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Federal Probation (ISSN 0014-9128) is dedicated to informing its readers about current thought, research, and practice in corrections and criminal justice. The journal welcomes the contributions of persons who work with or study juvenile and adult offenders and invites authors to submit articles describing experience or significant findings regarding the prevention and control of delinquency and crime. A style sheet is available from the editor.

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This Issue in Brief

TO THE READERS:

We are pleased to welcome as a member of *Federal Probation's* advisory committee the Honorable David D. Noce, magistrate judge of the United States District Court for the Eastern District of Missouri.

Judge Noce, a magistrate judge since 1976, served as chief magistrate judge from 1989 to 1997. He holds a law degree from the University of Missouri-Columbia. His previous experience includes teaching business law in college and serving as a legal officer in the United States Army. He also worked as a law clerk for two district judges of the federal district court in St. Louis and as an assistant United States attorney, prosecuting federal criminal cases.

Judge Noce currently teaches a course on jury instructions at both St. Louis University School of Law and Washington University School of Law. He has served on the Judicial Conference Committee on Criminal Law and on the Circuit Council of the Eighth Circuit.

KAREN S. HENKEL
Editor

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A Decade of Experimenting With Intermediate Sanctions: What Have We Learned?—Intensive supervision, home confinement, community service, boot camps, and day fines — these and other intermediate sanctions have been put forth in recent years as panaceas in corrections. Have they had an impact on program costs, recidivism, and prison crowding? Have they delivered what they promised? Author Joan Petersilia reviews what we have learned about intermediate sanctions after a decade of experience with them and how they have influenced current practice.

Electronic Monitoring: What Does the Literature Tell Us?—Electronic monitoring (EM) has been available to corrections as a supervision tool for almost 20 years. During that time, much has been written about EM in journals, magazines, newspapers, textbooks, and other sources. Author Annesley K. Schmidt offers a review of the EM literature, which ranges in

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scope from discussion of equipment, to program descriptions and evaluations, to commentaries on the technology, to explanation of laws and regulations.

When an Employee Dies: Managing the Aftermath of a Critical Incident.—Unforeseen tragedy—be it an act of nature, a terrorist action, or the sudden death of an employee—may strike any organization at any time. How well organizations prepare for these "critical incidents" may determine how well they cope with them. Authors Mark J. Maggio and Loren A.N. Buddress explain the wisdom of instituting a critical incident response policy and tell how the probation office in the Northern District of California responded to the violent and unexpected death of its PC systems administrator.

Organizational Probation Under the Federal Sentencing Guidelines.—Probation as a criminal sanction for organizations was codified into federal law in 1991, when the U.S. Sentencing Commission added Chapter 8 to the sentencing guidelines. Author Gary S. Green discusses the legal background for organizational probation and offers an analysis of Sentencing Commission data on 271 organizations sentenced under Chapter 8 from 1993 through 1996. He describes the types of organizations, their offense types, and their sentences.

Operation Spotlight: ***The Community Probation-Community Police Team Process.—***Authors Harold B. Wooten and Herbert J. Hoelter describe the Community Probation-Community Police Team Process, called *Operation Spotlight,* that the National Center on Institutions and Alternatives developed to focus the investigative and supervision services of police and probation systems on at-risk offenders who are already in the community. They discuss the importance of probation and police agencies sharing information about these offenders and of engaging local citizens and community resources in the process.

A Continuum of Sanctions for Substance-Abusing Offenders.—Author Sam Torres presents a continuum of community-based sanctions to use whenever offenders violate their special drug aftercare condition. Violations that lend themselves to these sanctions include failures to report for drug testing, stalls, providing diluted specimens, and positive alcohol and drug tests. The sanctions range from a mild verbal admonishment to placement in an intensive residential drug treatment program. The strategy presented is based on the tenet that offenders must be held accountable for their decision to use drugs.

The Impact of Treatment: The Jefferson County (Kentucky) Drug Court Program.—Authors Gennaro F. Vito and Richard A. Tewksbury present the results of an impact evaluation of the Jefferson County Drug Court Program. The research revealed that African American defendants were most likely to complete the program successfully, drug court graduates—compared to nongraduates and a comparison group—had the lowest rate of reconviction, and program completion was the best predictor of success. The results support the conclusion of other studies that treatment programs can effectively reduce recidivism rates.

What Do We Know About Anger Management Programs in Corrections?—This article explores the content, application, effectiveness, and propriety of anger management programs and concludes that such programs merit additional study to maximize their potential for preventing violence. Author Pamela Stiebs Hollenhorst focuses on anger management programs in correctional settings in Madison, Wisconsin, and distinguishes between anger management and domestic violence prevention programs.

Correctional Officer Stress: A Cause for Concern and Additional Help.—Author Peter Finn addresses an important concern—correctional officer stress. He examines the pervasiveness and the severity of it and summarizes research about what causes this stress and what effects it has on officers and institutions. A review of selected efforts to help prevent and treat correctional officer stress also is offered. The article is based on a review of the literature and on interviews with correctional officers and administrators.

Successful Mentoring in a Correctional Environment.—A mentor can help the new employee mature and succeed—in corrections just as in other jobs. What is the link between the organization, the mentor, and the protégé? Author Peter M. Wittenberg tells about his own experiences with mentors in his correctional career. He describes the mentor-protégé relationship and the mentor's traits and responsibilities. He also addresses choosing a mentor, establishing a formal mentor program, and ending a mentoring relationship.

A Decade of Experimenting With Intermediate Sanctions: What Have We Learned?*

By Joan Petersilia, Ph.D.
Professor of Criminology, Law, and Society, University of California, Irvine

THIS ARTICLE reviews what has been learned during the past 10 to 15 years about the restrictions and costs of intermediate sanctions, those mid-range punishments that lie somewhere between prison and routine probation. Various intermediate sanctions programs (ISPs) that incorporate intensive supervision, home confinement, community service, boot camps, and day fines have been developed in recent years.

For those of us whose research has focused primarily on community corrections, the end of the 1990s marks an important landmark. We have witnessed the natural progression of ISPs, beginning in the mid-1980s with the media's enthusiastic portrayal of them as the panacea of corrections; through program design and implementation; to evaluation and testing; and finally to institutionalization, redesign, or abandonment. It is critical for scholars, policymakers, and practitioners to look back and reflect upon what has been learned during these years.

When looking at ISPs, there are three important questions to consider: First, what did the ISP experiment consist of—who did what, with whom, and for what purpose? Secondly, how did ISPs affect program costs, recidivism, and prison crowding? And, perhaps most important, how is the knowledge gained from this experience influencing current practice?

Several conclusions can be drawn from the evaluations of ISPs:

- In terms of sheer numbers and investments, the overall ISP experiment was more symbolic in its achievements than substantive.
- Specific components must be in place for these programs to work.
- Research findings currently influence the design of corrections programs and, more important, contribute to an emerging community justice model that promises to create a major paradigm shift in community corrections.

***This article was originally prepared for the National Institute of Justice (NIJ) for use in its Crime and Justice Perspectives series and is reprinted with NIJ's permission.**

The ISP Experiment Begins

In the mid-1980s, a broad-based consensus emerged as to the desirability of developing mid-range punishments for offenders for whom incarceration was unnecessarily severe and ordinary probation was inappropriately light. Three converging conditions and events drove the development of this consensus.

1. Crowded Southern prisons and a poor economy. First, prison crowding in the Southern United States, coupled with a poor regional economy, created early pressures for tough community-based options. Federal courts found several overcrowded prisons in the South to be in violation of the eighth amendment prohibition against cruel and unusual punishment and mandated that these states either build new facilities or find some other way to punish offenders. Because these states did not have the funds to build new prisons (as other states experiencing prison population growth initially did), judicial pressure created an incentive for them to develop tough but inexpensive sentences, specifically those that did not require a prison cell. Because the voters were not about to endorse "soft" social programs, the new programs were presented to the public as punitive rather than rehabilitative. In fact, some of the older, first-generation intensive supervision programs (which provided intensive rehabilitation services) changed their names to "intensive surveillance" programs while programs originally called "alternatives to incarceration" were renamed "intermediate punishments."

The State of Georgia developed the first well-publicized intensive supervision program, the hallmark of which was the assignment of 25 offenders to a supervision team of two probation officers. The team consisted of a surveillance officer, whose main responsibility was to monitor the offender closely, and a probation officer, who provided counseling and had legal authority over the case. While on intermediate sanction, each probationer was seen five times a week, performed community service, paid a supervision fee, and had to be employed or in an educational program.

Georgia's self-evaluation showed that ISP participants had extremely low recidivism rates (less than 5 percent), and most offenders maintained employment and paid restitution to victims. In addition, the

monthly supervision fee made the program self-supporting. In 1985, Georgia Corrections Commissioner David Evans claimed the ISP had saved the state the cost of building two new prisons.

A great deal of national publicity followed. The *Washington Post* and the *New York Times* ran major stories touting the program's success and called Georgia's program "the future of American corrections." Proponents suggested that intermediate punishments could relieve prison crowding, enhance public safety, and rehabilitate offenders—all at a cost saving. Probation staffs also were enthusiastic, saying intermediate sanctions programs gave them an opportunity to "do probation work the way it ought to be done."

Illinois, Massachusetts, New Jersey, and Florida, among other states, quickly followed suit, and the intermediate sanctions movement was born. It is important to be clear about the initial motivation: modern ISPs were developed in direct response to prison crowding, and without that pressure, we would not be here today reviewing their performance.

2. First indepth study of U.S. felony probation. Research evidence produced at that time showed that the existing felony probation system was a failure in large urban areas. This evidence helped convince California and other large states that had not yet faced severe prison crowding that there were public safety risks in placing felons on routine probation. In 1983, the National Institute of Justice (NIJ) awarded a grant to the RAND Corporation to conduct the first indepth study of felony probation in the United States. The final report, *Granting Felons Probation: Public Risks and Alternatives,* documented the fact that serious felons were being granted probation. Furthermore, because of limited (and often declining) community corrections resources, these offenders were ineffectively supervised, and the public safety consequences were severe. Two-thirds of the nearly 2,000 felony probationers who were tracked during this study were rearrested within 3 years, and more than half were reconvicted of serious offenses.[1]

The study also generated a great deal of public attention because it clearly showed that overburdened probation staff often were unable to closely supervise felons or hold them accountable for their crimes. The researchers, however, did not call for the abandonment of probation for felons or their incarceration in the future but rather something in between:

> The justice system needs an alternative, intermediate form of punishment for those offenders who are too antisocial for the relative freedom that probation now offers but not so seriously criminal as to require imprisonment. A sanction is needed that would impose intensive surveillance, coupled with substantial community service and restitution.

The study concluded that mid-range punishments—such as those instituted in Georgia—were needed not only to relieve prison crowding but to relieve probation crowding as well. The dissemination of the NIJ-RAND study became the second event to increase the acceptance of ISPs.

3. Morris and Tonry's book on the polarization of sentencing. The third event that was critical in creating the impetus for the ISP movement was the publication of an influential book in 1990 by Norval Morris and Michael Tonry entitled *Between Prison and Probation: Intermediate Punishments in a Rational Sentencing System.*[2] Written by two of the nation's leading criminologists, this study acknowledged that U.S. judges faced a polarized choice between prison and probation, with a near vacuum of punishment options between these extremes. The study provided the needed conceptual framework for a more graduated sanctioning system that relied upon a range of sentences including fines, community service, house arrest, intensive probation, and electronic monitoring. Morris and Tonry argued that rigorously enforced intermediate punishments better serve victims and the justice system. A continuum that matches offenders to sanctions based on the seriousness of their crime is essential—regardless of any prison-crowding concerns—in creating a rational sentencing system, they wrote.

The ISP Concept Gains Strong Support

What existed, then, were program models that appeared to work, research to show that without these programs the public was at serious risk, and a compelling theoretical justification for moving forward. A groundswell of support emerged for intermediate sanctions and, as one article noted about this period, "State legislators were virtually falling over each other" in an effort to sponsor legislation to implement these programs.[3]

The U.S. Department of Justice (DOJ) and several private organizations, particularly the Edna McConnell Clark Foundation, played a catalytic role in focusing this energy. In 1990, NIJ sponsored a national conference that brought together more than 300 federal, state, and local criminal justice administrators to explore the state of intermediate sanctions and their potential. In his keynote address, Attorney General Dick Thornburg emphasized the strong bipartisan support for developing intermediate sanctions. The Bureau of Justice Assistance (the "action" arm of DOJ) solicited agencies across the country to participate in a demonstration to test the costs and benefits of various types of ISPs. In addition, NIJ and the National Institute of Corrections (NIC) provided technical assistance, training, and research for a number of projects.

The 10 years between 1985 and 1995 could best be described as the period of ISP implementation and evaluation. Hundreds of programs were started, often with a great deal of ceremony. During this period, vir-

tually every large probation or parole agency developed programs of intensive surveillance, electronic monitoring, house arrest, drug testing and, to a lesser extent, boot camps and day reporting centers.

A Closer Look Reveals Low ISP Participation and Shallow Funding

Most important, very few offenders, relatively speaking, participated in intermediate sanctions programs, and few dollars were spent on new ISP initiatives. Today, virtually every state and the federal government report having intensive supervision programs, but fewer than 6 percent of the 2.7 million adult probationers and parolees in the United States are estimated to be participating in them. (This number is, however, higher than anytime in the past.[4]) All 50 states report using electronic monitoring, and, despite what has often been characterized as explosive growth, the number of probationers and parolees monitored electronically is now at its highest level ever —about 1 percent.[5] Although 35 states report operating boot camps, the combined daily census has never exceeded 10,000 participants.[6] Finally, although nearly 125 day reporting centers operate in the United States, their combined daily population is less than 15,000.[7]

It appears that, at most, 10 percent of adult probationers and parolees participate in ISPs—a figure that is probably higher than at any time in the past. It is safe to say that the ISP experiment has not touched the bulk of those for whom it might be appropriate, such as felons with increasingly serious prior records and a history of substance abuse who are granted probation.

Moreover, when offenders were assigned to ISPs, the intensity of services and surveillance fell short of what the initial program models prescribed — most likely because sufficient dollars were not invested. As best as can be calculated, less than $10 million was invested by the federal government in ISP research and demonstration projects between 1985 and 1995. This can be compared to the $10 million the federal government invests in evaluations of community-oriented policing each year.

In no way is this intended to offend those responsible for making these funding decisions. The boom in ISPs took place in 1994—the same time that DOJ and NIJ budgets for research and demonstration programs were declining to a 20-year low. Competition for those scarce dollars was fierce, and corrections research—particularly community corrections research—has never attracted major financial support. Fortunately, Congress has increased funding to the Bureau of Justice Assistance (BJA), the Bureau of Justice Statistics (BJS), and NIJ, and corrections research has again found support.

What Did the ISP Experiment Really Consist Of?

It is beyond the scope of this presentation to fully describe the nature of ISPs or their evaluations. For anyone interested in such details, the recently published University of Maryland report entitled *Preventing Crime: What Works, What Doesn't, What's Promising* is recommended.[8] However, I will briefly summarize the specifics of the more popular programs.

As mentioned earlier, intensive supervision programs were the first—and still remain—the cornerstone of the intermediate sanctions movement. ISPs initially were developed as a means to divert low-risk prisoners to the community or place higher-risk probationers on smaller caseloads with more restrictions. Concurrent with the emergence of ISPs was a developing technology to permit greater surveillance of offenders. As the cold war wound down, the defense industry along with the developing computer and electronic industries saw the community corrections clientele as a natural place to put its energies—a growing market. Electronic monitoring, voice verification systems, cheap on-site drug testing, breathalyzers through the phone—all allowed community corrections the option of becoming more surveillance-oriented and using the offender's home as a place of incarceration.

Jurisdictions could chose from a menu of bells and whistles, which included surveillance and services, and the goal came to be toughness in appearance. Jurisdictions adopted what they wanted, what they could afford, and applied such programs to whomever they wanted—so that a wide variety of ISPs got implemented—and the name "ISP" really has no commonly agreed upon definition as a result. It simply means "more than" what offenders in that location would have gotten in the absence of the ISP.

As noted earlier, most of the programs implemented were much less intensive than the original Georgia model had called for. Recall that the Georgia ISP model called for caseloads of 25:2, and two face-to-face contacts, minimally per week, and I know of no large urban probation department that was able to sustain that level of caseload size and contact level for its felony probationers. Even programs that began with multi-week visits displayed a strong tendency to "regress to the mean" of only one or two visits per month to a client. Suffice to say that for offenders who did participate, their level of *both* service and surveillance fell below the desired intensity.

Moreover, failure to comply with ISP conditions did not mean that you would be violated from probation. Patrick Langan of BJS studied a nationally representative sample of all adult probationers and discovered that nearly half of them were discharged from probation *without* having fully complied with their court-ordered sanctions.[9] More than a third of all offenders were successfully discharged from probation without completing court-ordered drug treatment, drug testing, house arrest, or day reporting programs. And 40 percent of those discharged had not paid their victim resti-

tution or supervision fees. He concluded that "intermediate sanctions are not rigorously enforced." Still, something different *did* happen in those communities that implemented ISPs and several good evaluations were conducted.

Program Costs, Recidivism, and Prison Crowding

Relative to the investment made, a tremendous amount was learned from these programs. Despite differences in the programs, the agencies that implemented them, and the characteristics of offenders who participated in them, three major findings are very consistent.

First, ISP participants, by and large, were not prison-bound but rather were high-risk probationers. In state after state, well-meaning program developers wrote guidelines for prison "diversions." Well-meaning judges and prosecutors ignored them and filled the programs with high-risk probationers. From the perspective of those who created these programs to save money and prison space, judges "misused" intermediate sanctions. From the perspective of judges, they had endorsed the concept of a continuum of sanctions and preferred to use these options to increase supervision and accountability for felony probationers. The ISP experiment was definitely "net widening," but given the laxity of current supervision of serious felons on probation, it is more accurate to characterize it as "net repairing."

Second, ISP offenders were watched more closely, but ISP supervision did not decrease subsequent arrests or overall justice system costs. Technical violations, however, increased. Offenders on intermediate sanctions, electronic monitoring, boot camps, day fines, and drug testing programs were watched more closely—as evidenced by a greater number of contacts—but the programs did not reduce new arrests.

For example, the ISP national demonstration evaluated by Susan Turner and me, which involved 14 counties in 9 states, found no difference in arrests after 1 year (38 percent for ISP participants and 36 percent for routine probationers), more ISP than control offenders with technical violations (70 percent and 40 percent, respectively), and, as a result, more ISP than control offenders returning to prison or jail by the end of 1 year (27 percent and 19 percent, respectively).[10]

Because it is doubtful that ISP offenders committed more violations, close surveillance probably uncovered more technical violations. Whenever this happened, many ISP managers took punitive action—often revocation to prison—to maintain the program's credibility in the eyes of the judiciary and the community. Programs that were started primarily to save money and avoid the costs of prison often cost their counties more over the long term.

These results bring into question two basic premises of intermediate sanctions, i.e., that increased surveillance acts as a constraint on the offender and that the likelihood of detection acts as a deterrent to crime. The University of Maryland project, which summarized evaluations across the full range of intermediate sanctions, concluded: "Except in a few instances, there is no evidence that these programs are effective in reducing crime as measured by official record data."[11]

Third, an important and tantalizing finding—consistent across all the evaluations regardless of program design—points to the importance of combining surveillance and drug treatment program participation. In the RAND ISP demonstration, offenders who participated in treatment, community service, and employment programs—prosocial activities—had recidivism rates 10 to 20 percent below that of those who did not participate in such additional activities.

Researchers have found similar results in Massachusetts, Oregon, and Ohio, and a recent meta-analysis of 175 evaluations of intermediate sanctions programs concluded that the combination of surveillance and treatment is associated with reduced recidivism.[12] Paul Gendreau and Tracy Little conclude, "In essence, the supervision of high-risk probationers and parolees must be structured, [be] intensive, maintain firm accountability for program participation, and connect the offender with prosocial networks and activities."

The empirical evidence regarding intermediate sanctions is decisive: Without a rehabilitation component, reductions in recidivism are elusive. In sum, the ISP evaluations show that programs were seldom used for prison diversion but rather to increase accountability and supervision of serious offenders on probation. In addition, programs did not reduce new crimes, but instead increased the discovery of technical violations and ultimately increased incarceration rates and system costs. However, programs that provided treatment and additional services obtained some reductions in recidivism, particularly for high-risk offenders and for drug offenders more specifically.

Influencing Current Practice

How do ISP evaluations influence current practice? This is the most important of the three original questions because the ultimate goal of producing knowledge is to effect positive action. Still to be addressed are the same issues that motivated the intermediate sanctions movement—prison overcrowding, probation overload, insufficient resources, and public demand for accountability and punishment. How can this evidence be used to answer the central question, "If not prison, what?"

Researchers and policymakers cannot plead ignorance or abstain from the debate—because they know what is useful. Although they do not have all the answers, they have an obligation to engage in the debate and interject the known evidence because policy is made on these matters every day. It appears that this

is happening in quiet but significant ways that may well result in a major paradigm shift for community corrections in the United States.

Program Redesign

First, the body of ISP evidence is being used to redesign programs that integrate surveillance with treatment opportunities. This is particularly true with juvenile justice programs but also with programs for adults, particularly drug offenders. The Office of Juvenile Justice and Delinquency Prevention Comprehensive Strategy for Youth endorses graduated sanctions and incorporates two principal components—increasingly strict supervision and a continuum of treatment alternatives.[13] Many states have adopted the Comprehensive Strategy. The California Legislature, for example, recently allocated $50 million to fund probation programs for delinquent youth and, drawing upon the evidence reviewed earlier, required that both surveillance and treatment be part of any funded program.

Other programs also have moved away from a singular focus on surveillance. Several boot camps, for example, are enhancing the therapeutic parts of their programs and shifting away from total reliance on physical, militaristic programming. UCLA's Mark Kleiman has proposed major funding for a national initiative labeled "coerced abstinence," which at its core will provide drug testing (a main ingredient in surveillance programs), plus treatment in and out of prison, followed by intensive aftercare upon release. A key component of his program is swift and certain response to drug-use violations.

One of the major recommendations of the recently published report by the Governor's Task Force on Sentencing and Corrections in Wisconsin, which draws heavily upon ISP experiences, calls for the elimination of probation for felons.[14] The task force recommends that felony probation be replaced with an arrangement named "community confinement and control" (CCC), which mandates electronic monitoring, urine testing, work or community service, and 18 to 20 contacts a month with a probation officer who has a caseload of no more than 17 offenders. CCC officers carry out "community-oriented probation" (similar to community-oriented policing), in which they provide active as opposed to passive supervision. They are required to engage the offender's family, employer, and neighborhood to create a support and supervision network. The Wisconsin Legislature has allocated the necessary resources to pilot the task force recommendation in two jurisdictions.

These are just a few of the ways in which ISP research results directly influence the design of future programs. It is safe to say that most corrections professionals are keenly aware of these findings. In terms of contributing to a cumulative body of knowledge about correctional programming, the ISP experiment can be considered a success.

Neighborhood Probation

The legacy of the intermediate sanctions experiment is likely to be far more important than simply the redesign of individual programs. ISPs have set the stage for an emerging model of community probation (also called community justice and neighborhood probation) in which probation officers partner with the police and community members to reduce public safety threats posed by offenders in their midst. Under this model, probation officers take an active role in community building and not just offender restraint. The probation and parole officers who are involved in ISP supervision programs are emerging as key players.

Interestingly, as community corrections officers move toward a tougher form of probation, which some liken to police work, police officers are embracing community-based policing, which some liken to probation or social work. Probation and police officers are getting out from behind their desks and out of their cars and into the community. "In your face" probation includes visiting the offender's home and work site and working with community agencies to develop and supervise community service obligations—a much more active type of probation.

Police, too, are getting out into communities, holding neighborhood meetings, and taking the pulse of neighborhoods they serve through comparatively well-funded community policing programs. One of the key goals of community policing is getting to know the people on the beat—offenders as well as law-abiding citizens. Police have heard repeatedly about residents' fear of offenders and the lack of justice and accountability for people who were arrested and placed on probation or released on parole. Victims felt crime was trivialized by a justice system that simply slapped the wrist of criminals and sent them home or imposed conditions that were not monitored. Repeat victimization was common, and the community wanted criminals who had committed serious offenses taken off its streets. Once that was done, community residents wanted programs to help the next generation become responsible citizens.

The police came to realize that to significantly reduce crime they had to get out in front of the problem and not merely react to reports of crime. They needed to be proactive rather than simply reactive. To be proactive, the police needed a variety of sources of information. Much of that information and—as it turns out—legal authority exist in the minds of the officers who operate intensive supervision programs in probation departments.

Historically, there has been animosity between police and probation officers—police believe they catch criminals, and probation lets them out. But this new

"community justice" model creates a three-part collaborative between the police, probation, and members of the community.

