

# PERSPECTIVES

the journal of the American Probation and Parole Association

Volume 26

Number 2

Spring 2002



## Managing the

# UNIMAGINABLE

## Community Corrections and the World Trade Center Disaster

# PRESIDENT'S MESSAGE

Why do we allow so much pressure and stress to drive the way we work, live and even relax! Do you ever want to scream very loud "stop this madness, I need time to catch up and reflect!" I routinely have these thoughts which leads me to my next subject.

The APPA Executive Committee met on November 30, through December 2, 2001. During this initial planning meeting, it was our first opportunity as the new leadership to reflect on the past and refine and set goals for the next two years as the leadership of this organization. By the time the meeting concluded, we were comfortable with the goals established. These goals were shared with the APPA Board of Directors at the Winter Training Institute in Myrtle Beach and will soon be shared with the membership. I will be talking about individual and specific goals throughout my term as president.

One of the most important factors I want considered as the current president, is exactly what I began this message with. Let's stop, take time out to reflect on our accomplishments, review our mission and goals, and take a look at the organization to see if we are doing what we say we are supposed to be doing, as the leaders, and as an organization.

First, as an organization, our greatest strength is our membership. We as leaders must ask for input from our membership at all levels, not just the executive committee and board of directors, but the people we represent. Secondly, we must listen to their input and make the necessary changes in the organization where possible. What are we doing for the average member of this organization? Are we meeting the needs of the membership, particularly, the line officer? Are we giving the membership the basic tools of the trade to help them make the right decisions? Are we preparing them for the future? Reliability and validity cannot be maintained if members of the organization are not trained appropriately and properly. We need to make sure we are covering the basics. Bells and whistles do not matter if the basic knowledge and practice is not being followed. In essence, are we doing what the mission, vision and goals of the organization say we are to do?

As leaders, we need to continue to develop and set high standards and goals for the organization and for the field of probation, parole and community corrections. As the APPA Preamble states: We are committed to the improvement of probation, parole and community corrections practices at all levels by fostering the development of necessary knowledge, skills, resources and legislation for the most effective and efficient service delivery system possible.

By doing this, we enhance the professional status of all community corrections and hopefully secure the confidence and respect of other components of the criminal justice system, as well as the general public.

I have reflected on what the APPA leadership intends to do over the next couple of years and beyond, so what do you intend to do as a member of this organization? You must ask yourself the same questions you would ask in your career and daily life. Do you approach the organization and your career by asking what's in it for me? Or, do you approach both with the determination to be an active player and participant, who believes in what the organization is doing and seems to help the organization reach its goals? Being an active member of an organization is hard work and takes commitment. Do you serve the organization or do you sit back and wait for the organization to serve you? As a member, I hope each of us will take a moment to ask and answer these questions. All members working together in an organization can reach major accomplishments.



Kathy Waters



I believe a successful organization, through its leadership, should do three things: 1) use the members as resources rather than dictating and controlling them; 2) see the members as sharing in the goals, mission and vision and ask the members to help leadership focus on them; and 3) offer judgments that result from clear directions, thinking and including input from others.

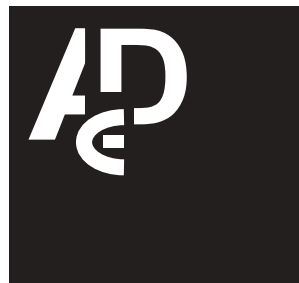
The American Probation and Parole Association wants to encourage new participation in the future of this organization. By reviewing and evaluating what we do as an organization, we will be able to keep the momentum that has been established to continue to be *the* voice of expertise for probation, parole and community corrections across the country and around the world.

Get involved, it's going to be great fun in the coming years!

*Kathy Waters*



## ADE Incorporated's Computerized Assessment Instruments



### FOR ADULTS AND ADOLESCENTS

**NEEDS** Comprehensive Assessment Instrument for Adults  
**SALCE** (Substance Abuse Life Circumstance Evaluation) for Adults  
**JASAE** (Juvenile Automated Substance Abuse Evaluations)

Proven tools for efficient  
assessments and accurate referrals.

- Reliability, Objectivity and Consistency
- DSM IV and ASAM Guidelines for Substance Abuse
- Over 95% agreement with professional interviews
- Automatically accumulated database
- Free data analysis program for understanding your population
- Nearly 2,000,000 evaluations, and ongoing refinement since 1983

**For more information, call 1-800-334-1918**

ADE Incorporated  
P.O. Box 660  
Clarkston, MI 48347  
[www.adeincorp.com](http://www.adeincorp.com)



Software Solutions  
for Human Problems

Please circle #8 on your reader information card

# PERSPECTIVES

the journal of the American Probation and Parole Association



Volume 26

Number 2

Spring 2002

## FEATURES



- 22 **OHIO'S FIRST FELONY REENTRY COURT**  
*by Jeffrey B. Spelman*
- 26 **MANAGING THE UNIMAGINABLE: COMMUNITY CORRECTIONS AND THE WORLD TRADE CENTER DISASTER**  
*by Frank Domurad*
- 36 **CONSTITUTIONALITY OF PROBATION AND PAROLE CONDITIONS**  
*by Todd Jermstad and Rolando del Carmen*

## DEPARTMENTS

- 2 **PRESIDENT'S MESSAGE**
- 7 **EDITOR'S NOTES**
- 9 **NIC UPDATE**
- 11 **NIJ NEWS**
- 16 **TECHNOLOGY UPDATE**
- 19 **SPOTLIGHT ON SAFETY**
- 20 **NEWS FROM THE FIELD**
- 47 **CALENDAR OF EVENTS**

## PLUS!

- 10 **2002 Annual Training Institute**
- 13 **Corporate Member Roster**
- 14 **Associate Member Roster**
- 14 **Request for Site Proposals**
- 15 **A Plea to Probation and Parole Officers**
- 17 **Call for Presenters**
- 25 **Publication Announcement**



---

### *Editorial Committee*

---

William Burrell, *Chairman*

Kermit Humphries

Arthur J. Lurigo

Ed Rhine

Faye S. Taxman

---

### *Executive Committee*

---

Kathy Waters      President

Ray Wahl      Past President

Andrew Molloy      President-Elect

Sheryl Zuna      Vice President

Scott Taylor      Treasurer

Dennis McFarland      Secretary

Gary Yates      At-Large Member

Rick Zinsmeyer      At-Large Member

Donald Evans      At-Large Affiliate

Carl Wicklund      Executive Director

---

### *Production Staff*

---

Susan Meeks      Production Coordinator

John R. Higgins      Graphic Designer

Diane Kincaid      Editorial Assistant

---

### *Services Directory*

---

General      (859) 244-8000

General Institute      (859) 244-8204

Resource Expo      (859) 244-8205

Legislative Information      (859) 244-8192

Membership      (859) 244-8207

*Perspectives* Advertising      (859) 244-8205

Publication Orders      (859) 244-8207

Request for Training      (859) 244-8211

---

### *Communications should be addressed to:*

American Probation and Parole Association

c/o The Council of State Governments

P.O. Box 11910, Lexington, KY 40578-1910

Fax: (859) 244-8001, E-mail: [appa@csg.org](mailto:appa@csg.org)

Website: [www.appa-net.org](http://www.appa-net.org)

Published four times annually by APPA through its  
secretariat office in Lexington, Kentucky.  
ISSN 0821-1507



Copyright 2002

The Council of State Governments

**APPA** *We see a fair, just and safe society*



*where community partnerships are*

*restoring hope by embracing a*

*balance of prevention, intervention*

*and advocacy.*

### **We seek to create a system of Community Justice where:**

**A full range of sanctions and services** provides public safety by insuring humane, effective, and individualized sentences for offenders, and support and protection for victims;

**Primary prevention initiatives** are cultivated through our leadership and guidance;

**Our communities are empowered** to own and participate in solutions;

**Results** are measured and direct our service delivery;

**Dignity and respect** describe how each person is treated;

**Staff are empowered** and supported in an environment of honesty, inclusion, and respect for differences; and

**Partnerships with stakeholders** lead to shared ownership of our vision.

---

APPA is an affiliate of and receives its secretariat services from the Council of State Governments (CSG). CSG, the multibranch association of the states and U.S. territories, works with state leaders across the nation and through its regions to put the best ideas and solutions into practice.

---



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

Articles should be submitted in MS Word or WordPerfect format on an IBM-compatible computer disk, along with a hard copy, to Production Coordinator, *PERSPECTIVES* Magazine, P.O. Box 11910, Lexington, KY, 40578-1910, or can be emailed to [smeeks@csg.org](mailto:smeeks@csg.org) in accordance with the following deadlines:

- **Winter 2003 Issue – August 21, 2002**
- **Fall 2002 Issue – May 20, 2002**
- **Spring 2003 Issue – November 11, 2002**
- **Summer 2003 Issue – February 19, 2003**

Unless previously discussed with the editors, submissions should not exceed 10 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.

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

**Reprints and back issues.** To order back issues, single copies of articles or reprints of articles in quantities of 100 or more, please call (859) 244-8207.

**Reprint permission.** Direct requests for permission to use material published in *PERSPECTIVES* in writing to the Production Coordinator.

# EDITOR'S NOTES

In reviewing President Kathy Waters' comments in this issue, I noted her emphasis on what we are about as an organization. She restates our organization's guiding principles and reminds us that we, as an association, have committed ourselves to. Her themes help provide linkage that tie the varied contents of this issue together.

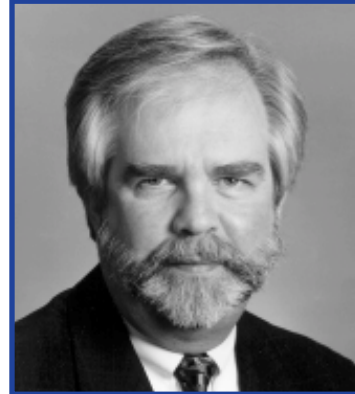
Kathy returns to our mission and goals, and to the questions of how we serve the needs of the members of APPA. This made me think about the core message of Frank Domurad's article about the response of the New York City Department of Probation to the horrific events of September 11. It is important to have a clear mission and purpose for your organization, one that is understood and embraced by all staff. Employees look for meaning in their work, and this becomes crucial as they seek leadership and guidance in the time of crisis.

As an organization, APPA has made a commitment to improvement of our field and to improving our professional status. The Ohio Re-Entry Court project is a good example of community corrections professionals putting these principles into action as they stepped up to a major challenge and made a new and untried concept work. They are taking the knowledge gained in the drug court arena and adapting it to a parole environment. This experience will be invaluable to our field as we respond to the aftershock of parole releases that is beginning to flow from the prison population explosion of the 1980s and '90s.

We are also committed to fostering the development of the necessary knowledge and skills among our staff. Enforcing conditions of supervision imposed by courts and paroling authorities is a core function of our work. As judges and parole boards become more creative with conditions to tailor them to the individual offender, the challenges to the officers who must carry them out increase. Jermstad and del Carmen's article on the constitutionality of probation and parole conditions is the latest installment from the third edition of the *Civil Liabilities and Other Legal Issues for Probation/Parole Officers and Supervisors*. This important document is now available from the National Institute of Corrections (see NIC Update for details).

In this issue, we are publishing Henry Lowery's "Plea to Probation and Parole Officers." Henry is the Deputy Compact Administrator in West Virginia, and his letter makes a request to all of us to learn more about the Interstate Compact, follow the rules and regulations and support the efforts of our colleagues who have the difficult challenge of administering the Compacts. As the passage of the new adult compact looms in the near future, we will all have to learn about the new provisions and get on board.

The vitality and creativity of our field continues to be evident in these pages. We are always interested in hearing what you — our readers — think. I encourage you to let us know through the APPA website. We'd love to hear from you.



**William Burrell**

## Editorial Committee

**William Burrell, Chair**  
Chief of Supervision Services  
Administrative Office of the Courts  
P.O. Box 987  
Trenton, NJ 08625  
(609) 292-8925

**Kermit Humphries**  
Correctional Program Specialist  
National Institute of Corrections  
320 1st Street NW  
Washington, DC 20534  
(202) 514-0118

**Arthur J. Lurigio**  
Dept. of Criminal Justice  
Loyola University of Chicago  
820 N. Michigan Ave.  
Chicago, IL 60611  
(312) 915-7564

**Edward E. Rhine, Ph.D.**  
Special Projects Administrator  
Division of Parole and Community Services  
Ohio Dept. of Rehabilitation and Correction  
1050 Freeway Drive N  
Columbus, OH 43229  
(614) 995-3599

**Faye S. Taxman, Ph.D.**  
Director  
Bureau of Government Research  
Professor  
Dept. of Criminology & Criminal Justice  
Room 2220, LeFrak Hall  
University of Maryland  
College Park, MD 20742-8235  
(301) 405-4781

# How can your everyday shopping benefit the American Probation and Parole Association?



**iGive.com™**

Change online shopping for good.

**Join & shop now  
to support  
APPA**

Turn your everyday online  
shopping into support of APPA  
**<http://www.iGive.com/appa>**

## **Support the American Probation and Parole Association**

Be a part of the first and largest online network of shoppers, online stores, Web sites, and nonprofit organizations dedicated to turning everyday online shopping into philanthropy.

## **FREE membership. Great prices.**

It's FREE to join. You'll also receive great discounts, FREE shipping offers, and special savings to add to the great prices you'll find every day through iGive.com.

## **Shop at over 330 generous stores & maybe save on your taxes.**

Amazon.com, L.L.Bean, CDNow, Eddie Bauer, Barnes & Noble, Gap, and many more! These stores give up to 26% from every purchase you make to APPA. Many of these contributions can be tax deductible for you.

## **What's the catch?**

There isn't one. It's free. No "spam." Total member privacy. Our members have raised and given away over \$900,000. We hope that in the near future, all consumer transactions contain a percentage that benefits causes close to home.



## New Publications Available!

The National Institute of Corrections, Community Corrections Division has several new publications that are available in hard copy and Internet access.

***Responding to Parole and Probation Violations*** is a handbook to assist local policy development deal with violations. For too long jurisdictions have seen few alternatives to violations of court ordered probation conditions other than periods of incarceration. Parole boards have also been burdened with parolees that have committed violations of the conditions of parole and the sanction too often has been to return them to prison. This monograph examines 29 jurisdictions in dealing with the outcomes of revocations. The goal is to make not only sound and equitable dispositions but to achieve the great goal of preventing future revocation by applying sanctions that will modify and change offender behavior. This monograph will assist policy makers and line staff to have better outcomes as a result of their decisions.

***Civil Liabilities and Other Legal Issues for Probation/Parole Officers and Supervisors - 3<sup>rd</sup> edition*** is a comprehensive study of the pitfalls that can occur as a direct result of decisions and actions taken by line officers, supervisors, chiefs and directors of probation and parole agencies. Not only are the areas of supervision of offenders discussed, but the administrative actions and inaction of supervisors, chiefs and directors are discussed as well. We live in a litigious society and one must expect that when probation and parole impose sanctions and extra conditions upon offenders that lawsuits will be forthcoming. As far back as 1980 the target of lawsuits was against the federal government, which was sued more than 30,000 times resulting in actions asking for monetary damages in excess of \$4.3 billion. Numerous states have felt the sting of millions of scarce dollars leaving the state treasury because of law suites against probation and parole authorities. This monograph was prepared to give the reader general information and is not legal advise on specific problems. It does highlight liabilities that need to be considered and that you should be informed about to better carry out the mission of your

agency.

***Directory of Programs Serving Families of Adult Offenders*** is third update of a valuable document that attempts to give a directory listing by states services to assist families of offenders who are in custody.

***Legal Considerations*** is a paper summarizing information on gender-responsive research and practice regarding women offenders, Professor Myrna Raeder, Southwestern University School of Law, Los Angeles, California is the author. Professor Raeder's paper addresses the current legal environment for administrators examining five areas: Equal protection and access; staffing and supervision; sexual misconduct; due process

challenges; and pregnancy and child related questions. The legal issues highlight questions for prison administrators to anticipate, research and properly respond to legal challenges. This paper focuses on managing legal challenges, and encourages the enhancement of operations and programming for women offenders to achieve a more favorable outcome.

All of these documents are available by calling NIC Information Center at (800) 995-6429 or visiting the NIC website at [www.nicic.org](http://www.nicic.org). □

***Rick Faulkner is a Correctional Program Specialist with the National Institute of Corrections in Washington, DC.***

## COMPAS 3.0

Correctional Offender Management Profiling for Alternative Sanctions

### The Most Advanced Risk & Needs Assessment Software

Find Out Why COMPAS 3.0  
Risk & Needs Software  
*Is Your Best Choice*

231-929-5079

[www.northpointeinc.com](http://www.northpointeinc.com)



Circle # 43 on the information card.

BY RICK FAULKNER

P L A N T O A T T E N D !

# D E N V E R !

**APPA 27<sup>th</sup> Annual Training Institute • August 25-28, 2002 • Denver, Colorado**

## **Climbing New Heights: A Mile High Perspective on Community Justice**

Sponsored by the Colorado Chief Probation Officers Association and Colorado Association of Probation Officers

**GAIN** new information from nationally known community corrections leaders and motivational speakers.

**BOOST** your career with valuable resources and knowledge to help you climb new heights in your profession.

The American Probation and Parole Association's Annual Training Institute offers over 80 educational sessions for all levels of experience. You won't want to miss this excellent opportunity to discover "what works," discuss new ideas and learn about exciting new research results. Topics will address restorative justice, offender supervision, treatment, juvenile justice and many more community corrections issues to support your climb to new heights!

### **Denver, the Mile High City**

During your visit to Denver for the APPA Institute, expect to be dazzled by this exciting city filled with three major sports stadiums, an assortment of art and history museums, a world-class aquarium and massive downtown entertainment complexes. In the heart of downtown Denver, you will enjoy the 16<sup>th</sup> Street Mall, a mile-long pedestrian path lined with outdoor cafes, shops, open plazas and parks.

### **Where it all Happens**

Institute events will be held in the Adam's Mark Hotel, located in the heart of downtown Denver on the 16<sup>th</sup> Street Pedestrian Mall, next to Denver's best restaurants, nightlife, shopping, museums and much more. Reduced lodging rates of \$125 single occupancy or \$135 double occupancy are available to APPA Institute participants. To make your lodging reservation, telephone the Adam's Mark Hotel at 303-893-3333 and reference the APPA Institute in order to receive these rates.

### **Early Registration Fees**

**\$275** – special fee for APPA members and members of the co-sponsoring associations

**\$320** – non-member fee

Register before  
**JULY 26**  
to receive discounted rates!



Denver is truly one mile high, the fifteenth step on the west side of the State Capitol Building is exactly 5,280 feet above sea level.



With over 300 days of sunshine a year in Denver and over 80 brew pubs, restaurants and sports bars, lower downtown (LoDo) is a great place to pass some time before taking in a Rockies game or indulging in some of the best shopping in the region.



### **For Registration Information**

Mail: P.O. Box 11910, Lexington, KY 40578  
Phone: (859) 244-8204  
Fax: (859) 244-8001  
Email: [appa@csg.org](mailto:appa@csg.org)  
[www.appa-net.org](http://www.appa-net.org)

## Officer Stress Revisited

### A Brief Reintroduction

You may have noticed that the NIJ News section has been missing from *Perspectives* for some time. Well, we have returned, and our intention is to keep you updated on the latest initiatives coming from the National Institute of Justice and its partnering agencies within the Office of Justice Programs, United States Department of Justice.

While we have been absent from *Perspectives*, the National Institute of Justice (NIJ) has been paying close attention to and working with the community corrections field. This re-introduction could provide you with an update on many of the happenings of the past year and could serve as an overview of current activities. However, for that, we recommend a visit to our website: [www.ojp.usdoj.gov/nij.html](http://www.ojp.usdoj.gov/nij.html). What we

will do with this article is revisit an issue that NIJ News described sometime ago which is becoming ever more prominent – probation and parole officer stress.

### CLEFS Program Revisited

Congress authorized the Law Enforcement Family Support program through the 1994 Crime Act. The legislation charged the Attorney General with research, development, programming and evaluation aimed at alleviating the harmful effects of stress experienced by law enforcement officers and their families. The Attorney General, in turn, designated NIJ to administer the program.

