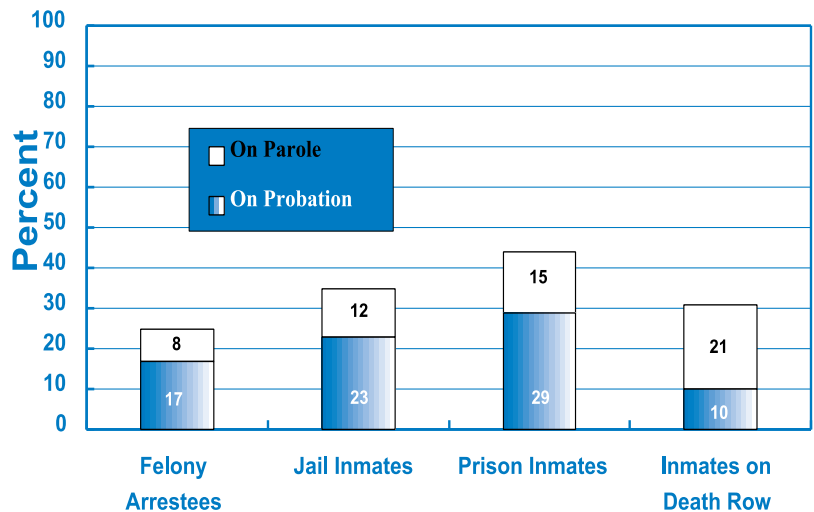
There now exists rather solid empirical evidence that ordering offenders into treatment and getting them to participate, reduces recidivism (Gendreau 1996; Anglin and Hser 1990; Lipton 1996). So, the first order of business must be to allocate sufficient resources so that the designed programs (incorporating both surveillance and treatment) can be implemented. Sufficient monetary resources are essential to obtaining and sustaining judicial support and achieving program success.

Quality probation supervision costs money, and we should be honest about that. We currently spend about \$200-\$700 per year, per probationer for supervision (Camp and Camp 1995). Even in our richer probation departments, the annual dollars spent on probation supervision is well below \$1,000 per probationer (Abadinsky 1997). It is no wonder that recidivism rates are so high. Effective substance abuse treatment programs are estimated to cost at least \$12,000-\$14,000 per year (Lipton 1996). Those resources will be forthcoming only if the public believes the programs are both effective and punitive.

Public opinion is often cited by officials as the reason for supporting expanded prison policies. According to officials, the public demands a “get tough on crime” policy, which is synonymous with sending more offenders to prison for longer terms (Bell and Bennett 1996). We must publicize recent evidence showing that offenders—whose opinion on such matters is critical for deterrence—judge some intermediate sanctions as more punishing than prison. Surveys of offenders in Minnesota, Arizona, New Jersey, Oregon and Texas reveal that when offenders are asked to equate criminal sentences, they judge certain types of community punishments as more severe than prison (Crouch 1993; Petersilia and Deschenes 1994; Spelman 1995; Wood and Grasmick 1995).

One of the more striking examples comes from Marion County,

Figure 3
Percentage of Offenders on Probation or Parole at Time of Offense



Oregon. Selected nonviolent offenders were given the choice of serving a prison term or returning to the community to participate in the Intensive Supervision Probation (ISP) program, which imposed drug testing, mandatory community service and frequent visits with the probation officer. About a third of the offenders given the option between ISP or prison chose prison. When Minnesota inmates and corrections staff were asked to equate a variety of criminal sentences, they rated three years of intensive supervision probation as equivalent in punitiveness to 1 year in prison (Petersilia and Deschenes 1994).

What accounts for this seeming aberration? Why should anyone prefer imprisonment to remaining in the community—no matter what the conditions? Some have suggested that prison has lost some of its punitive sting, and hence its ability to scare and deter. For one, possessing a prison record is not as stigmatizing as in the past, because so many of the offenders’ peers (and family members) also have “done time.” Further, about a quarter of all U.S. black males will be incarcerated during their lives, so the stigma attached to having a prison record is not as great as it was when it was relatively uncommon (Mauer and Huling 1995). And the pains associated with prison—social isolation, fear of victimization—seem less severe for repeat offenders who have learned how to do time.