Operation Night Light. Let me illustrate this for you by describing briefly what is happening in Boston, in a formal police-probation partnership program, one component of which is called "Operation Night Light." President Clinton praised this program in his State of the Union address and called for its expansion nationwide. No one can remember a President ever mentioning "probation" in a national address, and that alone is seen as important since probation supervises two-thirds of all correctional clients in the U.S. yet few in the public know much about it. The originators of the Boston project describe it in *Community Corrections: Probation, Parole and Intermediate Sanctions.*[15]

Community meetings organized by community policing officers in Boston revealed that, as a result of ISP experiments and other local corrections programs, probation officers knew a lot about high-risk offenders and locations in their neighborhoods as well as community resources and programs. Moreover, these neighborhood discussions revealed that many of these lawbreakers were already on probation or parole, but probation officers simply did not have the resources to monitor them, serve warrants, locate absconders, or secure treatment and other programs that these offenders needed. Because these offenders were on probation, their movements in the community could be limited by court order as a condition of probation. In fact, many of them were under court-ordered conditions—for example, nighttime curfews and weapons restrictions—that, if enforced, could be extremely useful in reducing the community's fear.

Admittedly, police and probation partnerships in the past usually began as a way to increase surveillance of high-risk offenders in the community. There was such a partnership in Long Beach, California, as early as 1987. The new community justice partnerships look and feel different from earlier efforts. For example, the Boston project has expanded to include clergy, youth workers, school personnel, and parents. In addition, interesting trends have developed. Judges are expressing greater confidence that such probation terms as curfews and geographical restrictions might be enforced. Police now have information on conditions of probation and feel that they can count on the probation system to hold offenders accountable when they violate those terms. Finally, because warrants are being served, police are reporting violations to probation officers.

By combining police and probation resources, probation supervision has become a 24-hour-a-day, highly accountable reality. What was impossible for probation to do alone (even in the most intensive ISPs) has become possible under the partnership between the police and the community.

This effort has required a lot of cooperation and coordination. Initially, probation officers were reluctant to partner with the police, and the police did not want to connect with "social workers." Over time, however, each group began to realize that everyone has something to gain from the other. Police are learning from community corrections officers and others about community resources such as employment and school truancy prevention programs. Boston police officers attend joint training seminars, participate in strategic planning sessions with other organizations, and jointly participate in research projects. The police, probation, clergy, and lay people now attend monthly community meetings. Most recently, gang members and community mental health workers began to attend these meetings as well. The Boston program is expanding to incorporate new initiatives that employ the team approach. For example, police now help probation officers monitor high-risk, volatile domestic cases to reduce violence and school programs to reduce truancy. Probation absconders receive priority arrest status by police. The program has spread from Boston to a dozen other probation jurisdictions throughout Massachusetts.

Similar partnerships, now spreading across the nation, could not have been so easily forged without the ISP experiments of the past decade and the gradual acceptance by probation and parole staff of surveillance activities. Police and probation officers were moving in the same direction but did not realize it. Probation officers were getting out of their offices and monitoring offenders where they lived. Police officers were getting out of their cars and walking their beats, which allowed them to work with community members to identify problems and problem people. They stumbled onto one another; the collaborative prospects are exciting.

These programs are more than just surveillance, although admittedly surveillance plays a major role in some of them. Study after study has shown that probation and police officers, once they become familiar with individual communities and the people who live there, tend to develop less hardened attitudes. The following anecdote illustrates this.

Washington's SMART Partnership. The Washington State Supervision Management and Recidivist Tracking (SMART) Partnership for police and community corrections shares some of the characteristics of the Boston program.[16] One former director of corrections visited the community corrections field offices throughout the state annually to discuss priorities for the coming year. Each year, one particular field chief asked the director when probation officers would receive permission to carry weapons. This field chief complained at length about the personal risks he faced when making home visits to dangerous places and how drug use made offenders' behavior increasingly unpredictable and violent. However, the last time the former

director saw this man, who had become an active participant in the SMART program, he said he did not need guns but needed more government funds to subsidize jobs for probationers. Clearly, a greater degree of community engagement occurs in these programs.

No Agency Is an Island

The ultimate legacy of a decade of experimenting with intermediate sanctions is the strong message that no one program—surveillance or rehabilitation alone—and no one agency—police, probation, mental health, or schools alone—nor any of these agencies without the community can reduce crime or fear of crime on its own. Crime is a complex, multifaceted problem that will not be overcome by simplistic, singularly focused solutions—whether they be boot camps, electronic monitoring, or intensive probation. Workable, long-term solutions must come from the community and be embraced and actively supported by the community.

This message of community support and involvement is a lesson we learn repeatedly. If the ISP evidence lends any scientific support or credibility to that message or to practitioners and researchers who are involved in this experiment, the money invested in intermediate sanctions will have been exceedingly well spent.

NOTES

[1]J. Petersilia et al., *Granting Felons Probation: Public Risks and Alternatives.* Santa Monica, CA: RAND Corporation, 1985.

[2]N. Morris and M. Tonry, *Between Prison and Probation: Intermediate Punishments in a Rational Sentencing System.* New York: Oxford University Press, 1990.

[3]T. Clear and P. Hardyman, "The New Intensive Supervision Movement," *Crime and Delinquency, 36,* pp. 42–61.

[4]C. Camp and G. Camp, *The Corrections Yearbook.* South Salem, NY: Criminal Justice Institute, Inc., 1997.

[5]Ibid, p. 143.

[6]Ibid, p. 96.

[7]D. Parent et al., *Day Reporting Centers.* Washington, DC: National Institute of Justice, 1995.

[8]L. Sherman et al., *Preventing Crime: What Works, What Doesn't, What's Promising.* College Park, MD: University of Maryland, 1997. See, in particular, Chapter 9, "Criminal Justice and Crime Prevention," by Doris L. MacKenzie.

[9]P. Langan, "Between Prison and Probation: Intermediate Sanctions," *Science, 264,* 1994, pp. 791–794.

[10]J. Petersilia and S. Turner, "Intensive Probation and Parole," in M. Tonry, ed., *Crime and Justice: An Annual Review of Research.* Chicago, IL: University of Chicago Press, 1993.

[11]L. Sherman et al., *Preventing Crime: What Works, What Doesn't, What's Promising,* p. 21.

[12]P. Gendreau and T. Little, *A Meta-analysis of the Effectiveness of Sanctions on Offender Recidivism.* Unpublished manuscript, University of New Brunswick, Saint John, B.C., 1993.

[13]J.C. Howell, *Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders.* Washington, DC: Office of Juvenile Justice and Delinquency Prevention, 1995.

[14]Wisconsin Governor's Task Force on Sentencing and Corrections, *Governor's Task Force on Sentencing and Corrections.* Madison, WI: Author, 1996.

[15]R. Corbett, B. Fitzgerald, and J. Jordan, "Boston's Operation Night Light: An Emerging Model for Police-Probation Partnerships," in J. Petersilia, ed., *Community Corrections: Probation, Parole, and Intermediate Sanctions.* New York: Oxford University Press, 1998.

[16]T. Morgan and S. Marrs, "Redmond, Washington's SMART Partnership for Police and Community Corrections," in J. Petersilia, ed., *Community Corrections: Probation, Parole, and Intermediate Sanctions.* New York: Oxford University Press, 1998, pp. 170–180.

Electronic Monitoring: What Does the Literature Tell Us?*

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Introduction

IT HAS been almost 20 years since electronic monitoring (EM) devices became available for criminal justice use. During that time a great deal has been written about them in professional journals, popular magazines, newspapers, textbooks, and other sources. A number of states have written laws specifying when EM can be used. Many articles describe how to establish or evaluate programs or the outcomes of program participants. However, experimental studies have been few, and those that have been conducted have had small samples. Therefore, in spite of the volume of information written about EM, little definitive information about the effectiveness of the equipment is available.

I wrote this literature review after reading a large number of publications and reviewing abstracts from the National Criminal Justice Reference Service and from the Criminal Justice Abstracts database. I also searched a legal database and the Internet.

From this variety of sources, it is apparent that the literature on EM can be divided into several groups. One group describes EM equipment and particular programs. Some of these simply describe program operation and others continue with a discussion of the outcomes of the participants in the program. Another group discusses programs in terms of theoretical issues or the pros and cons of establishing programs. Many of the states have established laws and regulations related to EM, and another group of articles addresses these. Finally, there are textbooks and newspaper articles that discuss monitors to inform students and the general public.

Some authors take pains to point out that EM is not, in and of itself, a sanction. Rather, it is a technology to ensure compliance with a sanction or restriction such as home confinement or curfew.[1] Others treat it as a sanction, in and of itself.[2] Many also focus on EM as part of the continuum of intermediate sanctions.[3]

Equipment

EM refers to the equipment that generally is used to monitor compliance with a condition requiring the offender to remain at the monitored location, usually the offender's home. Remaining at home may be all the time, home detention; during specific parts of the day, home confinement; and between certain hours, curfew.[4] The term *home confinement* also is used generally to refer to any program that requires an offender to remain at home, but other terms such as *house arrest* and *home incarceration* also are used.[5]

The equipment presently in use generally is described similarly and is divided into two basic types. One type is continuously signaling and the other is programmed contact. Some types combine features of those two types, and new equipment is always being developed and tested.[6]

Continuously signaling equipment has three parts. The transmitter is worn by the offender, usually on the ankle. The receiver-dialer is attached to the telephone at the monitored location, usually the offender's home. The receiver-dialer receives the signal from the transmitter and dials the central computer at the monitoring center, where the offender's schedule is stored in the computer's memory. The receiver-dialer calls the central computer whenever there is a change in the offender's status, coming or going. For example, if an offender is scheduled to be out of the house at work from 8:30 to 5:30, he or she might leave at 8:35. The receiver-dialer notifies the central computer that the person has left. The central computer checks the individual's schedule, notes that leaving after 8:30 is permitted, and records the departure in the record. At 5:30, the central computer polls itself, notes that the offender has not returned, and prints out a message. Then, the monitoring center takes whatever action is required by the conditions of monitoring this offender, usually contacting a supervising officer.[7] Thus, this equipment informs the monitoring agency whether the offender is at the monitored location or not, but not what the offender is doing there or where the offender is if not there.

Programmed contact equipment, on the other hand, initiates periodic calls to the offender's home to verify that the offender is there. Verification occurs in a variety of ways. The offender may wear a device that is inserted into equipment attached to the telephone to perform what one manufacturer calls an "electronic handshake."[8] Voice verification technology may ask the

***Opinions expressed in this article are the author's and do not necessarily represent the position of the Federal Bureau of Prisons or the U.S. Department of Justice.**

person being monitored to repeat words for which a voice print was made when the offender was enrolled.[9] Another device, which looks like a wristwatch, beeps the person being monitored, who then calls an "800" number. Pressing a button on the equipment acoustically transmits a pseudo random code over the telephone line to establish the identity of the person being monitored and "caller ID" establishes the location from which the call is made, allowing monitoring from school, work, home, and other locations.[10] This equipment also may include breath-alcohol testing.[11] Thus, with this type of equipment, the monitoring agency knows whether the offender was present at the monitored location at the time the call was made.

Some continuously signaling devices can be described as hybrid in that they also contain features of programmed contact devices. Examples include those with voice verification technology to be used if it appears that the offender is out of range.[12] Others have the capacity for breath-alcohol testing.[13]

Another equipment variation is a drive-by unit. This option is available with some brands of continuously signaling equipment and allows the officer to "drive by" and check if the offender is present at a planned activity outside of the monitored location, such as at work or an Alcoholic Anonymous meeting.

The latest development of equipment has a tracking capacity.[14] Experiments have been conducted using receivers much like the cells for cellular phones.[15] One company is developing tracking systems using the Global Positioning Satellites.[16] Another company is working on a system that will transmit the offender's location over either telephone lines or a wireless network.[17] Information about the latest equipment developments is available in the media,[18] on the Internet,[19] and at conventions.[20]

EM equipment is produced commercially by private business concerns. Many of the users are public agencies. In between these two are service providers, private companies who actually receive the computer generated output and notify the agencies of irregularities.[21]

How Many Are Being Monitored

In spite of interest in EM and writing about it, the number of offenders being monitored is unknown. It is not known how many offenders are being monitored on a particular date, from a 1-day count, or over some time period such as a year. The last known study that attempted to count persons being monitored was done in 1989 and estimated that the number of offenders being monitored by non-respondents was about the same as those monitored by respondents.[22] Earlier studies obviously are further out of date.[23]

There have been attempts to determine the number of offenders being monitored. Unfortunately, the last of the relatively complete studies was done in 1990, when it was reported that the numbers had increased from 826 in 1987, to 2,277 in 1988, to 6,490 in 1989, and to an estimated 12,000 in 1990.[24]

In August 1991, the International Association of Residential and Community Alternatives undertook a survey of its members from which it received a 25 percent response rate or 59 responses. In the category on programs, 25 respondents reported that they have electronic monitoring programs and 9 reported home detention programs. In the category on services, 20 reported curfew programs and 19 reported EM programs. In both categories, some agencies may have both types of programs.[25]

As part of a 1995 study on technology in criminal justice, the National Institute of Corrections supported a survey of the nation's largest local jails and jail systems, federal and state prisons, and state and local probation and parole agencies. Of the 218 agencies sent the survey, 148 responded. Seventy-eight agencies reported using continuously signaling equipment, 27 reported using programmed contact equipment, and some reported not having any.[26]

The Corrections Yearbook, 1997 reports EM programs separately by the nature of the program. The category "Inmates Placed in Work and Study Release and Diversion Programs During 1996" shows that 11,553 were placed on EM. Looking at jail programs, 8 of the 18 largest systems responding had programs with an average monthly participation of 91 while the other 96 systems responding had 39 programs. Of the responding jail systems, 40.9 percent had EM programs during 1996. *The Corrections Yearbook, 1997* also reported that 31,236 probation and parole cases were monitored on January 1, 1997, and that the average caseload was between 22 and 25 cases with an average cost per day of $8.86. Also reported was that EM equipment was worn on the average for 12 to 15 weeks. Unfortunately, some of the data are based on 1-day counts, some on monthly averages, and some on yearly totals, so the figures cannot be aggregated. Nonetheless, this is the only readily available source of recent figures, and they do provide some indications of the number of offenders being monitored.[27]

The number of offenders being monitored, however many there may be, has been a disappointment to jurisdictions,[28] manufacturers, and others. EM has not "taken off" as fast as some had hoped or expected.

Program Descriptions and Evaluations

EM programs are operated in most, if not all, states in the United States and in a number of foreign countries. Some of the materials about EM describe issues to consider in establishing a program.[29] Some discuss an operating program[30] and many report research related to programs,[31] some of which are limited to particular groups of offenders, such as drunk drivers, while others

focus on a particular point in the criminal justice process, such as probation. Still other programs focus on relatively high risk groups, such as those "at risk of failure," while others focus on relatively low risk offenders, such as first offenders.[32] A few describe research issues,[33] and a number mention the severe paucity of good research with a reasonable number of cases.[34]

One frequent question is about cost effectiveness.[35] A study of drunk drivers found that electronically monitored house arrest is a cost-effective alternative to incarceration. The study further found that even when the cost of jailing is removed from the calculation, the jurisdiction still benefited. This gain primarily is due to the fact that offenders paid an EM fee as well as a supervision fee when in the community while those in jail did not. The program was reported to have achieved its goals without widening the net of social control and without jeopardizing public safety unduly.[36] Another study of drunk drivers found that monitoring was cost effective, created few equipment problems, and generated few client complaints. Nearly all the clients completed their monitoring successfully but after the monitoring success of probation declined somewhat.[37]

Professor Sudipto Roy at Indiana State University published a description of the program in Lake County, Indiana, for 5 years beginning in January 1989. The program initially served juveniles and was expanded a year later to include adults. Over the 5 years studied, the program served 560 juveniles and 233 adults. Of the juveniles, 93 percent of the first offenders and only 37 percent of the repeat offenders successfully completed the program. Among the adults, the success rates were the same, 78 percent, both for the first offenders and the repeat offenders. Roy also found that adults under 35 were more likely to fail than older participants. Adult failure was predicted by number of prior offenses, prior institutionalization, and substance abuse history. However, among juveniles, failure was predicted by race, current offense, substance abuse history, prior offense history, and most recent prior offense.[38] Another study of Lake County's pretrial EM program found, among other things, a positive correlation between the seriousness of the offense and the use of electronic monitoring as a condition of release and noted the importance of screening participants.[39] A third study there found that EM showed promise in deterring pretrial releasees from criminality or flight.[40]

The Community Control Project of the U.S. Parole Commission uses home confinement with electronic monitoring to provide close supervision of federal parolees making the transition from the institution to the community. This program appears to be cost effective and does not lead to a higher violation rate than would have occurred in a halfway house. However, EM was not found to be sufficient to enforce a viable home confinement program without personal involvement between the supervising officer and the offender.[41] When the results of the Community Control Project were compared with those of federal offenders placed in halfway houses, findings showed that offenders in halfway houses and offenders in an EM program were arrested at about the same rate while participating in the program. The two groups also had similar rates of rearrest and drug use during the supervision that followed either the halfway house or the EM program.[42] Another report on that project pointed out the importance of officer involvement to ensure that the offender is working, that the living arrangements remain stable, and that the parolee is complying with all parole conditions.[43]

Maxfield and Baumer studied three programs in Marion County, Indiana. They found that successful completion of a pretrial program was more likely if the defendant had a suitable living arrangement with parents or spouse and only a minor criminal record.[44] They then compared that program with one for convicted offenders and later compared those two with another for juveniles. They found that even though the programs were in the same jurisdiction, with basically the same equipment, rules, and regulations, important differences existed between the three programs in terms of their indicators of client success or failure and the rate of arrests and absconds by participants. For example, convicted juveniles and adults absconded less frequently than pretrial adults.[45]

Other studies examined particular groups of offenders but, likewise, did not have an experimental design. These include the following:

- Cook County, Illinois, pretrial releasees were divided into three groups, all of which had relatively high failure rates. The study resulted in recommendations for program improvement.[46]
- Boys and girls who were adjudicated delinquent and sentenced to a training school could request admission to an EM program in Fort Wayne, Indiana, if their parents also requested their admission to this voluntary program, which permitted the juveniles to leave home only for school or work. Research found that the program provided structure for the juveniles and was an appropriate alternative.[47]
- The U.S. probation office in the Southern District of Mississippi began monitoring sentenced offenders with reservations about how much control could be achieved. However, the district gradually began accepting higher risk offenders, who successfully completed the program.[48]
- Offenders involved in the Community Control Project of the Florida Department of Corrections were supervised by a number of different kinds of electronic monitoring devices. Researchers found that EM programs successfully provided the officers with

information about the new technologies and the judiciary with an alternative to incarceration. They felt that EM should be viewed as a tool to enhance the officers' ability to supervise rather than a substitute for officers.[49]

- A very small study of juveniles in Kenosha County, Wisconsin, found that successes had family participation, commitment to stay in the particular community, familiarization with the program, and minimal drug and alcohol problems. On the other hand, failures lacked family support, had minimal commitment to the program—which was a "last ditch" effort—had severe alcohol and drug dependence, or were chronic runaways.[50]
- The EM program in Pima County, Arizona, was felt to be cost effective. Researchers found that some "net widening" had occurred, although the amount was very difficult to determine.[51]
- Comparing 126 drug abusers sentenced to house arrest with EM in Los Angeles with 200 drug abusers sentenced to ordinary probation revealed that both groups had the same attributes and about 40 percent of each group tested positive for drug use at least once. Those who were monitored had significantly fewer rule violations and were revoked significantly less often.[52]
- In Los Angeles, intensive drug treatment combined with electronic monitoring proved an effective community-based alternative, particularly if offenders received substance abuse treatment that they completed.[53]

Some evaluations looked at intensive supervision probation (ISP) that uses electronic monitoring:

- Using Colorado agency records, researchers found that the ISP program successfully diverted offenders from prison and saved money while not increasing the risk to the community.[54]
- A Canadian study, this one in Saskatchewan, examined the first 201 offenders referred to EM/ISP. Only 94 were actually placed. Six of the 94 committed a new crime and 40 percent violated some condition of the program. The program was found to be a credible sentencing option.[55]

A few studies were conducted using an experimental design. Examples of these include the following:

- In Baton Rouge, Louisiana, the effects of Computer Assisted Offender Monitoring were examined using a sample of probationers matched with those probationers who were electronically monitored. The experimental group had a lower rearrest rate than the control group but, because of the increased restrictiveness of the program, a higher rate of technical violations.[56]
- The Cuyahoga County Juvenile Court tested the impact of EM on recidivism in its home detention and ISP programs. It found that EM was effective in controlling recidivism but not more effective then regular home detention. It also found that EM had no impact on in-program outcome or measures of recidivism for intensive supervision cases.[57]
- A small study of three Georgia ISP sites looked at two types of EM, continuously signaling and voice verification with alcohol testing, and found that 23 percent (17) of the experimental group and 21 percent (16) of the controls failed. It recommended that EM not be used for additional surveillance, except as a possible enhancement to home confinement; that future use employ continuously signaling equipment; that drug testing continue; and high priority be placed on increasing drug and alcohol treatment alternatives.[58]

Operating programs or trial efforts exist in other parts of the world. Among these are small efforts in Britain,[59] the Netherlands,[60] and Sweden.[61] In addition, Israel is planning a pilot program to begin early in 1999 that will serve work releasees, parolees, pretrial detainees, and those sentenced to community service.[62] Research has pointed out that transplanting programs can be difficult because of the differences in the culture, the criminal justice system, and probation.[63]

Commentaries on Electronic Monitoring

Related to the descriptions of equipment and its use are general discussions of the use of EM,[64] including discussions of public attitudes.[65] Some attempt to provide a context for the discussion of the equipment in terms of the criminal justice system.[66] Others provide agencies with tools for self-assessment.[67] Still others are concerned that monitoring may increase application of social controls, known as "net widening," by increasing the amount of the sanctions that would be applied or the number being sanctioned who previously would not have been.[68]

Monitoring programs are operated by public and private agencies and serve offenders at almost every point in the criminal justice process. Some authors feel that whether EM represents a meaningful form of punishment is a policy issue that should be discussed based on pragmatic experience of philosophical prospective.[69]

A recent issue of *The Journal of Offender Monitoring* published four papers under the heading "EM: What's Wrong? What Can Be Done? Four Experts Speak." The authors felt that the field had been hurt by unrealistic expectations and misconceptions. There also has been little solid research.[70] Similar concerns also are expressed in other articles.[71]

Concerns also have been expressed about the political environment in which a program exists[72] and the hidden costs of the program as a 24-hour-a-day job.[73]

Yet, many programs expanded and were accepted in relatively short periods of time.[74] Others are concerned about whether the technology is replacing human contact[75] and changing the nature of the probation officer's job.[76] Some of the authors expressing these concerns are former advocates of EM.[77]

Corbett and Marx expressed a number of concerns about electronic monitoring. They suggest that EM, along with video surveillance and testing for drugs or alcohol, is changing the way that behavior is monitored and also may be leading to the surveillance of more people than would otherwise be true. They describe what they label "fallacies" that are occurring in the acceptance and use of the new technology. Among these are those of "surface plausibility" (it seems as if it would work) and "painless dentistry" (the programs will return only good results without accompanying losses). In these cases and others, they cite few examples to demonstrate their point.[78]

A different and more extreme argument is made by Thomas Toombs, who suggests that prisons are obsolete and costly. They should be replaced by EM equipment using surgically implanted transmitters signaling the global satellite system. He argues that this approach would be more cost effective and afford offenders more individualized treatment.[79]

Taking a different approach, one author discusses tagging, the British term for EM, in a cultural context while also pointing out the intrusive nature of the technology. The author feels that technological solutions are not appropriate for social problems.[80]

In a study guide to its video on house arrest, the National Institute of Justice points out that house arrest may be electronically monitored or not. Regardless of whether it is monitored or not, the advantages of house arrest are that it is cost effective, is responsive to local and offender needs, and can be implemented with ease and timeliness. Its disadvantages are that it may widen or narrow the net of social control, it focuses primarily on offender surveillance, it is intrusive and possibly illegal, race and class bias may enter participant selection, and it can compromise public safety. The study guide concludes that the future of the program invites scrutiny.

In a recent letter, a Kansas official summarized the problems that agencies face in developing EM programs as including "unclear goals and objectives; inappropriate target population; and failure to include an evaluation component in the program."[81]

State Laws, Regulations, and Standards

Inquiry to the Westlaw data system showed that a number of states mention electronic monitoring in their codes but in different ways. One way in which it occurs is in the definition of a program. For example the definition of Florida's Community Control Project includes the authorization to use EM.[82] In the definition section of its Home Detention Act, South Carolina defines an approved EM device as a device approved by the state agency responsible for the offender "which is primarily intended to record and transmit information as to the defendant's presence or nonpresence in the home."[83] The Wisconsin statute authorizes the state to contract with the counties for EM services and charge offenders.[84] West Virginia allows the court to order the use of EM in conjunction with home confinement.[85] In Georgia, "home arrest" is defined as EM of the offender at a residence, for which charging the offender is authorized.[86]

The American Correctional Association (ACA) has published *Standards of Electronic Monitoring Programs*[87] for use by agencies that only or primarily provide EM services. It includes an optional chapter which can be used to accredit agencies, such as jails and halfway houses, where EM may be part of a larger program.[88] In both of these, the agency seeking accreditation is required to have policies and procedures covering a variety of areas, including maintaining accountability for the offender, limiting access to the computer, for emergencies, and other aspects.