As we described in a 1999 *Perspectives* article, the program had turned the corner from focusing solely on law enforcement, to

expanding the scope to include corrections. The program was re-named to reflect a mission inclusive of institutional and community corrections: Corrections and Law Enforcement Family Support (CLEFS). We set out to accomplish several things through the expansion, including:

- Strengthening correctional officers' and administrators' awareness of the harmful effects of stress on the individual, the organization and the officer's family. Our focus was to provide a forum for correctional agencies to apply and test innovative solutions to addressing officer stress.
- Publishing a complementary, companion document to *Developing a Law Enforcement Stress Program for Officers and Their Families*

BY AMY MAZZOCCO AND VINCENT TALUCCI



## Quick & Easy Saliva On-site Drug Test

**Detect multiple drugs with a single saliva sample!**

With Cozart RapiScan, you can directly observe sample collection, eliminating the subject's opportunity to tamper or adulterate samples. Avoid gender-specific collection issues. Makes on-site drug testing simple, quick and accurate. **Results in minutes!**

- Quick, non-invasive sample collection
- Completely portable for rapid on-site results
- No guesswork - digitally displayed test results
- Simultaneously detects multiple drugs of abuse

Tests available for: amphetamines, benzodiazepines, cocaine, methamphetamines, opiates, PCP, THC (marijuana), methadone and ecstasy

**FREE RAPISCAN  
READER OFFER!\***

**accutest®**  
COZART RapiScan

**Call toll-free 800-676-5565**

JANT PHARMACAL CORPORATION • 16255 Ventura Blvd. #505 • Encino, CA 91436  
Phone: 818/986-8530 • Fax 818/986-0235 • [www.accutest.net](http://www.accutest.net)

\* With minimum test purchase

Please circle #39 on the information card



(Peter Finn and Julie Esselman Tomz, March 1997). *Addressing Correctional Officer Stress: Programs and Strategies* (Peter Finn, December 2000) was published to summarize the existing literature on correctional officer stress and stress reduction programs and to describe how some agencies have implemented stress reduction programs for their personnel.

- Supporting organizations interested in testing innovative solutions through hosting a grant writing workshop to encourage corrections professionals to submit applications for funding and thereby increase the number of correctional officer stress programs.
- Researching correctional officer stress. In 1999, a visiting fellow joined the NIJ staff. During his six months with us, he conducted a national survey of correctional agencies to benchmark services available to correctional officers and their families.

After accomplishing all of the above objectives, we felt we had turned a corner for the benefit of correctional officers. However, much of what is described above focused on institutional corrections. We recognized that the

pendulum swung fully from one side to the other, and now we are returning to fill the gap in between – asking questions and finding answers about community corrections.

### **Bridging the Gap: Probation and Parole Officer and Family Stress Prevention**

NIJ is now expanding efforts to survey, research and evaluate stress prevention services available to probation and parole officers. We have moved forward to commission a new research project to assess the nature and extent of probation and parole officer stress and to identify programs that are attempting to address or ameliorate such stress. We eagerly anticipate sharing the results of the study with you in the field.

Our preliminary research indicates that little is known about probation and parole officer stress, and few programs identify and address these stressors specifically. Therefore, it is the goal of this effort to improve knowledge regarding the stress prevention programs, services and strategies that currently exist in the probation and parole fields at the state and local levels.

To achieve this goal, we plan a multi-pronged approach, including:

- Conducting a comprehensive literature review on the existence of stress among probation and parole officers, its consequences and prevention and coping efforts.
- Reviewing selected materials cited in articles and consulting authors.
- Contacting the American Probation and Parole Association, National Center for State Courts, State Justice Institute and other organizations for referrals to those in the field who can characterize the nature and extent of stress and who may be aware of promising approaches to addressing the problem.
- Working with the Community Corrections Division of the National Institute of Corrections and the National Institute of Corrections Information Center to identify community corrections stress prevention programs.
- Interviewing the leadership of county probation agencies and surveying state parole administrators about the nature and extent of stress and stress prevention activities for their officers.

As probation and parole officers, you are charged with the oversight of a large majority of the approximately 6.5 million offenders under correctional supervision. Community corrections officers clearly experience extreme stressors and must face down the toll this can take on one's life: family, health, happiness, productivity and achievements. But you need not do it alone. Through its CLEFS program efforts, NIJ strives to find, test and disseminate information about techniques and programs that will assist agencies, officers and their families in preventing and effectively coping with stress.

If you have specific knowledge of programs (excluding Employee Assistance Programs) that offer stress services to probation or parole officers in your or any other jurisdiction that might inform NIJ's information collection efforts described above, we encourage you to email Peter Finn, of Abt Associates Inc., at [Peter\\_Finn@abtassoc.com](mailto:Peter_Finn@abtassoc.com).

For more information on the CLEFS program or to obtain a copy of *Addressing Correctional Officer Stress: Programs and Strategies* (NCJ 183474), visit the NIJ web page at <http://www.ojp.usdoj.gov/nij> or contact the National Criminal Justice Reference Service at 1-800-851-3420. □



## Time Is the Key.

Is it time to advance your career? Park University's 126-year tradition of excellence in higher education, combined with affordable tuition, can be your key to a successful career as a probation or parole officer.

Enroll now for one of our **online B.S. degree** completion programs in Criminal Justice Administration, Management, Management/HR, Management/Marketing, Management/Computer Information Systems, or Social Psychology.

- Accredited   ■ Challenging and flexible course study
- 8-week accelerated courses
- Transfer credits accepted from accredited institutions
- Internet classes meet when and where you chose

For more information, visit [www.park.edu](http://www.park.edu) or e-mail [internet4@mail.park.edu](mailto:internet4@mail.park.edu)



**PARK**  
UNIVERSITY

Please circle #57 on the information card

*Amy Mazzocco is a Social Science Analyst and Vincent Talucci is a Program Coordinator with the National Institute of Justice in Washington, DC.*



# American Probation and Parole Association



## Corporate Members

*Corporations with an interest in the field of probation, parole and community corrections are invited to become APPA corporate members. Corporate members receive benefits such as enhanced visibility among APPA's nationwide network of community corrections professionals, as well as shared information on the latest trends and issues that specifically affect community corrections.*

### Allvest Information Services

Sean Hosman  
VP, Sales and Marketing  
One Union Square  
600 University Street, Suite 1620  
Seattle, WA 98101  
Phone: (800) 882-7572  
Fax: (206) 521-4994  
Website: [www.allvest.com](http://www.allvest.com)



### National Curriculum and Training Institute

Gary Bushkin  
President  
319 East McDowell Road, Suite 200  
Phoenix, AZ 85004-1534  
Phone: (602) 252-3100  
Fax: (602) 252-4736  
Email: [gbushkin@NCTI.org](mailto:gbushkin@NCTI.org)  
Website: [www.ncti.org](http://www.ncti.org)



### SecurityLink / ADT

James Walker  
National Sales Manager  
111 Windsor Drive  
Oakbrook, IL 60523  
Phone: (630) 573-1863  
Fax: (630) 573-8007  
Website: [www.securitylink.com](http://www.securitylink.com)

### BI Incorporated

Monica Uhlenberg  
Marketing Communications Manager  
6400 Lookout Road, Suite 101  
Boulder, CO 80301  
Phone: (800) 241-2911  
Fax: (303) 218-1250  
Email: [monica.uhlenberg@bi.com](mailto:monica.uhlenberg@bi.com)  
Website: [www.bi.com](http://www.bi.com)



### Premier Laboratory Systems, Inc.

Dennis Shepherd  
Executive Vice President  
16582 Gothard Street, Suite O  
Huntington Beach, CA 92647  
Phone: (714) 903-0299  
Fax: (714) 903-3910  
Email: [plsdenis@yahoo.com](mailto:plsdenis@yahoo.com)



### Tracking Systems Corporation

Louis C. Fiocchi  
Director and Executive Vice President  
2404 Park Drive Commerce Park  
Harrisburg, PA 17110  
Phone: (717) 671-8700  
Fax: (717) 545-2270  
Website: [www.trackingsystemscorp.com](http://www.trackingsystemscorp.com)



### Hazelden

Kathy Graf  
Marketing Manager  
15251 Pleasant Valley Road  
P.O. Box 176, RW 11  
Center City, MN 55012  
Phone: (651) 213-4034  
Fax: (651) 213-4577  
Email: [kgraf@hazelden.org](mailto:kgraf@hazelden.org)  
Website: [www.hazelden.org](http://www.hazelden.org)



### Roche Diagnostics Corporation

Keith Snyder  
Product and Marketing Manager  
9115 Hague Road  
Indianapolis, IN 46250  
Phone: (800) 428-5074 ext. 3904  
Fax: (317) 521-4295  
Email: [Keith.Snyder@Roche.com](mailto:Keith.Snyder@Roche.com)  
Website: [www.onsite-dat.com](http://www.onsite-dat.com)



*For more information on corporate membership, please contact:*

Susan Meeks, APPA  
c/o The Council of State Governments  
P.O. Box 11910  
Lexington, KY 40578-1910  
(859) 244-8205 Fax (859) 244-8001  
Email: [smeeks@csg.org](mailto:smeeks@csg.org)

# American Probation and Parole Association



## Associate Members

*Corporations with an interest in the field of probation, parole and community corrections are invited to become APPA associate members. Like corporate membership, the goal of associate membership is to engage our corporate friends in association activities and to share information with each other.*

### **MEDTOX Laboratories**

Jim Pederson  
Government Sales Manager  
402 W. County Road D  
St. Paul, MN 55112  
Phone: (615) 636-7466  
Fax: (615) 636-8284  
Email: jpederson@medtox.com  
Website: www.medtox.com

### **Strategic Technologies**

Paula Thompson  
P.O. Box 3488  
Blaine, WA 98231-3488  
Phone: (800) 827-1942  
Fax: (604) 576-0436  
Email: exec@strategic-tech.com  
Website: www.strategic-tech.com

### **Synovation**

Rod Olsen  
P.O. Box 1682  
Modesto, CA 95353  
Phone: (209) 491-0978  
Fax: (209) 571-8853  
Email: Olsenr@synovation.com  
Website: www.synovation.com

### **Mesabi Academy**

Mark Andrews  
Client Services Specialist  
200 Wanless St.  
PO Box 726  
Buhl, MN 55713  
Phone: (888) 270-5013  
Fax: (218) 258-3807  
website www.kidspeace.org

### **OraSure Technologies, Inc.**

Brian Feeley  
Director, Criminal Justice & Tox Sales  
150 Webster Street  
Bethlehem, PA 18015  
Phone: (610) 882-1820  
Fax: (610) 882-1830  
Email: bfreely@orasure.com  
Website: www.orasure.com

*For more information on associate membership, please contact:*

**Susan Meeks**  
**phone: (859) 244-8205**  
**fax: (859) 244-8001**  
**email: smeeks@csg.org**



## Request 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 overcrowded 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 future APPA Winter and Annual Institutes are now being accepted. Any board member, affiliate association or state agency wishing to request consideration of a particular city must complete an application. 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  
Phone: (859) 244-8194  
Fax: (859) 244-8001  
Email: yswinford@csg.org

# A Plea to Probation and Parole Officers

The Compact and Deputy Compact Administrators of the Adult Interstate Compact need the help of probation and parole officers throughout the country.

There continues to be problems with offenders moving from a sending state to a receiving state without prior approval from the receiving state. The Interstate Compact has established rules and procedures that affords receiving states the opportunity to investigate proposed transfer plans prior to the offender proceeding to the receiving state. There are also procedures to request reporting instructions from the receiving state in cases where an offender needs to proceed to the receiving state prior to formal acceptance by the receiving state. Reporting instructions should be requested when a probationer was a resident of the receiving state at the time of sentencing; or when an emergency situation exists that requires the offenders immediate and continuous presence in the receiving state. Probation and parole officers should contact their State Interstate Compact Office if there are questions or concerns about these procedures.

The probation and/or parole officer that supervises the offender has the responsibility to protect public safety through supervisions of the offender.

To ensure public safety, compliance with Interstate Compact rules, and protect against liability for negligent supervision, no offender should proceed to the receiving state until permission is granted by the receiving state either through formal acceptance of the transfer or through reporting instructions.

Probation and parole officers can assist the Interstate Compact staff and increase public safety by following the established rules and procedures. The supervising officer should question offenders regarding proposed Interstate Transfers to determine if requested transfer is a necessity or for offender convenience. The officer should also contact the proposed sponsor or family member in the receiving state to verify the validity of the proposed home and support prior to proceeding with the Transfer Request or Reporting Instructions Request. These actions would eliminate offenders from submitting bogus plans and reduce workloads of Interstate Compact staff and field staff in receiving states.

By eliminating transfer requests that are invalid to begin with it will allow staff to concentrate ore time and effort to supervision of offenders and higher priority matters regarding violations and return of violators.

The New Compact (Interstate Compact for the Supervision of Adult Offenders), which is projected for passage by the necessary 35 states in early 2002, has "compliance" with the Compact as a priority issue. It has compliance enforcement mechanism built in which provides for sanctions, including fines, against states in non-compliance. It is imperative that all involved staff (Interstate Compact and field agents) take steps now to deal with compliance issues.

If we all work together with the common goal of increased public safety by following the established rules and procedures we can correct these issues now. □

---

*Henry Lowery is a Deputy Compact Administrator in West Virginia.*

## National Center Is Resource for Technology Issues

Most community corrections professionals are very familiar with the work of the National Institute of Justice (NIJ) as an agency that develops, conducts, directs and supervises comprehensive research in the criminal justice field. This research comes primarily from NIJ's Office of Research & Evaluation. You may not be aware of another component of NIJ called the Office of Science and Technology (OS&T). OS&T is the focal point for the development of standards, testing and dissemination of information on criminal justice equipment and technologies. The Office funds numerous projects a year and works with the U.S. Department of Defense and other federal agencies to fund and develop new innovative technologies to support the criminal justice community.

The National Law Enforcement and Corrections Technology Center (NLECTC) is a program of NIJ's Office of Science and Technology. The NLECTC system includes the national center in Rockville, MD and five regional centers operating in Charleston, SC (Southeastern Region); Denver, CO (Rocky Mountain Region); Anchorage, AK (Northwestern Region); El Segundo, CA (Western Region); and Rome, NY (Northeastern Region).

NLECTC functions as a clearinghouse to aid criminal justice agencies in obtaining information regarding appropriate technology, guidelines and standards for these technologies, objective testing data, and science and engineering advice and support to implement these technologies.

### What is NIJ/NLECTC working on that can benefit community corrections?

#### 3<sup>rd</sup> Annual Innovative Technologies for Community Corrections Conference

This annual event is hosted by the NLECTC regional office in Denver, Colorado. The goal of the conference is to spotlight the innovative use of technology by community corrections agencies, new technologies on the

horizon, and important issues surrounding the acquisition, implementation and management of technology. This year's conference will consist of more than 32 educational workshops organized in four tracks: electronic monitoring, drug and alcohol testing, information technologies and management issues. It is the only conference specifically dedicated to technology for community corrections. This year's conference will be held in San Diego, CA on May 20-22, 2002.

#### Domestic Violence and Electronic Monitoring Study

This study, funded by NIJ, is studying electronic monitoring's ability to prevent further violence, its effects on the offenders and victims, its impact on the courts and enforcement agencies, its effect on enforcement of court-issued protection orders, and the ability of this technology to deter misdemeanants from proceeding to more serious involvement in the criminal justice system. Researchers are currently collecting data from two field sites in probation agencies in the mid-west.

#### Automatic Spoken Language Translation

Many agencies recruit Spanish-speaking officers to better serve the needs of their clients; others hire translators to help officers communicate with offenders. Automatic Spoken Language Translation (ASLT) is a technology that will help officers communicate directly with non-English speaking offenders. ASLT is the translation of human speech by a computer. A person speaks into the computer, the computer translates the input into another language and then generates the output, that is, the computer "speaks" in another language. ASLT technology was originally applied by the Air Force Research Laboratory to the military domain of field interrogation. The NLECTC-Northeast has developed a demonstration system called ELSIE that can translate spoken Spanish and Mandarin Chinese into English using a laptop Windows 98 platform. The applicability of spoken language translation to various criminal justice requirements is being

evaluated within the NLECTC-Northeast's Law Enforcement Analysis Facility.

#### Voice Stress Analysis Evaluation

Many agencies are using the polygraph examination as one tool to help treat and monitor sex offenders under supervision. The polygraph is one of numerous technologies that are available for the detection of deception. One technology that is receiving much attention is Voice Stress Analysis. Vendors of this technology claim the ability to detect stress, possibly indicating deception in voice communications. The systems are advertised as being cheaper, easier to use, less invasive in use and less constrained in their operation than polygraph technology. NIJ is funding NLECTC-Northeast to evaluate the scientific values and utility of existing commercial voice stress analysis technology for criminal justice requirements. A comprehensive technical report will be available in the spring.

#### Electronic Supervision Tools: Improving Practice and Technology

With an NIJ grant awarded to APPA, several publications will be produced under the direction of APPA. Some of the deliverables from this project that you can expect to see in the near future include: a *User's Guide to Offender Supervision with Electronic Technology*; an Executive Summary of the User's Guide and a Press Kit. These documents were developed by a 25-person working group representing manufacturers, service providers and consumers of electronic monitoring products and services. The User's Guide will provide a comprehensive overview of information critical to an agency contemplating implementation of an electronic supervision program. The guide addresses such issues as agency considerations for implementation a program, legal issues, selecting a target population, funding and human resources, the selection of appropriate electronic supervision tools, the procurement process, the mechanics of supervision, program evaluation and public relations. The Press Kit will be a valuable tool for administrators in their dealings with the media.

BY JOE RUSSO



## Location and Tracking Device

The NLECTC-West is developing a prototype location and tracking device to use in understanding the technology issues associated with real time tracking of persons on probation or parole. This device, as currently designed, integrates a GPS receiver, a low current draw microprocessor, a two-way pager component and a rechargeable power supply.

The device is the size of a paper back novel

and operates continuously for 8-10 hours when transmitting its position every minute. Positional information is transmitted via the paging network, injected into the internet and sent as email messages to whomever requests device status. The center is in the process of redesigning the components with the goal of shrinking the size in all dimensions by 50 percent. The single unit prototype device can be fabricated for about \$500 with a single unit paging service cost of \$25 per month for unlimited

messaging.

For further information please contact Joe Russo at (800) 416-8086 or jrusso@du.edu. □

*Joe Russo is Corrections Program Manager for the National Law Enforcement and Corrections Technology Center in Denver, Colorado and is Chair of the APPA Technology Committee.*

# Call for Presenters

## American Probation and Parole Association 2003 Winter Training Institute Salt Lake City, Utah – January 5-8, 2003

The American Probation and Parole Association is pleased to issue a call for presenters for the Winter Training Institute scheduled to be held in Salt Lake City, Utah on January 5-8, 2003. Institute participants include community supervision and corrections personnel, the judiciary, treatment providers, criminal justice researchers and others who are interested in the field of community justice. Presentations should relate to the following topics:

- Community Justice Initiatives and Innovations
- Executive Management
- Human Resources
- International Issues
- Juvenile Justice Sentencing and Programming Strategies
- Legal Issues
- Multi-Agency Collaboration/Interdisciplinary Participation
- Parole Issues and Post-Incarceration Supervision Strategies
- Pre-Trial Services
- Program Specialization in Community Supervision and Corrections
- Sentencing Strategies and the Judiciary
- Substance Abuse
- Technological Innovations

The above-suggested topics are not all-inclusive. Other topics related to the field of community supervision and corrections are acceptable.

## Submission Guidelines

**Persons interested in submitting a proposal for consideration should forward the following:**

- 1) Workshop title
- 2) A clear, concise, accurate description of the workshop as it will appear in the program (average length is 75 words; submissions on disk in Microsoft Word are preferable)
- 3) Name, title, agency and complete mailing addresses with phone numbers of all proposed faculty members
- 4) Brief resume or vitae of each faculty member
- 5) Primary contact person for the workshop (include complete address and phone number)

**Presentation summaries may be mailed, faxed or emailed to:**

Zachary Dal Pra, Deputy Chief  
Maricopa County Adult Probations  
111 S. 3rd Avenue, Phoenix, AZ 85003  
Phone: (602) 506-6454, Fax: (503) 506-5952  
Email: zdalpra@apd.maricopa.gov

Presentation summaries should be received no later than **May 1, 2002**. Ideally, a presentation panel should consist of two or three persons. Annual Institute program track committee members will contact the person who nominated the workshop(s) to indicate their selection for the Institute. Please note that it is APPA's policy that, regrettably, expenses and fees associated with participation cannot be reimbursed by APPA.



publications • apparel • gift ideas

## APPA's Best Selling Publications available at Discounted Prices!

Community Justice Concepts and Strategies  
Managing Adult Sex Offenders, A Containment Approach  
Results-Driven Management  
Plus other publications on domestic violence, drug involved offenders and more.

## Apparel - A Perfect Fit for the Office!

- Classic APPA shirt
- APPA Denim shirt
- APPA caps

### APPA Sweatshirt

...won't last long at this special price -  
**only \$30.00!**

### Dress Polo Shirt

... perfect for the office!



Visit **APPA** online at [www.appa-net.org](http://www.appa-net.org) or call (859) 244-8207



## 2002 Professional Development Program

The American Probation and Parole Association (APPA) Professional Development Program provides selected training and technical assistance opportunities for APPA members as well as professionals in the field of probation, parole, community corrections and community justice.