In fact, far from stigmatizing, prison evidently confers status in some neighborhoods. Jerome Skolnick of U.C. Berkeley found that for drug dealers in California, imprisonment confers a certain elevated “home boy” status, especially for gang members for whom prison and prison gangs can be an alternative site of loyalty (Skolnick 1989). And according to the California Youth Authority, inmates steal state-issued prison clothing for the same reason. Wearing it when they return to the community lets everyone know they have done “hard time.” (Petersilia 1992).

The length of time an offender can be expected to serve in prison has also decreased—latest statistics show that the average U.S. prison term for those released to parole is 17 months (Maquire and Pastore 1995). But more to the point, for less serious offenders, the expected time served can be much less. In California, for example, more than half of all offenders entering prison in 1990 were expected to serve six months or less (Petersilia 1992). Offenders on the street may be aware of this,

perhaps because of the extensive media coverage such issues receive.

For convicted felons, freedom, of course, is preferable to prison. But the type of probation program being advocated here—combining heavy doses of surveillance and treatment—does not represent freedom. In fact, as suggested above, such community based programs may have more punitive bite than prison. Consider a comparison between Contra Costa (Ca.) County's Intensive Supervision Program (ISP) for drug offenders, which was discontinued in 1990 due to a shortage of funds, with what drug offenders would face if imprisoned:

ISP. Offenders are required to serve at least one year on ISP. In addition to twice weekly face-to-face contacts, ISP includes a random drug testing hotline, Saturday home visits, weekly Narcotics Anonymous meetings, special assistance from police to expedite existing bench warrants and a liaison with the State Employment Development Department. To remain on ISP, offenders must be employed or in treatment, perform community service, pay victim restitution and remain crime and drug-free.

Prison. A sentence of 12 months will require that the offender serve about half of that. During his term, he is not required to work nor will he be required to participate in any training or treatment, but may do so if he wishes. Once released, he will probably be placed on routine parole supervision, where he might see his officer once a month.

It is important to publicize these results, particularly to policy makers, who say they are imprisoning such a large number of offenders because of the public's desire to get tough on crime. But it is no longer necessary to equate criminal punishment solely with prison. The balance of sanctions between probation and prison can be shifted, and at some level of intensity and length, intermediate punishments can be the more dreaded penalty.

Once the support and organizational capacity is in place, we need to target the offender group that makes the most sense, given our current state of knowledge regarding program effectiveness (for a recent review, see Harland 1996). Targeting drug offenders makes the most sense for a number of reasons. Drug offenders weren't always punished so frequently by imprisonment. In California, for example, just 5 percent of convicted drug offenders were sentenced to prison in 1980, but by 1990 the number had increased to 20 percent (Petersilia 1992). The large scale imprisonment of drug offenders has only recently taken place, and there is some new evidence suggesting that the public seems ready to shift their punishment strategies for low-level drug offenders.

A 1994 nationwide poll by Hart Research Associates reported that Americans have come to understand that drug abuse is not simply a failure of willpower or a violation of criminal law. They now see the problem as far more complex, involving not only individual behavior but also fundamental issues of poverty, opportunity and personal circumstances. The Drug Strategies report (Falcoe 1995) reports that nearly half of all Americans have been touched directly by the drug problem: 45 percent of those surveyed in the 1994 Hart poll said that they know someone who became addicted to a drug other than alcohol. This personal knowledge is changing attitudes about how to deal with the problem: seven in ten believe that their addicted acquaintance would have

been helped more by entering a supervised treatment program than by being sentenced to prison.

It appears that the public now wants tougher sentences for drug traffickers and more treatment for addicts—what legislators have instead given them are long sentences for everyone. The Drug Strategies group, who analyzed the Hart survey, concluded that: "Public opinion on drugs is more pragmatic and less ideological than the current political debate reflects. Voters know that punitive approaches won't work" (Falco 1995).

Another recent national telephone survey confirms these findings (Flanagan and Longmire 1996). They concluded that: 1) respondents favored treatment rather than punishment as the best alternative to reduce the use of illegal drugs, and 2) Americans want to see a change in drug control strategy (Cintron and Johnson 1996). The public receptiveness to treatment for addicts is important, because those familiar with delivering treatment say that is where treatment can make the biggest impact.