The Maryland Legislature passed a bill, signed by the Governor in June 1998, which charged the Maryland Commission on Correctional Standards (MCCS) with establishing, by June 1999, standards and licensing for private companies providing EM services. Those standards currently are being developed.

Previously, in October 1997, the MCCS began to develop standards for the state-operated home detention program. Then, in anticipation of the legislation, the Commission's executive director sent a letter to a number of states inquiring about what standards they might have. The following descriptions of state activities are taken, in part, from the replies:

- Kansas has standards much like the ACA's in that it specifies what areas require policies and procedures but not what their content should be. There, EM is an enhancement of intensive supervision and used for those who have violated its conditions.[89]
- The Maine Department of Corrections has established standards for county and municipal facilities, one five-page chapter of which is for home release and electronic monitoring programs. The programs are for residents of the county, where the sheriff has a program, who are serving sentences for a less serious offenses and have no history of escape or violence. The inmate is required to be involved in a structured program of work, school, or treatment and must agree to searches without probable cause or a warrant, as well as a number of other conditions including abstinence from and testing for the use of alcohol and drugs. The inmate may be charged for participating.[90]

- Missouri responded with the operational manuals for its programs as well as sections from the Request for Proposals (RFPs) that the state had used to solicit program services[91] while New Jersey sent its program manual.[92] Federal probation also has a monograph for its electronic monitoring program and has an RFP specifying the contractors' responsibilities.[93]
- Ohio established a commission for the certification of electronic monitoring devices. The criteria for certification require continuously signaling equipment and technology that is able to call the offender and use voice verification technology to ensure that the person answering the phone is the offender.
- The director of the Indiana Department of Corrections believed that it was imperative that home detention programs receiving state funds have professional operating standards. The department's draft home detention standards provide standards, much like the ACA's, for all aspects of program operation, including administrative, personnel, training, intake, and participant supervision. At the same time, the standards refer to the "home detention component," which indicates that home detention is part of a larger program.[94]

Textbooks, Newspaper Articles, and the Like

In the years since viable electronic monitoring came on the market in the United States, a number of discussions concerning the use of the equipment have been written. In textbooks, some of these describe the equipment and its use.[95] Some apparently were intended to stimulate discussion.[96]

Community corrections is a standard part of the criminal justice curriculum in many colleges and universities. General corrections textbooks[97] and those designed specifically for community corrections courses[98] contain discussions of EM devices and their use, as do collections of readings.[99] However, these would not normally be a source of new findings or original studies. For example, one book presents opposing viewpoints in two articles with questions for the reader/student to consider. Each of the articles is a reprint of a previously published article that is cited elsewhere in this discussion.[100] Another anthology presents 35 previously published articles, including four on EM.[101]

Some discussions of EM are intended to provide information to certain groups. Decision makers such as public officials[102] or legislators[103] are one group while corrections professionals,[104] probation officers,[105] and lawyers[106] are others.

Discussions of EM also appear in publications not related to corrections. For example, under the heading of applications the *IEEE Spectrum* published an article that describes the evolution of the equipment and the future approach, tracking. The focus is on the engineering of the technology itself.[107] Periodically, publications such as legal journals also have articles about EM.[108]

Articles about EM have appeared in newspapers and magazines. Some have explained programs as human interest stories.[109] Some have been published when programs were having trouble.[110] Others have looked at the fact that monitoring has not grown as fast as was originally hoped.[111]

NOTES

[1]Examples include: John O. Smykla and William L. Selke, *Intermediate Sanctions: Sentencing in the 1990s.* Cincinnati, OH: Anderson Publishing Company, 1995, pp. 1–54; Mike Goss, "Electronic Monitoring: The Missing Link For Successful House Arrest," Corrections Today, July 1989, pp. 106, 108.

[2]For example: Joseph B. Vaughn, "Electronic Monitoring," *Journal of Offender Monitoring,* vol. 2, no. 1, January 1989, pp. 1, 3, 6–7.

[3]Examples include: National Committee on Community Corrections, *Tough Punishments That Make Sense: An Introduction to Intermediate Sanctions.* Washington, DC: Rasco Graphics, 1997, 15 pp.; Terry M. Simpson and Kim A. Johnson, *Analysis of Alternatives to Incarceration: Intermediate Sanctions.* Washington, DC: U.S. Department of Justice, Justice Management Division, Management and Planning Staff, September 10, 1993, 26 pp.; Mike Goss, "Electronic Monitoring Programs Provide Prison Alternatives," *Corrections Today,* vol. 52, no. 4, July 1990, pp. 80, 82, 84. Richard A. Ball and J. Robert Lilly, "A Theoretical Examination of Home Incarceration," *Federal Probation,* vol. 50, no. 1, March 1986, pp. 17–33.

[4]Paul J. Hofer and Barbara S. Meierhoefer, *Home Confinement.* Washington, DC: Federal Judicial Center, 1987, 73 pp.

[5]Richard A. Ball and J. Robert Lilly, "A Theoretical Examination of Home Incarceration," *Federal Probation,* vol. 50, no. 1, March 1986, pp. 17–23; Richard A. Ball and J. Robert Lilly, "Home Incarceration: An International Alternative to Institutional Incarceration," *International Journal of Comparative and Applied Criminal Justice,* vol. 9, no. 2, Winter 1985, pp. 85–97.

[6]For an overview of equipment, see, for example: Annesley K. Schmidt, "Electronic Monitoring: Past, Present and Future," in *Correctional Issues: Community Corrections.* Lanham, MD: American Correctional Association, 1996, pp. 101–110.

[7]The equipment of a number of manufacturers fits this description, including: BI Incorporated, 6400 Lookout Road, Boulder, CO, 800-241-2911; Digital Products Corporation, Elmo Tech, Limited, 16 Gaigalie Haplada, Post Office Box 12511, Herzelia 46129, Israel, 972-9-509391; General Security Services Corporation, 3329 University Avenue, Southeast, Minneapolis, MN 55414, 800-284-2158; Strategic Technologies, 800-827-1942.

[8]Digital Products Corporation, 800 Northwest 33rd Street, Pompano Beach, FL 33064, 800-323-9476.

[9]This is used by several types of equipment, including several of those described below as "hybrid."

[10]Watch Patrol, Electronic Monitoring Systems, Inc., 26081 Merit Circle, Suite 108, Laguna Hills, CA 92653, 714-582-0433.

[11]For example, Mitsubishi Electric Sales of America.

[12]For example, Capstone Technologies, Inc., 200 Russell Street, Huntsville, AL, 205-534-0006.

[13]For example, BI Incorporated (see above).

[14]"Technology: Offender Monitoring Technology Goes into Orbit," *The Corrections Professional,* vol. 1, no. 12, March 8, 1996, p. 9. Also, there are six short articles related to GPS systems in the *Journal of Offender Monitoring,* vol 11, no. 2, Spring 1998, pp. 5, 7–14.

[15]John H. Murphy et al., *Advanced Electronic Monitoring for Tracking Persons on Probation or Parole* (96-9SN7-NIJEM-R1). Pittsburgh, PA: Northrop Grumman Corporation, undated.

[16]Advanced Business Sciences, Inc., 3335 North 107th Street, Omaha, NE 68134, 402-498-2734.

[17]Pro Tech Monitoring, Inc., 1211 North Westshore Boulevard, Suite 416, Tampa, FL 33607-4605, 813-286-1038.

[18]Each year the *Journal of Offender Monitoring* publishes a survey of manufacturers conducted by Joseph B. Vaughn. A recent one is "The 1997 Electronic Monitoring Survey," published in Fall 1997 (vol. 10, no. 4). Also, for example: Marisela Montes, "Technological Advances in Parole Supervision," *Corrections Today,* vol. 58, no. 4, July 1996, pp. 88, 90–91.

[19]Using any Internet search engine, the terms "electronic monitoring" or more specifically "electronic monitoring of offenders" will lead to sites for programs, manufacturers, companies working in the area, papers on the topics, and numerous other things.

[20]Among the conventions that have displays of electronic monitoring equipment are those of the American Correctional Association, which holds two conventions each year, one in January and one in August. The American Probation and Parole Association convention also has displays.

[21]Examples include: Jack Fulda, "Electronic Monitoring and the Service Provider Industry," *Journal of Offender Monitoring,* vol. 3, no. 1, Winter 1990, pp. 12–15, 18–20; and Thomas H. Zoet, "Community Based Correctional Facilities as EM Service Providers: A New Option for Criminal Justice Administrators," *Journal of Offender Monitoring,* vol. 3, no. 2, Spring 1990, pp. 8–10.

[22]Marc Renzema and David Skelton, "The Scope of Electronic Monitoring Today," *Journal of Offender Monitoring,* vol. 4, no. 4, Fall 1991, pp. 6–11.

[23]Annesley K. Schmidt, *Electronic Monitoring of Offenders Increases* (NIJ Reports Number 212). Washington, DC: National Institute of Justice, 1989. Also, Annesley K. Schmidt, "The Use of Electronic Monitoring by Criminal Justice Agencies in the United States 1988," in K. Russell and J.R. Lilly (Eds.), *The Electronic Monitoring of Offenders: Symposium Papers.* Leicester, England, 1989, pp. 9–23.

[24]Marc Renzema and David Skelton, "Trends in the Use of Electronic Monitoring: 1989," *Journal of Offender Monitoring,* vol. 3, no. 3, Summer 1990, pp. 12–19.

[25]B. Huskey and A.J. Lurigio, "An Examination of Privately Operated Intermediate Sanctions Within the U.S.," *Corrections Compendium,* vol. 17, no. 12, December 1992, pp. 1, 3–6.

[26]LIS, Incorporated, Longmont, CO, *Technology Issues in Corrections Agencies: Results of a 1995 Survey.* Washington, DC: National Institute of Corrections, 1995, 83 pp.

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When an Employee Dies: Managing the Aftermath of a Critical Incident

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EVERY ORGANIZATION—government, nonprofit, and private sector alike—is subject to critical incidents. Critical incidents vary from acts of nature such as hurricanes, earthquakes, and tornadoes, to unforeseen tragedies such as the Oklahoma City bombing, to the unexpected and violent death of an employee.

On March 14, 1998, an event occurred that the managers and employees of the United States Probation Office for the Northern District of California never would have imagined. At 9:45 that Saturday evening, the senior deputy chief and the chief probation officer were notified that their PC systems administrator, a gifted and extremely popular employee, had been killed in an automobile accident earlier that day. Also, the deceased employee's wife was critically injured and his grandmother killed.

This article tells how the probation office responded to the event. It addresses the importance of organizations instituting critical incident response policies, what such policies should include, and how to develop one. The article also underscores how managers' ability to cope is crucial to the critical incident recovery process.

The Critical Incident Response

Critical incidents, regardless of what type they are, spur a similar sequence of events: The critical incident happens. The members of the organization react. The members experience a recovery period. Then the members reach a point of closure—if the preceding stages are handled thoughtfully.

In the case of the probation office in the Northern District of California, the chief and the deputy chief—after facing the initial shock of the news of their employee's death—initiated the following sequence of events. They first contacted the local Employee Assistance Program (EAP) early Sunday morning. The EAP established immediate telephone counseling services that were available to any of the probation office's employees 24 hours a day, 7 days a week. The EAP also arranged for counselors, who were critical incident experts, to be available in person in the district's two largest offices the following day. The third largest office had EAP counselors on site the second day following the tragedy.

Also on Sunday, the senior managers telephoned all managers in the district to inform them of the death and asked them, in turn, to contact their staffs before employees returned to work the next day. Before the workday began on Monday, 103 of the 106 employees had been called personally about the news. Calls also were made to former employees who were close friends of the deceased.

Senior managers focused on gathering information to share with the staff. They tried to determine when, where, and how the accident occurred and the condition of the deceased's wife. They sought details about the funeral services, information about the deceased's family, and biographical information about the deceased. They also looked for opportunities for staff members to share their grief. The process of gathering information, sharing information, and offering support to fellow employees continued for some time.

Managing the Aftermath

The probation office staff was confronted with having to face and accept the tragic and unexpected death of a colleague. Initially, employees were shocked, grieving, and unable to concentrate on their jobs. Additional emotional challenges arose at the wake, the funeral, and the cremation ceremony, all of which the staff members were invited to attend. Each of these events was extremely emotional and particularly poignant because of the love and affection the employees felt for their deceased colleague.

For some time after the death, the employees performed little routine work other than critical tasks. They were involved with the more important, immediate issue of grieving and of supporting their coworkers. Meetings were held in every office to allow for remembering, grieving, and providing emotional support. "Sharing" vases were placed in each office to allow staff members to contribute flowers in memory of their colleague. Pictures, poems, and other written remembrances were gathered and placed in albums for the widow and family. One employee who had been particularly close to the PC systems administrator had a video photo collage made that was given to the widow

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and family. Plaques, pictures, and other mementos were placed in each of the district's eight offices to honor the deceased colleague.

A few months after the PC administrator's death, the deceased's parents, sister, and brother visited the district's headquarters office. His widow also made a visit. The visits allowed the family to express their appreciation for the love and support the staff had offered to family members. It also gave the staff an opportunity for healing and closure.

For the managers, seeing the impact of this incident on the probation office staff made two points very clear: 1) events such as these have an enormous, long-lasting emotional impact on the staff, and 2) they place managers in the unique and sometimes conflicting role of providing emotional support to the staff while they, the managers, need a chance to grieve themselves. For them, witnessing the profound grief and sadness of their employees was extremely stressful and emotional. No one is immune to the impact of such an incident.

Critical incidents may present themselves in a variety of circumstances. They seldom are identical in terms of cause, yet are similar in terms of results. They force individuals and organizations abruptly to confront death or other unexpected loss. No amount of planning can eliminate the tragedy involved, but planning can help employees through the difficult time and can help facilitate the healing process.

The account of what transpired in the hours, days, and months following the critical incident described here may seem overwhelming at first glance. Focusing on this actual incident highlights two important points. First, managers should understand the need to put in place a comprehensive critical incident response policy in their organizations. Second, managers should note the importance of addressing not only their staff's needs, but their own needs in the aftermath of a critical incident.

The Critical Incident Response Policy

Over the years, many state governments have seen the wisdom of requiring car owners to carry automobile insurance. Indeed, few of us would risk driving without such protection. So, we pay the premiums and hope that we never have to file a claim. Those of us who have had the misfortune of being in an accident especially appreciate the value of knowing that the insurance coverage was there when we needed it. Developing a critical incident response for your office is a sort of insurance.

A definition might be helpful. In clinical terms, "critical incident" generally refers to any incident that sufficiently overwhelms one's coping abilities. Critical incidents often are sudden and unexpected and may involve the serious injury or death of a family member, friend, or coworker. Just as individuals may be affected by a critical incident, so, too, may organizations. This impact on organizations manifests itself through the collective reactions of the employees. How well an organization moves through the aftermath of a critical incident may be determined largely by the organization's level of preparation before the incident.

Developing a critical incident response policy can be an effective way to address the needs that may surface in an organization both before and after a critical incident. Minimally, such a policy should include the following:

Statement of Purpose. The critical incident response policy should begin with a statement of its purpose, just as any organizational policy should. The statement should address who is covered by the policy, describe the roles, functions, and responsibilities to be carried out in the event of a critical incident, and indicate which personnel will assume the tasks.

Definition of Terms. The policy should define terms commonly used in critical incident response. These terms include: critical incident, post-traumatic stress, critical incident debriefing, critical incident defusing, mental health professional, peer support personnel, and critical incident stress management.

Mental Health Professionals. The policy should state which area mental health professionals have been designated to provide critical incident assistance to your organization and explain both their pre- and post-incident responsibilities. The mental health professional's role is important and should be set forth clearly in the policy. For example, mental health professionals could be called upon to provide pre-incident education for upper- and mid-level management or the entire staff. They could be available for consultation on an incident-by-incident basis. They could assess the need for professional follow-up for employees after a critical incident.

In developing your policy, you should consider adopting the Critical Incident Stress Management (CISM) process endorsed by the International Critical Incident Stress Foundation, which promotes using mental health professionals specially trained in the crisis intervention field. This training is not part of the general mental health curriculum. Therefore, in seeking a mental health professional in your community to provide services in the event of a critical incident, do not hesitate to ask questions about the person's critical incident training and experience.

Pre-incident Education. The policy should emphasize pre-incident education for everyone in your organization. Every employee is a potential recipient of critical incident services and should understand the CISM process. Through pre-incident education, employees can enhance their knowledge about what constitutes a critical incident and what are the most common crises and stressors. They can learn about the nature of stress and psychological trauma and how best to utilize coping skills. They also can find out about resources and how to access them.

This part of the policy may address what critical incident training the organization offers and the frequency of such training. It also may review information about roles, functions, and responsibilities in the event of a critical incident and who is responsible to carry out each task. Educating staff about roles, functions, and responsibilities pre-incident allows organizations to consider assigning staff before a crisis. Experience has taught us that trying to make these assignments once an incident already has happened is ill advised.

Criteria and Mechanisms for Team Activation. The CISM team generally is composed of mental health professionals and trained peer support personnel. Some organizations, mainly in the public safety arena, form their own CISM team by contracting with a mental health professional. They then arrange to have a select group of staff members trained as peer support personnel. However, most organizations will not staff their own CISM team. Therefore, identifying outside resources and establishing the criteria under which such a team will be activated are crucial. Every state has trained CISM teams. Many states have an organized network for CISM response. You may contact the International Critical Incident Stress Foundation at 410-750-9600 to identify a team in your area. Once you reach an agreement with a team, set the conditions under which your organization will call upon the team and the mechanisms or logistics to activate the team. Remember in making your arrangements that you should seek a CISM-trained mental health professional not only to lead critical incident stress debriefings and defusings, but to provide training and consulting.

Timeline for Policy Review. As you would with any organizational policies, address periodic review and update of the critical incident response policy.

A word of caution: Be sure to keep your critical incident response policy separate from your post-shooting policy. Remember that a critical incident is any incident that overwhelms an individual's (or organization's) ability to cope. Some organizations have constructed critical incident policies that primarily, or solely, address office response in a post-shooting scenario. Focusing on post-shooting incidents sends the wrong message about the nature of critical incidents and to whom CISM interventions will be provided. They should be available to all employees.

Coping as a Manager

Managers are not immune from the effects of a critical incident. That is not to say that they do not have effective coping resources to call upon if such an event occurs. The point is that being a manager does not grant you special immunity from tragedy. In the hours and days following critical incidents, more than one manager has been heard to say, "Just knowing that my people are being taken care of is comfort enough for me." Indeed, most managers will go to great lengths to address their staff's needs and concerns. However, after the policies have been activated and the resources accessed, what then? A quick review of some of the reasons why CISM is effective for employees will help emphasize why managers need to avail themselves of these services.

Early Intervention. Several researchers have examined the importance of early intervention during the acute phase of a critical incident. As early as World Wars I and II, Salmon (1919) and Kardiner and Spiegel (1947) noted the importance of providing quick, emergency-oriented psychiatric interventions. Lindy (1985) discussed the formation of the "trauma membrane" after a traumatic event. Another way to think about this is to envision individuals forming a psychological "protective shell" around themselves as a way to insulate themselves from the rest of the world (Everly & Mitchell, 1997). In analyzing the tenets of crisis response, Solomon and Benbenishty (1986) noted that "immediacy" was found to exert a positive effect. These works—as well as those of Rapoport (1965), Nordow and Porritt (1979), and Post (1992)—emphasize the need for managers, as victims of critical or traumatic incidents, to monitor their reactions from the moment the event occurs.

Psychosocial Support. The CISM process argues against the old adage that "it's lonely at the top." With the CISM process, it does not have to be. Many of us enjoy the benefits and rewards of social interactions with family, friends, and coworkers. These same benefits and rewards enable the CISM process to be effective. Maslow (1970) highlighted the importance of social support by listing the need for social affiliation as a basic human need. How important is social affiliation as a strategy in managing crisis response? Buckley, Blanchard, and Hickling (1996) found an inverse relationship between social support and the prevalence of post-traumatic stress disorder in the wake of motor vehicle accidents. Dalgleish et al. (1996) found similar results. In looking at the role of social support in psychological trauma, Flannery (1990) found a general trend indicating that social support was effective in reducing the negative impact of trauma.

So, given the importance of psychosocial support in the aftermath of a critical incident, where can managers go? Arranging for a CISM intervention just for managers is one option. When you are planning interventions for large groups of people, you can plan separate interventions for mid- or upper-level managers. Managers also can arrange for one-on-one interventions. Another resource for managers—one that is not directly provided by CISM but that can be quite helpful—is to contact other managers who have been through similar experiences. If you know another manager who has dealt with the aftermath of a critical incident, call that

person and talk out your thoughts and reactions. Interacting with peers in these instances can be a source of immeasurable comfort and support. Certainly, you can always seek the services of your local EAP, but make sure that you speak to staff there with training in post-incident stress. Throughout all of this, remember that your reactions to the critical incident are normal; it is the event that is abnormal. Accessing psychosocial support after a critical incident can be an excellent way to accelerate your recovery and continue to manage and lead your staff effectively.

The Need for Expression. This point is closely tied to the previous one. Not only do you find comfort in knowing that you are not alone by seeking psychosocial support, you help speed your recovery by encouraging dialogue. Bruno Bettleheim (1984) stated that "what cannot be talked about can also not be put to rest." Everly and Mitchell (1997) also have noted that "recovery from trauma is predicated upon the verbal expression of not only emotions, but also cognitions" and that this notion is almost universal in the crisis response literature. Pennebaker and colleagues demonstrated that the value of expression is found not only in psychological outcomes, but physiological and behavioral as well (Pennebaker, 1990; Pennebaker & Beal, 1986).

The importance of verbal expression is highlighted throughout the CISM process. Individuals are not coerced, but encouraged, to talk during an intervention. Verbalizing after a critical incident allows individuals to label what they are experiencing. It helps them assign meaning to the event and impose a sense of order onto a chaotic situation. By giving themselves a chance for expression after a critical incident, managers may accelerate their recovery, thus allowing themselves to lead others to do the same.

Education. Pre- and post-education are important tools for recovery after a critical incident. Indeed, education is one of the goals of the CISM process. Making people aware, in advance, of possible reactions during and after a critical incident can mitigate crisis stress. Everly (1989) noted that understanding achieved through information/education can be a powerful stress reduction strategy. During a crisis, most people report that things are out of control. Education permits you to make informed and purposeful decisions, thereby giving you back the perceived control. Taylor (1983) and Bandura (1997) argued that the power of perceived control can serve to mitigate crisis stress and psychological discord. Through the education process, you are helping to set appropriate expectations for people, thereby preparing them to cope effectively should a critical incident occur.

In addition to setting appropriate expectations, the CISM process teaches people sound and effective coping skills. As a manager, how do you cope with the day-to-day stressors in your life? Are your coping skills adequate? Do they truly help you to move through your difficult times? Or do they simply allow you to mask your reactions and therefore prolong the impact of the crisis and your recovery from it? In your role as a leader, these are important questions to consider. Chances are, when a critical incident happens, you will call upon those same coping skills because that is what you always have done. If these skills have served you well, they likely will do so again. If they have not, they may not only fail you in a crisis, but also the people who will be looking to you for leadership.

You may find that the coping skills taught in the CISM process are ones that you already employ. If so, you will feel reinforced. If, however, they are skills that are not necessarily in your repertoire, you then will have a choice. You can choose to do what you always have done and hope for the best. Or you can add these new skills to your repertoire and, thus, increase your chances for a healthy and perhaps quicker recovery.

Conclusion

No one can predict when a critical incident might happen or how people will respond to it. A crisis amplifies your role as manager and trains all eyes on you. The expectations are that you will lead. Will you be prepared to do so? The answer to this question, in large part, may be determined by actions you take now, before a crisis hits. If your office does not have a critical incident response policy in place, make it happen. Identify resources in your area willing to assist you and your staff. Talk with other managers who have formulated policies and who have weathered critical incidents in their organizations. Learn from their experiences. Get a pre-incident education program going. Involve staff members at all levels. And, finally, do a personal inventory of your coping skills and how well they have served you. Identify other resources you think might help you personally in the event of a crisis.

Taking the steps discussed here will help you and your staff be prepared. Perhaps no one truly can be prepared for the devastation of a Hurricane Andrew or an Oklahoma City bombing. By taking certain proactive measures, however, you can be better equipped for managing the aftermath of a critical incident and thus increase the chances that your organization—and you—will recover quickly and successfully.

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Organizational Probation Under the Federal Sentencing Guidelines*

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ORGANIZATIONS CANNOT be incarcerated. The only available criminal sanctions for them, then, are fines, dissolution, and probation. Probation for organizations was formally codified into federal law in November 1991, when the U.S. Sentencing Commission added Chapter 8 to the U.S. sentencing guidelines. Chapter 8 generally covers the criminal sanctioning of federally convicted organizations, and Part D of Chapter 8 specifically sets forth for organizations the circumstances under which a sentence to probation is required, the length of the probation term, the conditions of probation, and factors related to the violation of organizational probation conditions. The purpose of this article is to describe the implementation of federal organizational probation during the first few years after its codification.