### APPA Training is:

- Accredited for Continuing Education
- Provided by Community Corrections Professionals
- Research-Based
- Specific to Community-Based Supervision
- Tailored to the Needs of the Community Justice Agency

### Scheduled training dates and locations:

#### Survival Skills For Middle Managers: *Out of the Frying Pan and Into the Fire*

Austin, TX  
September 23-24, 2002

Wichita, KS  
November 6-7, 2002

### Topics Available for Training:

- Basic Field Officer Safety Training
- Advanced Field Officer Safety Training
- Strength-Based Practice for Community Corrections Practitioners
- Strength-Based Training II: Motivation and Movement: Becoming Change-Focused
- Survival Skills for Middle Managers
- Effective Strategies for Probation or Parole Supervision
- Performance Based Measures in Community Corrections
- Practicing Prevention: Contributing to the Safety and Vitality of Your Community

Visit the APPA Website for Registration Information at  
[www.appa-net.org](http://www.appa-net.org)

If you are you are interested in bringing APPA specialized training to your area or for more information on the current training programs, contact: Karen L. Dunlap (859) 244-8211, or email at [kdunlap@csg.org](mailto:kdunlap@csg.org).

# SPOTLIGHT ON SAFETY

## Preserving the Scene

As much as we hope we will never need to use force to protect ourselves, probation and parole officers across the country have been faced with that situation. When that happens, there are certain things officers should do to preserve the scene and protect themselves, both physically and legally including:

- Secure all weapons.
- Secure the scene.
- Don't allow anyone to leave.
- Contact medical authorities.
- Contact your agency.
- Contact local law enforcement.
- For your protection, it is suggested you make no initial statement other than:

"My name is \_\_\_\_\_. I am a (agency) probation/parole officer. There has been a (describe the use of force, e.g., use of pepper

spray, shooting, injury, ) at (give the location). I have nothing more to say until I have contacted my agency (legal counsel)."

The probation/parole agency should also have a plan detailing:

- Who will respond to the scene.
- Who will respond to questions from law enforcement, the media, and the public.
- Who will assist the officer(s) involved (use of a trained critical incident response team is suggested).
- Who will contact family members to advise of the status of the officers before the family hears it on the news (even if the officers are not injured).
- Who will take family members(s) to the hospital if an officer is injured.

- Who will be assigned to stay with the officer(s) after the incident until (and if need be after) they get home.

How the agency deals with an officer-involved use of force incident will have a great impact, not only on the officer(s) involved and their family(s) but the office as a whole. Remember, the entire agency is impacted by a serious hazardous duty incident. □

*Robert L. Thornton, is the Director of the Community Corrections Institute in Eastonville, WA and Chair of the APPA Health and Safety Committee.*

## ACA Probation and Parole Resources



**NEW**  
**The Art of the Con:  
Avoiding Offender  
Manipulation**  
Gary F. Cornelius

This book provides corrections professionals with a better understanding of offenders and their characteristics, behavior and culture. Includes six chapters, with the central theme of manipulation and includes true examples of manipulation. The concepts in this book apply to anyone in the field, and show how manipulation can occur in prisons or community supervision. Appendices are included to help with training. (2001, 128 pages, 1-56991-147-9)

#759-APPA • Nonmembers \$18.00  
• ACA members \$14.40



**NEW**  
**Reforming Probation  
and Parole in the 21st  
Century**  
Joan Petersilia, Ph.D.

This guide on probation and parole in the United States presents the background and future for these two vital areas of criminal justice. Readers will learn about probation data sources, the history of probation, modern sentencing practices, and more. The reader will also gain an understanding of parole data, the early evolution of parole and its use in modern sentencing, the current parole population, and other topics. (2001, approx. 225 pages, 1-56991-144-4)

#762-APPA • Nonmembers \$24.95  
• ACA members \$19.95



**2001-2003 Probation  
and Parole Directory**

This completely updated edition contains information on adult and juvenile probation and parole commissions, boards, and local offices, plus state, district and satellite offices. Contains the names, addresses and phone numbers of key personnel and statistics on selected services, budgets, staffing and client case-loads. (2001, 732 pages, 1-56991-129-0)

#728-APPA • Nonmembers \$70.00  
• ACA members \$56.00

**1-800-222-5646, ext. 1860 to Order! American Correctional Association**  
**301-918-1886 Fax 4380 Forbes Boulevard**  
**www.aca.org or www.corrections.com/aca Lanham, Maryland 20706-4322**



Please circle #6 on the reader information card

## A Massachusetts Update

A recent edition of *Perspectives* (Winter, 2002) featured an article on “Problem Solving Probation” that highlighted innovative programs across the country aimed at breathing new life into probation practice. As the article featured efforts undertaken in recent years in Massachusetts, I thought readers of *Perspectives* might find it interesting to get an update on evolving strategies in the Bay State.

In the last several years, the commonwealth of Massachusetts has commenced a systemic effort that seeks to reduce fragmentation system-wide thereby freeing probation and parole officers to focus more strictly on community supervision and involvement. The Office of Community Corrections was established by the state legislature in 1996 by virtue of Massachusetts General Law chapter 211F. It is a division of the Office of the Commissioner of Probation. The mission of this agency may be viewed as two fold. The first is to develop community corrections programs that promote collaboration between criminal justice agencies, treatment providers, law enforcement and the community. Secondly, it is to implement these programs as intermediate sanctions for probation, parole, sheriff's departments and the Department of Correction. This effort is most clearly embodied in the Community Corrections Center initiative.

Community corrections centers are community based, intensive supervision sites, typically operated under contract with county sheriffs, to deliver bundled sanctions and services to high risk offenders. Sheriffs' departments provide or sub-contract with community-based providers for treatment, education and other services. Offenders are ordered to community corrections centers as a condition of probation, parole or pre-release. Specific sanctions and services correspond to the intermediate sanction level determined by the referring authority. Sanctions include electronic monitoring, drug testing and community service. These sanctions are applied on a graduated schedule in order to reward success and penalize non-compliance. Progress is closely monitored by weekly multi-disciplinary team meetings, which enlist probation, parole, clinical, educational and

security staff for case review. Probation and parole officers on-site work to coordinate disciplinary action, when necessary, and serve as a liaison to the community and referring authority. Working group meetings, community advisory boards and open houses are other avenues for community access to the community corrections center.

Among the most important ways in which the community corrections center promotes community involvement is through community service. As a community corrections center sanction community service represents a tangible interaction between probation, parole and the community. Participants are closely monitored by Community Service Program staff conducting service projects for non-profit and government agencies throughout the Commonwealth.

On-site substance abuse treatment is among the primary services provided by the center. This service is complemented by education, including GED and long-distance learning through local community colleges, life skills and employment preparation. Community corrections center programming seeks to address the specific issues confronting the populations that they monitor. For this reason, some community corrections centers serve specific populations. Women's Resources Centers deliver sanctions and services exclusively to female offenders. Juvenile Resource Centers deliver sanctions and services for juvenile offenders in collaboration with Juvenile Probation and the Department of Youth Services. Young Adult Centers deliver sanctions and services specifically targeted towards young adults ages 17-21 and provide an alternate high school education. Case management service ensures appropriate referrals for mental health or housing issues when necessary.

There are more than 700 offenders participating in intermediate sanction levels at 20 community corrections centers statewide. Of these, seventy-four percent are on probation. The remainder are on parole or in the custody of local sheriffs' departments.

The community corrections center represents a merger of criminal justice agencies working under one roof towards a uniform goal

of effective and efficient supervision, rehabilitation, and community protection. This arrangement reduces the fragmentation created when complex cases demand varied referrals to multiple social service agencies. The community corrections center affords probation and parole officers the opportunity to monitor these cases closely in a controlled, community-based environment, thereby allowing more time for mandated community supervision and involvement. Drawing on the strength of the community that it is built to serve and protect, the community corrections center is an engine for probation evolution. □

---

*Stephen V. Price is with the Administrative Office of the Trial Court, Office of Community Corrections in Boston, MA.*

BY STEVEN V. PRICE





# Ohio's

## First Felony Reentry Court

On October 14, 1999 the Attorney General Janet Reno announced a new initiative intended to promote community safety and reduce recidivism in recently released prison inmates. The former Director of the National Institute of Justice, Jeremy Travis designed this initiative, the concept of reentry courts. This reentry court plan likely emerged as a result of both the success of hundreds of America's drug courts in operation today, as well as the plan to incorporate community justice and restoration into American sentencing and corrections. Drug courts rely upon judicial authority in so far as judges continually monitor offenders. In addition, probation staff engages in supervising offenders while treatment providers supply extended treatment. Normally, "about one in five state prisoners leaves prison with no post release supervision" (Travis, 2000). "With approximately 585,400 offenders being released from prison this year, communities across the Nation cannot afford to release offenders without supervision as they have in the past. Communities need to create support networks and accountability systems to enhance offender's chances for successful reintegration" (U. S. Dept. of Justice, 2001). In response to this data, the concept of reentry court was born.

The reentry court concept draws upon the authority of the court in promoting positive behavior in offenders that are returning to the community. Drug courts have been using a similar approach in managing the behavior of drug offenders. Various tools such as graduated sanctions and incentives are an integral part of this process. "The reentry court initiative relies on the involvement of other crucial partners including institutional and community corrections, law enforcement, faith based organizations, social services, victim support groups, and neighborhood organizations essential to build the necessary monitoring, coordinating services, and community linkages essential to support the offender's successful reentry and enhance public safety" (U. S. Dept. of Justice,

2001). Reentry courts were designed to use the power of judicial authority to aggressively monitor offenders released into the community while at the same time providing offenders with a multitude of services facilitating their transition back into the community.

Invitational announcements were made to state and local jurisdictions seeking those with an interest in conducting a pilot reentry court project in their communities. Attorney General Reno selected nine geographically diverse jurisdictions in the U.S. Among those chosen was the Richland County Common Pleas Court in Richland County, Ohio. They worked in partnership with the Ohio Department of Rehabilitation and Corrections to implement this innovative concept called reentry court. The Office of Justice Programs issued a statement on February 10, 2000 announcing the nine jurisdictions and the basic elements required of them.

The nine jurisdictions in the OJP reentry court initiative will tailor their reentry courts to state law and local needs. All court programs, however, will contain certain core elements, which include:

- **offender assessment and planning**, which will bring together reentry court personnel, such as a judge, parole or probation officer, to explain the reentry process to the offender and identify his/her needs upon release;
- **active offender oversight**, which would include routine judicial visits with all offenders;
- **accountability to the community**, to include the development of initiatives to ensure that offenders are held accountable both to victims and the community;

- **graduated and parsimonious sanctions**, or a predetermined range of sanctions for violations of the conditions of release that can be swiftly, predictably, and universally applied;
- **access to an array of support services**, which will include substance abuse treatment, job training programs, private employers, faith-based institutions, housing services, and community service providers; and
- **positive judicial reinforcement**, or rewarding successful offender behavior and compliance with the condition of release” (U. S. Dept. of Justice, 2000).

Richland County, located in North-Central Ohio, maintains a population of approximately 125,000 residents and supports what can be described as a very comprehensive community corrections program operating to assist two Common Pleas Court Felony Judges. Richland County was granted the Governor’s Award in 2000 for its community policing and probation and parole partnership program. In addition, on May 31, 2001 Richland County’s Drug Court was selected by The National Drug Court Institute and Department of Justice Office of Drug Court Programs as a small to medium sized county mentor court.

This project is unique because of the partnership formed between Richland County and the state of Ohio. During the fall of 1999, Richland County and the Ohio Department of Rehabilitation and Corrections began to plan their reentry court. After Richland County’s successful implementation of their Substance Abuse Treatment Court (their drug court established in April of 1997), the court staff realized this reentry concept was unique and believed it was also doable. Richland County had discovered prior to their implementation of an 18-month drug court in 1997 that the same basic dispositions prevalent in most courts existed in their community as well. This disposition included, short-term drug or alcohol treatment programs, short inpatient detoxification, ninety day boot camps, and one-year prison terms (most costly option). It made sense for Richland County to attempt a reentry court initiative for those sentenced offenders who would be returning to their community from prison.

Another unique attribute of Richland County’s reentry court program is the utilization of the Office of Justice Program’s design, which involves so many different actors within the justice system. Two branches of government participate in Ohio’s initiative. They realized the need to blend both the judicial branch of government (judge’s capacity) with the state’s executive branch (Ohio Department of Rehabilitation and Corrections). The following agencies and/or individuals conducted many meetings to discuss and plan how Ohio’s first reentry court would operate:

1. Richland County Common Pleas Court Judges
2. Ohio Department of Rehabilitation and Corrections
3. County and State Offender Supervision Staff
4. Ohio Adult Parole Authority
5. Ohio Prison Staff
6. Community and Prison Caseworkers, and Treatment Providers

7. Richland County Prosecutor
8. Victim Services
9. Community Policing Representatives
10. Community Corrections Board Members
11. Evaluation Team Members

After approximately one year of planning the Reentry Court Project was initiated. The Reentry Project distinguish the following target population and program goals:

### Target Population

The majority of offenders sentenced to a term of incarceration by the Richland County Common Pleas Court are expected to become participants in the reentry court project. Some special categories of offenders however, will be excluded from participation due to the nature of their offense and certain social history factors. Specifically, sex offenders, who are in denial and therefore not eligible for sex offender treatment, as well as offenders with debilitating mental health disorders, will be screened out. In addition, those offenders released to “monitored time” under Senate Bill 2 and therefore subject to post-release control supervision will be exempt from program eligibility. Under the state statute, these offenders fall into a non-reporting status category. They will be subject to periodic checks approximately every six months, to verify that they are not involved in any known criminal activities. The target population includes both offenders who have been granted judicial release and/or given a split sentence on the “front end” and those with parole and post-release control offenders on the “back end.” During the first 12 months of the project, it is expected that the program will accommodate approximately 110 offenders released from prison under the direction of the court by either judicial release or split sentencing. Another 50 to 90 parole and post-release control offenders will also be eligible to participate.

### Program Goals

1. The authority to select cases for entrance into reentry court, set conditions of release, and decide sanctions and revocations will rest with the sentencing judge for judicial release cases and split sentencing cases. This same authority will rest with the state parole board for parole and post-release cases.
2. The cases not eligible for community control (probation) that are ordinarily set for imprisonment will undergo a further examination and assessment by the reentry court coordinator for the development of an institutional treatment plan. This plan will be the primary basis for judicial consideration of their placement back into the community, either on judicial release or split sentencing, and it will be used in planning for parole or post-release control.
3. Prior to release from an institution, a transition plan will be developed for each offender to ensure a smooth transition back into the community. A continuum of treatment, employment, residential placement, and supervision issues will be addressed.
4. Offenders placed in the reentry court program shall be subject to active oversight through regular court appearances and the steady monitoring of their progress by the court and/or parole board.
5. The supervision of offenders subject to reentry court oversight requires and shall involve cooperation, information sharing, and collaboration among supervision officers, treatment providers, and community policing to ensure compliance with case management expectations.

6. There shall be flexible and proportional responses to offender violations drawing on a continuum of graduated sanctions designed to encourage and support pro-social behavior.
7. Offender compliance with the conditions of supervision shall be rewarded with diminishing restrictions, positive reinforcement, and formal acknowledgement of the offender's efforts leading to the successful completion of the reentry court program.

## Richland County Reentry Court – Participant Progress Summary

Richland County accepted its first reentry court client in November 2000. As of September 1, 2001 there have been 76 clients who have participated in the reentry court project (while another 72 are presently being monitored in prison for reentry consideration). Currently, 59 of the 76 reentry court clients are under the authority of the two common pleas judges. Of these 59 clients, 43 are in the Intensive Supervision Program, 10 were placed into Substance Abuse Treatment Court (Drug Court), and one client was placed into the DUI Program. Seventeen of the 76 clients are in reentry court by way of parole or post release control by the Ohio Department of Rehabilitation and Corrections and are being supervised by state officers.

The average reentry court client has been in the program for an average of 4½ months with the longest term being ten months. The client with the shortest term has been in the program one month. Since the beginning of the program in November 2000 until September 1, 2001 the reentry court has conducted four revocation hearings resulting in the dismissal of four clients from the program. In addition, one client was sanctioned to a secure community based correctional facility. Therefore, 6.6% (5 clients) of the 76 clients have failed reentry court using the definition of failure as court or parole revocation or transfer to a secure community based correctional facility. During the first ten months of the program the reentry court also gave out 43 sanctions. Examples of the sanctions include:

1. Community work service
2. Electronic monitoring
3. Financial fines
4. Attendance at additional counseling programs
5. Two to three day punitive jail incarceration

## Current Status as of January 1, 2002

As of January 1, 2002, 115 clients have participated in the Richland County Reentry Court Project. This includes 30 parole and post release control clients (state) and 85 common pleas court clients, split sentence and judicial release (county).

Failure rate of parole and PRC = 7 clients of 30 (23.3%)

Failure rate of common pleas court = 12 clients of 85 (12.3%)

**Total current failure rate:** 19 clients of the 115 participants (16.5%)

**Total graduates:** 4 (one year required in program)

## System Wide Effects of Reentry in Richland County

The most noteworthy impact of reentry court has been the partnership of the Richland County Common Pleas Court with the Ohio Department of Rehabilitation and Corrections. This incorporation begins at sentencing when the offender is recommended for specific types of release from the institution under reentry (judicial release, split

sentencing, parole, and post release control). For those ineligible for community control, a recommendation may be made for a parole or post-release control reentry release by the court to the parole board if the offender has made positive efforts to fulfill his/her reentry treatment plan. Treatment or programming that should occur and placements into specific institutions are recommended. The release of offenders is now better-planned and coordinated with institutions and parole board staff. Transitions between institutional and community residential treatment programs are more common as they are linked together under one reentry treatment plan. The reentry court hearings combine the authority of the court and parole board together, signifying to parole supervision officers, court and reentry staff, participants, offenders, treatment providers, and the entire community, the unity of purpose involved in this establishment and enforcement of community standards.

## Endnotes

Office of Justice Programs – NEWS. (2000, February 10). New York, N. Y. *Attorney General Janet Reno Announces Reentry Court Initiative*. U. S. Department of Justice. Retrieved from the World Wide Web: <http://www.ojp.usdoj.gov/>

Office of Justice Programs – Reentry – Fielded Programs. (2001, August 2). U. S. Department of Justice. Retrieved September 12, 2001 from the World Wide Web: [wysiwyg://11/http://www.ojp.usdoj.gov/reentry/field\\_tested\\_programs.htm](http://www.ojp.usdoj.gov/reentry/field_tested_programs.htm)

Office of Justice Programs – Reentry – What's New (2001, August 30). U. S. Department of Justice. Retrieved September 21, 2001 from the World Wide Web: [wysiwyg://61/http://www.ojp.usdoj.gov/reentry/whats\\_new.htm](http://www.ojp.usdoj.gov/reentry/whats_new.htm)

Travis, Jeremy "But They All Come Back: Rethinking Prisoner Reentry." U.S. Department of Justice, Sentencing & Corrections, Issues for the 21<sup>st</sup> Century, No. 7 (May 2000): p.1. □

---

*Jeffrey B. Spelman is an Assistant Professor of Criminal Justice and Sociology at Ashland University in Ashland, OH.*



# PUBLICATION ANNOUNCEMENT

## Practicing Prevention: Contributing to the Safety and Vitality of Your Community



### Crime Prevention Curriculum Available on CD!

*Practicing Crime Prevention: Contributing to the Safety and Vitality of Your Community* introduces the overarching concept of community justice and explores how crime prevention activities are a natural fit in this proactive agenda. The purpose of this curriculum is to provide the concepts, strategies and benefits of crime prevention activities and facilitate participants to implement a local crime prevention plan.

In an effort to distribute the crime prevention curriculum in an efficient and cost effective manner, APPA has placed it on a compact disk. The compact disk contains an introduction and four modules of the curriculum. Each module contains the following components:

- **Module Overview** that provides trainers with a brief summary of the purpose and contents of the module, including time frame, equipment and materials needed, materials referenced, and a suggested agenda.
- **Presentation Outline** to assist facilitators in presenting information and leading the various activities in each module.
- **Master Visual Aids** that can be used as a PowerPoint presentation or copied on overhead transparencies to assist the facilitator with presentations and activities, and
- **Participant Materials** that can be duplicated and distributed to participants for use during the training program.

Not only is the crime prevention curriculum now available on a compact disk for a minimal cost of \$25 (INCLUDES SHIPPING AND HANDLING), but the curriculum has also been added to the APPA Professional Development Program and if you are you are interested in bringing *Practicing Crime Prevention: Contributing to the Safety and Vitality of Your Community* to your region, state, or community contact: Karen L. Dunlap (859) 244-8211, or [kdunlap@csg.org](mailto:kdunlap@csg.org).