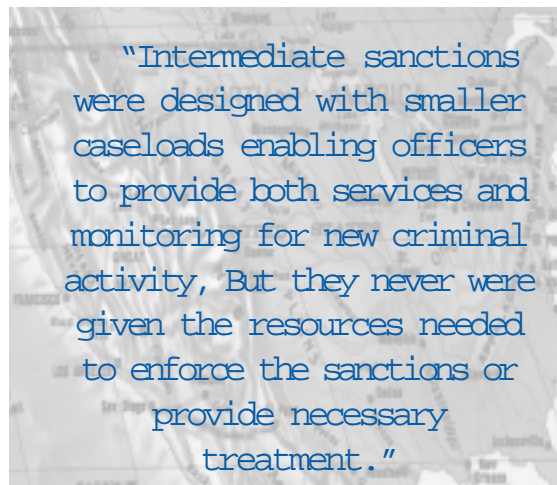
A recent report by the prestigious Institute of Medicine (IOM) recommends focusing on probationers and parolees to curb drug use and related crime (Institute of Medicine 1990). They noted that about one-fifth of the estimated population needing treatment—and two-fifths of those clearly needing it—are under the supervision of the justice system

as parolees or probationers. And since the largest single group of serious drug users in any locality comes through the justice system every day, the IOM concludes that the justice system is one of the most important gateways to treatment delivery and we should be using it more effectively.

Moreover, research has shown that those under corrections supervision stay in treatment longer, thereby increasing positive treatment outcomes. The claim that individuals forced into treatment by the courts will not be successful has not been borne out by research, in fact just the opposite is true. Research at UCLA and elsewhere has provided strong evidence not only that drug abuse treatment is effective, but also that individuals coerced into treatment derive as many benefits as those who enter voluntarily (Anglin and Hser 1990). The largest study of drug treatment outcomes found that justice system clients stayed in treatment longer than clients with no justice system involvement, and as a result, had higher than average success rates (Institute of Medicine 1990). The evidence suggests that drug treatment is effective for both men and women, Anglos and minority ethnic groups, young and old, and criminal and non criminal participants.

However, as noted above, quality treatment does not come cheap. But in terms of crime and health costs averted, it is an investment that pays for itself immediately. Researchers in California recently conducted an assessment of drug treatment programs, and identified those that were successful, concluding that it can now be "documented that treatment and recovery programs are a good investment" (Gerstein et al. 1994). The researchers studied a sample of 1,900 treatment participants, followed them up for as much as two years of treatment, and studied participants from all four major treatment modalities (therapeutic communities, social models, outpatient drug free and methadone maintenance).

Gerstein et al. (1994:33) conclude:



Treatment was very cost beneficial: for every dollar spent on drug and alcohol treatment, the State of California saved \$7 in reductions in crime and health care costs. The study found that each day of treatment paid for itself on the day treatment was received, primarily through an avoidance of crime.

The level of criminal activity declined by two-thirds from before treatment to after treatment. The greater the length of time spent in treatment, the greater the reduction in crime. Reported criminal activity declined before and after treatment as follows: mean number of times sold or helped sell drugs (-75 percent), mean number of times used weapon/physical force (-93 percent), percent committing any illegal activity (-72 percent), and mean months involved in criminal activity (-80 percent).

Regardless of type of treatment modality, reduction in crime was substantial and significant (although participants in the social model recovery programs had the biggest reduction). In the California study, the most effective treatment programs cost about \$12,000 per year, per client (Gernstein et al. 1994). UCLA researchers recently concluded: "It seems that drug abuse treatment mandated by the criminal justice system represents one of the best and most cost-effective approaches to breaking the pernicious cycle of drug use, criminality, incarceration and recidivism" (Prendergast, Anglin, and Wellisch 1995).

In summary, there are several steps to achieving greater crime control over probationers and parolees. First, we must provide adequate financial resources to deliver programs that have been shown to work. Successful programs combine both treatment and surveillance, and are targeted toward appropriate offender subgroups. Current evidence suggests low-level drug offenders are prime candidates for the intermediate sanction programs considered here. Then, we must garner support, convincing the public that the probation sanction is punitive, and convincing the judiciary that offenders will be held accountable for their behavior.

Of course, there is much more to reforming the probation system than simply targeting low-level drug offenders for effective treatment, but this would be a start. We also need to seriously reconsider probation's underlying mission, administrative structure, and funding base. And, we need to fund a program of basic research to address some of probation's most pressing problems.