Legal Background for Organizational Probation

According to Lofquist (1993, pp. 160–161), before its codification in the guidelines, organizational probation was used for the first time in a federal criminal case in 1971 in *United States v. Atlantic Richfield Co.* (465 F.2d 58). U.S. District Court Judge James B. Parsons, Jr., broke jurisprudential ground by placing Atlantic Richfield on probation so that he could monitor the company's progress in complying with his order to develop an oil spill response program. Judge Parsons' innovation was widely copied by his colleagues, and by the middle 1980s, probation was ordered in approximately a fifth of all federal corporate convictions. Unfortunately, the legal soil in which Parsons tried to root his precedent—the Federal Probation Act of 1925 (18 U.S.C. §§3651-56)—was tenuous because it was intended originally for the rehabilitation of individuals, not organizations. As a result of this weakness, probation sentences for organizations often were successfully appealed on the grounds that they were not aimed solely at monitoring fine collection. Successful appellants generally argued that their probation conditions had nothing to do with the offense, that organizations were not properly subject to the intent of the Federal Probation Act, and that organizational offenders had the right to refuse the "grace" of probation and demand the original sentence (Baldwin, 1974; Levin, 1984; Gruner, 1988).

What seemed to emerge from these appeals was the common law principle asserting that organizational probation only could be established as a mechanism to monitor collection of fines and restitution and completion of community service. It therefore became clear by the later 1980s that if additional conditions of organizational probation were to be allowable—such as those mandating structural changes within convicted organizations—codification into law was necessary. Although the Commission had no mandate to do so, it nevertheless developed sophisticated guidelines for the use of organizational probation including the imposition of orders mandating the remedy of the organizational cause(s) associated with the criminal activity (Lofquist, 1993, pp. 160–161).

The result was the Commission's Section 8D1.1 of the guidelines, which states that the U.S. district court "shall" order a term of probation for organizations if it deems any of the following to be true:

1. Such a sentence is necessary to monitor the payment of restitution, enforce an order to remedy the cause of the offense, or ensure the completion of community service.
2. There may be problems in the collection of any monetary penalties (e.g., fine, restitution, special assessment) that remain unpaid at the time of sentencing.
3. The organization has 50 or more employees and does not have an effective program to detect and prevent future violations.
4. The organization within 5 years before sentencing engaged in any similar misconduct, as determined by a prior criminal adjudication.
5. An individual within high-level personnel of the organization participated in similar misconduct during the instant offense and at another time within 5

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years before sentencing (as determined by a previous criminal adjudication).

6. Such a sentence is necessary to ensure that changes within the organization are made to reduce the likelihood of future criminal conduct.

7. The sentence imposed does not include a fine.

8. It is necessary to promote one or more of the purposes of sentencing under 18 U.S.C. §3553 (a)(2)—the seriousness of the offense, respect for the law, just punishment, general or specific deterrence, protection of the public, and correctional treatment.

According to the guidelines (§8D1.2), when probation is ordered by the court, the minimum duration is 1 year and the maximum is 5. The conditions of organizational probation always include the provisions that no additional federal, state, or local legal violations occur and that any monetary penalties imposed at sentencing be paid within a reasonable time not to exceed 5 years. Any other conditions consistent with 1–8 above also may be imposed including ordering the organization to publicize the offense and to implement a program to avoid similar violations in the future (a "compliance" program).

Data for the Analysis

The Commission collected the data through federal probation officers in U.S. district courts. The information reflects the Commission's recorded population of convicted organizations sentenced under Chapter 8 of the guidelines through 1996, a total of 271 cases.[1] The "sentencing event" is the unit of analysis, which includes the sentencing of a single organization convicted of one or more offenses in the instant case. When more than one organization was involved in the same offense(s), each organization's sentencing is treated as a separate event.

An unknown number of organizational sentencing events during the period are not included. The major caveat, then, is that the conclusions stated here are based on the assumption that those missing cases do not paint an appreciably different picture of the outcomes of organizational sentencing events than are now represented in the data set. The data constitute the entirety of the Commission's recorded information about organizational guidelines sentencing for the time period.

Characteristics of the Convicted Organizations

Before presenting findings about the granting of organizational probation, it seems best to give the reader some idea about the general make-up of the organizations studied. Of the 271 convicted organizations, the most frequently represented business sectors were: Industrial (30), Motor Vehicles (29), General Sales (23), Food and Beverage (23), Mining/Oil Exploration (19), Shipping and Transportation (15), Electronics and Appliances (15), Clothing and Apparel (14), and Health and Human Services (11). Only seven of the sentenced organizations were openly traded companies. Virtually all (about 95 percent) of them were "closely held." An organization is closely held when "regardless of its size, relatively few individuals own it" (*Guidelines,* §8C3.4 Commentary). Among the 196 organizations for which information was available, about two-fifths (42 percent) had 10 or fewer employees, and about four-fifths (80 percent) had 50 or fewer employees. Only about one in seven (14 percent) had more than a hundred employees. And only 1 in 10 organizations was a recidivist. Thus, unlike the image of criminal organizations that the media has portrayed—large and complex with publicly traded stock, hundreds of stockholders, thousands of employees, and millions of dollars in annual sales—organizations criminally convicted in U.S. district courts imply a rather completely different image. In fact, they mostly are owned by only a few individuals, have fewer than 50 employees, and are first-time offenders.

There are probably several reasons for the discrepancy between the popular image of criminal organizations and the reality. Foremost, larger organizations most likely constitute only a small proportion of the universe of criminal organizations, and their relative infrequency among federal convictees is approximately proportionate to that low incidence (that is, they are not underrepresented and may be overrepresented). Earlier research (Rabe, 1995) found a similar lot in the universe of federally convicted organizations for the 3 years before the implementation of the guidelines. It also is possible that the federal government, through selective regulatory enforcement and prosecutorial discretion, may be less likely to pursue larger publicly traded organizations when they do violate the law. If pursued, larger organizations may be more likely to be charged with civil sanctions rather than criminal ones or they may be more adroit at heading off criminal indictments or hiding illegal behavior because of their greater resources. Whatever the reason(s), it is clear that the vast majority of organizations prosecuted and convicted by the federal government are small.

More than three-quarters (209) of the organizations acted alone in their offense (i.e., they did not collude with other firms). Only three firms were deemed to be "criminal purpose organizations," having as their primary purpose the commission of acts that violate federal law. The vast majority of the defendants (88 percent) were convicted after pleading guilty (including two organizations that pleaded *nolo contendre*). And more than four-fifths of the organizations, most of which cooperated with the authorities, accepted responsibility for their crime(s).

Organizational Probation

Probation Orders

Almost two-thirds (169) of the organizations were put on probation. Their lengths of probation varied considerably and are reported in figure 1. The average amount of probation time among those receiving it was 37.5 months and the median was 3 years. As figure 1 shows, virtually all firms were given probation for an exact number of years (e.g., 1, 2, 3). The most frequent length of probation ordered was the maximum of 60 months, a term given to 62 (37 percent) of the firms that received probation. Three of those firms (2 percent) were on probation for 4 years, 36 (22 percent) for 3 years, 29 (18 percent) for 2 years, and 35 (22 percent) for 1 year. One firm in the motor vehicle industry received probation for 3 months, which is less than the minimum required of 1 year.

Probation and Financial Penalties

Chapter 8 (Part C) of the guidelines specifies that restitution be imposed in all cases and that fines be imposed according to the severity of the offense(s) and the organization's culpability. Table 1 describes the kinds of financial penalties ordered according to whether probation also was ordered. Only 18 organizations received no financial penalty whatsoever *and* no probation. Of those organizations that did receive probation, 37 were not fined, 110 did not receive an order to pay restitution, and 15 received neither as part of their sentence. Fines for probationers ranged from $800 to $15.5 million, with the median at $25,000. Probationers' restitution orders ranged from $429 to $3.7 million, with the median at $50,000. Considering both probationers' fines and restitution orders combined, the range was $429 to $19.2 million and the median was $45,000.

Among those not receiving probation, 22 (21 percent) were not ordered to pay any fine and 83 were not ordered to pay any restitution. Among the nonprobationers, fines levied ranged from $1000 to $5.6 million (median = $40,000) and the restitution ordered ranged from $181 to $7.5 million (median = $20,000). Combining both fines and restitution for nonprobationers, the range was $1000 to $7.5 million (median = $50,000). In sum, based on logistic regression, there was no statistically significant relationship between the ordering of probation and the amount of the ordered fine, the amount of the ordered restitution, or the amount of both combined. However, logistic regression also reveals that persons receiving probation were about two and one-half times more likely to be ordered to pay restitution ($p = .003$) (but the order of probation was not related either to the order of a fine or the order of both fines and restitution).

Note that the most important variable associated with whether organizations were fined is whether the court considered them able to pay the fine without adversely affecting innocent parties such as victims and employees (see *Guidelines* §8C3.3). Based on logistic regression, firms that were deemed able to pay a fine were 96 times more likely to be imposed a fine ($p = .0000$). The ability to pay the fine explained, by itself, 37 percent of the variance in whether a fine was levied. Interestingly, although the guidelines demand that probation be ordered when no fine is imposed (see above), to the contrary, 22 organizations were not fined or ordered to probation (only one of which was deemed able to pay a fine).

FIGURE 1. NUMBER OF MONTHS PROBATION

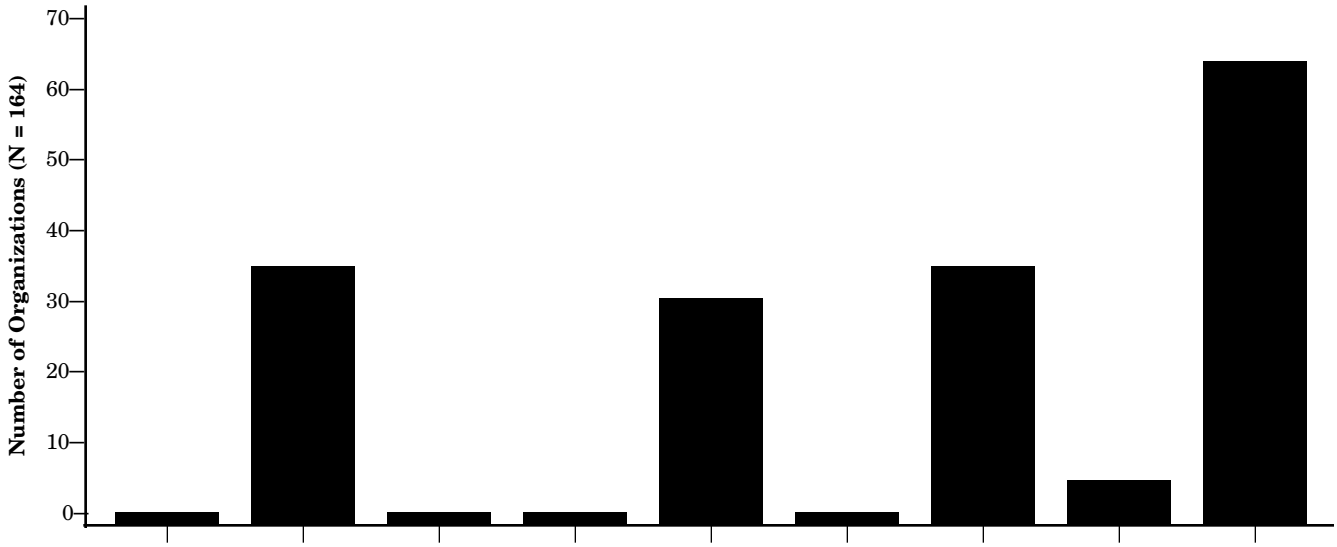

TABLE 1.
FINANCIAL PENALTIES
ORDERED FOR ORGANIZATIONS (N = 270)

Fines	Organizations Sentenced to Probation (N = 169)	Organizations Not Sentenced to Probation (N = 101)
None	37	22
Low	$800	$1000
High	$15.5 million	$5.6 million
Median	$25,000	$40,000
Average	$388,000	$359,000
Restitution		
None	110	83
Low	$429	$181
High	$3.7 million	$7.5 million
Median	$50,000	$20,000
Average	$375,000	$627,000
Fines and Restitution		
None	15	18
Low	$429	$1000
High	$19.2 million	$7.5 million
Median	$45,000	$50,000
Average	$476,000	$477

Probation and Offense Type

About three-quarters (202) of the convicted organizations could be classified as having committed one of four major offense types. By far, the most prevalent offense was "equity skimming," which involves embezzling funds or property associated with federal housing loans; 123 (45 percent) of the convicted organizations were involved in this sort of crime. Eleven percent of them were involved in one of two other crimes—some sort of price fixing (31) or smuggling goods (30). Another seven percent (18) were involved in money laundering. The remaining quarter (69) were involved in one of a large variety of crimes including kickback schemes, criminal copyright and trademark infringements, racketeering, gambling, regulatory violations involving food and drugs, tax evasion, bank secrecy, and wildlife crime. No statistically significant relationship was observed between the ordering of probation and the type of offense although organizations involved in price fixing and money laundering were noticeably less likely to receive probation. For those organizations that received probation, the lengths of their probation terms also did not differ significantly according to the type of offense, a summary of which is as follows: 83 equity skimmers (average = 38 months; median = 36 months); 17 price fixers (average = 42 months; median = 36 months); 6 money launderers (average = 38 months; median = 42 months); and 18 smugglers (average = 24 months; median = 24 months).

Price fixers were clearly levied the highest fines (N = 30; average = $943,000; median = $187,000), almost twice the average given to equity skimmers (N = 89; average = $428,000; median = $24,000). The average fine for money launderers was $162,000 (N = 10; median = $19,000), for smugglers, $50,000 (N = 27; median = $16,000), and for the miscellaneous offense category, $185,000 (N = 55; median = $18,000).

Compliance Program Development as a Condition of Probation

As noted, the court has a number of options when deciding upon a convicted organization's conditions of probation. Most notably, the court may require that the organization implement a program that attempts to promote future legal compliance (*Guidelines* §8D1.4(c)(1)). In addition, the court also may opt to order the organization to be sold, to be dissolved, or to be disbarred from future federal contracts. In only a few cases were organizations not put on probation and ordered to be dissolved or sold. In only one case was an organization not put on probation and disbarred from future federal contracts. For the 169 organizations that were put on probation, 60 (35 percent) were given an additional sentence. Thirty-four (20 percent) were ordered to develop a compliance program, 1 was ordered dissolved and 1 was ordered sold, 4 were disbarred from federal contracts, and 20 were given some other special condition of probation. Thus, the most prevalent special condition of probation, given in one in five probation sentences, was an order to develop a compliance program. It was given to 14 (17 percent) of the equity skimmers, 5 (29 percent) of the price fixers, none of the money launderers, 9 (50 percent) of the smugglers, and 6 (13 percent) of the other offender types. This special condition of probation could not be predicted statistically.

Conclusion

Federal trial court use of organizational probation has come a very long way since it was first implemented in *United States v. Atlantic Richfield Co.* in 1971. Chapter 8 (Part D) of the federal sentencing guidelines, put into effect 20 years later, statutorily has mandated organizational probation and thereby has given federal judges considerable power in sentencing convicted organizations.

This article describes the basic nature of the first few years of organizational probation under the guidelines. According to data supplied by the U.S. Sentencing Commission covering organizational crimes sentenced under Chapter 8, federal judges exercise the probation

option in about two-thirds of such cases. Most are given probation for an even number of years, from 1 to 5, with the average at 37 months and the median at 36 months. The vast majority of convicted organizations are relatively small, closely held firms. Three-quarters of the convicted firms committed one of four basic types of offenses: equity skimming, price-fixing, smuggling goods, and money laundering; court-ordered probation was not related to offense type. The most important factor affecting whether convicted organizations were fined is whether they were deemed able to pay it. While the imposition of a fine was unrelated to the order of probation, those organizations ordered to pay restitution were more than twice as likely to be ordered to probation. One in five probationer organizations was ordered to develop a compliance program.

The implementation of Chapter 8, especially Part D, adds a viable alternative to the sanctions available to federal judges in the sentencing of organizations. As William Lofquist (1993, p. 163) has noted, "Its significance is rooted in its divergence from past practice and its linkage to theoretical understandings of the causes and control of organizational crime."

NOTE

[1]To avoid *ex post facto* concerns, federal trial courts generally did not sentence organizations under Chapter 8 unless their offense was committed *after* October 31, 1991. However, the earliest offense in the data set occurred in October 1989. The earliest sentencing date is May 13, 1992.

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Operation Spotlight: The Community Probation-Community Police Team Process

By Harold B. Wooten and Herbert J. Hoelter*

Introduction

CONSIDER THE following scenario played out daily in a community in a town or city like yours:

Who's Talking to Whom in Dismal Swamp?

In a poor section of your city there is a small but well-populated community known as Dismal Swamp. Three thousand citizens live and work in Dismal Swamp. One hundred and twenty offenders who are currently on probation or parole supervision reside and do crime in the Dismal Swamp area. Open drug sales, litter, vacant lots, and vacant row houses (often used for crack or stash houses) are commonplace. The parks are empty. Most residents do not move about freely. Drug dealers control many street corners. At night the churches and schools are closed and quiet.

Thirty-seven youthful offenders are on juvenile probation or on release from state institutions with five different juvenile probation officers covering Dismal Swamp.

Dismal Swamp has 62 adult offenders on probation or parole who are supervised by six different state probation officers.

Twenty-one persons in Dismal Swamp are on federal probation, parole, or supervised release, assigned to four different federal probation officers.

Two city community police officers are assigned to the Dismal Swamp community. The two city community police officers share information with each other occasionally.

Now consider this:

> The five juvenile probation officers do not routinely discuss their cases with each other or with the state probation officers, with the federal probation officers, or even with the two city community police officers, and certainly not with the local citizens.
>
> The six state probation officers do not routinely discuss their cases with each other, with the juvenile probation officers, or with the federal probation officers, or with the two city community police officers, and certainly not with the local citizens.
>
> The four federal probation officers do not routinely discuss their cases with each other, with the juvenile probation officers, with the state probation officers, with the two city community police officers, and certainly not with the local citizens.
>
> The two city community police officers do not routinely discuss crime matters or information about at-risk offenders in Dismal Swamp with each other, with the juvenile probation officers, with the state probation officers, with the federal probation officers, and certainly not with the local citizens.
>
> And the 3,000 citizens know very little about the at-risk offenders in Dismal Swamp and certainly are not included in discussions with any of the probation officers or the community police officers.
>
> But many of the 120 offenders in Dismal Swamp are interacting and sharing information every day!

There is something very wrong with this picture. It is against this backdrop that the authors created the Community Probation-Community Police Team (CP-CPT) process.

The Factors That Keep Agencies Apart

Combinations of factors, by practice, separate the work of law enforcement and correctional agencies and do not serve the safety of the community well. Some of the practices are:

- Probation and police agencies do not regularly share information about at-risk juvenile and adult offenders in the community because historically an "information wall" was erected to "protect" offenders from (potential) police harassment. This information wall must come down for the safety and protection of citizens.
- Probation and parole systems have emphasized punishment programs in spite of the research that reveals that programs that emphasize punishment have no positive effect on reducing recidivism. Yet, the literature is clear that rehabilitation programs that address the crimogenic needs of offenders can have a significant impact on reducing new criminal conduct.
- Probation officers often adopt a style of interaction with offenders, learned on the job, that closes down the possibility of meaningful dialogue. Generally

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speaking, this is a nagging or disapproving style that does not work well with offenders who are prone to antisocial attitudes. A good deal has been written lately about new communication styles for probation and police officers alike when addressing citizens (and at-risk offenders) that increase the opportunity to develop a mutually respectful (and thereby useful) relationship.

- Unlike businesses, probation and police agencies often put more emphasis on growing than on being more efficient. This could be considered a "more is better" organizational upsizing strategy. It is perhaps wiser and certainly more cost efficient for both agencies to adopt a utilitarian approach to community safety; that is, to focus on the at-risk offender with a history of criminal conduct rather than trying to gain more staff to expand ineffective approaches.
- Too few tangible organizational techniques exist to positively reinforce probation officers with regard to case outcome. The probation officer with the greatest skills at helping offenders live lawfully is not *encouraged* any more than the probation officer with a tail 'em, nail 'em, jail 'em approach (and the most revocations in the agency) is *discouraged* from such practices. Probation agencies need more tools to reinforce officers who help offenders succeed on supervision.
- The vast majority of offenders returned to prison are for technical violations of the conditions of their release—not for serious new criminal conduct. According to the California Blue Ribbon Commission on Inmate Population Management, in January 1990 the State of California discovered that 47 percent of its new entries into prison (34,000+) were *technical violations of the conditions of community supervision, i.e., without new criminal conduct.* Practitioners are aware that the primary reason for these technical violations is substance abuse, aggravated by a lack of treatment resources. Probation and police agencies must find creative ways to break the revolving-door syndrome.

A More Difficult Offender on Supervision?

Many practitioners today believe that young adult offenders are returning from relatively long prison sentences with increasingly serious problems. A small but hardcore portion returns with such exaggerated antisocial attitudes (and joins the company of like-minded antisocial associates) that no intervention short of removal from the community appears viable. Even well-intended at-risk offenders can be expected to face serious adjustment problems. By their nature and experience, they tend to resolve their feelings of anger, rejection, and interpersonal conflicts poorly. Unresolved problems, coupled with impulsivity, quickly can lead to a downward spiral that is exacerbated by alcohol or drug abuse. To have a chance with the at-risk offender, community supervision must be vigilant and in "real time." At no fault of the officers, because of high caseloads and inadequate resources, supervision interventions often are neither vigilant nor in close proximity to the behavior of the offender. As a result, officers often feel like "retrospective monitors of failure."

Community supervision policies and practices for at-risk offenders must be retooled. In short, probation systems must do what they say they can do—deliver safe, effective supervision of offenders in the community. But the task of changing self-defeating behavior of offenders is and always has been too large and complex for probation and police systems to manage successfully alone. The retooling of community correctional systems requires new partnerships between probation and police officers, private investors, universities, senior citizens, social services, mental health treatment services, schools, community organizations, and religious organizations.

Where will the resources come from? Refreshingly, the authors do not advocate the more-is-better approach to a retooling effort. While *more* resources must be targeted for at-risk offenders, *fewer* resources should be allocated to offenders with moderate and low risk of recidivism. Lower risk offenders should be removed from supervision quickly so that they do not absorb large portions of finite resources. Yet, probation officers' unnecessary administrative attention to lower risk offenders is in part a consequence of the courts' excessive use of multiple special punishment conditions. Punishing low risk offenders with multiple conditions spreads probation supervision too thinly. A 1987 Federal Judicial Center study, *Community Supervision of Federal Offenders,* conducted on the supervision of 650 federal offenders, revealed that administrative time given to low risk offenders in the sample matched the attention given to the most dangerous offenders on supervision. This is sometimes referred to as the "leveling phenomenon" or the "Big Mac" approach, i.e., everyone gets the same meal (or attention). The results of this topsy-turvy distribution of officers' time and attention can be quite dangerous when viewed from the impact on the community. In a survey conducted by the National Center on Institutions and Alternatives in September 1997 for the kick-off the "HotSpots" community initiative in Maryland, over 100 probation officers reported that they saw at-risk offenders face to face less than five times *per year.* They were not proud of this lack of meaningful contact. How, then, can probation and police agencies retool their practices to focus on the behavior of at-risk offenders already in the community?

The Community Probation-Community Police Team Process

In 1995, the authors developed the Community Probation-Community Police Team (CP-CPT) process, *Operation Spotlight.* The National Center on Institutions and Alternatives (NCIA) had become increasingly concerned that throughout the country, community corrections systems had lost the confidence of the public with regard to the ability of probation systems to supervise effectively the offenders already in the community. NCIA believed that until community corrections agencies can prevent large-scale new criminal behavior by at-risk offenders, prisons will remain the punishment of choice, even for relatively minor offenses. The authors started with the belief that trendy new programs-du-jour will not substitute for redesigning the process by which probation, police, and citizens work together toward a common vision to help offenders who are motivated to live a law-abiding lifestyle. Conversely, the authors believe that the current level of new criminal conduct by at-risk offenders is a very serious problem that demands a more effective approach.

Goals of the Process

The CP-CPT process, or *Operation Spotlight,* focuses investigative and supervision services of police and probation systems on the at-risk offenders already in the community. Through extensive formal training, technical assistance, and an information system, NCIA established the following goals for *Operation Spotlight:*

- To create a process that facilitates the exchange of information between probation and police officers regarding the behavior of at-risk offenders in the community;
- To provide a mechanism that engages local citizens and the resources in the community in the problem-solving process;
- To provide probation and police officers with the knowledge, skills, and attitudes to help offenders develop prosocial attitudes and associates; and
- To increase the safety of officers and citizens.

How the Process Works

Probation and police officers voluntarily commit to work on a team for at least 1 year. The officers attend two 1-week training sessions. Week one focuses primarily on the development of a high-performance team. After the officers have several months' experience working together, week two is directed toward working effectively with at-risk offenders and their families and developing partnerships with local citizens.