**YES!** I would like to order: *Practicing Prevention: Contributing to the Safety and Vitality of Your Community*

Name \_\_\_\_\_

Title \_\_\_\_\_

Company \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

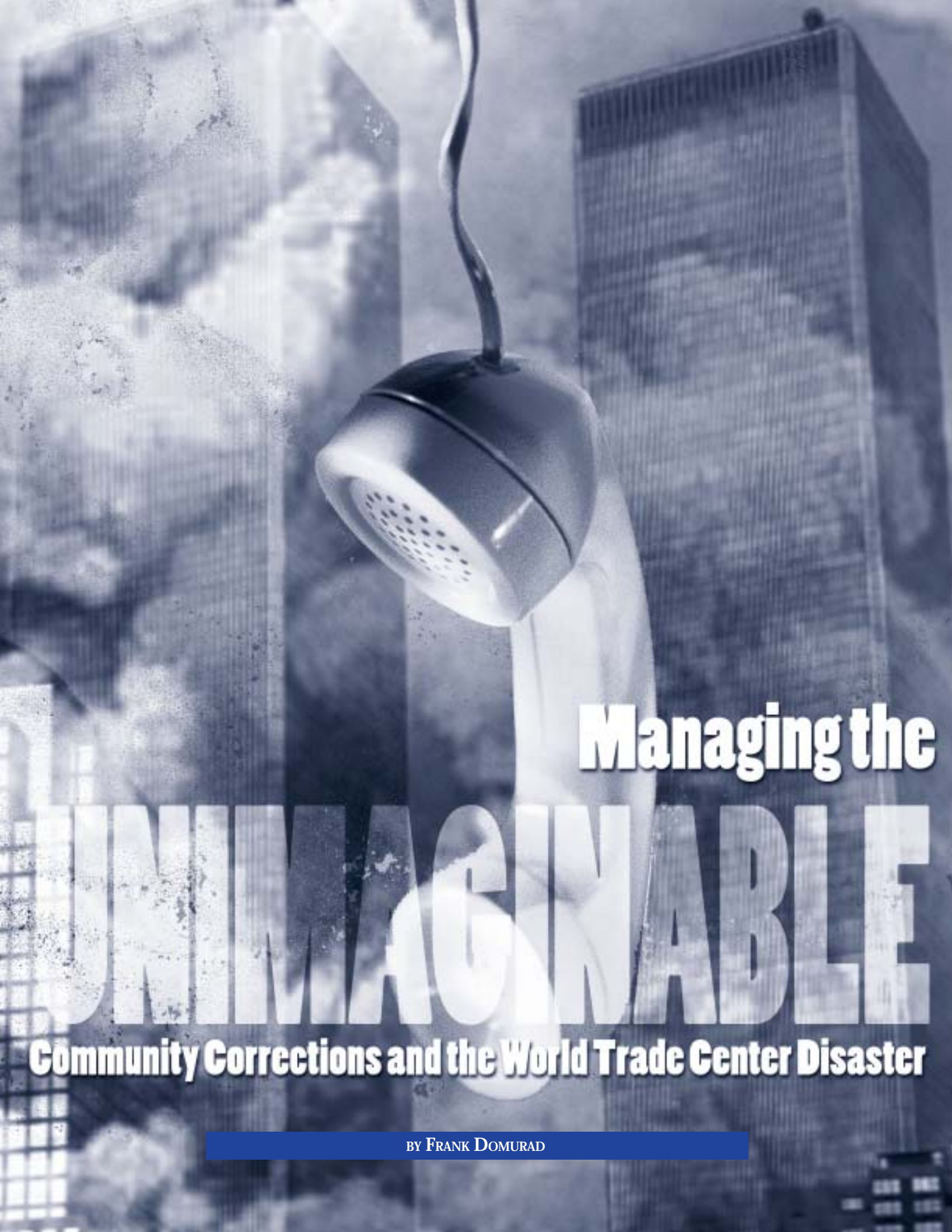
Email \_\_\_\_\_

Quantity \_\_\_\_\_

x 25.00 Each (Includes Shipping / Handling) \_\_\_\_\_

Total \_\_\_\_\_

Please send this order to:  
**American Probation and Parole Association**  
Anita Threet, Membership Coordinator  
P.O. Box 11910  
Lexington, KY 40578-1910  
Email: [athreet@csg.org](mailto:athreet@csg.org)  
Phone: (859) 244-8207 FAX: (859) 244-8001



# **Managing the UNIMAGINABLE**

## **Community Corrections and the World Trade Center Disaster**

BY FRANK DOMURAD

On September 11, the New York City Department of Probation found itself at the emotional and physical center of the worst terrorist attack in this nation's history. Its headquarters was but a five-minute walk from the World Trade Center. Some 200 central office employees, including the agency's executive leadership, literally had to run for their lives in choking, blinding, toxic clouds of debris, as first one and then the other tower imploded. Staff at other Manhattan sites had direct views of the hijacked airplanes crashing into buildings and human beings throwing themselves to certain death from burning offices. In the rest of the city, probation managers and workers, worried about their loved ones, waited in vain for direction from a chain of command in Lower Manhattan that had temporarily ceased to exist. Suddenly, for us in the country's second largest probation department, the pernicious underside of globalization had become a stark reality.

At first the impact of these events was extremely personal. The sights, sounds, smells and fears of being firsthand witnesses to either the physical tragedy itself or to its emotional and psychological consequences overwhelmed even the most stalwart personalities. Office conversations were muted, and discussions were usually held among close friends. Even the probationers, who were not known for their eagerness to report for supervision, flooded our waiting rooms, seeking anyone who might provide comfort and clarity in those initial days.

But as raw emotion gave way to quiet reflection, there quickly arose in the department a need to share experiences in a more public forum. Before the first week had passed, the commissioner asked the Division of Staff and Organizational Development (DSOD), the unit that I head, to conduct voluntary disaster debriefing sessions at headquarters and in branches citywide. Almost half of the agency's 1,600 employees chose to attend. Although the primary purpose of the debriefings was to provide an opportunity for managers and staff to express their personal feelings, it quickly became apparent that a myriad of organizational issues was also on everyone's mind. After all, these cataclysmic events had been experienced at the office and in the context of work. The manner in which our department did and did not function in this dramatically changed environment of global terror had become an important focus of concern. The World Trade Center disaster had clearly altered the way that our agency in particular, and community corrections in general, now had to go about its business of promoting the public's safety.

### **The Staff Speaks**

The staff debriefings took place over the course of two weeks. They were first and foremost a process of healing. Some persons had lost loved ones or had friends who had lost parents, siblings and significant others. Others, especially those at headquarters, were seeking to overcome their fear of being in Lower Manhattan, riding on the subway or working in a high-rise building. Still others simply wanted to draw strength and solace from listening in silence to the conversations swirling around them.

The meetings also proved to be an intense social learning experience. They generated invaluable information about how we as correctional professionals react to crisis and the way in which the culture and structure of our organizations mold and shape those reactions. The discussions focused on a series of

organizational topics that by now should be more than familiar to anyone who has been following the debates in our field over the last decade about how we should be conducting our business in a rapidly changing world. The "business" issues of greatest importance to staff were:

- security;
- leadership;
- bureaucracy;
- communication;
- purpose; and
- normality.

### **Security**

It was no surprise that line and support staff above all else feared for their physical safety in the event of another terrorist attack. They called on management to take immediate steps to institute better evacuation procedures, introduce security management teams in each of the five boroughs of the city, assess the vulnerability of every work site and distribute basic safety equipment such as eye goggles and face masks. While suggestions such as these were rational in purpose and intent, they were frequently accompanied by other more intangible emotions and interpretations. Participants in the debriefings often expressed the belief that leadership in the agency had been self-centered in its approach to providing for their welfare directly after the attacks. When our armed warrant units, the Field Operations Division, were redeployed to protect important governmental buildings and private installations, many staff members interpreted this action as an insensitive removal of their only source of safety in the field branches. They did not know that such a step had become necessary to replace those police units called to duty at ground zero at the World Trade Center. For a time there were even rumors floating around that the commissioner and executive staff had joined the city's top brass in hiding in secret underground bunkers. Clearly those persons who provided the direct services of probation to correctional clients and to the public felt their personal security was not being taken seriously by those in charge of the agency.

### **Leadership**

Fear for their own personal safety, coupled with a sense of loss and abandonment, often led staff to question the wisdom and even the integrity of the department's executive and field managers. Staff's demands on leadership were varied and confusing. In some instances people waited for commands from the top about what to do. When those orders did not come because headquarters as a physical entity no longer functioned (something most staff did not know at the time), staff often interpreted the initial silence as yet another example of managerial incompetence. This perspective quickly became intertwined with a second set of competing expectations placed on leadership in the initial days of the tragedy, namely a call for emotional support and understanding. Probation officers and supervisors wanted to see and hear the commissioner, deputy commissioners and other members of central office leadership on site; they wanted them to be a direct source of comfort and solace, a reassurance that everything would be all right. When this did not occur because executives had been ordered to the Mayor's Office of Emergency Management, staff viewed their absence as a lack of respect for their emotional trauma. Some even suggested that management should be sent to sensitivity training.

### **Bureaucracy**

As with the issue of leadership, staff expressed a gamut of opinions about traditional chains of command and the role of bureaucracy in the crisis. On one hand, they wanted management to be accountable for their units in the most traditional way possible. They wanted to be told what to do and how to do it. Yet when some managers sought to take charge in this manner and to enforce



policies and procedures, especially right after the attack, they were accused of being uncaring, of being concerned solely with time and leave and other petty regulations. At one branch in Manhattan, a few staff assumed personal responsibility and left immediately after the first plane hit the World Trade Center. The remainder waited until early afternoon for permission to depart for home. Management exhibited equally contradictory responses to events. Some told their staff to stay at their posts awaiting instructions from headquarters; others tossed aside the rulebook and evacuated buildings on their own initiative. For many participants in the debriefings, the structure of command and control was the proper way to respond to crisis. For others, collaborative flexibility and autonomous decision-making proved to be the solution.

### *Communication*

The inability of headquarters and branches to communicate with each other as phone, fax and e-mail went dead after the World Trade Center towers collapsed also came in for its share of emotional interpretation. Many persons expressed the opinion that headquarters at 33 Beaver Street had become a fortress even before the disaster. What had seemed like rational security measures prior to the terrorist attack, such as requiring on-site authorization for personnel from the field to gain access to the building and to particular floors, was now reinterpreted as evidence of an executive bunker mentality. Many speakers observed that the agency could hardly be a team, if officers and supervisors were effectively locked out of their own headquarters. They also pointed out that many field managers had not even taken the trouble to call their own staff, once they had been sent home, to inquire after their well being and that of their families and loved ones. Again emotional needs conflicted with reason. Concerned assistant commissioners and branch chiefs simply did not have access to telephone directories stored on Manhattan computer servers that could no longer transmit data to field offices. Thus while the problem of communication (and its re-establishment) during the crisis was primarily physical in nature from the perspective of the department's leadership, for staff it had deeper psychological implications. As one participant in the debriefings cogently expressed the issue, "we need something to bring us together in this agency."

### *Purpose*

During the discussions staff complained that they had felt underutilized in the crisis. When the mayor requested in the first hours and days after the terrorist attack that only essential employees report to work, probation personnel were unclear whether that order also included them. Many officers and supervisors wanted to be deployed to ground zero or to assist rescue workers in other ways. Very few saw their contribution in terms of determining the whereabouts and activities of the 80,000 adult and 15,000 juvenile probationers under their collective supervision. In effect, they expressed confusion as to the role of the department (and the profession) in responding to terrorism and protecting public safety under such circumstances.

Such was not the case, however, with the members of the agency's armed Field Operations Division. Trained initially as a warrant unit, they viewed their function in terms of a risk control approach to policing. They were immediately deployed to either ground zero or to provide security for public and private sites in danger of further terrorists' attacks. How these various models of community corrections were to be reconciled was not determined during the debriefings.

### *Normality*

The most amorphous, but certainly not the most unimportant segment of the discussions among staff, was the issue of normality. Even at the time of the debriefings, government officials and other civic leaders were urging the public to try to return to a normal way of life as quickly as possible. What did that mean professionally to the officers and supervisors participating in the debriefings? The answers were very unclear. Everyone knew that the future would mean greater inconvenience due to heightened security. They also recognized that they would have to incorporate the fear of future terrorism into their mental calculus. But in an organizational sense, did normality mean an even tighter bureaucracy and a more impermeable chain of command? Or did it mean greater flexibility and autonomy to respond rapidly to external conditions as they transpired in the field? From a business perspective, did normality entail even closer supervision of probationers in an office setting, with



immediate armed responses to those who failed to be accountable to the conditions imposed by the court? Or did it mean greater involvement in the community and homes of offenders in an effort to turn their lives around? Although staff alluded to all these possibilities and desperately wanted to recapture some type of normality, they remained curiously mute about its particulars. They called for direction in terms of purpose and process. They were silent as to its source or its content.

### The Meaning of Staff's Words

The core structure of an organization is usually invisible to the naked eye. An organization's true character lies hidden beneath layers of rhetoric, process, policy, procedure and regulation. Crisis, especially of the catastrophic nature of September 11, tends to pierce those layers and provides an opportunity to glimpse what normally remains concealed. It provides an opportunity to perceive and engage the unspoken patterns of behavior and belief in an organization that guide the daily activities of leaders and staff alike. This fundamental level of meaning in an organization is usually labeled its culture.

Unfortunately, the term "organizational culture" has become exceedingly popular among business gurus over the last decade. It has been used to refer to almost every aspect of an organization's activities from belief systems to the smallest element of work process. Even worse, it has assumed many aspects of a tautology, capable of explaining success or failure in terms of its own definition. Those organizations that have a good culture will succeed; those that have a bad culture will fail. In such an indeterminate situation the temptation exists to define organizational culture so that it will substantiate personal preferences about how an organization should function, rather than act as a useful tool of analysis to provide guidance to practitioners about how best to respond to internal and external change.

In their book on managing organizational behavior, Hersey, Blanchard and Johnson proposed this definition of organizational culture. They argued that it consists of shared basic assumptions or beliefs about how an organization adapts to the external environment and integrates and coordinates its own internal functioning. According to them, "a shared basic assumption or belief consists of cognitive, emotional, motivational and behavioral components that are so taken for granted that they are seldom confronted or challenged by organizational members" (Hersey, Blanchard and Johnson, 1996: 527). In effect, culture constitutes the way in which an organization defines meaning and purpose, as well as acceptable and unacceptable actions and practice.

The inclination of leaders is to assume that their organizations have but one culture, the one that best suits their needs and wishes. Over a year ago I wrote in *Corrections Management Quarterly* that two disparate cultures were actually becoming more and more apparent in community correctional agencies. The first, supported by executive leadership, seeks to merge the harsh rhetoric of scientific management with the soft promises of an interactive organization. While it calls for mission-based outcomes, research-driven performance measures and greater staff accountability, it pledges to reorganize work to reflect principles of empowerment, flattened bureaucracy and collaborative teamwork. The second culture, that of staff, is a mirror or reverse image of the first. It hears the promises of collaboration and empowerment, but more often than not feels only the impact of bureaucratic demands for greater performance, even in the face of scarcer resources to do the job. Moreover, when this staff culture looks upward at headquarters, it tends to see only the boundaries of scientific management, with a seemingly unaccountable senior management hiding behind traditional principles of command and control. Needless to say, such divergent assumptions about how the organization should and does function can only lead to suspicion and distrust. Most of the time, the organization is able to conceal this growing cultural rift. In a period of crisis, the gap becomes visible for all to see.

Our debriefings with staff clearly indicated that these two cultures were alive and well in our agency. Over the last ten years our department has done much of what the organizational and professional experts, both in the private and public sectors, have recommended as the path to productive success. We have developed a mission statement, a strategic plan and performance measures. We have paid attention to the research of "what works" and the principles of restorative and community justice. We have even taught managers and staff the latest techniques in leadership, collaborative participation and teamwork. What September 11 revealed was that, despite our best efforts, we had apparently not been very successful in implementing and practicing what we preached.

Take staff's complaint that they felt underutilized during the crisis and its aftermath. In effect

*"If the terrorist acts of September 11 demonstrated anything to us in community corrections, it should be that time is not on our side. The pressures of globalization that affected the private sector more than two decades ago and created for it a world of constant, ineluctable change have arrived at the doorstep of criminal justice. We can no longer hide from the fact that criminals are often more flexible, creative and daring in their actions than we are in our reactions."*

they were putting the department on notice that they did not comprehend the essential purpose of our business. When crisis struck the investment-banking firm of Cantor-Fitzgerald, which lost several hundred employees in the World Trade Center collapse, staff at the remaining New Jersey offices immediately looked *inside* their organization for an appropriate response to terrorism. They agreed to pursue their core business of giving customers quality financial services in order to generate the revenue needed to support the families of those who had lost loved ones. When crisis struck probation, most staff wanted to engage the tragic events *outside* their organization, indicating that in their minds there did not exist a link, or at best only a very weak one, between terrorist acts and their professional responsibilities.

James C. Collins and Jerry I. Porras noted over a decade ago that those businesses in the private sector that have been the most successful in their field over long periods of time were those with a strong core ideology. This ideology consisted of core values and a core purpose, two important elements in any organization's culture. Values, in their words, were "the essential and enduring tenets of an organization...that required no external justification..." (Collins and Porra, 1996: 66). Purpose was "the organization's reason for being...people's idealistic motivations for doing the company's work." Together these two elements constituted what Collins and Porras described as a stake fixed in the ground, one that was inscribed with the words, "This is who we are; this is what we stand for; this is what we're all about" (Collins and Porra, 1997: 54). Or as Ole Ingstrup and Paul Crookall, the former commissioner and senior advisor respectively of Correctional Service of Canada, observed for the public sector, using different but comparable terminology, "mission statements help staff to fulfill a basic human need to be part of something greater than themselves" (Ingstrup and Crookall, 1998: 45).

Why did the employees of Cantor-Fitzgerald have a clear vision of purpose and mission in response to terrorism and their equivalents in New York City Probation did not? The easy answer would be to repeat the mantra that the public sector is not the private sector. Things are simpler for private business, the skeptics intone. All business leaders care about is making money and creating a fat bottom line. In the public sector our goals are so much more amorphous and complicated. But as Collins and Porras discovered in their book on successful, enduring companies, those private firms that pursued and adhered to a core ideology beyond "profit maximization" invariably made "more money than the more purely profit-driven comparison companies" (Collins and Porras, 1997: 8). The road to financial bankruptcy in their study was littered with firms simply out to make a quick buck.

In the 11 years that I have been with the New York City Department of Probation, I have witnessed, more times than I care to admit, the introduction of what staff euphemistically refer to as "the flavor of the month," that new purpose or goal for the agency that will transport it into a future of bliss and public acclaim. When I first arrived, the contact mode of supervision with its risk instruments, classification systems and statistically determined frequency of office visits was all the rage. Contacts were soon replaced by intermediate sanctions, interventions that their champions bragged would be so much more punishing than prison and jail that even the most reactionary politician would swoon with delight. Then as retributive paradigms waned, the "what works" model appeared on the horizon. Based on an immense and growing body of scholarly research, it proposed reducing crime one probationer at a time by retooling the cognitive and behavioral foundations of their wrong doing. Finally, in no particular order, new rivals for our affections arose, from *restorative justice* (whether balanced or not) to *"broken windows"* probation to *community justice*.

Looking back (and to my great chagrin), my hands had been actively involved in the preparation of this programmatic tutti-frutti. I personally tasted and advocated each of these various flavors in my relatively short tenure in the agency. The problem is, that at one time or another over the last decade so has virtually every community corrections department in the country. Is it any wonder, then, that in such a rapidly shifting kaleidoscope of purpose our staff might feel an emotional distance from their place of employment and from their profession? Or that in a time of crisis the person will follow their own individual bright light rather than the dim and confusing beacon offered by their departments?

Drift, disgruntlement, distrust, confusion, dissatisfaction and even anger—these were the emotions expressed in our departmental debriefings in the aftermath of September 11. These were the emotions of an organization that, despite its best efforts, still had not fixed the stake of Collins and Porras' core

purpose firmly into its own ground. How did we reach such a distressing cultural state in New York City and, if my own research and discussions with colleagues across the country is representative, in our profession? How might we overcome this unsatisfactory situation and fulfill our potential, now more important than ever, to protect the safety of the citizens of this great country?

## Time Is Not On Our Side

If the terrorist acts of September 11 demonstrated anything to us in community corrections, it should be that time is not on our side. The pressures of globalization that affected the private sector more than two decades ago and created for it a world of constant, ineluctable change have arrived at the doorstep of criminal justice. We can no longer hide from the fact that criminals are often more flexible, creative and daring in their actions than we are in our reactions. Moreover in terms of physical violence, and not just white-collar crime, they have become international. Just as General Motors or Zenith had to compete across the globe with Toyota or Sony for the dollars of American consumers starting in the 1970s, so too in the new millennium religious and political fanatics, living in places most Americans never even knew existed until a short while ago, are trying to redefine our marketplace of domestic tranquility. Community corrections certainly has an important role to play in meeting this challenge. It does not have the luxury of endlessly debating what that role might be.