2. Make Probation a Priority Research Topic

Basic research on probation has diminished in recent years, except for the evaluations funded by NIJ on the intermediate sanctions. While these early evaluations are instructive, their results are by no means definitive. The programs have mostly been surveillance-oriented, and have focused primarily on increasing drug testing and face-to-face contacts with offenders. They have incorporated little treatment or employment training. Most intermediate sanction programs targeted serious career criminals, with lengthy histories of crime and substance abuse. As noted in this paper, there is some supportive evidence that intermediate sanctions incorporating treatment, in addition to surveillance activities, do produce lower recidivism. It is also possible that had these programs been targeted toward less serious offenders, or earlier in their criminal careers, the results might have been more encouraging. There is reason to continue experimenting with community-based sanctions, varying

target populations, program elements, setting and point in the criminal career for intervention.

This essay has also highlighted the importance of technical violations in community supervision. Probation and parole officers spend most of their time monitoring the technical conditions imposed by the courts (such as, no alcohol or drug use). When violations are discovered, additional time is spent in processing the paperwork necessary to revoke offenders. Many of those offenders are revoked to prison, most of them for violations of the "no drug use" condition, as detected through urine testing. Such revocations will undoubtedly increase as urinalysis testing for drugs becomes less expensive and more widespread.

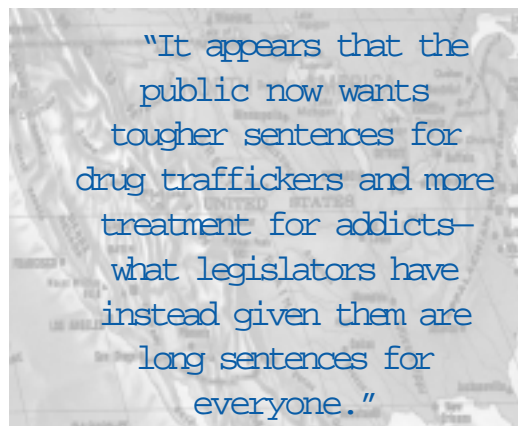
This begs an important question: what purpose is served by monitoring and revoking persons for technical violations, and is the benefit worth the cost? If technical violations identify offenders who are "going bad" and likely to commit crime, then we may well wish to spend the time uncovering such conditions and incarcerating those persons. On the other hand, if technical violators are simply troubled, but not criminally dangerous, then devoting our scarce prison resources to this population might not be warranted. Despite the policy significance of technical violations, little serious research has focused on this issue. As the costs of monitoring and incarcerating technical violators increases, research must examine its crime control significance.

There is also the ongoing debate about who is in prison, and whether there exists a group of prisoners who, based on crime and prior criminal records, could safely be supervised in the community. Proponents of alternatives argue that over the past decade we have vastly expanded the use of imprisonment, and as a result many low-level offenders have gotten caught up in the broader net of social control, and are now in prison. They contend that many (if not most) prisoners are minor property offenders, low-level drug dealers, or technical violators – ideal candidates for community based alternatives. Those who are against expanding prison alternatives disagree, citing data

showing that most prisoners are violent recidivists with few prospects for reform.

It is likely that the truth lies somewhere in between, and that the differences in the numbers cited depend on how one aggregates the data, and what data set one chooses to analyze. It is likely that historical sentencing patterns have resulted in vastly different populations being incarcerated in different states. Research examining the characteristics of inmates in different states (by age, criminal record and substance abuse history), is necessary to clarify this important debate. It is also critical that we conduct better follow-up studies (ideally, using experimental designs) of offenders who have been sentenced to prison as opposed to various forms of community supervision. By tracking similarly situated offenders, sentenced differently, we will be able to refine our recidivism prediction models, and begin to estimate more accurately the crime and cost implications of different sentencing models.

We also need to move away from the fragmentary studies of individual agencies and toward more comprehensive assessment of how probation departments and other justice agencies influence one another and, together influence crime. Decisions made in one justice agency have dramatic workload and cost implications for other justice agencies, and later decisions (such as probation policy on violating technicals). To



date, these systematic effects have not been well studied, and much benefit is likely to come from examining how various policy initiatives affect criminal justice agencies, individually and collectively. Generating more arrests will not necessarily result in more convictions and incarcerations, if prosecutors and corrections (either by policy or budget constraints) do not follow through with convictions and incarcerations. Many past probation reforms – implemented by well meaning probation staff – have been negated by the failure of other justice system agencies to cooperate in the program.