Since studies have shown that 50 percent of crime is committed from 3 percent of residences, the teams are located in the communities where the offenders live and where crime is committed. Most importantly, *Operation Spotlight* probation officers have caseloads that are limited in size and comprised exclusively of at-risk offenders. The offender participants receive intensive supervision from probation officers on the team, which is complemented by field observations from police teammates. Probation officers supply the police team members significant "static" background information about the offenders "in the pool," including the following: name, address, phone number, photograph, offense, conditions of release, prior record (including firearms, substance abuse, acts of violence), past co-defendants, known hangouts, and automobile tag numbers. This static information improves the quality of field observations and provides a background for the police to get to know the offenders. Additionally, police officer safety is significantly improved: no longer will a police officer blindly respond to a domestic disturbance at the residence of an at-risk offender who has a history of firearms possession or assault on police officers.

Certain types of "dynamic" information are not shared, such as treatment providers or results of urinalysis. Obviously, community-based police officers' field observations help the probation officers' supervision efforts by "grounding" case decision-making in the light of an exponentially greater degree of information. Instead of being limited to how offenders appear and what they may say at a report-day ritual, the probation officer receives information about the actual behavior of the offender in the community from the perspective of the police and through neighborhood complaints.

Citizens are called upon and reinforced to report to the team activities that may be illegal. The team's job is to investigate the complaints swiftly. For example, if a citizen alleges that drugs are being sold on a certain corner and, upon investigation, drug distribution is confirmed and it turns out that none of the persons involved are on supervision by team probation officers, the matter remains a police concern. However, if some of the participants are on supervision, the matter becomes a team concern as well and swift interventions are initiated. Most importantly, the results of the team's action are reported back to the citizen, who then is encouraged to provide future reports of "alleged" criminal activities. The goal is to have citizens know the team members and trust that the team will take action.

Operation Spotlight teams spend a great deal of time finding a wide range of treatment opportunities, tailored support systems or mentors, and an array of community resources for offenders who are motivated to live a prosocial lifestyle. This is consistent with the team's "tone" toward offenders and citizens: firm, factual, and friendly. Notwithstanding this tone, teams are taught to verify everything. Community probation officers are taught to aggressively answer the question

"How do you know?" For example, how do you know an offender works where he says he works, lives where she says she lives, or stays away from known drug distribution corners? Much of this verification must come from aggressive field investigation work.

Because of the sophistication of the intensive supervision practices of *Operation Spotlight* teams, the teams discover offender conduct that could technically violate the conditions of release. *Operation Spotlight* teams learn to recommend incarceration as a remedy for technical violations only for new, serious offenses or if an untenable threat exists to the public safety. Absent these two events, *Operation Spotlight* teams address technical violations of conditions (such as drug use) with increasingly restrictive local sanctions.

Training for Officers

The authors cannot overstate that *Operation Spotlight* is not a program—it is a refined process. Formal training in this new paradigm is an essential ingredient to success. *Operation Spotlight* is revolutionary by the degree and frequency of officers' actions and by the range of sources of help. The immediate benefits—law enforcement agencies' sharing of information about at-risk offenders in the community, increased officer safety through increased knowledge about offenders, and increased involvement of citizens and resources in the local communities—are all appealing by common sense. Still, the underlying tenets of *Operation Spotlight* go well beyond common sense. The knowledge, skills, and attitudes on which participating officers are trained are drawn from contemporary correctional literature, organizational development and change theory, high-performance team-building theory and practices, structured family therapy, transactional analysis, cognitive treatment behavior, contemporary field safety practices, and streamlined due process and administrative procedures.

Experience has shown that it is imperative that key decision-makers, supervisors, and managers receive a modified version of the training *before their participating officers receive training* so that managers are well informed as to the skills and techniques required. This approach facilitates the support of managers. Formal training is supported by select readings, videotapes, and electronically shared "best practices."

Weekly Team Meetings

Operation Spotlight officers meet weekly at a regular time and place in the designated community for approximately 3 hours and follow a structured meeting format developed by NCIA. The purpose of the standing *Operation Spotlight* meeting is to accomplish the following:

- To conduct a case staffing on each offender in the "pool" and review strategies for effective interventions;
- To gain new skills and methods to intervene effectively with at-risk offenders;
- To gain knowledge of existing community resources; and
- To develop techniques for gaining support from citizens.

Officers decide when joint home inspections, visits with family members, or curfew checks enhance the quality of supervision. The value of this approach has been displayed well in Boston's "Nightlight" project.

As part of the weekly team meeting, local citizens, leaders, or key staff from community resources give presentations to the teams. The purpose of these presentations is for *Operation Spotlight* teams to gain a thorough understanding of the services each agency or organizations offers, the intake process, logistical information, relevant procedures, rules, requirements, necessary paperwork, and contact persons. On-site visits and inspections by *Operation Spotlight* team members follow the organization's presentation. NCIA maintains that individuals within organizations will work hard for each other (and therefore offenders) if the individuals involved know of each other's work and share mutual respect.

Team members also prepare and give formal and information presentations on the goals and practices of *Operation Spotlight* to elicit the support of and provide information to community groups and organizations such as homeowners associations, insurance groups, civic associations, religious groups, schools, legislators, and the media. In short, they become a part of the fabric of the community by their visibility and participation in community functions. Volunteers are sought to help support *Operation Spotlight* and to assist offenders under conditions supervised by team members.

Operation Spotlight *Information System (OSIS)*

NCIA has developed a software package to serve the needs of the *Operation Spotlight* team members and their agencies. Each *Operation Spotlight* team is provided a personal computer equipped with a modem and printer and a high capacity diskette drive for data backup. The objectives of OSIS are: sharing information; tracking and recalling contacts with the offender; distributing training materials, resource lists, case studies, and other materials; gathering and consolidating statistics; and exchanging information with other criminal justice information systems.

Benefits to Participants

The following are some of the ways *Operation Spotlight* benefits various players in the criminal justice process:

- *Benefits to Police Agencies.* By receiving information on at-risk offenders—such as criminal records, his-

tory of violence, domestic abuse, child abuse, firearms use or possession, residence, phone numbers, employment, and conditions of release—police agencies improve intelligence about local crime and enhance officer safety. Additionally, citizens begin to see police officers as responsive and personally invested in their safety.

- *Benefits to Citizens.* Perhaps more than anything, citizens want immediate response and feedback from community probation officers and community police officers regarding their complaints about antisocial behavior of offenders on supervision. From our experience, citizens appear to trust community probation officers and community police officers to the degree they are visible, are fair and equitable, and are concerned about creating a safe community.
- *Benefits to Probation Agencies.* Probation agencies gain valuable information from field observations and investigations by community police officers on offenders who currently are engaged in criminal conduct. Knowing which offenders are engaged in antisocial activities and which ones are not is the essence of risk control with at-risk offenders. By becoming community oriented, agencies earn the respect and support of citizens. That support, in turn, brings a wealth of heretofore unknown resources to help resolve the many problems at-risk offenders present.
- *Benefits to Offenders.* Offenders who have had difficulty living within the laws of society are given clear expectations and legitimate opportunities in the form of treatment, vocational services, guidance, and support—all targeted to help them become productive members of the community. *Operation Spotlight* teams actually want offenders to "make it."

Implementation of the Process in Maryland

Under the direction of Governor Parris N. Glendening and Lieutenant Governor Kathleen Kennedy Townsend, chair of the Cabinet Council on Criminal and Juvenile Justice, on March 18, 1997, the State of Maryland kicked off a 3-year, $10.5 million crime reduction effort known as the Maryland "HotSpots" communities initiative. The HotSpots effort identifies high crime areas and seeks to systematically help neighborhoods reduce crime with new partnerships between federal, state, local, and county agencies working together to "reclaim their streets from crime, violence, drugs, and fear."

The HotSpots initiative was patterned after an earlier 3-year demonstration project in Baltimore, Maryland, known as the Comprehensive Communities Program (CCP). The CCP, a concept advanced by Lieutenant Governor Townsend when she served at the Department of Justice, demonstrated the benefits of communities joining together to overcome the forces of street crime. Significant reductions of crime rates in the targeted areas were demonstrated. Noticeably absent from this effort was the participation of probation agencies. In fact, one well-known community police officer who had worked in a CCP area for several years stated that he had never met or seen a probation officer in the community.

Utilizing $3.5 million annually from an array of state and federal grant sources, the HotSpots initiative focuses on the following components: Community Probation-Community Police Teams *(Operation Spotlight),* Community Mobilization, Community Maintenance, Youth Prevention, Community Prosecution, Youth Delinquency Prevention, Crime Prevention Through Design, Victim Outreach and Assistance, Community Support for Addiction Recovery, and Housing and Business Revitalization.

NCIA was given the responsibility to plan the implementation of its Community Probation-Community Police Team process, *Operation Spotlight,* between diverse organizations—Maryland State Police, Baltimore City Police, county police from 22 counties, numerous sheriff's departments, juvenile justice, adult parole and probation, and federal probation. Today, 36 teams are in place in 22 counties and Baltimore City. Governor Glendening recently announced his intention to expand the sites from 36 to over 100 in the near future.

The CP-CPT process has been widely heralded in the print and electronic media and has received glowing reviews by participating officers. Many officers have commented that for the first time in their careers, the process has allowed them to actualize the goals that brought them to their professions—*to make a difference in the lives of others.*

Summary

The authors have collectively over 50 years' experience designing creative offender supervision programs and developing community alternatives to incarceration. They assert that by changing the process by which probation and police agencies address the problems presented by at-risk offenders, communities can show marked improvement in reducing crime.

The CP-CPT process is founded upon what the research literature reveals to be the essential ingredients for what works well: extensive and comprehensive training; the use of "real-time" interventions; comprehensive treatment services for substance abuse and mental health problems; the active pursuit and use of prosocial forces such as family, friends, churches, mentors, and community organizations; a reliance on interventions that follow the principles of structured family therapy, transactional analysis, and cognitive treatment behavior; structured weekly team meetings; teamwork that relies on interactions with offenders

that are firm, factual, and friendly; and the use of graduated sanctions, where possible.

Already in the first year of operation in Maryland's HotSpots communities it is clear that enthusiastic officers are active in the community, exchanging unprecedented information about at-risk offenders and offering assistance to offenders that has no comparison with previous community corrections supervision practices. While formal longitudinal outcome studies are forthcoming from the University of Maryland and others, an anecdotal comment by a participating probation officer is now telling: "This process (CP-CPT) is really a mindset. . . . I simply see my offenders differently now!" As this process unfolds and evolves, participants have yet to report a downside.

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A Continuum of Sanctions for Substance-Abusing Offenders

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Background

An effective supervision strategy for substance-abusing offenders requires a reliable drug testing program as well as a consistent and well-formulated policy that holds offenders accountable for their decision to use drugs or otherwise violate the special drug aftercare condition. The range of consequences for drug aftercare violations must be clearly spelled out in the office policy manual *and* overseen by unit supervisors, the expectations of abstinence and possible sanctions must be carefully reviewed with the offender during the initial interview, and, most essential, the threatened sanctions must be imposed when and if violations occur if we are to be effective in controlling *and treating* the drug offender.

In a previous article, I presented support for the strategy implemented by the Central District of California (CDC) at Los Angeles (Torres, 1997, pp. 38–44). The strategy is based on a philosophy of rational choice rather than the traditional disease model of addiction. The policy implications from a choice model lead to a total abstinence approach with predictable consequences for drug use and associated aftercare condition violations. In the CDC the officer retains the discretion to determine the appropriate sanctions, but the policy clearly suggests that some consequence follow *any* incident of drug use.

The preferred course of action, for even a single positive drug test, historically, has been placement in a residential drug treatment program (Torres, 1997, p. 41). Although most officers who support the traditional medical model view of addiction feel that this approach is overly punitive and unconcerned with the treatment of the offender, the CDC believes that a total abstinence approach is in the best interest of the community *and* the offender. This strategy attempts to balance the goal of community protection through rapid detection and intervention while also holding the individual accountable for the decision to use drugs or otherwise violate the special drug aftercare condition. Swift detection also benefits offenders by intervention before they become addicted or involved in new criminal conduct that potentially may lead to a new and lengthy sentence of imprisonment. Once detection and intervention occur, the CDC places the responsibility on offenders to determine whether to avail themselves of a treatment program:

> Through a *total abstinence* approach, the district's primary goal, as it relates to drug use, is the protection of the community and the addict. . . . This goal can be accomplished . . . by the user making the decision to abstain from drug use in the open community. [D]rug abstinence is enforced through placement in a drug-free residential program. . . . Rapid detection through urine drug testing and physical examinations will allow the probation officer to intervene immediately and prevent the client from reverting to patterns of criminal behavior associated with drug use. This is diligently pursued, as it is in the best interest of the community as well as the client. (U.S. Probation Office, 1981, App. 415, p. A-400-61)

Accountability and Treatment

Although the CDC has established a policy requiring officers to report any incident of illegal drug use to the court or the U.S. Parole Commission, it has left the specific consequence and recommendation to the discretion of the officer and the officer's supervisor. The expectation, however, is that the officer will impose some sanction and will hold the offender accountable for drug use, failure to report for testing, stalls, or diluted tests. This article discusses the continuum of sanctions for substance-abusing offenders. It focuses on alternatives to incarceration or what is now commonly referred to as intermediate sanctions. The article adresses short-term incarceration, however, as one type of sanction and also as a technique to induce an offender to participate in a therapeutic community. In the case of serious or repetitive violations, the probation or parole officer has an obligation to bring the matter to the attention of the court or the U.S. Parole Commission by instituting revocation proceedings. Needless to say, serious or repetitive violations may necessitate the offender's arrest.

Aside from the CDC, few districts have attempted to implement a structured range of sanctions for officers to impose when violations occur generally and drug aftercare violations occur specifically. In the early 1990s, the Northern District of California (NDC), headquartered in San Francisco, developed a drug testing program model based on the one developed in the CDC. U.S. Probation Officer Frederick Chavaria (1992) describes the phase/sanction program for drug aftercare (DAC) cases. The position of the NDC is that offenders

with a special drug aftercare condition have the potential to become addicted and, thus, are in need of a treatment approach that is aimed at deterring drug use. The NDC believes that even occasional, recreational drug use among offenders places them at high risk. The substance abuser is essentially given two choices. The offender is forced to accept the responsibility to resist addiction or face the consequences of drug use. In implementing its philosophy, the NDC developed a 1-year phase/structure program. The program was designed with two specific purposes in mind: to promote the position that drug use would not be tolerated and to provide quality treatment to any offender who desired to remain drug-free (Chavaria, 1992, p. 50).

In describing this program, Chavaria states that, "the client is confronted with clearly defined and unavoidable consequences (sanctions) for program noncompliance and/or drug use. However, the offender is also introduced to a program of drug treatment which will allow him or her to assume a clean and sober lifestyle" (1992, p. 51). He concludes, "If there is to be failure, let it be the client's, for the probation officer will have provided both the environment and [the] opportunity for intervention to occur" (p. 51).

More recently, U.S. Probation Officer John Gonska described "A Sanction Program for Noncompliant Offenders in the District of Nevada" (1994, pp 11–15). Gonska acknowledges that probation officers, historically, have had a substantial amount of freedom to choose and implement supervision plans and how they will address technical violations (p. 11). He notes that "most probation officers exercise sound judgment and engineer creative, meaningful approaches to address noncompliant behavior. A few, unfortunately do not" (p. 11).

The sanction program in the District of Nevada was developed to fulfill the probation system's obligation to report and correct behavior that was in violation of the conditions of supervision and "to establish consistency in doing so from offender to offender, from officer to officer, and from supervisor to supervisor" (p. 11). The district eventually established three categories of violations and sanctions that still permitted officers the discretion to select a range of penalties within the appropriate category (p. 13). Violations of the special drug aftercare condition were described as follows:

> 1) Drug/substance abuse-related behavior — Each of the commonly abused illicit and prescription drugs was listed, as was alcohol. The category denoted frequency of use for each drug (for example, one positive drug test for cocaine, two to three positive tests for cocaine, and four or more positive tests for cocaine). The category also covered urinalysis; excessive alcohol use; failure to attend drug counseling sessions; association with drug activities; violation of rules and regulations of the drug aftercare contractor; possession of narcotic paraphernalia; and possession of a controlled substance. (p.11)

In the District of Nevada it appears that most drug aftercare violations fall into categories 1 and 2, which provide sanctions that include verbal admonishment, written admonishment, court admonishment, increased counseling sessions, placement in a community corrections center, and increased testing. Placement in a residential drug treatment program involves category 3 violations such as providing four positive "UAs" for cocaine during the first 2 years of supervision.

Through the development and implementation of this sanctions program, the District of Nevada has enabled officers to handle violations responsibly and consistently. The primary goal of this program as stated in the probation office's policy is to provide consistent and predictable consequences when violations occur. This consistency and predictability serves to protect the community, promote respect for the court, deter offenders from using drugs, and encourage constructive change. The District of Nevada, like the CDC and the NDC, strives to implement a balanced supervision approach that encourages compliance with the conditions of probation and parole, provides protection to the community, and allows for drug treatment (Gonska, 1994, p. 15).

Several well-known criminologists also advocate a strategy of accountability and increasing sanctions for dealing with drug offenders (Kleiman, 1996; Petersilia, 1996; Wilson, 1995). Wilson, in an essay written for *The American Enterprise,* says that "one way to make offenders motivated is coercion. . . . [I]n order for this to be done, probation, parole, and police officers would need to get aggressive about identifying and testing drug-abusing convicts, judges would need to respond crisply to those who failed the tests and correctional authorities would need to create a graduated set of sanctions" (1995, p. 49).

Petersilia and Turner (1993, pp. 281–335) report that recidivism was reduced 20 to 30 percent in programs in which offenders both received surveillance (e.g., drug tests) and participated in relevant treatment. They advocate a program combining treatment with heavy doses of surveillance and believe that such an approach may have a more punitive effect than prison (p. 491).

In an unpublished paper, *Controlling Drug Use and Crime Among Drug-Involved Offenders: Testing, Sanctions, and Treatment,* presented at the American Society of Criminology in San Diego California, Professor Mark Kleiman (1997) of the University of California at Los Angeles Graduate School of Public Policy asserts that crime tends to be the product of those who are reckless and impulsive, rather than those who behave in a self-interested, rational manner. The fact that many, if not most, offenders tend toward reckless, impulsive behavior has major implications for the formulation of public policy to combat drug-related crime. According to Kleiman, for these reckless and impulsive drug offenders, delayed and low-probability threats of severe sanctions are much less effective than more immediate and high-probability threats of mild punish-

ments (1997, pp. 1–2). Kleiman maintains that the probation and parole systems represent the most viable solution to the management of substance-abusing offenders. He supports an abstinence approach and argues that this should be a condition of supervision, monitored by frequent drug testing. Kleiman advocates the use of predictable sanctions for persons who persist in using drugs. Treatment, however, should be offered or required for offenders who are unable to abstain from using drugs (1997, pp. 1–2).

Petersilia also has pointed out that drug offenders under criminal justice supervision stay in treatment longer, thereby increasing positive treatment outcomes (Petersilia, 1996, p. 493).

Violations of the Special Drug Aftercare Condition

A variety of behaviors are associated with drug testing that may represent technical violations of the special drug aftercare condition. I will review these briefly since I have previously discussed many of them in an article entitled "The Use of a Credible Drug Testing Program for Accountability and Intervention" (Torres, 1996, pp. 18–23).

Failing to Report for Testing. Failing to report can occur for a multitude of reasons including employment, lack of transportation, illness, or forgetting to call the code-a-phone. In many cases, however, offenders surmise that if they are "dirty," it is to their advantage not to report for drug testing and to try to provide a credible reason for not showing. Officers should view a failure to show as a "red flag" since many offenders use this technique, believing that a "no show" will be viewed with less seriousness than a dirty. In most cases, the offender is correct in this assessment.

Stalls. In this technique the offender who is dirty informs the probation officer that he or she cannot urinate. After several attempts, the officer or drug counselor may choose to give the offender a "stall"—directing him or her to return on another date—which buys the offender additional time to excrete the drug. Most officers do not view a stall with as much concern as a positive test or a failure to show.

Attempting to "Beat the Test" or Contaminating the Specimen. In my previous article on drug testing, I presented some of the methods offenders use to beat the test (Torres, 1996, pp. 18–23). Some of the techniques were: using a rubber penis filled with clean urine, attaching to the unobserved side of the penis a tube leading to a container under the armpit, inserting a small bottle of clean urine into the vagina, pouring clean urine into the specimen bottle, dipping the bottle into the urinal or toilet and filling it with water, or contaminating the urine sample with various foreign substances (e.g., Drano, chlorine, bleach).

Flushed Specimen. This is one of the more common methods used to beat a test. With "flushing" the offender consumes large quantities of liquids to dilute the concentration of drugs in the body and accelerate excretion. The greater the liquid intake, the lower the concentration of the drug and the quicker the excretion rate—thus, the greater the probability of a negative test result. In the CDC, a specific gravity (measurement of urine dilution) of less than 1.010 is considered diluted and thus unacceptable. Specific gravity results of from 1.000 (specific gravity of water) and 1.005 are viewed with great suspicion.

Failing to Participate in Counseling Sessions or Treatment. As in failing to report for testing, the offender may have any number of reasons for failing to participate in treatment as directed. Although most officers recognize the need for follow-up, they should try to verify the offender's justification whenever feasible.

Alcohol Use. Because many instances of relapse are attributed directly to the use of alcohol, offenders are ordered to abstain from consuming alcoholic beverages. A breathalyzer is used to randomly check offenders for alcohol use when they report for testing.

Positive Drug Test Results. This violation is one that most drug officers confront almost daily. Today, most positives are for cocaine, amphetamines, morphine, and marijuana. Other drugs of abuse are anabolic steroids, barbiturates, phencyclidine (PCP), and prescription medications such as valium, codeine, and methadone.

In addition to these technical violations, there are some legal violations that may be addressed without the necessity for revocation and imprisonment. Maintaining an offender in the community after a legal violation is controversial and frowned upon by many officers; however, arrests or convictions involving driving under the influence of alcohol, under the influence of alcohol (drunk in public) or drugs, misdemeanor domestic violence, driving on a suspended or revoked license, petty theft, and misdemeanor assault and battery typically have been among those considered for continued supervision after the imposition of some sanction.

A Continuum of Sanctions

In presenting a continuum of sanctions I have listed and described those that I personally used most often or my colleagues in the CDC used. The list is not intended to be exhaustive. No doubt other officers have developed and used creative and effective sanctions that are not included here. The sanctions are enumerated along a continuum from least severe to most severe. While there may be considerable disagreement on how I rank the severity of sanctions, when possible, I have relied on the RAND Corporation's studies entitled "What Punishes? Inmates Rank the Severity of Prison vs. Intermediate Sanctions (Petersilia & Deschenes, 1994, pp. 3–8) and "When Probation Becomes More Dreaded Than Prison

(Petersilia, 1990, pp. 23–27). The primary purpose of this article, however, is not to obtain a consensus on what sanctions are more severe than others, but to underscore the fact that there are a variety of appropriate consequences, short of incarceration, to use in dealing with violations of the special drug aftercare condition. The point that I hope to make is simply that with many, if not most, technical violations, these community-based sanctions can be appropriate, proportional to the violation, and infinitely more constructive than imprisonment. However, it is vital, as Gonska (1994, p. 15) and Chavaria (1992, p. 51) have emphasized, that sanctions be consistent and predictable.

This article is not intended to provide a full description and assessment of the research on each of the intermediate sanctions discussed below. Instead, I hope that it provides probation officers with an assortment of options to consider when a violation of the special drug aftercare condition occurs.

Admonishments. Some, including this writer, would argue that an admonishment really does not qualify as a sanction at all and is most likely to be perceived by the offender as a "pass" (chance). It would most likely be entered in our chronological case summary as: "The offender was admonished for his failure to report for drug testing. No further action is deemed necessary at this time." Nonetheless, an admonishment is a fact of life in the daily routine of a probation officer since taking action on every technical infraction is impossible. However, officers need to take care in using admonishments, threats, or ultimatums too frequently, especially with substance-abusing offenders. Substance-abusing offenders may perceive that they "beat" the violation and "got over" on their probation officer. If this occurs too often, the officer, office, and drug program lose credibility, as well as effectiveness in deterring drug use.

Verbal Admonishment by Probation Officer. The mildest form of sanction is a verbal admonishment by the probation officer. If the officer uses this form of sanction, it is more likely to have an impact if administered in person rather than by telephone. As in any other action, the officer should properly document the technical violation and the date the admonishment was delivered. Oftentimes, a verbal admonishment takes the form of a threat in which the officer warns the offender that further violations along this line will result in more severe action such as an increase in phase, a requirement to participate in a 12-step program, placement in a Community Corrections Center (CCC), or some other consequence. The key here is to remember *not to threaten with something that you are unprepared to follow through on.* This is an all too common mistake made by probation officers and judges alike. Empty threats are quickly recognized as such by the substance-abusing offender and result in a loss of credibility, consistency, and predictability. The impact of empty threats is disastrous to the development of an effective strategy for controlling and treating substance abusers.