The first step that we need to take is to recognize and admit that the changes that we now confront in our environment are no longer just normal or simply incremental in nature. As Katzenbach and Smith observed for the private sector in their book on teams:

While all managers continue to have to deal with “normal” change, more and more must also confront “major” change that requires a lot of people throughout company—including those across the broad base of the organization—to become very good at behaviors and skills they are not very good at now. The days of viewing change as primarily concerned with strategic decisions and management reorganizations have vanished (1994, 16-17).

For those who might be skeptical about this notion of non-normal change, they need only consider that terrorism on a large scale, be it domestic or international, has the potential to increase dramatically the scope and function of community corrections. As police become ever more preoccupied with defeating terrorists and foiling their plots, there is the danger that effective crime prevention techniques, such as community policing, will be abandoned. Seattle's Police Chief Gil Kerlikowske best described the possibility when he stated that “historically, every budget cut for the last 25 years has almost always started with crime prevention...But I don't think any of us want to lose all the gains we've made.”

Probation and parole can certainly assist the police to preserve those gains by aggressively assuming a significant share of their existing responsibility for crime prevention, but first we must confront the reality of non-normal change and encapsulate it in a core purpose that makes sense to staff. In New York City, we have started to define our business for new officers entering our Fundamentals of Probation training classes as simply that of managing risk. The concept derives from a little known National Institute of Corrections' publication by Todd Clear and Vince O'Leary written in the middle of the last decade, but never widely distributed. Clear and O'Leary argued that corrections was “now entering a new era, one increasingly focused on fair, effective and efficient ways of dealing with the risk posed by an offender” (O'Leary and Clear, 1995: 7). For them, risk management consisted of two elements: risk control and risk reduction. Risk control aimed “to reduce crime by limiting the offender's capacity to carry out new criminal acts”; risk reduction sought “to diminish the likelihood that an offender will elect to commit another crime” (p. 4). The relation between the two was symbiotic. The more successful risk reduction was, the less the need for risk control. The less successful risk reduction was, the greater the need for control.

What has made risk management such an attractive core purpose for our new officers is both its inherent conceptual transparency and its ability to filter the complexity of a world rapidly changing around them. Risk, in the colloquial sense, is easily comprehensible to every new trainee, no matter what her or his background. They viscerally feel the deep human desire to walk the streets unmolested, to be secure in a home, or to send children to school in the morning and to have them return unharmed



in the evening. They therefore understand the intrinsic social need for ameliorating those factors that research shows most endanger public safety. Since risk also implies personal accountability on the part of the offender, the new officers appreciate an approach to their work that requires them constantly to strike a dynamic balance between control and reduction with each probationer on their caseload on the basis of that probationer's immediate behavior—what we like to call “weighting the scale of risk management.” When the probationer is acting in a social manner, associating with law-abiding friends and mentors, preparing for employment and putting his family relationships in order, then the officer has every justification for loosening the once-tight bonds of control and for emphasizing continued reduction. When a the probationer is moving in the opposite direction, then the officer must regain command of the situation through careful monitoring and constant intervention. In effect, everything that an officer does must be focused through the prism of risk and justified in terms of its effective management.

If on September 11 our officers and their supervisors in New York City had been trained in and been committed to risk management as the core purpose of our department, chances are they would not have waited for headquarters to tell them what to do. They would not have felt abandoned by their leaders and underutilized in the crisis, looking for ways to add value outside of their own organization. They might have recognized that their role as correctional professionals in our agency meant flooding the streets of neighborhoods, now bereft of the security once provided by a police force suddenly redeployed to the World Trade Center, with their presence. They might have acted as a source of comfort and solace for terrorized citizens. They might have searched out the 75,000 adult and 15,000 juvenile probations under their charge, to insure that they remained accountable in an opportunistic situation that invited the commission of crime, rather than waiting for distraught probationers to find them in their offices. They might even have been able to sort through the complexity of the horrible events of terrorism and recognize that circumstances had dramatically weighted the scale of risk management in favor of immediate and comprehensive risk control. They would have in effect reacted, as did the employees of Cantor-Fitzgerald, to non-normal change in a purposive, normal fashion, simply because their organizational culture would have dictated nothing less.

The point to be made here is not to advocate that community corrections' agencies around the country should adopt as their core purpose the concept of risk management. Such a statement would contradict the very nature of a core purpose, which must arise from the organization itself and reflect the will and desire of management and staff alike to be, in the previously quoted words of Ingstrup and Crookall, part of “something greater than themselves.” The real issue here is whether our agencies are going to cease indulging themselves with various flavors of the month, recognize the non-normality of the change confronting them in terms of public safety, define a meaningful core purpose that takes responsibility for these dramatically changed circumstances and do whatever they must to close the cultural gap now separating headquarters from the field.

Indeed, bridging this cultural divide is the second step that we in community corrections should take to counter the terrorists' attempt to redefine our national marketplace of domestic tranquility. Collins and Porras were not idealists. They were hard-nosed business analysts. They knew that an organization that did not align its structure and process with its core purpose was nothing more than just another organization with a mission statement on the wall. As they made their case, a visionary organization translates its core ideology “into the very fabric of the organization...into *everything* that the company does” by creating “a total environment that envelops employees, bombarding them with a set of signals so consistent and mutually reinforcing that it's virtually impossible to misunderstand the company's ideology and ambitions” (Collins and Porras, 1997: 201-202). This means starting at the top and working down.

If our staff debriefings were clear about any single issue, it was the confusion of message and style that came from leadership, both at headquarters and in the field, during the crisis. Ingstrup and Crookall warn, based on their extensive research on successful public sector agencies around the world, that in an age of relentless change, “leadership is now strategic instrument, not a personal idiosyncrasy” (p. 53). Leaders must understand their organization's mission and must be willing to be held accountable for its achievement. They must listen, involve and delegate, be committed to their



employees and, above all else be consistent. "Managers [in well-performing public organizations] are no longer free to select a style at odds with the values or prevailing leadership style at the agency," they emphasized. "These organizations don't tolerate the dysfunction that inevitably results when followers of Machiavelli, Attila the Hun, Mother Teresa, and Gandhi all hold leadership positions within the same department" (p. 58). Responsible leaders must accept the discipline that a core purpose imposes on their actions and even their beliefs. Such a commitment in word and deed, consistently applied at all levels of management, will go far to reduce line staff mistrust and cynicism and to alleviate what now seems to be a double standard of performance and responsibility.

Unfortunately, up until now, the political contingencies of leadership in community corrections have militated against such a consistency of style and purpose. During my 11 year tenure in the New York City Department of Probation, there have been a total of six permanent and acting commissioners. Each has brought their own conception of our business into office, and each has had their own way of running things. Moreover, what little research that does exist on correctional leadership is not terribly sanguine about its effectiveness. As Mario Paparozzi and Christopher Lowenkamp recently estimated, up to 40 percent of correctional policy makers were ill-informed both about research in their own profession and about sound managerial principles and practices. "What respectable profession or business could thrive for long with even one-fifth to one-third of its leaders and line workers deficient in knowledge, skills, and values essential to the production of desired outcomes," they asked (Paparozzi and Lowenkamp, 2000: 10).

Research findings such as these indicate that much of the impetus for dealing with non-normal change and closing the cultural gap between managers and staff in our agencies may have to come at least as much from the bottom as from the top. Those supervisors and staff who are truly committed to the mission of their organization must insure that the strength of their will and their message is able to withstand the vagaries of contingent change at headquarters. They must collectively guard the "stake fixed in the ground" that defines who they are and what they are about as professionals, so that they can transform their organization's reaction to change from a random to a strategic process. Collins and Porras described this phenomenon as preserving the core and stimulating progress. So long as a visionary company "preserves and protects its core ideology," they argued, everything else is "open for change and evolution" (Collins and Porras, 1997: 81).

Creating community correctional organizations that can consistently generate purposeful rather than random change is the third, and possibly most difficult, step in meeting the challenge to public safety posed by terrorism and its resulting redefinition of public tranquility. Bureaucracies are deliberately built to be slow and lumbering. They are not designed to preserve the core and stimulate progress, but to reify existing process as the core ideology of an organization. These tendencies have become all too painfully apparent in watching how the federal government has reacted to September 11. The organization chart of the Office of Homeland Security, with some forty different agencies under its span of control, is the handiwork of a drunken and very mad scientist. So too is the reaction of one federal agency to our department's repeated offer to establish an exchange of information about groups of probationers who might be at high risk of future involvement in terrorism. After numerous attempts on our part to obtain a response to our inquiry from persons at lower levels in the agency, we finally reached one high-ranking official, who simply ended the discussions by saying, "Well, we'll still have to see what's in it for us." And then there is the CIA, which according to one *New York Times* columnist "slept while the Soviet Union fell and Osama rose" (Dowd, 2001). As a frustrated David Boren, president of the University of Oklahoma and former chairman of the Senate Intelligence Committee, commented to this same columnist, the CIA could only be of use in the war against terrorism if it retooled and became energized by "small teams with very carefully targeted objectives, moving very rapidly and not be part of such a big, moribund, slow-moving, dinosaur structure" (Dowd, 2001).

By adopting risk management as its core purpose, the New York City Department of Probation has deliberately introduced a disruptive factor into bureaucratic normality. The very concept of risk itself defies simple definition and solution. It possesses an indeterminateness that makes bureaucracies exceedingly uncomfortable. For example, the "what works" advocates argue that risk is inextricably connected to the person of the offender. Each offender represents a collection of idiosyncratic,

criminogenic needs that must be addressed discretely by the case manager. In contrast, proponents of restorative or community justice situate the etiology of criminal activity in the neighborhood, whose institutions either contribute to or hinder anti-social and delinquent behavior. In both cases, the source of the problem of risk is fragmented and diverse, precluding the discovery of any standardized solution in terms of intervention and prevention. As different as individuals and neighborhoods can be in their relationship to crime, so too the response of the correctional agency must be just as flexible and varied.

Such constant variation in the conditions leading to a productive outcome makes bureaucracies terribly inefficient and ineffective in trying to deal with the concept of risk. They seek to cope either by forcing diversity into a universal mold (the flavor of the month) or by dividing it into ever smaller pieces (specialization). In the first instance, as "what works" scholars have demonstrated with the placement of low-risk offenders in programs designed for high-risk offenders, risk of recidivism may actually be increased. In the second instance, turf wars become the order of the day, with each fiefdom jealously guarding its information and expertise concerning the probationer and his or her environment. The end result of such bureaucratic manipulation is a reduced ability and capacity of community corrections to provide for public safety. As the risk of crime becomes more global in its implications, our organizations become more insular. As the risk of crime rapidly changes in scope and character, our organizations become more inflexible and unresponsive.

Two years ago, I asked Dr. Charles Heckscher, Professor of Management and Labor Relations and Director of the Center for Workplace Transformation at Rutgers University, to outline a way out of such an organizational dilemma. He responded that in the public as in the private sector bureaucracies were badly suited to deal with the complex and multifaceted demands of today's consumers and citizens for goods and services. Today's marketplace required what he called an "interactive" organization. Such an organization possessed open internal and external boundaries, rested on influence rather than power, depended on the ability to persuade rather than command, had a high degree of internal trust, and emphasized mission over process (Heckscher, 1994:). He argued that because such an organizational transformation was systemic in nature, it would meet substantial resistance. Some of this resistance would arise from want of managerial and employee skills in facilitating collaborative work methods; some would stem from managers under stress naturally regressing to command. But in the end those organizations that did not adapt to the force of circumstances would succumb to the very weight of those same circumstances.

### A Return To Normal?

Terrorism has brought into our once peaceful world of community corrections the unimaginable. At the same time, it has also brought to us a model for responding to its actions now and in the future. Terrorism accomplished its goals by embracing the non-normality of change, by imagining the use of commercial jetliners as bombs that would kill thousands of innocent people and that, in their wake, would globalize violent crime and irrevocably transform the marketplace of domestic tranquility in the United States. It went about its business in a methodical but extremely flexible fashion. Both its leaders and its followers understood that the killing of Americans was its core purpose. Yet it achieved its ends by abandoning most of the constraints of bureaucracy and creating a network of autonomous cells capable of making decisions independent of those at the top. When the call went out for action on September 11, every person involved in terrorism understood his mission and proceeded accordingly to bring death and destruction to the citizens of this and of almost one hundred other countries from around the world.

Community corrections is a proud profession, and the New York City Department of Probation is even prouder to be a participant in that profession. The men and women who are employed in our ranks are dedicated, committed and hard working. We have been shaken by the events of September 11, but we are certainly not bowed. As staff in our debriefings urged all of us, we must learn to have clarity of purpose and a flexibility of action even more determined and more effective than those who would wish to destroy our way of life. For a long time we have known what we must do to transform our organizations and their operations into productive forces for creating, protecting and maintaining public safety. We have hesitated because we were entranced by the magic of normality. Even now we

hear the siren calls of those who would recreate the past. But the past is inextricably past. We must accept the lessons that the terrorists have unfortunately taught us about the way to do business in a world of criminal globalization. Our world has changed...and so must we.

## References

James C. Collins and Jerry I. Porras, "Building Your Company's Vision," *Harvard Business Review*, Vol. 74 (September-October 1996), p. 66.

James C. Collins and Jerry I. Porras, *Built to Last: Successful Habits of Visionary Companies*. New York: HarperBusiness, 1997, p. 54.

Frank Domurad, "Who Is Killing Our Probation Officers: The Performance Crisis in Community Corrections," *Corrections Management Quarterly*, Vol. 4, Issue 2 (Spring 2000).

Maureen Dowd, "That Yankee Magic," *The New York Times*, November 4, 2001, Section 4, p. 13.

Charles Heckscher, "Defining the Post-Bureaucratic Type," pp. 14-62 in Charles Heckscher and Anne Donnellon, eds., *The Post-Bureaucratic Organization. New Perspectives on Organizational Change*. Thousand Oaks, CA: SAGE Publications, 1994.

Paul Hersey, Kenneth H. Blanchard and Dewey E. Johnson, *Management of Organizational Behavior: Utilizing Human Resources*. 7<sup>th</sup> ed.; Upper Saddle River, NJ: Prentice Hall, 1996, p. 527.

Ole Ingstrup and Paul Crookall, *The Three Pillars of Public Management. Secrets of Sustained Success*. Montreal: McGill-Queen's University Press, 1998, p. 45.

Jon R. Katzenbach and Douglas K. Smith, *The Wisdom of Teams: Creating the High-Performance Organization*. New York: Harper Business, 1994, pp. 16-17.

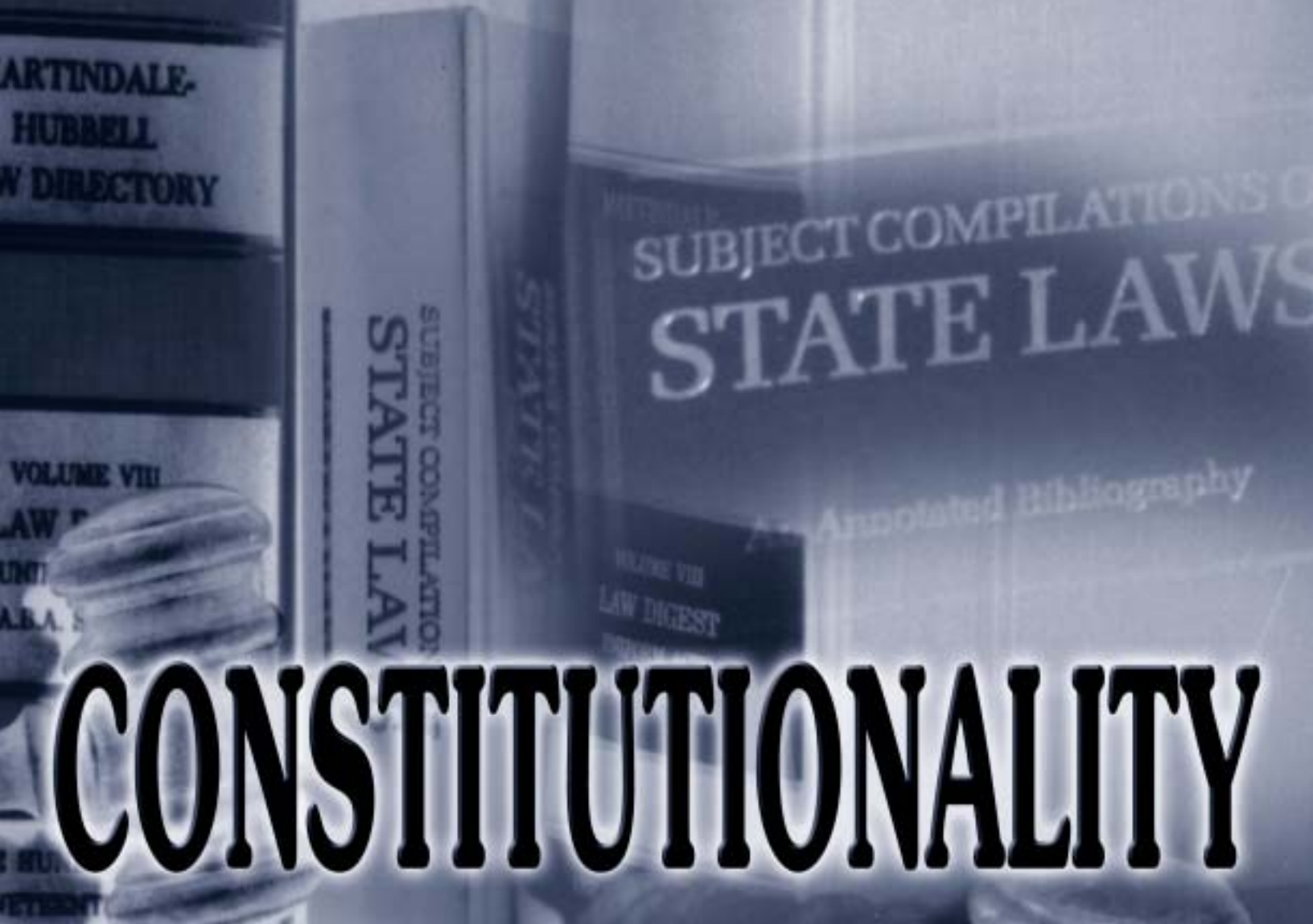
*The New York Times*, October 28, 2001, pp. A4, B4.

Vincent O'Leary and Todd R. Clear, *Community Corrections Approaching the 21<sup>st</sup> Century*. Washington, DC: The National Institute of Corrections, (Draft) September 1995, p. 7.

Mario Paparozzi and Christopher Lowenkamp, "To Be or Not To Be—a Profession—That Is the Question for Corrections," *Corrections Management Quarterly*, Vol. 4, Issue 2 (Spring 2000), p. 10. □

---

*Frank Domurad is the Director of Staff and Organizational Development at the Department of Probation in New York, NY.*



# OF PROBATION AND PAROLE CONDITIONS

## INTRODUCTION

The enforcement of the conditions of parole or probation is essential to the proper supervision of offenders. Conditions reflect the will of the court or parole board and the expectation that the court or parole board has established in order for a parolee or probationer to successfully complete the term of supervision. As officers of the court or officers of the executive branch, probation and parole officers have the legal responsibility for ensuring that the offender abides with the conditions imposed by the court or parole board.

However, in addition, the conditions of parole or probation form an essential part of any supervision or treatment plan established for the offender. The determination of the risks and needs of an offender, the results of any assessments administered to the individual, and specific recommendations made by the officer to the court or parole board that is considering the release of the defendant often reappear as conditions of parole or probation. These conditions, in turn, must be incorporated in the supervision plan of the offender and any treatment plan developed for the individual.

Conditions of probation or parole can be categorized into three classifications: regular, special and modified conditions. In addition to the conditions that an offender must follow, under certain circumstances, an offender may be obligated to report any changes in his or her status to the individual's officer. This obligation to report a change in status may be required as a condition of probation or parole, as an administrative requirement of the probation or parole department, or as a statutory mandate. This article will survey the various types of conditions and change of status requirements that may be imposed on or required of an offender, the responsibility of an officer to ensure that conditions are enforced or a change in status is reported, and the potential liability issues that may arise in the inadequate or improper enforcement of conditions or reporting requirements.

A regular condition of probation or parole is generally one that is statutorily authorized or approved and is imposed on almost every offender granted probation or parole. In addition, a regular condition may be one that, even though not specifically statutorily mentioned or enumerated, is imposed by a particular court or parole board on almost



every offender requesting a grant of probation or parole who appears before that sentencing or parole authority. Because of its universal application, this type of condition is referred to as a regular condition. The imposition of a regular condition of probation or parole is less likely to be successfully challenged on appeal than a special condition. A regular condition is almost invariably presumed to be reasonable.