The issues presented above are only a few of the salient themes that should be pursued to better understand the nation's probation system. The author believes that probation has much untapped potential, and with research and program attention, can become an integral part of our nation's fight against crime.

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CALENDAR OF EVENTS

1998-1999

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| July 11-16 | National Criminal Justice Association 1998 Membership Meeting , Las Vegas, NV. For additional information contact NCJA at (202) 624-1440 or email at ncja@sso.org or visit NCJA's web site at http://www.sso.org/ncja/ncja.htm . | Sept. 13-16 | New England Council on Crime and Delinquency Conference , Holiday Inn by the Bay, Portland, Maine. Contact Terry Borjeson (860) 529-1316. |
| July 19-22 | National Resource Center for Youth Services , "Working With America's Youth," San Antonio, TX. Call (918) 585-2986 or email sschelbar@ou.edu or visit the web site at www.nrcys.ou.edu | Sept. 24-25 | Volunteers in Prevention, Probation & Prisons, Inc. Training & Networking Institute , Westin Hotel, London, Ontario, Canada. For additional information write to VIP at 613 Madison Avenue, Suite 120, Detroit, MI 48226 or fax request to (313) 964-1145. |
| July 26-30 | The National Association of Blacks in Criminal Justice 25th Annual Conference , "NABCIJ: 25 Years - A Legacy of Excellence, Service and Commitment," Hyatt Orlando Hotel, Kissimmee, FL. Contact (919) 683-1801. | Sept. 27-30 | International Community Corrections Association 1998 Annual Research Conference , "Women and Adolescent Females in Community Corrections," and Second Annual Community Corrections Act Conference , "Leadership, Ethics, Values and Vision," Arlington, VA Contact (608) 785-0200. |
| July 29-31 | New York State Probation Officer's Association 6th Annual Conference , "Probation: The Hub of the System," Bulmer Communication Building located on the campus of the Hudson Valley Community College, Troy, NY. Contact Sheryl Zuna by email at szuna@sprynet.com . | Sept. 30-Oct. 2 | Washington Corrections Association 1998 Fall Conference , "What Works in Correction? — Research, Relevance, Reality," Spokane, WA. Contact Rick Diffley (509) 324-8371. |
| Aug. 6-8 | The First North American Conference on Conferencing , "A New Response To Wrongdoing," featuring John Braithwaite, Terry O'Connell, Kay Pranis and Donald Nathanson. Minneapolis, MN. For a brochure contact: REAL JUSTICE, (610) 807-9221, usa@realjustice.org , or visit the web site www.realjustice.org | Oct. 11-14 | National Crime Prevention Council 2nd Annual National Conference , "Power of Prevention," Washington, DC. For more information contact the National Crime Prevention Council, 1700 K Street, NW, Second Floor, Washington, DC 20006-3817 or call (202)466-6272, ext. 117. |
| Aug. 23-28 | National Organization for Victim Assistance 24th Annual North American Victim Assistance Conference and International Summit , "Victims Rights: Right For America," Orlando, FL. For additional information write to NOVA at 1757 Park Road, N.W., Washington, DC 20010. | Jan. 10-13 | American Probation and Parole Association Winter Training Institute , Crowne Plaza, Phoenix, Arizona. Contact Krista Chappell at (606) 244-8204. |
| Aug. 30 - Sep. 2 | American Probation and Parole Association's 23rd Annual Training Institute , Waterside Marriott, Norfolk, VA. Contact Krista Chappell at (606) 244-8204. | | |
| Sept. 14-16 | Fifth North American Conference on the Family and Corrections , "Investing in the child the family and the community," Bethesda, Maryland For more information contact Family and Corrections Network (804) 589-3036, e-mail fcn@fcnnetwork.org . | | |

To place your activities in Calendar of Events,
please submit information to:
Susan Meeks

American Probation and Parole Association
P.O. Box 11910, Lexington, KY 40578
or fax to (606) 244-8001

Information needs to be received no later than four months prior to event to be included in the calendar.