Written Admonishment by Probation Officer. This type of warning is, perhaps, one notch above the simple verbal admonishment. A formal letter, using stern wording, is more likely to have some impact on the offender. Again, probation officers should take care in composing such letters and should not threaten actions that they are not prepared to take if further violations occur. Frequently, a written admonishment follows a verbal one. The written admonishment also may be used later if further violations occur or if a hearing results. That is, written admonishments can help officers demonstrate that they have attempted to work with offenders to no avail.

Verbal Admonishment by Probation Officer and Supervisor. In some offices, a meeting with the offender, the officer, and the supervisor to discuss the violation is meant to impress the offender with the seriousness of his or her actions. This may result in an admonishment to the offender by the officer and the supervisor. To add weight to the admonishment, I suggest that it be followed up with a letter.

Written Admonishment by U.S. Parole Commission. On occasion, I used this option when I felt that the circumstances did not warrant imposition of a severe sanction, yet I did not want the offender to minimize the violation. Obtaining a written reprimand from the U.S. Parole Commission to the offender requires a written violation report. This, however, generally was quite brief, outlining the technical violation, presenting the positive factors in the case, and indicating why I was recommending no action and a formal letter of reprimand.

Verbal Admonishment by the Court. The most severe form of admonishment is to schedule a revocation hearing and cite the offender into court. Certainly, an officer can request a bench warrant with the thought of recommending that the court continue the offender on supervision with an admonishment. However, this represents a different level of sanction since the offender is taken into custody. This option is similar to that of requesting the Parole Commission to send the offender a written reprimand. It differs, however, in several significant ways from the Parole Commission reprimand. First, it requires considerably more work than dictating a one- or two-page parole violation and simply mailing it off. A court letter is more time consuming. It requires much greater care in preparation, a form 12 (order to show cause), a citation, the execution of the citation, and—perhaps most significantly—a court appearance. This latter feature should not be minimized. For me, a court appearance required driving to downtown Los Angeles from Orange County, or a distance of about 75 miles round trip. Traffic and time of day in Los Angeles were factors to seriously consider. Furthermore, once a decision has been made to calendar the matter, it gen-

erally requires at least half a day of the officer's time and frequently the entire day. A denial is always possible, which involves additional hearings and thus more time in court. While court time is something that is an essential part of the probation officer's position, too much time spent in court takes officers away from other critical duties. For these reasons, many officers avoid court like the plague, attempting to process as many violations as possible without the necessity of a court appearance.

In certain situations, however, a citation and formal court appearance can make a considerable impact on the offender. A critical point here is knowing your judge. Is this judge, in this case, likely to make the impression you desire. Suffice it to say that the trappings of the federal courtroom coupled with a stern admonishment can have a significant impact.

Lengthen Time in Current Phase. A mild sanction for a stall, failure to show for testing, a diluted specimen, or perhaps a positive alcohol test is to extend offenders in their current phase level. This option generally is available when the individual is nearing the end of a particular phase and due to move to the next phase or be discharged completely.

Increase Phase Level. Closer supervision and testing are required when the offender has failed to show for testing more than once or has more than one diluted specimen, more than one stall, or one or more positive tests for alcohol. In addition, officers may consider an increase in phase level for a positive marijuana test if the offender is otherwise making a favorable adjustment. Sometimes, this sanction may be appropriate when an offender has provided a positive drug test. For example, if an offender has demonstrated substantial progress and stability and has been on supervision and testing for an extended period of time (i.e., 1 year) and then submits what appears to be an isolated incident of use, then an increase in phase level might be warranted. This sanction can be particularly severe for offenders when they are at the lowest level when the drug use occurs. When this sanction is used, offenders generally wish to know how long the officer will maintain them on the increased phase. It is appropriate and fair to offenders to advise them that if they have no further problems (i.e. stalls, no shows, dirties), then they will be returned to the next phase in, say, 60 days.

Increase Level of Supervision. This option overlaps with the preceding one since an increase in phase level necessarily translates into an increase in supervision by virtue of increased reporting and monitoring through testing. However, in some cases, the officer may choose to maintain the offender in the offender's current phase level and, instead, increase the level of contacts, be they office or field or a combination of both. Again, as in an increase in phase levels, offenders may wish to know how long they will be subject to the increased scrutiny. I believe that telling offenders how long they will be subject to the increased testing or increased probation officer contact is an acceptable tactic because it gives them an incentive to reach their goal of less surveillance. It also is a matter of fundamental fairness to offenders to let them know that if they make a certain degree of progress or achieve certain objectives set by the probation officer, they will receive certain payoffs or rewards associated with those accomplishments.

Community Service. Although this type of sanction generally is not used as much as some of the others listed here, I have, on occasion, referred an offender to perform a number of community service hours as a consequence of failing to show for testing. This option may be appropriate, for instance, if the offender is already on phase 1 and, aside from the instant violation, seems to be doing well. If the officer uses this option, the appropriate way to carry it out is by modifying the conditions of supervision. For this reason, most officers probably elect to use one of the other informal options. While modifications require less work than formal court appearances, they nonetheless require considerable time and effort to prepare a court report, a form 12 petition, modification form, and, oftentimes, agreement and consultation with defense counsel.

Alcoholics Anonymous/Narcotics Anonymous (AA/NA) Meetings. This sanction for technical violations is popular because it is both punitive and constructive. It is punitive it terms of requiring the offender to devote a certain amount of time to drive to and attend meetings and is also appropriate treatment for drug and alcohol use. An entire paper, or even a book, could be devoted entirely to this alternative. For more information, I encourage probation officers to obtain the book *Partners in Change,* written by U.S. Probation Officer Edward Read (1996), which is intended to be a referral handbook for probation and parole officers on the 12-step program. Officers should note, however, that the 12-step approach is somewhat at odds with the philosophy presented in this article since it approaches substance abuse from a disease model perspective.

This option is appropriate when the offender submits a positive test for drugs or alcohol but the officer is of the opinion that the offender is not now in need of the more intensive residential drug treatment option. Oftentimes, this option is used in combination with other sanctions. For example, offenders who submit a positive drug test are required to attend three NA meetings weekly *and* have their phase level increased.

A major element to consider if an officer chooses to use this option is the method by which the officer obtains verification. Offenders have been known to forge signatures or have someone else sign their cards. The use of this option is counterproductive if offenders know that AA/NA meeting attendance is never or rarely verified. Read (1996, pp. 108–112) suggests that officers

become familiar with 12-step programs, the types of meetings, and the terminology so that they can engage offenders in discussions about their attendance and participation.

I used a number of techniques to verify attendance. Since I am quite familiar with 12-step terminology I asked offenders specific questions about the type of meeting they were attending. I already knew the answer since I had referred them to specific meetings. Who is the secretary? Where is the meeting held? Describe the facility. Describe, in general terms, the dynamics of the meeting. Who signs your card? Do you have a sponsor? Let me see your signed card. As the offender progresses in the program, the officer will want to ask the offender to describe the steps. I also generally followed through and asked my contacts at the meeting if they happened to see my offender.

I cannot overemphasize that if an officer selects this option, *verification is critical* if the option is to be effective. Generally, the officer does not need to obtain a court order to direct the offender to attend AA/NA meetings since most aftercare conditions require the offender to participate in testing *and* treatment as directed by the probation officer. In a large metropolitan area there are literally hundreds of meetings weekly. However, in rural areas the number of meetings may be more limited, which might make for easier verification.

Outpatient Counseling. If there are other issues that the officer feels cannot adequately be addressed by attending AA/NA meetings, the officer may want to refer the offender to an outpatient treatment program. These programs usually offer a combination of individual and group counseling. Again, this option may be used when an offender submits a positive drug test but the officer does not feel that inpatient treatment is necessary at the time. Again, this option may be used in combination with others such as increasing the phase level. I occasionally referred female offenders who had submitted a positive test to programs developed specifically for psychological problems females confront such as physical and sexual abuse, domestic violence, and issues with parents and children. As in other options, verification is critical. Verification with outpatient programs tends to be easier than with 12-step meetings. With this option, the officer simply needs to have the offender sign a release of confidential information and forward it to the outpatient program. Once the officer determines which counselor will work with the offender, a simple phone call once or twice a month usually suffices. With this option offenders also like to know how long they will have to remain in treatment. The issue of cost also must be addressed. I tended to use those programs that use a sliding scale to determine the fee charged. It is difficult to refer someone to an outpatient program that charges, say, $25 a session when the offender's income is limited or nonexistent. County mental health departments usually have drug treatment components that provide these services. The officer may wish to set a certain length of time, assuming that the offender makes favorable progress. After participating favorably for a minimum length of time or a minimum number of sessions, perhaps 3 to 4 months or 10 sessions, I informed offenders that they could continue at their discretion. Usually, this meant an end to the counseling. Needless to say, an officer may want to require the offender to remain in counseling indefinitely due to pressing psychological issues. If possible, I avoided this direction since it could set the offender up for failure and violation. I liked to set a specific and reasonable treatment program based on the issues involved. Remember, if there are severe issues to address or a serious substance abuse problem, it may be much more appropriate to place the offender in residential drug treatment.

Electronic Monitoring. This alternative is more clearly meant to be punitive but, like some of the other options, also may be used in conjunction with treatment components such as outpatient counseling or AA/NA meetings. Electronic monitoring begins to "tighten the screws" on the offender by virtue of the substantially increased surveillance. This option necessarily is utilized when increased monitoring is needed for any number of reasons. Perhaps an offender has multiple "no shows" for testing, multiple stalls, or diluted specimens. The issue may be one of defiance, irresponsibility, or both. In other cases, the officer may not feel that inpatient treatment is needed but may want something more severe than one of the above alternatives. With this option, a violation report and modification form 12 are required. A period of about 120 days is standard; however, the officer may request as little as 30 days or as much as 180 days.

Community Correctional Center (CCC) Participation. For me, the choice between electronic monitoring or CCC participation frequently was a "toss up." Both require a court report and modification and both generally involve the same amount of time. Perhaps, the CCC would be useful when the offender does not have a stable residence or there are problems in this area. Certainly, if offenders have a fairly stable family situation it may be preferable to allow them to remain at home under electronic monitoring. Again, this option may be used when the officer feels that the violation requires a greater sanction, short of residential treatment. This option may be used for failures to show for testing, stalls, diluted tests, misdemeanor arrests or convictions, and failure to obtain employment.

The advantage of a CCC placement, at least in the CDC, is that it helps maintain continuity. That is, the supervising officer maintains control over the offender and, with the cooperation of the CCC staff, the offender develops certain structure and goals while at the CCC.

The standard time frame for CCC placements is 120 days, but can be as short as 30 days or as long or longer than 180 days. Ordinarily, I requested 120 days and informed offenders that if all went well and they achieved the desired goals or behavior, I would authorize discharge 30 days early. This understanding would create an incentive for offenders to do what was needed to obtain an early release.

Reside and Participate in Sober-Living Program. Sobering-living programs are relatively new as a drug treatment modality. In Southern California they are plentiful and fairly easy to locate. However, like halfway houses, residential programs, 12-step meetings, and other treatment programs, they wary widely in terms of structure, services, administration, and quality. Some, I suspect, are little more than places to "score" while others are high quality programs somewhere on the continuum between halfway houses and therapeutic communities. Sober-living programs tend to be similar to halfway houses in structure but with a greater emphasis on substance abuse treatment. Most reputable houses have meetings and other 12-step activities daily. They are much less structured than a residential program since residents are allowed to leave for work and generally have weekends free. They also are less intense therapeutically than a residential program.

I tended to use sober-living programs for offenders who tested positive, appeared to have treatment needs greater than a CCC or AA/NA meetings could offer, yet the offender did not seem to represent a threat to the community or to be in need of a 24-hour live-in program. In many, if not most, cases where a referral was made, the offender also was employed. These programs also are useful for offenders who come to the probation officer seeking assistance because they fear they are on the verge of relapsing. With these offenders I suggested that they visit a sober-living program and then determine if they wished to voluntarily enter such a program.

One minor disadvantage to these programs is that they necessarily are limited to offenders who have a job since most charge a weekly fee of about $125. Sober-living programs also are used for offenders who have completed a residential program but still require a positive, semi-structured environment.

Arrest, Short-Term Custody, and Reinstatement to Supervision. For some offenders who fail to report for testing, have multiple stalls, or diluted tests yet are unwilling to agree to a CCC, sober-living home, or therapeutic community, officers may need to request issuance of a warrant with the idea that the offender may benefit from a short period in custody. Many times offenders who are unresponsive to treatment or some other sanction become motivated with the short-term experience of incarceration. I often found it necessary to request a warrant for an offender who had a long-term and serious substance abuse history, frequently associated with bank robberies, but nonetheless did not seem to recognize the seriousness of continued drug use. In these cases, I often gave the offender the option to enter a residential program or be returned to the court or the Parole Commission for revocation proceedings. After arrest, but before a formal hearing, most offenders would "come around" and agree to participate in residential treatment. If this occurred, I would recommend reinstatement with the additional condition to enter a residential drug treatment program and be released *only* to a staff member from the program.

Intermittent Incarceration (Weekend Commitments). Weekend commitments also require a court letter and imposition of a certain number of weekends through a consent to modify the probationary order. It may be appropriate to impose a certain number of weekends for a positive drug test, failure to show, or failure to participate in treatment. The objective in this and other sanctions is to increase the cost of the violation in order to encourage offenders to remain drug-free or otherwise comply with their special drug aftercare condition. This tactic can be effective with some violations; however, most officers do not believe it is worth the amount of work necessary to obtain an intermittent confinement order.

Therapeutic Community (Residential Drug Treatment). The therapeutic community or residential drug treatment program is one of the major methods used in the CDC when an offender has a positive drug test. Placement in a therapeutic community need not be based solely on a positive test(s). Evidence of drug use may be obtained through other means such as observing multiple injection sites, discovering that the offender is using any number of techniques to try to beat the test, multiple no shows, numerous stalls, or several low specific gravity tests. The positive test, however, is the major violation prompting the officer to require the offender to participate in an inpatient program.

In the continuum of community-based sanctions, this is considered the most severe option because it effectively can be considered a form of incapacitation or removal from the community. While offenders can walk away from such facilities, they are required to reside and remain in the program 24 hours a day, 7 days a week under intense structure and scrutiny. Like many of the other programs discussed above, therapeutic communities come in many types. Some are short-term, 30 to 60 days, while others are of moderate duration, such as 4 to 6 months. Many, however, are long-term, ranging from 9 to 18 months. Some officers may have limited choices since their districts only may have one or two programs. Fortunately, in large metropolitan areas such as Los Angeles, dozens of such programs exist. Through the years, I determined which programs are reputable, of good quality, and have staffs who are willing or even anxious to cooperate with the probation

officer. Staff members from some programs sometimes see their roles as advocates for the resident and work in opposition to the probation officer rather than seeing themselves as part of a team, working together with the officer and the offender to bring about effective treatment and positive change.

The CDC generally has concluded that substance-abusing offenders, more often than not, are in need of this more intense option. While the CDC has gradually expanded the range of options out of necessity because sufficient residential beds are not available, the CDC's clear preference is to place the offender in a therapeutic community when drug use occurs. Many probation officers are critical of this approach because they feel it is too harsh, but this strategy has proven to be quite effective in deterring drug use and preventing new criminal conduct (Torres, 1997, pp. 38–44).

Officers can use different methods to place an offender in a residential program. Perhaps the best and cleanest way is to have the offender agree to a modification of the conditions by adding a special residential drug treatment order. This requires a court letter, petition, waiver of a court appearance, and often the consent of defense counsel. With some cases it may be necessary to calendar the matter for a hearing. If this is required, then the officer must assess community risk and determine whether to cite the offender into court or request issuance of a bench warrant. Officers need not be reminded that many offenders pose a substantial risk to the community and an elevated potential for criminality when they have reverted to the use of drugs. Many tend to go "hog wild" into their addiction when they learn that they are facing a revocation hearing, taking the attitude that "I'm going to be violated anyway" or "He's going to put me in a drug program anyway." Citing an offender into court with the goal of having the court add a residential drug treatment condition should be used sparingly with violent offenders such as bank robbers.

The officer should try to place the offender in the program as soon as possible since processing the modification may take a couple of weeks or as long as 4 to 6 weeks for an offender who is cited into court. I should note that if the offender leaves the program before the modification is processed, there would be no violation of the new condition. In these situations it may be preferable to obtain a warrant and return the offender to court or to the U.S. Parole Commission since the offender now has demonstrated an unwillingness to participate in treatment. Most times, the offender is placed in the residential program while the order is being processed, and, once processed, the offender is served with a copy of the form 12, outlining the new condition. Before placement, and again when the offender receives a copy of the new condition, the offender should be informed that failure to *complete* the program represents a violation of the new residential condition. In addition, the original violation of use of drugs also would be included.

In those cases in which I used the formal court process to obtain a special residential drug treatment condition, I recommended that the offender be released *only* to a staff member from the program. Further, I asked the court to maintain the offender in custody until such time as the program could admit the offender. Usually, I already had received information from the program advising me when the program anticipated picking the offender up from the Metropolitan Detention Center (MDC). The program, in most cases, would pick the offender up within days, but usually no later than 2 weeks. I would convey this information to the court, the assistant U.S. attorney, and defense counsel.

Officers should be aware that if offenders are reinstated to supervision and then released from custody with an order for them to report to the program *when a bed is available,* they very likely will continue to use drugs since they feel, at that point, that they are going into a program anyway and have nothing to lose. If they continue to use drugs upon their release from custody but before admission to the program, the potential for addiction, absconding, and new criminal conduct increases significantly. If the goal is to give the offender the opportunity to be exposed to treatment, then releasing the offender from custody into the community before a bed is available may be counterproductive. From a treatment perspective, it is much more effective to have the court order offenders to be released directly to a staff member from the treatment program and avoid the likelihood that they will "get loaded" before, or even on their way to, the program.

Many times, when placing an offender into a residential program, officers must use coercion, threats, ultimatums, or any other techniques in their arsenal to persuade the offender to enter such a program. Officers should keep in mind that when considering these choices, offenders generally are concerned with the issue of time. That is, "how much time will I get if I go back for a violation" versus how much time will be "served" in a residential program. With the programs that I used over the years, I informed offenders that while the time may be considerably less than going "back" on a violation, the program is more work, requiring much more effort.

I generally have found that if offenders are placed in a good program, they will come to see the value of such participation. The amount of time it takes for offenders to begin "getting into the program" may range from 2 weeks to 2 months. Once offenders begin to immerse themselves in the program, it becomes less and less necessary to rely on threats and ultimatums. After 2 to 4 months, offenders frequently will ask the probation officer if they now may leave the program since they have gotten as much out of it as they are going to get.

In these instances, the officer must remind the offender that the agreement was that the offender complete and graduate from the program.

This sanction or option is one that requires considerable work both before and after placement. After the offender is admitted, the probation officer sometimes must go to the program for a conference because of problems or incidents involving the offender or because the offender wants to leave. When I placed offenders in a therapeutic community, I made a commitment to them to visit them at least monthly and more if time allowed. This provided reinforcement for the offender to remain in treatment and demonstrated a personal interest in the offender's progress. Monthly visits with the offender and staff allowed me to "head off" any potential problems that could lead to an unfavorable discharge.

If the offender does leave treatment before completion, the officer generally requests that a warrant be issued. Once the offender is in custody, the officer can make a determination based on the offender's attitude whether reinstatement and a return to the program is appropriate, assuming the program will take the offender back. For some offenders, the officer may need to go through this cycle two or three times. In some cases, offenders impulsively leave the program only to discover that they have made a stupid mistake and want to go back to the program. Sometimes, the program allows offenders to return and face some consequence within the program.

Arrest, Custody, and Recommendation for Revocation. If all else fails or if the offender appears to pose a danger to the community, then it is necessary to request a warrant, have the offender taken into custody, and recommend revocation of supervision. In some districts, the court allows probation officers to use their authority to arrest the offender without a warrant. The CDC and the U.S. Parole Commission require that a warrant be issued before effecting an arrest. In the CDC the warrant is then executed by the U.S. marshal. While, no doubt, there are sound reasons for this policy, I frequently encountered situations when arresting offenders and taking them off the streets seemed vital. Substance abusers frequently have long histories of serious criminal behavior associated with drug use. If they decide to abscond, they generally become addicted quickly, and, if this occurs, criminal behavior usually follows. Therefore, to the extent that officers can prevent further criminality by arresting the offender, say, in the probation office, they should be permitted to do so. No matter how quickly the court or the Parole Commission can expedite issuance of a warrant, at times officers need to have the discretion to arrest an offender. Congress has seen fit to provide this authority to the probation officer, and officers should be permitted to take offenders into custody when the circumstances require such action.

Conclusion

This article has presented a continuum of community-based sanctions to use whenever offenders violate their special drug aftercare condition. Violations that lend themselves to these sanctions include failures to report for drug testing, stalls, providing diluted specimens, positive alcohol and drug tests, and some arrests and convictions for minor offenses. The list of violations and sanctions is not intended to be exhaustive, and there may be other technical and legal violations that could be handled appropriately with this range of sanctions. I also noted that the continuum of sanctions discussed in this article are those that most frequently are used with substance abusers, and there may be many other creative and appropriate options that currently are being used. Instead, I have tried to list the most frequent technical violations associated with the substance abuser and the available alternatives to incarceration.

In presenting the topic, I have relied on my experience as a senior U.S. probation officer in the CDC, where I worked for 22 years. When appropriate, I have referred to published literature. The article has made several points that are worth repeating. Many if not most technical violations of the special drug aftercare condition can be handled with one or more of these sanctions. Officers frequently combine both punitive and treatment options in responding to violations. The underlying philosophy of the discussion presented in this article is based on rational choice rather than the more traditional disease model perspective. As such, I feel that consequences for drug aftercare violations, especially drug use, should be swift, certain, and predictable, to the extent possible.

In using many of these sanctions, verification of compliance is critical if the officer is to maintain credibility and, hence, effectiveness. A major tenet of this strategy is the belief that offenders must be held accountable for their *decision* to use drugs. This supervision strategy is implemented by an approach that provides certain and predictable sanctions for drug aftercare violations. These range from a mild admonishment to placement in an intensive residential drug treatment program. As a last resort, if the offender poses a danger to the community or repeatedly has failed to respond to the various sanctions and treatment opportunities, then arrest with a recommendation for revocation is appropriate.

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The Impact of Treatment: The Jefferson County (Kentucky) Drug Court Program

By Gennaro F. Vito, Ph.D., and Richard A. Tewksbury, Ph.D.*

Introduction

THE JEFFERSON County Drug Court Program is based upon the Dade County, Florida, model—"the best known special treatment approach" of this kind (Smith, Davis, & Lurigio, 1995, p. viii).[1] This model diverts first-time, drug possession offenders into a 12-month community treatment program that includes acupuncture and the development of social and educational skills. It is monitored directly by the drug court judge who helps supervise the offender's treatment program. This model breaks down the traditional adversarial roles assumed by defense attorneys and prosecutors. If the judge believes that offenders are trying to break the pattern of addiction, offenders remain in treatment even after they test positive for drugs several times. Therefore, the treatment period may continue indefinitely until the offender successfully completes the program. Following a detailed review of Dade County drug court procedures and outcomes, the Jefferson County Drug Court was established in November 1992.

The core of the drug court is a 1-year (minimum) treatment program divided into three phases. Each phase has specific requirements for participation in the various treatment modalities or educational programs. A unique feature of the drug court is that treatment and education programs are combined with direct judicial oversight and involvement. In this respect, the Jefferson County Drug Court Program is focused primarily on provision of treatment services and secondarily on drug abuse prevention.

The drug court extends judicial oversight throughout all phases of the program rather than just the initial diversion stage. Besides participating in treatment, clients are required to attend sessions of drug court on a schedule set by the judge. Before weekly sessions of drug court, the judge is provided with progress reports on each client scheduled to appear. During these court sessions, the judge reviews program progress with the client. Upon review, the judge may: 1) continue client participation, 2) permanently remove the client from the program, or 3) remand the client to a term of jail incarceration for failure to meet program requirements. The central role played by the drug court judge introduces a personal touch not typically evident in court proceedings. Although the main objective is diversion (to keep clients from failing and being returned to jail), treatment is emphasized.

Participation in the drug court is voluntary. Referrals may come from public or private attorneys. Clients must be 18 years of age and meet the following criteria that have been set by the prosecutor:

- **Possession versus Trafficking Cases.** Preference is given to cocaine possession cases. Trafficking cases only are considered after a review of possession cases.
- **Prior Drug Arrests.** Defendants with multiple trafficking arrests in their history are not considered. Individuals with prior arrests for possession remain in the pool for review.
- **No History of Violent Offenses.** Offenders with a record of violent offenses are not eligible for participation in the drug court program.
- **Eligibility.** Only Jefferson County cases are eligible for the program.
- **Police Approval.** The lead officer in the arrest is consulted in the decision to recommend a client for diversion to drug court.
- **Quantity of Cocaine.** Any offender in possession of one or more ounces of cocaine is not eligible for drug court. Any offender arrested with five or more grams of cocaine is presumed to be trafficking in drugs and is placed on the trafficking list of offenders eligible for program review.

In addition, the prosecutor may include or exclude clients for program consideration based upon extenuating circumstances.