A special condition is one that is not imposed as a matter of course on all probationers or parolees. It is usually designed to promote the rehabilitation of a specific offender by requiring him or her to avoid an environment deemed not to be conducive to his well-being or to participate in a particular program or service in order to address a specific problem or need. In addition, a special condition may be imposed in order to reduce the potential of an offender committing a specific harm to the community or a victim. As long as a condition can reasonably be said to contribute both to rehabilitative aims and the protection of society, the condition is likely to be held permissible;<sup>1</sup> however, a condition that bears no relationship to the offense committed by the offender or to future criminal acts, does not protect the public, or impermissibly infringes on a probationer or parolee's basic constitutional rights is invalid.

Conditions are set only by the court or parole board; therefore, the field officer need not fear liability for their imposition. However, he or she should be concerned with the enforcement of conditions, both as matters of rehabilitation and practicality. The best time to deal with such issues is before they are imposed. A pre-sentence or pre-parole report should not include a condition that is either overly difficult to supervise or open to serious question as to its function or legality. For example, a condition requiring church attendance would fall into this category because of a potential conflict with the First Amendment's guarantee of the free exercise of religion.

A condition that requires compliance by the offender with "any other order" of the supervising officer can lead to serious problems for the officer. Such a condition may be an improper delegation of authority because it leaves the decision to impose or enforce a certain requirement to the probation or parole officer and not with the court or parole board. Absent express statutory authority to the contrary, such a condition is generally void. Moreover, a court or parole board cannot bestow blanket authority on a probation or parole officer to require an offender to perform an act or refrain from doing so. Not only is such a blank check illegal, it is also not conducive to rehabilitation to put the offender in a position that would cause severe peer or family conflict, such as ordering him to become an informant.

General rules can be stated that should give the field officer ample guidance. First, a formal condition set by the court or the board is generally valid. Second, a reasonable condition, such as meeting with the officer at a certain time and place, is acceptable so long as it is imposed in good faith. Third, in emergency situations, controversial orders will be acceptable provided they are imposed in good faith, are temporary and necessary under a true emergency, and are not illegal. When faced with such a situation, the officer can best protect him or herself by obtaining from the offender a written consent, or if that is refused, a written admission that the offender is aware of the order and wishes to challenge it. Fourth, substantial changes in conditions should not be made except under emergency conditions. Fifth, any changes of an enduring nature must be made by the court or the board.<sup>2</sup> In all events, the officer is obligated to notify the offender of the change and, as with conditions in general, explain the condition to the offender.

Unequal or arbitrary enforcement of conditions can be the basis for a lawsuit under the due process and equal protection clauses of the United

States Constitution and possibly under individual state constitutions. Unreasonable distinctions between individuals or classes of individuals will potentially expose the officer to personal liability. Moreover, the arbitrary or capricious enforcement of conditions or the requirement that a probationer or parolee perform an unreasonable act may also incur liability. The question of reasonableness will be decided on a case-by-case basis. Class distinctions and the unequal or selective enforcement based on race, creed, gender, religion or ethnicity are extremely difficult to justify and should always be avoided.

Specific areas have been the target of recent judicial examination. In particular, conditions involving reproductive rights; rights of free speech and expression; "scarlet letters" (i.e., public shaming); and the requirement to undergo periodic polygraph examinations have been subject to judicial scrutiny. After a brief statement of the current law on conditions in general, the remainder of the discussion about conditions in this article will consider: (1) conditions that infringe upon fundamental constitutional rights, (2) conditions that infringe upon other rights and (3) the authority to modify conditions of the offender.

## I. CONDITIONS IN GENERAL

Probationers and parolees enjoy conditional freedom from confinement. All jurisdictions impose some explicit conditions, or standards of conduct, that the probationer or parolee is expected to observe in return for his or her release. Data about the number and variety of parole conditions are less abundant than probation condition data because the number of authorities imposing parole conditions is limited.<sup>3</sup>

Some of the more common conditions imposed on probationers and parolees are:

- Commit no offense against the state in which the offender was convicted, another state, or the United States of America.
- Refrain from congregating around or associating with disreputable persons or persons with criminal convictions.
- Abstain from the use or possession of alcohol or drugs.
- Maintain suitable employment.
- Report to one's probation or parole officer on a regular basis.
- Obtain permission to travel to another locality in the state or to another state.
- Observe limitations on the possession or ownership of firearms or other weapons.
- Pay restitution to the victim of the offender's crime.

Most of these conditions are statutorily authorized by the legislatures of the states. They indicate the desire of legislators that the courts or parole board impose certain standard conditions on probationers and parolees. The number of legislatively enumerated conditions of probation or parole varies widely from state to state. Some state laws have only a minimum number of prescribed conditions while other states' statutes list many.

Considering that nearly 4.6 million adult men and women were on probation or parole at the end of year 2000,<sup>4</sup> the frequency of litigation concerning the constitutionality and legality of conditions is surprisingly small. This is because a probationer/parolee realizes that he or she has agreed to the conditions and is also aware of the possible consequences

of challenging them. The mere act of agreeing to the terms of probation or parole, however, does not mean that a legal challenge is foreclosed because of waiver. Courts have said that some constitutional rights may not be waived, particularly if the alternative to a refusal to waive is incarceration or non-release. This might amount to undue influence or coercion.

As a general rule, the authority granting probation or parole has broad discretion to set terms and conditions within the statutory framework creating the disposition. Thus, courts will consider conditions valid as long as they are: (1) reasonably related to the rehabilitation of the offender or the protection of society; (2) clear; (3) not unduly overbroad and (4) constitutional. How these requirements are interpreted, however, varies considerably from one court to another, even within one state.

Most authorizing statutes suggest minimum conditions. The supplemental discretion also conferred on the courts or parole board is not unlimited, however, and a challenged condition will not be upheld if it cannot be shown to bear some reasonable relationship to the rehabilitative purpose underlying the probation and parole systems or has some rational basis for deterring future criminal acts by the offender. As the core conditions almost always are so related, challenges to them are seldom successful. Nevertheless, even if a condition has a rational basis in law, the specific language found in the condition must inform the offender in clear, definite and unambiguous terms of what he or she must or must not do or said condition will be invalid.<sup>5</sup>

What follows in this article deals with conditions that are less often imposed. The material presented illustrates that the power to set conditions is limited. This article will discuss the approach the courts take to determine whether a condition is permissible. Even though these conditions are not often imposed, the imposition of certain conditions may show a trend indicating that they are being increasingly utilized by the courts. This is especially true with persons granted probation or parole for sex offenses and assaultive domestic offenses.

## II. CONDITIONS AND CONSTITUTIONAL RIGHTS

Appellate courts have established various tests to determine whether a condition infringing on a constitutional right is permissible. In *Carswell v. State*,<sup>6</sup> a state appellate court held that where a defendant contended that a probation condition was unduly intrusive on a constitutional right, the following three factors had to be balanced: 1) the purpose sought to be served by probation, 2) the extent to which constitutional rights enjoyed by law abiding citizens should be afforded to probationers and 3) the legitimate needs of law enforcement.<sup>7</sup> Generally, federal appellate courts will not strike down conditions of release, even if they implicate

fundamental rights, if such conditions are reasonably related to the ends of rehabilitation and protection of the public from recidivism.<sup>8</sup> Nevertheless, federal appellate courts do require that the federal district judge imposing the condition specify on the record the reason for doing so.<sup>9</sup> Below is a discussion of how courts have addressed the issue of what constitutional rights probationers and parolees retain or lose.

### A. FREE SPEECH AND ASSEMBLY

The United States Supreme Court has recognized that parolees (and by inference probationers) retain a conditional liberty interest whenever they are granted probation or parole.<sup>10</sup> Thus, probationers and parolees have certain fundamental rights that are not abridged simply because the offenders are on probation or parole.<sup>11</sup> Two leading cases in parole recognized the principle that certain constitutional rights cannot be abridged because of the status of the parolee.

In *Sobell v. Reed*,<sup>12</sup> a federal parolee asserted that his First Amendment rights had been violated by an action of the board of parole. Sobell was restricted by the board from going outside the limits of the Southern District of New York without permission from the parole officer. On a number of occasions after his release, Sobell sought and obtained permission to travel to and to speak at various places. However, on other occasions, such requests were denied. Sobell charged that such denials invaded his First Amendment rights.

The federal district court stated that while there are differences between prisoners and parolees, there are none that diminish the protections enjoyed by the latter under the First Amendment.<sup>13</sup> After testing the restriction by the same principles, such as "where the (parole) authorities strongly show some substantial and controlling interest which requires the subordination or limitation of these important constitutional rights, and which justifies their infringement . . .,"<sup>14</sup> the court held that the board violated Sobell's exercise of his rights of speech, expression, or assembly, except when it could show that withholding permission was necessary to safeguard against specifically described and highly likely dangers of misconduct by the parolee.<sup>15</sup>

The second case, *Hyland v. Proconier*,<sup>16</sup> involved a California parolee. As a condition of his parole, he was required to obtain permission from his parole officer before giving any public speeches. The parolee's requests to give speeches about prison conditions at a college campus were denied on two occasions on the ground that the speeches might lead to student demonstrations at the prison. The court stated that "California (and) federal law has imposed the due process rule of reasonableness upon the state's discretion in granting or withholding privileges from prisoners, parolees, and probationers."<sup>17</sup> The Court found that California made no showing that the condition imposed on Hyland was in any way related

***The federal district court stated that while there are differences between prisoners and parolees, there are none that diminish the protections enjoyed by the latter under the First Amendment.***

to the valid ends of California's rehabilitative system.

These two cases illustrate that even though an individual may have been convicted of a crime, he or she still retains certain fundamental rights. These rights can only be infringed if the state shows a rational relationship between the restriction on the rights of the individual and a legitimate penological interest on the part of the state (or federal) authorities. For persons with a conditional liberty interest (i. e., parolees), the state usually must demonstrate a heightened or compelling interest, instead of a more general interest, for curtailing the parolee's liberty interest. Moreover, the restriction imposed on a fundamental constitutional right must be narrowly tailored to serve the compelling interest of the state in the least restrictive means possible. These court holdings logically extend to the probation area.

Several recent court decisions have examined conditions restricting the First Amendment rights of probationers. In *Commonwealth of Massachusetts v. Power*,<sup>18</sup> the defendant was convicted in a highly publicized case of armed robbery. Having granted probation to the defendant the trial court then proceeded to order her, as a condition of probation, not to engage in any profit generating activity connected to publishing anything about her crime or how she was a fugitive for so many years. The defendant appealed, arguing that this restriction was an impermissible infringement on her First Amendment right of free speech. The appellate court disagreed, noting that the trial court did not order her not to discuss the incidents surrounding her offense. Instead the trial court simply said that she could not profit monetarily from any discussion of her crime. The appellate court found that this condition was narrowly tailored to prevent her from receiving a financial reward for her crime without unduly infringing on her right to talk about the matter.

In a 1999 decision, *United States v. Crandon*,<sup>19</sup> the United States Third Circuit Court of Appeals upheld a condition of supervised release for a defendant who pleaded guilty to receiving child pornography that prohibited him from accessing the Internet or other similar computer networks without the prior approval from his probation officer. The court found that this condition was reasonably related to the criminal activity of the defendant, who had used the Internet to develop an illegal sexual relationship with a minor. Courts have also approved conditions of probation restricting anti-abortion protestors convicted of trespassing on the private property of abortion clinics from being within a specific distance from the clinics. These courts have held that this condition does not unduly infringe upon their right of assembly or free speech because the condition has a reasonably relationship to deterring future criminality, specifically trespassing again on private property.<sup>20</sup>

## B. ASSOCIATION

Freedom of association is also protected by the First Amendment. While a condition restricting association is allowed provided there is a correlation between the offense for which the probationer or parolee was convicted and a person or place the association with or presence at which may lead the probationer or parolee to commit the same or similar crime, this condition may still be invalidated by courts for vagueness or over breadth. The condition must be clear to the probationer or parolee<sup>21</sup> and also to the officer responsible for enforcing the condition.<sup>22</sup> An unclear or vague condition needs to be clarified further by the officer so that the probationer/parolee generally knows which conduct is prohibited. For example, does a suspected gang member or person arrested for but not convicted of a crime come under the term "disreputable persons"? Does a condition forbidding a probationer or parolee from frequenting places

where alcohol is served include restaurants or other places where alcoholic beverages may be sold? The scope of such conditions is usually a matter of judicial or agency determination and therefore varies from place to place. In the absence of clear boundaries, those conditions may be overly vague and broad as to be fundamentally unfair.

Some courts have upheld a condition restricting association if it is not vague under certain circumstances even though it might be construed differently in another situation. For example, in *U. S. v. Schave*,<sup>23</sup> the defendant, a white supremacist, was convicted of unlawful possession of an unregistered destructive device. As a condition of release after serving a term in prison, the defendant was ordered not to associate "with organizations that, or their members who, espouse violence or the supremacy of the white race." The defendant argued that this condition was impermissibly vague and unconstitutional because the wording of the condition could include not just a prohibition against participating with white supremacist organizations but also could preclude the defendant from associating with any group, even a legitimate group such as the United States military, that espoused violence.

The appellate court affirmed that a condition of supervised release is unconstitutionally vague if it would not afford a person of reasonable intelligence sufficient notice as to the conduct prohibited. The court noted that the contested condition in *Schave* could be construed so the defendant would be in violation of it if he associated with an individual who, unbeknownst to him, belonged to a white supremacist organization or if the defendant associated with an organization that, even though it advocated violence, was not a white supremacist organization. Despite these ambiguities stemming from the wording of this particular condition, the appellate court held that this condition could be reasonably construed to limiting the defendant's associational rights to groups that both espoused violence and were white supremacist organizations. As such the appellate court upheld this condition.

## C. RELIGION

The free exercise clause of the First Amendment generally puts beyond the reach of government all questions of how an individual chooses to regulate his or her religious life. In the context of correctional institutions, penal officials are generally afforded certain latitude in restricting an inmate's free exercise of religion, provided the restriction rationally furthers a legitimate interest of the penal institution.<sup>24</sup> However, in the conditions of probation or parole context, the courts have examined much more closely the constitutionality of restrictions on a probationer's or parolee's free exercise of religion. Thus a probation or parole condition that purports to require that a convicted person attend Sunday school or church services has invariably been held to be improper.<sup>25</sup>

The courts have examined the propriety of ordering an offender to participate in a religious based treatment program as a condition of supervised release. In *Warner v. Orange County Department of Probation*,<sup>26</sup> the Orange County, New York Probation Department recommended to the court that a defendant, convicted for the third time for driving while intoxicated, attend Alcoholics Anonymous (AA) meetings. The trial court followed the recommendation of the probation department. The defendant filed a federal lawsuit, arguing that the probation department violated his First Amendment rights by recommending that he attend the AA meetings, saying that AA meetings had a pronounced religious component and that he, an atheist, should not have been required to participate in a religious based program.

The Second Court of Appeals agreed with the defendant's contention, stating that a person who had no objection to a religious



## **Cases concerning abortion and contraception tell us that the U.S. Constitution protects — as an aspect of the constitutional right of privacy — the procreative function from government regulation unless justified.**

based program could be required, as a condition of probation, to participate in a program such as Alcoholics Anonymous. However, if a person objected to participating in a religious based program because of his religious beliefs, or absence thereof, then the probation department must afford him or her the opportunity to participate in a secular alcohol treatment program. This opinion focused on the fact that the probation department, in making its recommendation to the trial court, did not first ask the defendant whether he had any religious objections to participating in a religious based program. If the department had asked and the defendant had acquiesced, then the defendant could have been deemed to have waived his rights.<sup>27</sup>

### **D. PRIVACY**

The right of privacy has been the basis of arguments challenging conditions that restrict relationships with a family member,<sup>28</sup> prohibit child-bearing<sup>29</sup> and limit sexual intercourse.<sup>30</sup> A condition is not invalidated merely because it invades the fundamental right to privacy. However, the state generally must demonstrate a compelling, as opposed to the rational interest, for infringing on a probationer or parolee's right to privacy. When this compelling state interest is established varies from one offense to another. For example, a condition that prohibits a probationer or parolee from residing with his or her spouse or other family members would doubtless be unconstitutional if imposed for an embezzlement offense, but might be justifiable if the crime were domestic abuse or an injury to a child.

### **E. PROCREATION**

Cases concerning abortion and contraception tell us that the U.S. Constitution protects — as an aspect of the constitutional right of privacy — the procreative function from government regulation unless justified. However, in the area of probation and parole, research shows no appellate case that has approved the restriction of childbearing as a condition of supervised release for a female offender. Moreover, research has found very few instances in which an appellate court has affirmed an order of a trial court restricting procreative activity as a condition of supervised release for a male offender. But, although court decisions across the country have been consistent in disallowing this condition, the reasons for doing so have varied from jurisdiction to jurisdiction.

In a California case that anticipated the development of this right in its present state, a probation condition prohibiting a woman from becoming pregnant without being married was struck down.<sup>31</sup> It was central to the court's reasoning that the probationer had been convicted of robbery, and that there was no relationship between robbery and pregnancy. In a subsequent California case, *People v. Pointer*,<sup>32</sup> a California appellate court once again barred the imposition of a condition precluding a female probationer from bearing children, even though the condition was directly related to the offense for which she was placed on probation.

In *Pointer*, the defendant had developed strange but deeply rooted

beliefs regarding the proper nutrition for her children. She believed in a very strict low calorie vegetarian diet and rejected all forms of protein. She insisted that her children follow this dietary regiment. The children suffered severe malnutrition and physical defects as a result of this diet. The defendant was convicted of child abuse. Because of her insistence in following this diet and the potential that another of her children would suffer malnutrition, the trial court ordered her not to conceive during the term of her probation.

The defendant appealed, arguing that this condition was an unconstitutional restriction of her fundamental rights to privacy and to procreate. The appellate court acknowledged that this condition was reasonable, in that it was related to the offense for which the defendant was convicted (i.e., child endangerment). The court further noted, however, that whenever a condition of probation impinges upon the exercise of a fundamental right and is challenged on constitutional grounds, the court must also determine whether the condition is impermissibly overbroad in addition to determining its reasonableness. The court found that the purpose for imposing this particular condition, protecting the life and health of a future child, could be achieved by alternative restrictions less subversive to the defendant's fundamental right to procreate. Thus the appellate court invalidated this condition.

Several other appellate courts have also invalidated conditions of probation restricting a defendant's right to procreate. In *Thomas v. State*,<sup>33</sup> a Florida appellate court struck down a condition of probation ordering a probationer not to become pregnant during the term of her probation unless she was married. The court concluded that it bore no relationship to the offense for which she was convicted and was not reasonably related to future criminality. In *People v. Ferrell*,<sup>34</sup> an Illinois appellate court struck down a condition prohibiting a probationer from engaging in any activity with the reasonable potential of causing pregnancy on the grounds that a state statute prohibited a court from ordering a probationer to use a form of birth control as a condition of probation. In *United States v. Smith*,<sup>35</sup> United States Eighth Circuit Court of Appeals struck a condition that prohibited a probationer from conceiving another child other than with his wife.

One appellate court, however, has affirmed a trial court's decision to order a probationer not to conceive a child as a condition of probation. In *State v. Kline*,<sup>36</sup> the defendant, who had a history of abusing his children, was convicted of first degree criminal mistreatment of a child. The trial court ordered that he not father any children before he completed a drug counseling and anger management treatment program. On appeal the Oregon appellate court affirmed the imposition of this condition, saying it was clear that this condition was reasonably related to the offense for which he was convicted. Moreover, because the condition did not permanently ban him from ever having children again but made conceiving another child contingent upon completing certain treatment programs, the court found that this condition did not impermissibly infringe on his fundamental right to procreate.



The United States Supreme Court has yet to rule on the propriety of restricting one's right to procreate as a condition of probation or parole. Thus it has yet to be finally resolved whether this right can be infringed under certain circumstances. Nevertheless although various courts have invalidated this condition for various reasons, including the impracticality of enforcing such a condition, court decisions are based on the conclusion that the right to procreate is fundamental, and therefore, courts will apply a strict scrutiny test for determining whether the state has demonstrated a compelling interest for justifying this condition.

#### F. TERRITORIAL RESTRICTIONS AND TRAVEL

Another right protected by the U.S. Constitution is the right to reside in a place. Banishment conditions, when challenged, are usually invalidated as against public policy and as not related to the offense.<sup>37</sup> Also, orders to deport a non-U. S. citizen as a condition of probation or parole have invariably been held to be invalid on the grounds that such impermissibly infringes on the authority of the United States Immigration and Naturalization Service to make that determination.<sup>38</sup> The most recent case disallowing a deportation condition is *State of Utah v. Arviso*.<sup>39</sup> In this case, a Utah appellate court held that the trial judge's order that a defendant not to return to the United States after he had been deported contravened the Supremacy Clause to the United States Constitution since it was exclusively within the authority of the United States Congress as delegated to the Immigration and Naturalization Service to determine whether a person could or could not enter into the United States.

Nonetheless, the limitation on travel to a city or region may survive if firmly linked to rehabilitative goals or if it bears a reasonable relationship to the offense for which the defendant was convicted or relates to the future criminality of the probationer or parolee. Moreover, a condition requiring a probationer or parolee to remain within a specified geographic region has generally been upheld as a valid exercise of the court or parole board's authority. The use of the Interstate Compact in order to determine whether a state will provide courtesy supervision for a probationer or parolee convicted in another state does not constitute banishment.

Geographical restrictions imposed as a condition of supervision may be deemed unreasonable in light of its breadth and purpose. In *State v. Franklin*,<sup>40</sup> a defendant, who lived in St. Paul, Minnesota, was ordered as a condition of supervision to not enter the city of Minneapolis, St. Paul's neighboring city. The purpose of this condition was to keep the defendant from visiting a certain apartment complex located in Minneapolis, the site where the defendant had been involved in several domestic incidents. The defendant appealed, arguing that it was unduly restrictive. The Minnesota Supreme Court noted that while geographical exclusions were not presumptively invalid, the court must consider the exclusion in relation to the purpose sought to be achieved. In this case, the court noted that the effect of this condition was to preclude the defendant from engaging in certain activities in Minneapolis, such as attending church services, that the defendant had been accustomed to doing. In addition, the court noted that this condition was much broader than it needed to be to achieve the purpose of preventing the defendant from visiting the apartment complex. Given the condition's potential infringement on the defendant's fundamental rights and the paucity of justification for that infringement, the Court concluded that an insufficient nexus existed between the exclusion from Minneapolis and the defendant's rehabilitation or the preservation of public safety.

Even though a jurisdiction may allow a probationer or parolee to move to another state, the defendant may have to relinquish another constitutional right — that of contesting an extradition proceeding. In

*Goode v. Nobles*<sup>41</sup> the defendant was placed on probation in the state of Colorado but granted permission to live in the state of Georgia. Nevertheless, as a condition of being allowed to move out of state, the defendant was required to waive extradition if the state of Colorado ever wanted the defendant to return. The defendant agreed to the waiver, moved to Georgia and then violated the conditions of probation.

The state of Colorado issued a warrant for his arrest. Defendant argued in Georgia that his waiver of extradition was invalid because he did not voluntarily sign it. The Georgia Supreme Court approved the state of Colorado's action requiring the defendant to sign a waiver of extradition. Since the state of Colorado did not have to allow him to move to Georgia but did so as an act of grace, the court concluded that the defendant could be required to waive extradition if he were ever summoned back to the state of Colorado.

#### G. SELF-INCRIMINATION

Conviction does not completely take away a person's constitutional right not to testify against him or herself. Thus, a condition of supervision that required a probationer or parolee to waive his or her Fifth Amendment right against self-incrimination would be invalid.<sup>42</sup> Under some circumstances appellate courts have upheld a condition that required a probationer or parolee to report certain information to the government. Whether such self-reporting constitutes an infringement of the individual's constitution right against self-incrimination depends on three factors: 1) whether the information is compelled, 2) whether the information is incriminating and 3) whether the individual invokes the right against self-incrimination.

Two courts of appeals, involving probation conditions regarding self-disclosure on tax returns, clarified under what circumstances a probationer could be required to furnish information about him or herself. In *United States v. Conforte*, a probationer was ordered to file tax returns without claiming her Fifth Amendment privilege.<sup>43</sup> The district court had reasoned that since the defendant had now been convicted of tax evasion and the only incriminating evidence found in a tax return would relate to tax matters, filing a complete and accurate tax form would not entail the defendant furnishing incriminating evidence to the government. The appellate court, in rejecting the reasoning of the district court and striking down this condition, observed that a tax return potentially contained evidence that would incriminate a defendant not just for tax matters but also for other criminal offenses, such as illegal gambling, prostitution, etc.

In *United States v. McDonough*, a probationer was ordered to file amended tax returns.<sup>44</sup> However, the court did not specify that the defendant furnish complete and accurate information on the return, nor that he waive his Fifth Amendment right against self-incrimination. In this case, the appellate court upheld the imposition of the condition. The appellate court noted that this condition did not compel the defendant to report incriminating evidence to the government, nor to waive his right against self-incrimination. Instead the probationer could still invoke his Fifth Amendment right and refuse to answer certain questions on the tax return that he might consider incriminatory. As such the mere filing of a tax return could not be considered compelled testimony.

#### H. SOME SPECIFIC CONDITIONS AND THEIR LEGAL EFFECT

##### 1. SHAMING OR PUBLIC NOTIFICATION.

A recent trend in the field of probation and parole law is the imposition of conditions of supervised release aimed at either shaming

an offender or at least notifying the community of the nature of the offender's conviction. These are known as scarlet letter conditions. Over the last decade public notification laws have been enacted throughout the country to inform the public of the residence of sex offenders. These laws vary from state to state, with some laws requiring information regarding the residence of a sex offender published in a local newspaper and others requiring residents living near a convicted sex offender to be individually notified of the residence of the offender. Although the legislative purpose of these laws is to protect the community by informing persons of potential dangerous offenders living in their midst, these laws have a tendency to shame the offender because often times the identify of these offenders, including their photograph, and a description of the crime they committed, are made public, either through a newspaper or a website on the Internet.

A more controversial condition of probation or parole requires an offender to personally proclaim guilt to the public. Appellate courts are sharply divided regarding the validity of such a condition. Several jurisdictions have approved the imposition of scarlett letter conditions. In *Goldschmitt v. State*,<sup>45</sup> a trial court ordered a probationer, convicted of drunk driving, to place a bumper sticker on his car reading "Convicted D.U.I. - Restricted Licensee," as a condition of probation. The appellate court upheld the imposition of this condition, stating that it served a sufficient rehabilitative purpose and that it did not constitute cruel and unusual punishment. In *Ballenger v. State*,<sup>46</sup> a Georgia appellate court upheld the imposition of a condition requiring a probationer to wear a fluorescent pink plastic bracelet imprinted with the words "D.U.I. CONVICT."

Some jurisdictions have disallowed the imposition of scarlet letter conditions. In *People v. Heckler*,<sup>47</sup> the trial court imposed a condition on a probationer convicted of shoplifting that he wear a T-shirt bearing a bold, printed statement of his status as a felony theft probationer whenever he was outside his actual living quarters. The appellate court, relying on state constitutional grounds, found that this condition impinged upon his inalienable right to privacy. The court further noted that this condition, which required him to wear this T-shirt whenever he was outside his home, would undermine certain other aims of his probation, such as procuring gainful employment and staying employed.

In another case, *People v. Meyer*,<sup>48</sup> a trial court ordered a defendant to erect at his home a four foot by eight foot sign with eight inch high lettering that read "Warning! A Violent Felon Lives Here. Enter at Your Own Risk!" The Illinois Supreme Court found that the purpose of this sign was to inflict humiliation on the probationer. The court further noted that the statutory provisions for probation in the state of Illinois did not include humiliation as a punishment. Thus, the court disallowed

this condition. And, in *People v. Letterlough*,<sup>49</sup> the New York Court of Appeals rejected the imposition of a condition that the defendant affix to the license plate of any vehicle he drove a fluorescent sign stating "convicted dwi" on the grounds that this condition was not reasonably related to the defendant's rehabilitation and only the legislature had the authority to create a new form of punishment in the form of humiliation.

These cases indicate a split in courts. Those that have disallowed the imposition of scarlet letter or shame conditions have usually done so on the grounds that the trial court exceeded its statutory authority, thus leaving open the question whether a state legislature could amend its probationary statutes and authorize a trial court to impose a scarlet letter condition. A court in the state of California has disallowed the imposition of a scarlet letter condition on constitutional grounds. The court found the condition to be invalid on state constitutional grounds, not on federal constitutional grounds.

Those jurisdictions that have upheld this condition have done so on the ground that this condition furthers the rehabilitative aims of probation by deterring the offender from committing future similar crimes. These courts have also held that shame or scarlet letter conditions do not violate the Eighth Amendment's proscription against cruel and unusual punishment. The United States Supreme Court, however, has yet to rule on this matter so the issue concerning whether a scarlet letter condition violates the Eighth Amendment prohibition against cruel and unusual punishment has yet to be conclusively resolved.

## 2. POLYGRAPHS

Another recent trend in the imposition of certain conditions of release is the requirement that a probationer or parolee submit to a polygraph examination. This condition has been increasingly imposed throughout the country, especially for sex offenders. Courts have generally considered the use of polygraphs for three purposes: 1) as an aid to treatment or counseling, 2) as a means to enforce other conditions of supervision imposed by the court or parole board and 3) as an investigative tool to detect the commission of further crimes. Although courts in a number of jurisdictions have approved the use of polygraphs as a condition of release, they have not necessarily approved the use for all of the above stated purposes. Some courts have limited the use of polygraphs only as an aid to further the rehabilitative treatment of an offender while other courts have condoned the use of polygraphs for much more expansive purposes.

One case that has recently ruled on the use of polygraph examinations as a condition of probation and has approved its use for all of the above stated purposes is *Ex parte Renfro*.<sup>50</sup> In *Renfro*, the defendant was on probation for indecency with a child. Midway through the term

**Courts have generally considered the use of polygraphs for three purposes: 1) as an aid to treatment or counseling, 2) as a means to enforce other conditions of supervision imposed by the court or parole board and 3) as an investigative tool to detect the commission of further crimes.**

of his probation, the trial court modified his conditions by requiring him to submit to a polygraph examination every six months. The defendant appealed this condition, arguing that the only purpose for which the court could impose this condition was to further his treatment as a sex offender and that he had already completed his court ordered counseling. The court noted that the polygraph condition helped to monitor compliance with certain other conditions imposed by the trial court, such as restricting the defendant's contact with young children. The court also observed that because this condition was aimed at deterring and discovering criminal conduct most likely to occur during unsupervised contact with minors, the condition was reasonably related to future criminality. Thus, the appellate court approved the imposition of this condition for reasons other than to further the treatment of the probationer and rejected his contention that this modified condition was invalid.

Even though numerous jurisdictions now allow the imposition of a polygraph examination as a condition of supervision, courts have been hesitant in allowing the use of its results in a revocation proceeding. In *Carswell v. State*,<sup>51</sup> the appellate court stated that although a defendant could be required to submit to a polygraph examination as a condition of probation, he could not be forced to agree to stipulate that the results be admissible in a subsequent court proceeding. Nevertheless, certain admissions against penal interests made during a polygraph examination, such as oral confessions that the defendant had committed a new crime while on probation, may be admissible in a further court proceeding.<sup>52</sup>

### 3. SEX OFFENDER REGISTRATION REQUIREMENTS

As mentioned earlier, one of the more notable developments in criminal justice during the last decade has been the enactment of sex offender registration laws. These state and federal enactments, collectively known as Megan's Law, were named after a seven-year-old girl who kidnapped from her home in New Jersey in 1994 was brutally raped and murdered by a neighbor who was a twice convicted sex offender. When it was later discovered that neither the family of Megan nor the residents in the neighborhood were aware that a sex offender was living in their midst, there was an outcry that notification laws be passed informing neighborhoods of the presence of sex offenders.

Under some states' Megan's Law, courts are authorized, or even mandated, to require a probationer or parolee to register as a sex offender as a condition of supervision. Occasionally, the court or parole board may require a person, whose conviction does not fall within the list of sex offenses necessitating registration or whose offense is not a sex crime, to nonetheless register as a sex offender as a condition of probation or parole. Appellate courts throughout the country are wrestling with the legality of requiring individuals to register for crimes that either are not sex offenses or do not come under the legislative list of sex offenses for which registration is required.

In *State of Connecticut v. Misorski*,<sup>53</sup> the defendant was placed on probation for the offense of sexual assault in the fourth degree and public indecency. A conviction of sexual assault in the fourth degree did not require registration as a sex offender under Connecticut law. Nevertheless the judge authorized the adult probation department to notify the defendant's neighbors and fellow bowling league participants of the defendant's conviction. The defendant contested the authority of the trial judge to permit notification under these circumstances. Although the Connecticut Supreme Court noted that Connecticut law did not require a fourth degree sex offender to register, the court read the state's Megan Law expansively. The court held that the purpose of Megan's

Law supported its view that the sex offender notification statute did not limit the authority of the office of adult probation to notify the community in cases such as this one.

While it is understandable that appellate courts might interpret their applicable sex offender registration laws to include sex offenses that are not enumerated as registered offenses, it is more problematic whether appellate courts would uphold an order of a trial judge requiring a person convicted of a non-sex offense to still register as a sex offender. While certain states have now amended their sex offender registration laws to permit a judge or board of parole to impose a condition of release that a person not convicted of a sex offense still register as a sex offender,<sup>54</sup> it is uncertain whether appellate courts in the country would uphold the imposition of this condition under these circumstances.

For example, the courts in the state of Washington have held that a special condition of supervision cannot be imposed unless said condition is directly related to the criminal behavior at issue.<sup>55</sup> In *Speth v. State*, a Texas appellate court disallowed the imposition of certain sex offender conditions on a defendant who had been placed on probation for aggravated assault and subsequently acquitted of a sex charge in a different trial. The court reasoned that the imposition of sex offender conditions for a person who had been acquitted of the charges would constitute punishment for a crime for which the defendant had been exonerated.<sup>56</sup>

Other jurisdictions may allow a more liberal application of conditions that are not directly related to the criminal offense for which the defendant was placed on probation. For example, appellate courts in the state of Florida have held that general conditions may be imposed as long as they "are rationally related to the state's need to supervise the defendant, regardless of whether they are reasonably related to the defendant's offense or restrict conduct which is not itself criminal."<sup>57</sup> Whether certain courts in the country would extend the reasoning of Florida courts regarding general conditions to a very special condition, such as registering as a sex offender, is unsettled. But even if an appellate court so permitted, there would still be due process issues involving proper notice, an opportunity to present contravening evidence, proportionality between the culpable state of the offender and the severity of the imposed condition, etc.

### III. MODIFICATIONS OF CONDITIONS

Modification of the conditions of probation or parole usually occurs whenever there is a change in circumstances involving the person under supervision. The court or parole board may impose a modified condition of probation for rehabilitative purposes, such as to address a previously unidentified or new need of the probationer or parolee, or for punitive purposes (i.e., to apply a sanction for a violation of the initial conditions of probation or parole). The third purpose for which modifications may occur is in order to resolve any ambiguity in a previously imposed condition. Moreover, certain conditions may have to be modified to conform to a newly enacted legislative enactment (e.g., a new sex offender registration requirement).

Modification may be requested by the person under supervision or by the probation or parole officer. In some instances, the modification may be initiated by the court or the parole board. Modification may take the form of easing conditions, adding, clarifying or extending them. Typically, field officers seek additional restrictions or increased supervision to enhance the likelihood of rehabilitation or public protection.

Because parole and probation officers regularly initiate revocation hearings, it is assumed such officers have the right to suggest the need for modification or change of conditions to the court or the parole board.



In a few jurisdictions, however, parole and probation officers themselves have the power to modify conditions. In these jurisdictions, the officer may go ahead and modify the conditions, but only if it is clear that authority to modify conditions is given to the officer. Most jurisdictions do not authorize officers to modify conditions on their own. Since this act is generally considered a judicial or board function, most jurisdictions in the country hold that, absent an express statutory authorization to the contrary, any modification by an officer would be an improper delegation of authority.<sup>58</sup> In reality, however, many judges do in fact delegate to the officer the power to modify or change conditions, or to specify the details of an imposed condition (such as the need for psychological treatment). It is also a common practice for judges to provide that the probationer may be subject "to such other conditions as the probation officer may deem to impose."<sup>59</sup>

Modifying or changing probation conditions by the officer alone, without specific authorization, must be avoided. It is proper for the officer to suggest that conditions be modified or changed, but unless otherwise clearly authorized, only the judge or board should make that change. If change or modification by the officer is unavoidable (either because that judge insists on such delegation despite invalidity or because of emergency conditions), the officer is best protected against liability by putting the modification or change in writing and making sure the condition is accepted by the offender in writing. Once this is done, a copy should be sent to the judge or board to inform this authority of the change.

There appears to be no clear due process standards for modification. Case law suggests notice is probably necessary; however, it is ambiguous as to the right to a hearing.<sup>60</sup> Instances in which a hearing may be required are usually the result of state law.<sup>61</sup> Moreover, whether there must be a showing that the offender violated one or more of the conditions imposed in order to modify the conditions of supervision or whether the sentencing court or parole board may do so upon a determination that such a modification would be in the best interests of the offender or society is largely controlled by state law.<sup>62</sup>

As parole and probation officers raise professional standards, the possibility of an implied duty to seek modification may arise. If, for example, a probationer or parolee is obviously in need of a different supervision than that originally deemed appropriate, a victim — injured by the inadequately supervised offender — may allege that failure to seek modification is an act of negligence, implying liability. For this reason, it is crucial for officers to be aware of the supervisory authority granted them in their jurisdiction and adhere to it.

#### IV. CHANGES IN STATUS OF THE OFFENDER

Generally there are three instances when a probationer or parolee may be required to provide notice of a change of status: 1) as a condition of release, 2) pursuant to a departmental policy of the supervising agency or 3) in accordance with a statutory mandate. These notification requirements may require a probationer or parolee to report status changes either to the court or parole board, the officer supervising the offender or even to a third party.<sup>63</sup>

Ordinarily, conditions requiring a probationer or parolee to report changes of status have been upheld on appeal. This is especially true if the condition requires the offender to report changes in status that may have a bearing on the enforcement of the other conditions of supervision or may affect the likelihood of successfully rehabilitating the offender. In addition, courts have generally approved an administrative policy established by the officer or agency supervising the offender that requires the offender to report to the officer or agency any changes in the offender's

status. Courts have concluded that such an administrative policy does not constitute an improper usurpation of judicial or board authority, but that such a policy is reasonably and necessarily related to the authority of the supervising agency to enforce the conditions imposed by the court or board.

A state statute may mandate that a probationer or parolee (or his supervision officer) provide notification of any change in status. State legislatures have increasingly been enacting notification statutes requiring sex offenders to provide information on any change in their status. For example, the state of Texas has passed a statute providing that if a juvenile or adult probation officer or a parole officer supervising a person required under state law to register as a sex offender receives information to the effect that the person's status has changed in any manner that affects proper supervision of his person, including a change in the person's physical health, job status, incarceration or terms of release, the supervising officer shall promptly notify an appropriate local law enforcement authority of that change.<sup>64</sup> Because of the inherent sensitivity of information bearing on the status of an offender, it is recommended that probation and parole officers follow strictly the mandates established by a statute, court order or administrative policy regarding the release of any information concerning a change in status and to not deviate from the statutory, judicial or office procedures controlling the disclosure of such information.

#### SUMMARY

In the past, the conditions of supervision imposed by courts or parole boards could be described as little more than "boilerplate" requirements. These conditions were limited in scope and uniformly applied to all probationers or parolees. Scant attention was paid to the individual risk and needs of offenders. This situation has changed over the last few decades. Conditions are now more numerous, are more creative and are tailored to address specific problems of probationers and parolees. They have also touched on areas hitherto considered uncontroversial, such as the right to privacy.

While this new approach has greatly improved the quality of offender's supervision the array of creative conditions now available to courts and parole boards pose challenges to probation and parole officers. Supervision officers must be aware of the various conditions they are expected to monitor and enforce. They must also understand the legal implications that arise from the imposition of these conditions and the possible legal consequences of negligent. Familiarity with court decisions should enhance the quality of supervision and at the same time help insulate probation and parole officers from the legal pitfalls that inhere in this complex and still developing area of law.

#### END NOTES

<sup>1</sup> *United States v. Consuelo-Gonzales*, 521 F.2d 259 (9th Cir. 1975); See also *Poth v. Templar*, 453 F.2d 330 (10th Cir. 1971).

<sup>2</sup> See *State v. Maas*, 41 Or. App. 133, 597 P.2d 838 (1979) where the Oregon Court ruled that a probation condition added by a probation officer could not serve as the basis for revocation because the officer had no authority to add conditions.

<sup>3</sup> *Morrissey v. Brewer*, 408 U.S. 471 (1973).

<sup>4</sup> On December 31, 2000, approximately 3,839,500 adults under federal, state, or local jurisdiction were on probation and nearly 725,500 were on parole. See *Probation and Parole Statistics*, Bureau of Justice Statistics, U. S. Department of Justice at [www.ojp.usdoj.gov/bjs/pandp.html](http://www.ojp.usdoj.gov/bjs/pandp.html)

<sup>5</sup> See *Knight v. State*, 593 So. 2d 1202 (Fla. App. 1992), in which a Florida appellate court ruled that a probation condition requiring the probationer "to show respect to officers connected with the criminal justice system" was too vague to inform the probationer of what conduct was acceptable or unacceptable.

<sup>6</sup> *Carswell v. State*, 721 N. E. 2d 1255 (Ind. App. - 1999).



<sup>7</sup>See *State v. Franklin*, 604 N. W. 2d 79 (Minn. 2000), in which the Minnesota Supreme Court followed the same test in determining the validity of a condition infringing on a constitutional right as the court did in *Carswell v. State*, *supra*.