Once clients meet the initial screening criteria, they must undergo a psychosocial assessment by drug court personnel. This assessment contains several items that seek to establish a baseline of demographic, social, and psychological information on the client. The purpose of the assessment is to determine whether the client is amenable to treatment and does not pose a risk to the community. The assessment serves as the basis for the development of a treatment plan.

Drug court participants agree to abide by program rules before entry. The client must meet all program

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regulations, be punctual, attend all required program sessions, be nonviolent, refrain from attending treatment sessions while under the influence of drugs, and behave lawfully. The aim is to create and maintain a receptive treatment environment, promote prosocial behavior, and establish a sense of individual accountability among clients.

The various treatment programs offered through the drug court include: acupuncture, meditation, individual counseling, group therapy, Alcoholics Anonymous (AA) and Narcotics Anonymous (NA), and chemical dependency education. Clients are encouraged to maintain employment or enrollment in academic or vocational programs or to actively seek such involvement. Detailed treatment plans are developed for each client and used to monitor program compliance and progress. Treatment plans may be adjusted with the agreement of the client and appropriate staff.

Treatment Phases

The three phases of drug court treatment are: detoxification, stabilization, and aftercare. Clients are required to meet or exceed treatment requirements at each phase.

Phase 1—Detoxification

The initial phase of the treatment program is designed to provide intensive treatment modalities that will ease the client's abstinence from substance abuse. The length of this phase is a minimum of 10 working days and includes the following requirements:

- Four random drug tests.
- Attendance at a minimum of five weekly meetings of AA/NA.
- Participation in all individual and group counseling sessions as determined by program staff.

Additionally, acupuncture and/or meditation sessions are suggested, but not required, aspects of the treatment program.

To move from Phase 1 to Phase 2, the client must:

- Receive a maximum of four negative drug screens.
- Attend all assigned individual and group therapy sessions.
- Attend all weekly AA/NA meetings.

As the range and intensity of treatment modalities during Phase 1 indicate, the goal is to ease and maintain abstinence from drug use. Acupuncture and meditation are incorporated as components of treatment to help the client reduce the anxiety and stress that may accompany cessation from drug use. Both acupuncture and meditation are offered as options. Clients may elect to use either or both procedures.

Phase 2—Stabilization

Phase 2 is based upon the details outlined in the individualized treatment plans. The duration of this phase is a minimum of 108 days. The goal is to continue the intensive treatment program to stabilize the abstinence of the client. Since the program requirements are based upon individualized treatment plans, they may vary. However, all treatment plans contain the following provisions:

- Acupuncture and/or meditation sessions as needed/requested.
- Two weekly drug tests. A minimum number of positive drug screens during each of the first 4 weeks and no positive drug screens by the sixth week of this phase are necessary to move to Phase 3.
- Attendance at a minimum of four AA/NA meetings as prescribed by the treatment plan. Clients must obtain an AA/NA sponsor.
- Attendance at all individual and group counseling sessions as prescribed by the treatment plan.
- Significant progress toward meeting treatment plan goals as determined by treatment program staff and the drug court judge.

Phase 3—Aftercare

Phase 3 begins once clients have met the requirements for stabilization. This phase is the lengthiest in the treatment program (6 months). The requirements for Phase 3 are based upon individual treatment plans and are progressively less intensive. The treatment includes educational and community "reentry" components not present in the prior two phases. The requirements for this phase are:

- Acupuncture and/or meditation sessions as requested by the client.
- Random drug tests.
- Participation in educational, vocational, remedial, and other training programs as specified in the individual treatment plan.
- Individual and group counseling as needed.
- Attendance at a minimum of three AA/NA meetings per week.
- Maintenance of and regular contact with a full-time AA/NA sponsor.

To graduate from the drug court program, clients must meet the following requirements: 1) remaining drug-free as shown by the results of their drug tests in the last 2 months of this phase; 2) securing or maintaining employment or enrolling or maintaining enroll-

ment in an educational program; and/or engaging in full-time parenting responsibilities. Additionally, only those clients who have paid all accrued fees will be permitted to graduate from drug court. The judge is continually informed of client progress through each phase. The judge determines the level of progress in each phase and through program completion.

Effectiveness of Drug Court Treatment Programs

The findings concerning the effectiveness of drug court programs are mixed. Improvements in recidivism rates are minimal at best. For example, Smith, Davis, and Goretsky (1992) reported 1-year rearrest rates for drug court defendants of 14 percent in Milwaukee, 22 percent in Chicago, and 35 percent in Philadelphia. These rates were not significantly different from those of comparison groups in each of the three cities.

An evaluation of the Maricopa County (Arizona) Drug Court examined the performance of 630 offenders who were randomly assigned to drug court or regular probation. Offenders were tracked for 1 year. The program was designed for probationers convicted of a first-time, felony drug possession offense. These clients participated in a comprehensive outpatient drug treatment program. Their progress was monitored by the drug court judge. The research determined that the drug court achieved most of its goals. Forty percent of the drug court participants successfully completed treatment within 1 year. Yet, while the program gave clients more supervision and a structured system of rewards and punishments, there was no evidence that it reduced recidivism or drug use. Offenders in the drug court program did not have fewer new arrests (16.95 percent versus 15.37 percent for the control group), but they did have a lower overall rate of technical violations (7.91 percent versus 11.9 percent) (Deschenes, Turner, & Greenwood, 1995, p. 113). The drug court reduced system workload because 30 percent of its clients were released from probation after 1 year instead of completing the 3-year sentence imposed.

A study of the Miami Drug Court Model followed 326 defendants into and through the program in the fall of 1990 over an 18-month period. Rearrest rates for drug court defendants (33 percent) were lower than those registered by the members of the four comparison groups (rates ranging from 53 to 55 percent) (Goldkamp, 1994, p. 129). When drug court defendants were rearrested, they averaged two to three times longer to first rearrest than all comparison group defendants. It also was noted that "the longer defendants remain in the program the greater the chances for achieving favorable treatment outcomes" (Goldkamp, 1994, p. 134). Remaining in the treatment program also was a key element in the success of clients treated under the national model program, Treatment Alternatives to Street Crime (TASC) (see Inciardi & McBride, 1991).

New York City's drug court model was evaluated by tracking recidivism outcomes from 2,758 drug court defendants and 3,225 members of a comparison group. This study reported all forms of recidivism: rearrest, reconviction, and reincarceration. There were no significant differences in the rates of offenders convicted in a first felony rearrest case—approximately 52 percent of the drug court defendants and 54 percent of the comparison group (Belenko, Fagan, & Dumanovsky, 1995, p. 67) . Failure or lag times between the sample arrest and rearrests did not differ between the groups. There was little evidence that the more rapid processing and more lenient sentences received by felony drug offenders in the drug court altered either the likelihood or the temporal pattern of recidivism compared with defendants disposed in the regular courts (Belenko, Fagan, & Dumanovsky, 1995, p. 76).

In sum, these studies document only one instance where drug court clients had a lower rearrest rate (Miami) and three studies from five sites (Chicago, Maricopa County, Milwaukee, New York City, and Philadelphia) where they did no worse than their research counterparts.

Research Design

This research followed a quasi-experimental design. First, we compare the demographic and social attributes of clients in the drug court program (N = 237) and those of persons who were screened for, but elected not to enter, the program (N = 76). This "self-drop" group serves as a comparison group (see Adams, 1975).

Demographic Comparisons

At this point, comparisons between the drug court clients (experimental group) and the self-drop group (comparison group) will suggest whether significant differences exist between those individuals who enter the program and those who do not. The results will indicate the type of client that the drug court program serves.

Obtained from program files, data were compiled by using the Offender Profiling Index, a computer program developed under a grant to the National Association of State Alcohol and Drug Abuse Directors from the Office of Justice Programs, Bureau of Justice Assistance, U.S. Department of Justice (see Inciardi, McBride, & Weinman, 1993). We determined that both groups were nearly identical in their demographic attributes. The only statistically significant difference between the groups was sex. There were more males in the drug court clientele (79 percent versus 66 percent).[2]

The two groups also were comparable regarding their educational attributes. The only difference was in the school stake index score compiled by the OPI.[3] Here, the drug court clients had a higher average score, suggesting a greater investment in educational pursuits and achievement. This result was probably due to the

cumulative impact of the educational performance of the drug court group. Most of them had received a GED (76 percent) and had enrolled in vocational or technical courses (63.3 percent). The drug court clients may be more motivated to be involved in educational programs. Concerning social functioning, the OPI indicators revealed no statistically significant differences between the drug court clients and the comparison group. Both groups seem equally committed to working and supporting themselves. Both the drug court clients and the comparison group appeared to receive equal amounts of support from their families. There were no statistically significant differences between the two groups on these variables. Further analysis determined that there also were no statistically significant differences between the two groups regarding their history of substance abuse.

The analysis revealed two statistically significant differences between the two groups regarding their mental health history. Drug court clients were more likely to have been treated for mental health problems (85.5 percent). Drug court clients also registered a higher average score on the Psychological Stake Index score, suggesting a greater investment in maintaining psychological stability. This higher score was probably due to the higher percentage of drug court clients who had "acted out of control" (75.5 percent) and considered suicide during their lives (26.4 percent). These results show that drug court clients have a more severe mental health history than the comparison group.

On the basis of this analysis, it appears that the drug court clients were somewhat unlike the members of the comparison group. There were more males and a more severe mental health history in the drug court group. These factors may lead to a higher risk of failure. However, the drug court defendants volunteered for the program, so selection bias is a threat to the validity of the research findings. These defendants may have greater motivation to enter and complete the treatment program.

Impact Findings: Graduation Rates

Here, we conducted a multivariate analysis to determine the factors associated with completion of the Jefferson County Drug Court Program in the experimental group (N = 235). Over the period in question, 56 (23.8 percent) of the drug court defendants graduated from the program. This rate is comparable to those listed by other programs in the literature on drug courts.

This inquiry was based upon the use of the chi-squared automatic interaction detector (CHAID) technique (see Jones, 1994). Basically, this technique segments the sample of respondents and reveals the interrelationship between the independent variables[4] and graduation from the drug court program. The categories that result from the analysis display the variables that have the strongest relationship to program completion while controlling for the effects of all other independent variables. The result of this analysis is presented in Table 1.

TABLE 1. CHAID ANALYSIS—DRUG COURT GRADUATION

Category	Rate
African Americans	41.54% (N = 65)
Whites who have a GED	21.93% (N = 114)
Whites who do not have a GED	7.14% (N = 56)

These results show that African American defendants were most likely to complete the Jefferson County Drug Court Program successfully. An additional comparison between drug court defendants by race revealed no statistically significant differences between the groups. African Americans appeared to respond to the treatment program better than whites who took part in the drug court. No other variables were related to drug court program completion among African Americans. Among white drug court defendants, clients with a GED were more likely to complete the treatment program. No other variables emerged from the analysis.

Impact Findings: Recidivism Results

In this portion of the analysis, we compared the performance of both groups regarding reconviction rates over a maximum follow-up period of 1 year. Unlike the previous studies, we used reconviction for a felony (or a probation violation for a new felony) as the outcome measure of effectiveness. Reconviction provides the best indicator of failure since it shows that diversion has completely collapsed. Data were collected from the files of the Jefferson County (Kentucky) District and Circuit Courts.

Here, the experimental group was subdivided into two subgroups according to their program completion status. This breakdown reflects how drug court defendants responded to the treatment program and thus gives a more comprehensive indication of program performance. As the results in Table 2 show, drug court graduates outperformed their counterparts. About 13 percent of the graduates were reconvicted while the non-graduates and the members of the self-drop comparison group had similar failure rates (59.5 and 55.4 percent).

Although previous evaluations of drug courts used rearrest as an outcome measure, the lower reconviction rates registered by the Jefferson County Drug Court Program graduates is remarkable by comparison. Only one of the other published reports shows any

difference in rearrest rates between drug court defendants and other similarly situated groups (Miami). However, this finding is conspicuously consistent with research findings that consistently demonstrate that criminal justice clients who complete drug treatment programs are less likely to recidivate (Anglin & Hser, 1990; Gendreau & Ross, 1987; Hubbard et al., 1989; Vito et al., 1990, 1992, 1993). The experience of the Jefferson County Drug Court treatment program bolsters these findings. Drug treatment programs can effectively reduce recidivism rates.

TABLE 2. RECONVICTION RATES FROM THE DRUG COURT IMPACT EVALUATION[5]

Convicted?	Comparison Group	Drug Court Graduates	Drug Court Non-Graduates
Yes	41 (55.4%)	7 (13.2%)	97 (59.5%)
No	33 (44.6%)	46 (86.8%)	66 (40.5%)

We also examined the nature of the new charges among the persons convicted across the three groups. If the new charge involved drugs or alcohol, such activity would suggest an inability to abstain from substance abuse. The results in table 3 show that the drug court graduates had the lowest rate of convictions for a drug- or alcohol-related offense. However, the size of the subgroup sample was too small to make statistical analysis possible.

TABLE 3. NATURE OF CONVICTION CHARGE

New Charge	Comparison Group	Drug Court Graduates	Drug Court Non-Graduates
Drugs or Alcohol	23 (56.1%)	3 (42.9%)	45 (46.4%)
Other	18 (43.9%)	4 (57.1%)	52 (53.6%)

Again, CHAID analysis was conducted to determine which independent variables were related to reconviction. Given the aforementioned differences between these groups, multivariate analysis could provide some measure of control for these differences. The same set of independent variables was used plus the variable indicating group membership (comparison, graduate, and non-graduate groups). The analysis revealed that completion of the drug court program was strongly related to low reconviction rates even when the other independent variables were taken into account. Program completion was the best predictor of success. Among the comparison and non-graduate groups, the use of marijuana was significantly related to high reconviction rates. No other significant predictors emerged.

TABLE 4. CHAID ANALYSIS—RECONVICTION RATES

Category	Rate
Members of the comparison and drug court groups who used marijuana daily	70.53%
Members of the comparison and drug court groups who used marijuana less than once a week	50.0%
Drug court graduates	13.21%

Conclusion

The results of the impact evaluation of the Jefferson County Drug Court were positive, especially concerning reconviction rates. Completion of the treatment program was a definite indicator of success. However, some questions remain.

First, some explanation of why African Americans were more likely to complete the program must be determined. Perhaps, they are more amenable to change or more appreciative of the second chance that the drug court program provides. The best way to approach this question is to conduct exit interviews with the program graduates in the future.

Second, daily marijuana users who did not complete the treatment program were most likely to recidivate. The treatment providers should explore why this group had a particular problem with recidivism. One would expect that cocaine users would be the worst risk.

Finally, some attention should be given to the factors related to success in TASC programs (Inciardi & McBride, 1991). Overall, research findings showed that most of these programs effectively performed their designed functions. The research noted their ability to focus on the "critical elements" of TASC:

- Broad-based support by the justice system and treatment community;
- An independent TASC unit with a designated administrator;
- Policies and procedures for regular staff training;
- A management information program evaluation system;
- Clearly defined client eligibility criteria;
- Screening procedures for early identification of TASC candidates within the justice system;
- Documented procedures for assessment and referral;
- Policies, procedures, and technology for monitoring clients' drug abuse status through urinalysis or other physical evidence; and

- Monitoring procedures for ascertaining clients' compliance with established TASC and treatment criteria and regularly reporting clients' progress to referring justice system components.

These elements can serve as a guide to the development of sound and effective drug court programs. Drug court program administrators should perform their own management audit using these components as a benchmark.

NOTES

[1]For information about this program, contact: Linda Weis, Program Manager, Jefferson County Drug Court, Jefferson County Health Department, 2516 West Madison Street, Louisville, KY 40211.

[2]The only significant between group difference was SEX (Chi-square value = 4.99, df = 1, significance level = .025).

[3]The only statistically significant score between groups was on the SCHOOL STAKE INDEX SCORE (t-value = 1.45, df = 237.79, sign. = .02).

[4]The independent variables for the CHAID analysis were either demographic (age, race, sex) or were drawn from the Offender Profile Index (Cocaine Frequency, Criminal Justice Score, Crack Frequency, Educational Stake Score, Family Support Index Score, GED, Marijuana Frequency).

[5]Pearson Chi-Square Value = 35.459, significant at .000 with two degrees of freedom.

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What Do We Know About Anger Management Programs in Corrections?*

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Introduction

Assaultive or violent behavior leading to arrest often is associated with anger. Anger management thus has earned face validity as a reasonable treatment alternative for domestic abusers, child abusers, animal abusers, substance abusers, aggressive juveniles, vandals, perpetrators of hate crimes or road rage, and other violent offenders. Such programs have been implemented in prisons, as a condition of probation or parole, and in conjunction with deferred prosecution programs and non-jail sentences. Although public awareness of anger management has increased substantially,[1] little is known about the program's effectiveness or its appropriate application. This article explores the content, application, effectiveness, and propriety of anger management programs and concludes that anger management merits additional study in order to maximize its effectiveness as an educational tool for preventing violence.

This article provides a historical context to anger control theory and documents the recent trend toward broad application of anger management programs. It explains the nature of this misunderstood emotion and the relationship of skewed perceptions and distorted thinking to the commission of crime. It also examines the content of anger management programs used in correctional settings in Madison, Wisconsin. The article distinguishes anger management from domestic violence prevention programs and notes the risks of inappropriate treatment. It describes the evaluation of anger management programs and acknowledges the challenges faced in researching program effectiveness. The article summarizes the key findings and recommends further research to determine the most appropriate and effective use of anger management.

Background

History and Theory of Anger Management

According to researchers Kemp and Strongman at the University of Canterbury, New Zealand, concern about controlling anger dates back to ancient and medieval times. The beliefs we hold today about anger control are rooted in ancient philosophy but remain important lessons for living in today's society. Some members of society who fail to learn to control their response to anger-provoking situations act aggressively and end up in courtrooms, jails, and prisons. A portion of Kemp and Strongman's research is summarized as follows:

Although Stoics valued discipline and regarded anger as useless in both war and sporting events, Aristotle believed that anger that arises from perceived injustice had value in preventing injustice. However, there was agreement among philosophers on the desirability of controlling this emotion and in the belief that self-control can be learned by training in rational thought. Seneca advised that to avoid becoming angry, one should be aware of sources of personal irritation, attempt to understand the other person's motives and extenuating circumstances, not respond to anger with anger, and not serve too much wine. It also was believed that anger can be defused with wit and that children should receive early training in self-control.[2]

Despite these long-held beliefs, the interest in studying negative emotions has primarily focused on anxiety and depression rather than on anger.[3] In the last few decades greater attention has been paid to gender differences in expressing anger and to distinguishing anger from aggression, but Kemp and Strongman note that in 2,000 years our understanding of anger has not changed significantly.

Current Applications Outside of Correctional Settings

What has changed is the widespread application of anger management programs, which have become ubiquitous. The significance of such widespread application is that there is a perceived need for such training[4] and that shared knowledge about anger control establishes and reinforces behavioral norms.

Programs labeled "Anger Management" vary in content and methods, but share the goal of teaching people how to control their responses to anger-provoking situations. Anger management is included as part of conflict resolution and violence prevention skills taught in daycare[5] and elementary schools,[6] in vocational schools to promote safety,[7] in "Parenting in the '90s" classes,[8] for building productivity in the workplace,[9] for career development,[10] in management training,[11] for conquer-

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ing road rage,[12] for treating alcoholism in Malaysia,[13] as a condition of participation in Midnight Basketball Leagues,[14] and as part of sports psychology training provided to athletes such as Tiger Woods.[15] The list of applications continues, including diversity training for police officers,[16] job retention training for homeless men,[17] coping skills for postal workers[18] and for disaster victims,[19] for physicians dealing with colleagues and with changes in health care delivery systems,[20] and for patients who have been diagnosed with a host of health problems.

Such widespread application across age categories, employment circumstances, and socioeconomic class strongly suggests a belief that anger management programs have value for nearly everyone. It also suggests that anger management is considered to be a necessary social skill that can be taught in a training seminar in addition to being a therapeutic treatment for violence-prone individuals. Learning to cope with emotions and to control behavior ideally may occur in childhood, but this widespread acceptance implies that people can benefit from training at any age in order to cope better with whatever stressors are present in their lives.

Training in emotional control and information-processing is part of the process of socialization—the reinforcement, punishment, or extinction of behaviors by peers, parents, teachers, and others[21]—that is deficient or absent in some criminals. Studies show that aggressive children have distorted or deficient information-processing mechanisms that lead them to experience anger when nonaggressive children do not.[22] Crimes often are committed impulsively, without rational regard for the consequences of the behavior. Anger management can address some of these impulsive acts because it is premised on cognitive restructuring—learning how to think rationally, interpret events, anticipate consequences, and distinguish the normal emotion (anger) from the resultant undesirable behavior (violence or aggression). Changing perceptions and thoughts affects behavior. The importance of learning these skills is reflected in recent innovative application of anger management programs within the criminal justice system.

Recent Developments in Legal or Correctional Settings

The following examples illustrate how anger management programs are developing wider applications in legal proceedings and correctional settings:

- In January 1997, in response to chronic jail overcrowding, Los Angeles County developed an alternative sentencing plan, Community Based Alternatives to Custody, which includes a special lockup for domestic violence inmates, where inmates will take classes in parenting skills and anger management.[23]
- In February 1997, Multnomah County in Oregon began requiring divorcing parents to take classes on addressing their children's needs. In high-conflict divorces, the training includes anger management classes.[24]
- A Colorado law that took effect July 1, 1997, provides that a person convicted of cruelty to animals can be forced to enter an anger management training course. Proponents of the law pointed out that killers Manson, Bundy, and Dahmer had histories of torturing animals.[25]
- The Connecticut Department of Corrections includes anger management as one component of an innovative 12-step gang-busting program that doesn't shorten sentences but earns inmates privileges. A July 1997 report credits the program for reducing gang-related disturbances and assaults on staff members and inmates.[26]
- In response to increased incidents of road rage in the past year, Portland's Driver Improvement Program permits counselors for teenagers convicted of at least two moving violations before age 18 to impose limits on driving privileges or require the teen to take a course in defensive driving or anger management.[27]
- In October 1997, Idaho received a 3-year, $600,000 federal grant to finance a program to lower the recidivism rate at the North Idaho Correctional Institution by improving life skills and employability of inmates. The program includes 25 hours of anger management instruction as well as follow-up and coordination between probation and parole officers and counselors involved in the program.[28]

Learning Through Cognitive-Behavioral Therapy

Violence as a response to anger is a learned behavior that can be unlearned. One corrections official observed that there were three common variables in the background of participants in his anger management class: a family history of violence, including beatings, fights, and other abuse; disorganization in family structure and inadequate role models; and alcohol and drug problems.[29] Most participants had never been taught to respond to anger with anything other than aggression.

Anger management often is a form of cognitive-behavioral therapy,[30] a program designed to change offenders' perceptions, attitudes, and expectations that maintain their antisocial behavior. Participants first analyze their thinking patterns and question the underlying assumptions that led to the undesirable behavior. Then, through group discussion and role playing, they are introduced to alternative beliefs and behaviors. Anger management training is a complex method for developing thinking processes that leads to changes in behavior. Effective behavioral intervention programs usually employ a combination of methods to reinforce what is learned and to model desirable be-

havior with offenders.[31] Within an anger management curriculum, role-playing, discussion, and an effective counselor all serve to model rational thinking and social skills. Reading assignments, anger journals, and writing exercises help develop more self-awareness and self-control and increase understanding of emotions and behavior. Effective programs usually include relapse prevention in the community—a treatment component absent from the anger management programs reviewed but recommended by several counselors. Although programs have a variety of components, they generally begin with a lesson in understanding the nature of anger.

The Nature of Anger and Its Relationship to Crime

Understanding Anger

Anger is a frequently experienced, normal emotion of varying duration and intensity, ranging from mild frustration to intense rage, which is accompanied by physiological and biological changes. These changes may include increased heart rate and blood pressure; increased muscle tension manifested by clenched teeth and fists; rapid breathing, trembling, reddening of the skin, agitation, and stomach pain, as well as an increase in the level of adrenaline and noradrenaline, which are energy hormones associated with fight or flight. However normal the emotion, anger has been described as "the chief enemy of public happiness and private peace."[32] When people are angry they assume "some of the worst characteristics of the people they hate, including bullying, prejudice, violence, and arrogance."[33] Anger can be very disruptive, and it sometimes leads to aggression.

Anger is a feeling state, correlated with but independent from aggression, which is a motor behavior with intent to harm another person or object. Anger and aggression are related and may overlap, but correlation and causation are sometimes confused—experts do not agree that anger directly causes aggression.[34] One expert likens anger to an architect's blueprint; just as a blueprint makes it easier to build a house, anger makes it easier to be aggressive.[35] Anger management focuses on provocation and physical response to that provocation and on the appropriate expression of anger.

Linking Anger to Crime

Criminal behavior often involves both anger and aggression. Research shows that violent men are more angry and hostile more often than nonviolent men,[36] but the exact relationship between anger and aggression is not so clear. Whether an angry person will be aggressive depends on "situational cues, cognitive attributions and appraisals, or prior learning and the evaluation of the outcome of actions."[37] Other studies have suggested that there may be a biologic component to being predisposed to anger.[38] Whether anger leads to aggression depends on the circumstances as well as on a person's beliefs, perceptions, anticipated results, and perhaps also on the person's biologic makeup.