<sup>8</sup>See *United States v. Schave*, 186 F. 3d 839 (7th Cir. - 1999).

<sup>9</sup>See *United States v. Warren*, 186 F. 3d 358 (3rd Cir. - 1999).

<sup>10</sup>See *Morrissey v. Brewer*, 408 U.S. 471 (1973).

<sup>11</sup>The United States Supreme Court has recognized that even in a prison setting, inmates still retain certain fundamental rights. In *Wolff v. McDonnell*, 94 S. Ct. 2963 (1974) the Supreme Court stated that "though his rights may be diminished by the needs and exigencies of the institutional environment, a prisoner is not wholly stripped of constitutional protections when he is imprisoned for a crime."

<sup>12</sup>*Sobel v. Reed*, 327 F. Supp. 1294 (S. D.N.Y. 1971)

<sup>13</sup>*Id.* at 1304.

<sup>14</sup>*Id.* at 1303.

<sup>15</sup>*Id.* at 1306.

<sup>16</sup>*Hyland v. Proconier*, 311 F. Supp. 749 (N. D. Cal. 1970). See also, *United States v. Lowe*, 654 F. 2d. 562 (9th Cir. 1981); *Barlip v. Commonwealth Board of Probation and Parole*, 45 Pa Common. 458, 405 A. 2d. 1338 (1979); *State v. Camp*, 59 NC App. 38, 295 SE 2d 766 (1982).

<sup>17</sup>311 F. Supp. 749 (N. D. Cal. 1970) at 750.

<sup>18</sup>*Commonwealth of Massachusetts v. Power*, 420 Mass. 410, 650 N. E. 2d 87 (1995).

<sup>19</sup>*United States v. Crandon*, 173 F. 3d 122 (3d Cir. 1999). See also, *State v. Riley*, 121 Wash. 2d 22, 846 P. 2d 1365 (1993), where the appellate court approved the imposition of a condition of probation forbidding the defendant, convicted of computer trespass, from associating with other computer hackers and communicating with computer bulletin boards.

<sup>20</sup>*United States v. Bird*, 124 F. 3d 667 (5th Cir. 1997); see also, *Crabb v. State*, 754 S. W. 2d 742 (Tex. App. - Houston [1st Dist.], 1988).

<sup>21</sup>See *Rich v. State*, 640 P. 2d 159 (Alaska Ct. App. 1982); *Whitehead v. State*, 645 S. W. 2d 482 (Tex. Cr. App. 1982); *People v. Warren*, 89 App. Div. 501, 452 N.Y.S. 2d 50 (1982).

<sup>22</sup>*Watson v. State*, 17 Md. App. 263, 301 A. 2d 26 (1973); *Glenn v. State*, 168 Tex. Crim. 112, 327 S. W. 2d 763 (1959); *Dulin v. State*, 169 Ind. App. 211, 346 NE 2d 746 (1976).

<sup>23</sup>*U. S. v. Schave*, 186 F. 3d 839 (7th Cir. - 1999).

<sup>24</sup>See *O'Lone v. Estate of Shabazz*, 107 S. Ct. 2400 (1987).

<sup>25</sup>See *Jones v. Commonwealth*, 185 Va. 335, 38 S. E. 2d 444 (1946); see also, *L. M. v. State*, 587 So. 2d 1202, (Fla. App. - 1992).

<sup>26</sup>*Warner v. Orange County Department of Probation*, 115 F. 3d 1068 (2d Cir. - 1997).

<sup>27</sup>See *Griffin v. Coughlin*, WL 317180 (N.Y. June 11, 1996) in which the New York Court of Appeals made a similar ruling to that of the 2nd Court of Appeals in *Warner v. Orange County Department of Probation*.

<sup>28</sup>See *West v. State*, 160 Ga. App. 855, 287 S. E. 2d 694 (1982); See also *State v. Martin*, 282 Or. 583, 580 P. 2d 536 (1978); In re Peeler, 266 Cal. App. 2d 483, 72 Cal. Rptr. 254 (1968) and *State v. Thomas* 428 So. 2d 950 (La. Ct. App. 1983).

<sup>29</sup>See *State v. Livingston*, 53 Ohio App. 2d 195, 372 NE 2d 1335 (1976); *Skinner v. Oklahoma*, 316 U.S. 535 (1942); *People v. Dominguez*, 256 Cal. App. 2d 623, 64 Cal. Rptr. 290 (1967).

<sup>30</sup>See *Wiggins v. State*, 386 So. 2d 46 (Fla. Dist. Ct. App. 1980); *Michalow v. State*, 362 So. 2d 456 (Fla. Dist. Ct. App. 1978).

<sup>31</sup>See *People v. Dominguez*, 256 Cal. App. 2d 627. 64 Cal. Rptr. 290 (1967); See also, *L. M. v. State*, 587 So. 2d 1202, (Fla. App. - 1992).

<sup>32</sup>*People v. Pointer*, 199 Cal.Rptr. 357 (Cal. App. 1st Dist. 1984).

<sup>33</sup>*Thomas v. State*, 519 So. 2d 1113, (Fla. App. - 1st Dist., 1988).

<sup>34</sup>*People v. Ferrell*, 659 N. E. 2d 992 (Ill. App. 4th Dist. 1995).

<sup>35</sup>*U. S. v. Smith*, 972 F. 2d 960 (8th Cir. 1992).

<sup>36</sup>*State v. Kline*, 963 P. 2d 697 (Or. App. 1998); see also, *Krebs v. Schwartz*, 568 N. W. 2d 26, 212 Wis. 2d 127 (Wis. App. 1997) where the appellate court approved a condition requiring a defendant convicted of sexually assaulting his daughter to discuss and obtain permission from his probation officer prior to engaging in a sexual relationship.

<sup>37</sup>See *People v. Baum*, 251 Mich. 187, 231 N.W. 95 (1930) (banishment from state for five years); *People v. Smith*, 252 Mich. 4, 232 N. W. 397 (1930) (move to another neighborhood). See also, *State ex rel Halverson v. Young* 278 Minn 381, 154 N. W. 2d 699 (1967); *Flick v. State*, 159 Ga. App. 678, 285 S. E. 2d 58 (1981), *State v. Gilliam*, 274 SC 324, 262 S. E. 2d 923 (1980); *Carchedi v. Rhodes* 560 F. Supp. 1010 (S. D. Ohio 1982).

<sup>38</sup>See *Hernandez v. State*, 613 S. W. 2d 287 (Tex. Cr. App. - 1981); See also, *Martinez v. State*, 627 So. 2d 542 (Fla. App. 1993).

<sup>39</sup>*State of Utah v. Arviso*, 993 P. 2d 894 (Utah App. - 1999).

<sup>40</sup>*State v. Franklin*, 604 N. W. 2d 79 (Minn. 2000).

<sup>41</sup>*Goode v. Nobles*, 518 S. E. 2d 122 (Ga. - 1999).

<sup>42</sup>See *Minnesota v. Murphy*, 104 S. Ct. 1136 (1984).

<sup>43</sup>*United States v. Conforte*, 624 F. 2d 869 (9th Cir.), cert. denied, 449 U. S. 1012 (1980).

<sup>44</sup>*United States v. McDonough*, 603 F. 2d 19 (7th Cir. 1979). See also, *State ex rel Halverson v. Young*, 278 Minn 381, 154 N. W. 2d 699 (1967); *Flick v. State*, 159 Ga. App 6778, 285 S. E. 2d 58 (1981); *State v. Gilliam*, 274 SC 324, 262 S. E. 2d 923 (1980); *Carchedi v. Rhodes*, 560 F. Supp. 1010 (S. D. Ohio 1982).

<sup>45</sup>*Goldschmitt v. State*, 490 So. 2d 123 (Fla. Dist. Ct. App. 1986); see also, *Lindsay v. State*, 606 So. 2d 652 (Fla. App. 4th Dist. 1992).

<sup>46</sup>*Ballenger v. State*, 436 S. E. 2d 793 (Ga. App. 1993).

<sup>47</sup>*People v. Heckler*, 16 Cal. Rptr. 2d 681, 13 C. A. 4th 1049 (1993).

<sup>48</sup>*People v. Meyer*, 176 Ill. 2d 372, 680 N. E. 315 (1997).

<sup>49</sup>*People v. Letterlough*, 655 N. E. 2d 146, (N.Y. 1995).

<sup>50</sup>*Ex parte Renfro*, 999 S. W. 2d 557 (Tex. App. Houston [14th Dist.], 1999. See also *Johnson v. State of Indiana*, 716 N. E. 2d 983 (Ind. App. - 1999), in which an Indiana appellate court held that the imposition of a polygraph condition was reasonable for the purpose of deterring the defendant from violating other terms of probation by instilling fear of detection or where the examination provided probation officials with an indication of the probationer's progress in rehabilitation.

<sup>51</sup>*Carswell v. State*, 721 N. E. 2d 1255 (Ind. App. - 1999).

<sup>52</sup>See *Marcum v. State*, 983 S. W. 2d 762 (Tex. App. - Houston [14th Dist.], 1998, in which an appellate court held that a probationer's statement to a polygraph examiner prior to undergoing a polygraph examination that he had had sex with two small children was admissible in a subsequent revocation hearing as a declaration against penal interest.

<sup>53</sup>*State of Connecticut v. Misorski*, 738 A. 2d 595 (Conn. - 1999).

<sup>54</sup>See Vernon's Ann. Code of Criminal Procedure (Texas) Article 62.02 (a).

<sup>55</sup>*State of Washington v. Schmeck*, 990 P. 2d 472 (Wash. App. - 1999).

<sup>56</sup>*Speth v. State*, 965 S. W. 2d 13 (Tex. App. - Houston [14th Dist.], 1998), reversed for another reason in *Speth v. State*, 6 S. W. 3d 530 (Tex. Cr. App. - 1999).

<sup>57</sup>*Greenwood v. State*, 754 So. 2d 158 (Fla. App. - 2000).

<sup>58</sup>In the interest of T. L. D., 586 So. 2d 1294 (Fla. App. 1991).

<sup>59</sup>See *State of Connecticut v. Misorski*, 738 A. 2d 595 (Conn. - 1999), in which the appellate court upheld a condition imposed by the trial judge that the defendant obey "any other conditions imposed by the office of adult probation."

<sup>60</sup>See *United States v. Warden*, 705 F. 2d 189 (7th Cir. 1983); *Forgues v. United States*, 636 F. 2d 1125 (6th Cir. 1980); *Tyra v. State*, 644 S. W. 2d 865 (Tex. Crim. App. 1982); In re Appeal in Rinal County, Juvenile Action, 131 Ariz. 187, 639 P. 2d 377 (Ct. App. 1981); *State v. Simpson*, 2 Ohio App 3rd 40, 440 N. E. 2d 617 (1981); *State v. Coltrane*, 307 N.C. 511, 299 S. E. 2d 199 (1983); *Kelly v. State*, 627 S. W. 2d 826 (Tex. Crim. App. 1982).

<sup>61</sup>See *Russo v. State*, 603 So 2d 1353 (Fla. App. 1992)

<sup>62</sup>See *Malone v. State*, 632 So. 2d 1140 (Fla. App. 1994).

<sup>63</sup>For example, in *People v. Gould*, 662 N.Y.S. 2d 520 (N.Y.A.D. 2 Dept. 1997), the appellate court approved the imposition of a condition on a probationer convicted of sodomy that he notify future employers of his conviction if he changes employment.

<sup>64</sup>See Vernon's Annotated Texas Code of Criminal Procedure, Chapter 62.05 (a).

## NOTE

This article is a revised and updated version of Chapter 7 of *Civil Liabilities and Other Legal Issues for Probation/Parole Officers and Supervisors*, Third Edition, by Rolando V. del Carmen, et al., published by the National Institute of Corrections. □

---

*Todd Jermstad is the staff attorney for the Bell/Lampasas Counties, Texas, Community Supervision and Corrections Department. Rolando V. del Carmen is Distinguished Professor of Criminal Justice (Law) Sam Houston State University, Huntsville, Texas*



**KidsPeace® Programs**

The National Center for Kids Overcoming Crisis

**Prairie Academy**  
Grand opening early summer 2002

**One of the most  
comprehensive and  
successful juvenile  
reform programs in  
the country!**

**Mesabi Academy**  
Buhl, MN

**Prairie Academy**  
Worthington, MN

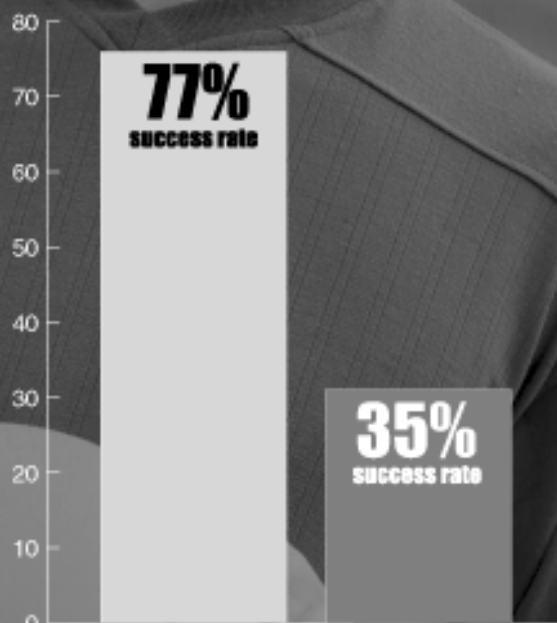
**The correctional continuum includes:**

- Sex offender unit
- Short-term secure unit
- Staff-secured residential

**Academy program components include:**

- Delinquency reform, plus behavioral health and therapeutic modalities
- Individualized treatment planning
- Transportation services
- Vocational training

**Mesabi Academy vs. National Average**



Mesabi Academy recidivism rate:  
23 percent, based on a six-month post-discharge study.

**For more information, please call:**

**1-888-270-5013**

**KIDSPACE OFFERS SERVICES IN GEORGIA, INDIANA, MAINE, MARYLAND, MINNESOTA, NEW JERSEY, NEW YORK, NORTH CAROLINA, PENNSYLVANIA, AND VIRGINIA.**

Mesabi Academy and Prairie Academy, divisions of KidsPeace, are private, not-for-profit youth correctional facilities offering health services, residential, educational, and vocational training, and aftercare and community reintegration for delinquent youth who are felony or misdemeanor status, or are chronic offenders. Headquartered in Orefield, Pennsylvania, KidsPeace offers a comprehensive range of treatment programs and educational services for kids in crisis.

© 2002 KidsPeace

Please circle #37 on the reader information card

# CALENDAR OF EVENTS

## 2002

Mar. 24-27	<b>29th National Conference on Juvenile Justice, Houston, TX.</b> Contact (703) 549-9222 or fax (703) 836-3195.	May 5-8	<b>Texas Corrections Association 2002 Annual Training Conference,</b> Corpus Christie, TX. Contact (512) 454-8626, ext. 6022.
Mar. 26-30	<b>Association of Juvenile Compact Administrators 2002 Mid-Winter Workshop,</b> Houston Marriott West Loop, Houston, TX. Contact Donna Bonner by fax (512) 458-5077.	May 8-11	<b>National Association of Sentencing Advocates 2002 Annual Conference and Mitigation Institute,</b> Hotel Washington, Washington, DC. Visit <a href="http://www.sentencingproject.org/nasa/2002conflyer.pdload">www.sentencingproject.org/nasa/2002conflyer.pdload</a> .
Apr. 5	<b>"Dealing with the Aftermath of Trauma: The Bobby Smith Story,"</b> sponsored by Eastern Kentucky University College of Law Enforcement's Training Resource Center, Richmond, KY. Contact Mitzi Tipton at (859) 622-8078 or visit <a href="http://www.trc.edu.edu/ssdaay.htm">www.trc.edu.edu/ssdaay.htm</a> .	May 19-22	<b>Middle Atlantic States Correctional Association 2002 Conference,</b> Sheraton Dover Hotel, Dover, DE. Contact Linda Riddagh at (302) 739-5601, ext. 239 or e-mail <a href="mailto:lriddagh@state.de.us">lriddagh@state.de.us</a> .
Apr. 8-9	<b>APPA Professional Development Training, "Survival Skills for Middle Managers: Out of the Frying Pan and Into the Fire,"</b> Cincinnati, OH. Contact Karen Dunlap at (859) 244-8211 or visit <a href="http://www.appa-net.org">www.appa-net.org</a> .	May 20-22	<b>3rd Annual Innovative Technologies for Community Corrections Conference,</b> San Diego Marriott Mission Valley, San Diego, CA. Contact Joe Russo at (800) 416-8086.
Apr. 8-9	<b>APPA Professional Development Training, "Strength Based Practices for Community Corrections Practitioners,"</b> Wichita State University, Hughes Metropolitan Complex, Fairmount, Wichita, KS. Contact Karen Dunlap at (859) 244-8211 or visit <a href="http://www.appa-net.org">www.appa-net.org</a> .	June 10-12	<b>Advanced Crime Mapping and Analysis Course,</b> offered through the National Law Enforcement and Corrections Technology Center and the National Institute of Justice. Contact Danelle DiGiosio at (800) 416-8086.
Apr. 13-16	<b>National Commission on Correctional Healthcare Clinical Updates in Correctional Healthcare,</b> Broward County Convention Center, Fort Lauderdale, FL. Contact (773) 880-1460 or register on-line at <a href="http://www.ncchc.org">www.ncchc.org</a> .	July 14-20	<b>Probation, Parole &amp; Community Supervision Officers' Week.</b> Media Kit to be available May 1. Contact Karen Fuller at the American Probation and Parole Association at (859) 244-8196 or e-mail <a href="mailto:kfuller@csg.org">kfuller@csg.org</a> .
Apr. 14-16	<b>National Youth Court Conference 2002, "America's Youth Justice System: The National Conference on Youth Courts,"</b> Crystal Gateway Marriott, Arlington, VA. Contact Lisa Ginter at (859) 244-8193 or visit <a href="http://www.youthcourt.net">www.youthcourt.net</a> .	Aug. 3-8	<b>American Correctional Association 132nd Congress of Correction,</b> Anaheim, CA. Contact Conventions Department at (800) 222-5646 x-1922 or visit <a href="http://www.aca.org">www.aca.org</a> .
Apr. 18-21	<b>Coalition for Juvenile Justice 12th Annual Training Conference and Board of Directors Meeting,</b> Wyndam Hotel, Washington, DC. Contact CJJ National Office at (202) 467-0864 or e-mail <a href="mailto:info@juvjustice.org">info@juvjustice.org</a> .	Aug. 25-28	<b>American Probation and Parole Association 27th Annual Training Institute,</b> Adam's Mark Hotel, Denver, CO. Contact APPA at (859) 244-8204 for more information or visit <a href="http://www.appa-net.org">www.appa-net.org</a> .
Apr. 28-30	<b>17th Annual Conference of the National Adolescent Perpetration Network,</b> Toledo, OH. Contact NAPN at (303) 864-5192.	Oct. 6-9	<b>The National Association of Pretrial Services Agencies (NAPSA) 13th Annual Conference and Training Institute</b> Doubletree Hotel, Arlington, VA (Reagan National Airport/Crystal City) Contact Marilyn Walczak NAPSA (414)-297-9161 or email <a href="mailto:marilynwalc@earthlink.net">marilynwalc@earthlink.net</a>
Apr. 28-May 1	<b>Association of Paroling Authorities International Training Conference,</b> Marriott Downtown, Salt Lake City, UT. Contact (573) 796-2113 or e-mail <a href="mailto:ghdh@aol.com">ghdh@aol.com</a> .	<div style="border: 1px solid black; padding: 10px;"> <p><b>To place your activities in Calendar of Events,</b> please submit information to:</p> <p>Susan Meeks American Probation and Parole Association P.O. Box 11910, Lexington, KY 40578 or fax to (859) 244-8001</p> <p><i>Information needs to be received no later than four months prior to event to be included in the calendar.</i></p> </div>	
Apr. 28-May 2	<b>2002 American Jail Association 21st Annual Training Conference &amp; Jail Expo,</b> Milwaukee, WI. Contact Pat Cain at (301) 790-3930, fax (301) 790-2941, e-mail <a href="mailto:jails@worldnet.att.net">jails@worldnet.att.net</a> or visit <a href="http://www.corrections.com/aja">www.corrections.com/aja</a> .		



# probation, parole & community supervision officers' week

over eighty thousand  
officers  
work in our  
communities  
every day  
to help  
ensure public safety

**July 14-20, 2002**

American Probation and Parole Association • 859/244-8203 • [www.appa-net.org](http://www.appa-net.org)



American Probation and Parole Association  
c/o The Council of State Governments  
P.O. Box 11910  
Lexington, KY 40578-1910

Nonprofit Organization  
U.S. Postage  
PAID  
Lexington, KY 40578  
Permit No. 355