According to the 1991 *Uniform Crime Reports,* aggressive acts typically occur between people who know each other and frequently occur during some kind of disagreement. For example, more than 50 percent of murder victims know their assailants and 34 percent of all murders committed in 1990 followed some type of disagreement, suggesting that murder often occurs in a social context and is not random.[39] A study conducted in the early '70s showed that felonies involving personal violence were found to occur most often where a prior relationship existed between the victim and defendant. For example, for felony arrests in New York City, in 83 percent of rape arrests and 69 percent of assault arrests, the victim knew the defendant.[40]

Similarly, anger is more often experienced between acquaintances.[41] The same New York study concluded that "criminal conduct is often the explosive spillover from ruptured personal relations among neighbors, friends, and former spouses."[42] Incidents giving rise to arrest were rooted in anger between people who knew each other.[43] But anger only sometimes leads to aggression, some aggression is calm and calculated, and not all aggressive behavior is criminal. Anger management programs may be wasted on non-angry violent offenders who could be better served by other treatment, and more research is needed.

Although relatively little is known about the relationship of anger and aggression, researchers report some insights on the circumstances and thinking patterns that lead to angry aggression. Surveys of college students and community residents in 1982 and 1983 showed that 83 percent of those surveyed reported becoming angry at least once or twice per week, 88 percent of self-reported anger-causing events involved at least one other person, 50 percent of anger episodes involved someone well known, although only 10 percent of episodes reportedly led to physical aggression.[44] However, 85 percent reported the cause of anger was "a perceived injustice by another person that was preventable and voluntary."[45]

Some researchers who have attempted to discern what final event triggers violence have focused on criminal thinking patterns. A study by Deffenbacher in 1993 generated a model relevant to criminal aggression which noted that anger arises in response to an act that is judged to be intentional, preventable, unjustified, and blameworthy—thus the angry person develops a sense of righteousness that the source of anger-causing behavior should be punished.[46]

Criminal thinking follows a pattern based on skewed perceptions. The pattern of distorted thinking dis-

played by the angry individual includes overestimating the probability of negative outcomes, assuming that others are engaging in intentional, personal attacks, exaggerating the sense of unfairness, and failure to perceive ambiguities.[47] Following this pattern of thinking provides a moral imperative for an aggressive response, which can result in criminal aggression.[48] Alcohol, drugs, or fatigue may magnify the response. For example, alcohol use is related to impulsivity, reduced inhibition, and impaired judgment, which may aggravate relationships and predispose an individual toward violence.[49]

When angry aggression is successful in satisfying needs, violent behavior can become what psychologists term a "process addiction"[50]—a learned behavior that is reinforced by habit and by subculture. For example, in gangs, where violence is an accepted way of resolving conflict and angry expressions are valued and respected, the subculture provides motivation for criminal behavior. Whether anger management intervention will have impact depends in part on the circumstances under which anger arises.

In summary, negative thinking predisposes some people to be provoked by interpersonal interactions and to respond in an uncontrolled manner. Understanding the circumstances under which anger arises, the underlying warped perceptions, the effects of alcohol and drug abuse, and the relationship of thinking patterns to aggression are essential to anger intervention programs. Anger management training can help to prevent criminally aggressive behavior by cognitive restructuring. Changing the way people think includes developing skills in generating alternative solutions to problems and projecting the consequences of angry responses. Because a causal relationship between anger and aggression is not assumed, principles of anger management work to reduce and prevent both anger and aggression.

Anger Management Programs

Principles of Anger Management

Anger management involves learning to control one's reactions to anger-provoking situations, including the emotional feelings of anger, the physiological arousal associated with anger, and the resulting angry behavior. Anger control techniques are based on assumptions of cognitive psychology, which places emphasis on the purpose, understanding, and reasoning in behavior.[51] By making an individual more aware of the underlying thought process that leads to provocation and physiological arousal, anger control enables the individual to avoid aggressive behavior.

Strategies for managing anger include: (1) learning relaxation methods such as deep breathing and relaxing imagery; (2) cognitive restructuring, using logic to understand one's frustrations or sources of anger; (3) problem solving and recognizing that sometimes no solution may exist; (4) better communication skills by listening to underlying messages when being criticized and contemplating the best response; (5) using humor to defuse rage; and (6) changing one's environment to reduce or eliminate the source of anger.[52]

Anger management programs develop both cognitive and behavioral skills needed to employ these strategies. Cognitive skills are those related to paying attention and restructuring thoughts, whereas behavioral skills involve arousal reduction, communication enhancement, and problem solving.[53] Attentional skills increase the ability to recognize provocation cues and physical signs of arousal and are promoted by having program participants maintain an anger log to increase their self-awareness. Restructuring skills assess the anger-provoking circumstances and expectations and are developed by engaging in role-playing exercises with group discussion. Behavioral skills also are developed in an anger management curriculum in several ways: arousal reduction is achieved through positive imagery and relaxation exercises; communication is enhanced by practicing assertiveness in role-playing; and problem solving includes considering alternative responses to the events causing arousal through group discussion of hypothetical situations. The ability to learn is affected by the motivational level and intellectual ability of the participants and by the teaching style of the instructor or counselor.

According to Richard Althouse, Ph.D., anger-related behaviors are "shaped by social learning and maintained in a gender-based familial, social, and cultural context by individuals of varying levels of motivation and intellectual ability."[54] Althouse believes that an effective anger management program must address these dynamic, interrelated variables. Participants in prison programs vary in their motivation, resistance, and readiness to change. A program presenter's nonjudgmental attitude and respectful interactions with participants reduce that resistance and increase motivation, supporting the long-term goals of changing thinking patterns and modifying behavior.[55]

Dr. Althouse's anger management program address four considerations: the surrounding environment, one's thinking, the emotion itself, and one's behavior. It helps offenders develop the skills necessary to recognize their angry feelings, to learn the causes of anger, and to deal with it in a responsible way that will facilitate their transition to productive community life.[56]

Anger Management for Prisoners

The anger management program at Oakhill Correctional Institution[57] in Oregon, Wisconsin, is a didactic/experiential/interactive 8- to 10-week module led by Dr. Althouse in 90-minute sessions. The program is de-

signed to facilitate an inmate's ability to avoid self-defeating, victimizing behavior when angry and to promote positive self-management and conflict resolution.[58] The ultimate goals of the program are to make the institution and the community safer.

Admittance is predicated on inmate needs as identified by Assessment and Evaluation, or an inmate may be self-referred or referred by staff members based on demonstrable need. As a condition of admission, inmates must agree to attend all sessions, to participate actively in these sessions, and to complete all assignments. In order to get credit for completing the program, participants must pass a final examination consisting of multiple-choice questions on the materials covered in the course.

The program begins with an explanation and discussion of the importance of understanding what anger is and why its management is desirable. Participants examine what triggers anger and what problems arise from anger mismanagement; they explore male socialization, including values, beliefs, behavioral alternatives, and consequences; and they rehearse interventions.

Materials distributed to participants include a list of myths and facts about anger, magazine and newspaper articles addressing the impact of anger on health, the underlying fears from which anger arises, statistics on homicide, a journal article about anger and criminality, and cartoons that illustrate and reinforce various points covered in the program. The handouts are intended to deepen participants' understanding of anger. Participants are asked to maintain an anger journal to note what triggers their anger and what symptoms indicate they are angry and to consider alternative behaviors for discussion with the group. By combining readings, discussions, and journal reflection, the program strives to be both philosophical and practical.

Dr. Althouse employs the technique of "motivational interviewing" in leading the participants to recognize their potential problems with anger management and to reduce their defensiveness. In using this technique, the counselor does not assume authority but instead expresses empathy and leaves responsibility for change with the participants, who are free to accept or reject advice. Dr. Althouse does not attempt to convince the participants of the value of the anger management program and meets their resistance with reflection. It is a deliberate, nonjudgmental technique that is designed to overcome resistance to change.

Dr. Althouse asks for verbal feedback during the sessions and written comments at the end of his sessions. Typically, although a few of the group members initially are hostile and sarcastic and participate with reluctance, most appear to be at least mildly interested at the first session. Program graduates most often rank the program as either "helpful" or "very helpful."[59] Despite the program being well received by participants, only about 15 percent of the 175 to 200 offenders who are referred to the anger management program at Oakhill each year actually receive the training.[60] The remainder are released without having received the training because Oakhill lacks sufficient staff to meet this demand.

Evaluation sheets summarizing the participants' opinions indicate that they found the presentation to be useful and informative, and they approved of the personable and respectful style in which it is taught.[61] Some participants suggested expanding the program to cover more material, while one noted that more time could be spent on discussing anger within the family. Interestingly, another comment implied that society also must learn to deal with its anger toward offenders.[62]

Aggression Replacement Therapy

Attic Correctional Services is a private, nonprofit agency under contract with the Wisconsin Department of Corrections (DOC) to provide programs for anger management, domestic violence prevention, and sex offender treatment as well as providing halfway houses in Dane County and the surrounding area. According to a field supervisor who manages the purchase of service contracts for three counties, the demand for anger management programs arose about 3 years ago when corrections agents perceived a need for a treatment program for clients on probation or in Intensive Sanctions who displayed violent tendencies but did not qualify as domestic abusers or sex offenders.[63] The program entitled Aggression Replacement Therapy (ART) initially was designed for young, assaultive, quick-tempered males who demonstrated a lack of impulse control. Attic currently is contracted to conduct sessions for 8 to 12 people who meet once per week for 90 minutes for 12 weeks at a cost of $124 per group per session. Attic conducts separate programs for men and women.

Participants in ART are referred to the program by their probation or parole officers and are required to sign an agreement stating that they will attend, take the pre- and post-tests, maintain a daily log tracking moments of anger, complete all other homework assignments, respectfully participate in group discussions and role-playing, and keep all information discussed in the group confidential. Lessons include learning constructive interpersonal skills such as expressing a complaint, responding to anger, and dealing with group pressures. Participants learn to recognize physical signs of becoming angry and to employ anger-reducing techniques such as deep breathing, backward counting, pleasant imagery, taking time-outs, and thinking ahead. Participants also learn new problem-solving styles through self-speech, a method of changing thought patterns.

The facilitator models each skill in hypothetical situations and then involves the group in role-playing to

help in transferring the skills to real life situations. The final phase of the program involves dilemma discussion groups to acquire and practice the skills necessary for rational decision-making. The group is asked to solve hypothetical conflicts in order to learn how to think, reason, and resolve conflicts in real life.[64]

One case manager and group leader admitted that most participants in ART do not want to be there. In a recent introductory session, in which much time was spent on completing paperwork and explaining the structure of the program, participants were quiet and generally maintained expressions of veiled contempt. When the paperwork was completed and discussion began, a few members willingly contributed comments but most sat in silence. (As with the Oakhill session, the presence of an observer may have stifled discussion.)

The group leader later explained that group dynamics vary, and some groups are more willing to participate and share experiences. (In one instance, women in one group formed such strong bonds of friendship that a participant invited the others to her wedding, passing out invitations at the sessions.) Based on her experience as a social worker and her observations teaching classes for several years, the leader believes the program is beneficial, despite a lack of data to support that conclusion. She cited anecdotal reports from prison staff who have observed the application of anger management principles by program participants who had long-standing reputations for violent behavior but when provoked demonstrated new skills in self-control.

Anger Management in a Deferred Prosecution Program

In Dane County, Wisconsin, approximately 1,000 defendants each year are diverted from the formal criminal justice process and are referred by the district attorney's office to the Deferred Prosecution Program, a county-funded program for treatment and supervision of certain offenders. Eligible defendants are often first-time offenders who are given an opportunity to plea bargain but then have adjudication withheld pending completion of a domestic violence or general aggression counseling program and fulfillment of other conditions such as restitution. Participants sign a contract to enter the program, and when they successfully fulfill their obligations, charges are dismissed, resulting in a criminal history but no record of conviction.

Program Director Nancy Gustaf estimates that program participants are split between two general categories of violent behavior: approximately 40 percent involve domestic violence, which by definition involves a spouse or significant other in a spouse-like arrangement, and about 60 percent have displayed general aggression, which may involve roommates but not with a pattern of power and control demonstrated by those categorized as incidents of domestic violence.[65] Gustaf reports the program's clients range from ages 17 to 45 but are generally at the younger end of the spectrum and include both men and women. Participants are supervised by social workers in a manner similar to probation, with monthly meetings and follow-up checks on program participation at 6-week intervals to determine noncompliance. Participants can be assigned to one or more of several programs provided by local counseling services. Although insurance may cover the costs, participants must pay for the programs (which may be priced on a sliding scale) and contribute $10 per month to the Deferred Prosecution Program. Failure to comply with the contract terms results in being sentenced, often to probation but sometimes with jail time imposed.

The programs to which these violence-prone individuals are sentenced focus on a specific need as determined by a professional evaluation. In Madison, Wisconsin, for example, Family Services, H & S Counseling, and Attic Correctional Services offer evaluation and treatment programs for sex offenders, domestic violence offenders, and individuals referred because of angry or aggressive behavior not meeting the criteria of domestic violence. H & S offers a 15-week general aggression program and a 24- to 36-week domestic violence program; each group meets for 2 hours per week. Individuals pay for their own treatment programs. Uninsured participants pay on a sliding scale, and rates are confidential.[66]

Family Services, a nonprofit organization supported in part by United Way, conducts similar programs paid on a sliding scale by the clients, many of whom qualify for medical assistance. Clients first are evaluated to determine if underlying needs would require individual treatment before or instead of group therapy. The initial assessment costs $110, individual treatment costs $84 per session, and group sessions such as the general aggression program (which includes two facilitators) cost $64 per session.[67] Sessions are 2 hours long and meet once per week; currently, the general aggression program runs 12 weeks and domestic violence intervention runs 24 weeks. Based on evaluations from exit interviews, recidivism reports, and comments from people returning to the program, the 12-week model for general aggression is being evaluated for possible expansion to 24 weeks.[68]

Gustaf reports that out of the 1,000 annual referrals, 20 to 25 percent decline to enter the Deferred Prosecution Program, reoffend, or disappear before entering. Of the 750 who enter and sign a contract, about 70 percent complete the programs overall; for those involved in domestic violence, the success rate drops to about 60 percent.[69] Gustaf also agrees that it is important to distinguish anger management or general aggression programs from those designed to prevent domestic violence.

While some judges leave the determination of offender treatment programs to experts trained in evaluating needs and providing counseling, others assign offenders to specific treatment as a condition of sentence

or probation. Those judges need to be aware of the differences between anger management and domestic violence and the danger in assigning an offender to inappropriate treatment.

Distinguishing Anger Management From Domestic Violence Programs

Content Differences

Anger management is a segment of domestic violence treatment programs, which are broader in scope and have more components, including addressing personal and psychological factors and political issues that are not addressed in an anger management curriculum. Studies show that the most aggressive and violent batterers tend to focus their attention and hostility in the control of their partners, and because this hostility is methodically planned and controlled for maximum effect, it is different from the impulsive anger addressed in anger management programs.[70] Psychologist Darald Hanusa, a private practitioner and consultant to Attic Correctional Services, believes that some judges may not be aware of the distinction between these programs. Hanusa is concerned that assigning a batterer to anger management instead of to a program for batterers may be inappropriate and damaging.[71]

Mark Seymour, co-director of H & S Counseling in Madison, agrees with Hanusa that differences in issues and in treatment styles are important. Seymour explains that in contrast to domestic violence, general aggression occurs between two adults who are not in an intimate relationship. (If a child is involved, the treatment is for child abuse.) Examples include aggression against family members, bar fights, or altercations with bosses or coworkers. In domestic violence treatment the primary issue is power and control. A main component of treatment involves challenging belief systems that support the abusive relationship, including perceptions about sexism and inequality in a relationship. Participants in a domestic violence class are taught to replace the need for power and control with new skills in healthy assertiveness and improved communication. Teaching assertiveness includes a component of anger management, but the focus is on changing the underlying power and control orientation.[72]

H & S Counseling offers a Domestic Violence Intervention Program (DVIP), which is distinguishable from the Generalized Aggression Program (GAP). DVIP is a 24-week program designed for men to eliminate power and control, oppression, sexism, intimidation, and violence in a domestic relationship. Men are taught new skills in order to interrupt the pattern of psychological, physical, or sexual abuse and to develop a healthy domestic relationship.[73] In contrast, GAP is a 15-week program available to both men and women in separate groups to work on aggression issues with adults outside of intimate relationships. This program is designed to teach new skills in order to change behavior, including skills in problem solving, appropriate expression of anger, and interpersonal communication for an aggression-free lifestyle.[74]

The clinical experience of some experts has led to the conclusion that anger management programming is not likely to be effective or properly implemented by batterers for two reasons. First, domestic abuse is not necessarily driven by anger, but by a socially learned need to control women; and, second, batterers use anger control mechanisms to get their way while continuing to abuse.[75] To prevent batterers from abusing their partners, a process of change must occur that goes well beyond the scope of anger management.[76] The fact that batterers may not lack the ability to manage anger in relationships and environments outside their home supports the conclusion that their behavior is rooted in other issues.

The Dangers of Assigning Anger Management for Batterers

Gondolf and Russell have identified the following shortcomings in using anger management programming with batterers: (1) Anger management implies that the victim provoked the anger with annoying behavior and precipitated the abuse; (2) anger management does not address other undesirable premeditated controlling behavior such as manipulating and isolating; for example, a man taking a "time out" also serves as a ploy to stop a woman from speaking up or challenging him; (3) batterers use anger as an excuse for accepting responsibility for their behavior, which in turn delays the necessary personal change by encouraging self-justification and victim-blaming; (4) anger management can be misconstrued as a "quick-fix" that enables men to use the program to manipulate their wives into returning to a still dangerous environment; (5) anger management is less threatening to the community and easier to accept than changing established sexist social conditions that give rise to domestic abuse; (6) anger management does not address the economic, social, and political injustices and patriarchal social structure that perpetuates domestic abuse and violence toward women.[77] They conclude that anger management alone might do more harm than good for batterers and their victims, and they believe that it diverts attention from societal responsibility.

"Anger management" for batterers raises some doubts because it suggests that men who are already controlling need to learn to be more controlling. But programs for batterers encompass cognitive-behavioral treatment, which is far more inclusive. Anger management, as noted earlier by Hanusa and Seymour, is only one part of the treatment provided for batterers. A national survey of programs for men who batter con-

ducted in 1984 shows that more than 75 percent of those programs include anger management, problem-solving skill training, and communication training; and more than 50 percent include stress management and behavioral contracting.[78] To discuss all components of treatment for batterers is beyond the scope of this article, but sentencing judges should be aware of the distinctions between programs and avoid the possible risks in inappropriate sentencing.

It appears there is agreement that anger management may be useful if presented in conjunction with other training for batterers, but alone it is insufficient and potentially risky. In some instances of animal abuse, the same concerns should exist. For example, a man who kills his girlfriend's kitten or beats a dog to death in the presence of his children is a violent abuser whose behavior should raise a red flag with judges. He likely needs more than anger management—or other treatment entirely—when such behavior obviously also serves to intimidate and control others. Sentencing judges would be prudent to require a psychological evaluation to determine whether anger management is appropriate or whether some other treatment is better suited for a particular offender. Anger may be a manifestation of other problems because it is common to depression, paranoia, psychotic reactions, hormonal imbalances, and neurologic conditions.[79] Anger management may be useful training for some people lacking the awareness and cognitive skills to cope with anger, but it is not a panacea for all forms of violence.

Evaluation of Program Effectiveness

Sample Studies of Anger/Aggression Control Programs

A number of studies in prisons conclude that anger management has some value in helping prisoners cope with being incarcerated and in changing thinking patterns. Following are some examples of such studies:

Evaluation of EQUIP: "Equipping Youth to Help One Another." A study of 200 male offenders age 15 to 18 serving an average of 6 months for either parole violations or for less serious felonies (breaking and entering, receiving stolen property, burglary) at a medium-security facility in a midwestern state showed a reduction in recidivism and improvement in institutional behavior. The group received training in a multicomponent program that combines the social skills training, anger management, and moral education components of Aggression Replacement Training with "guided group interaction." The program length was not stated. The treatment group showed a recidivism rate of one-half that of the control groups after 6 months and about one-third at 12 months. Although the EQUIP group showed no gains in moral judgment, test scores for the group showed improved social skills and significant gains in institutional conduct in terms of self-reported misconduct, staff-filed incident reports, and unexcused absences from school. Informally, the staff reported that the study group was easier to manage than other groups in that there were fewer incidents of fighting, verbal abuse, staff defiance, and AWOL attempts.[80]

Anger Management Workshop for Women. A 2-hour workshop conducted on three consecutive weeks provided anger management training to a random sample of 11 medium-security women inmates at the Utah State Prison. Inmates' ages ranged from 28 to 45 with a mean of 35.4, time served ranged from 1 to 7 years with a mean of 2.2 years, and the crimes for which they were serving time included drug convictions, felony theft, forgery, and murder. The components of the training included identifying symptoms of anger, learning why people get angry, and understanding how anger can be effectively managed. Test scores revealed that the inmates felt significantly less angry at the end of the workshop, and the women reported feeling better able to cope with the frustrations of being incarcerated. The main focus was to think before acting when they became angry. Learning coping skills such as walking away from conflict and cooling down gave the women time to think and thus avoid destructive behavior. The authors acknowledge that the test sample was small, which reduces generalizability, but they selected a small group because group education and treatment is believed to be more effective in samples of 15 or fewer inmates.[81]

Canadian Study of Assaultive and Nonassaultive Offenders. A 5-week program for anger management taught to 57 male assaultive and property offenders in a maximum security jail reduced aggression and anxiety while increasing self-esteem in some of the participants. The program included explanation of the causation, symptoms, and techniques for coping with anger. Of the participants, assaultive offenders showed increased feelings of guilt but no decrease in the measure of anxiety or aggression. The authors note that increased guilt may be significant if offenders begin to consider the impact of their behavior on others.[82]

Although the prison studies suggest that anger management treatment has some value, insufficient research has been done to determine the scope of its usefulness and the duration of its effects.

An Internal Wisconsin DOC Report

A report prepared in 1995 by Michael Hammer, Ph.D., former staff psychologist at the Columbia Correctional Institution in Portage, Wisconsin, concluded that it is unknown how effective anger management programs are in helping participants, which programs are most effective, how many participants benefit, to what extent they benefit, and whether mandatory participation versus voluntary participation affects pro-

gram outcome.[83] Hammer reported that much of the research on this subject has occurred since 1990, targeting incarcerated adult males with anger or aggression problems. The studies showed that the programs usually help participants reduce their anger and aggressiveness and also improve understanding of the anger process, decrease their number of conduct reports, improve ability to cope with anger-provoking situations, improve social skills, and increase guilt about their behavior.[84] Studies conducted on adolescent males reported similar results.

Although Hammer's report was not focused on domestic violence programs, he included a review of studies related to such programs because they often contain an anger management component. Anger management programs were effective in understanding and reducing domestic violence and aided in reducing passive-aggressiveness, reducing depressive symptoms, increasing relationship adjustment and satisfaction, and decreasing irrational or extreme beliefs about how relationships ought to function.[85] A study by Scales in 1995 showed that batterers' recidivism rate dropped by 50 percent after treatment. When both parties received programming, it reduced the number of arguments, improved relationships and the understanding of anger arousal, and eliminated further domestic violence for 6 to 8 months.[86] Other studies concluded that long-term violence is not abated and that although some treatment might be effective, sociopathic batterers and other individuals with personality disorders are generally resistant to such treatment.[87]

Hammer's report directed the Department's attention to several other issues. During the Assessment and Evaluation process the Department should be aware that researchers have noted a link between anger and alcoholism, with alcoholics showing the greatest degree of anger and risk for continuing anger problems.[88] Furthermore, differences exist between angry and nonangry but nonetheless aggressive inmates. Chronically angry prisoners perceive and interpret events differently based on irrational beliefs, which may have implications for assessment of treatment program needs.[89] Hammer concluded that although anger management programs have demonstrated positive results, additional research is necessary to evaluate these programs.

Although anger management programs are not a panacea, uncertainty about the programs' success does not mean that it is not useful in reducing violence. The widespread use of anger management programs in a variety of settings reinforces the message that acting in rage is not an excuse for violent behavior. As with programs for batterers, anger management programs provide a laboratory for developing an ideal treatment model. Learning the limitations of existing programs is a significant step toward improving them.

Challenges and Caveats

Challenges to Program Evaluation

In 1996 the Wisconsin Department of Corrections (DOC) created an office to conduct internal auditing of programs to evaluate implementation of programs to determine if a program is being carried out as planned and is meeting its objectives. No process audit or effectiveness evaluation is planned for the anger management programs at this time.[90] Even if there were plans to evaluate anger management programming in DOC, any evaluation of programs is problematic in several ways. Offenders move within and then out of the state's prison system, and thus they can be either difficult or impossible to track. For example, Dr. Althouse explained that he would not automatically be informed if one of his program participants reoffended and were incarcerated at another institution outside of Oakhill and Columbia, the two locations where he works. Offenders also may move out of the state and have no further contact with the Wisconsin prison system. Program graduates who are released from prison may continue to engage in violent behavior but not be reincarcerated.

It would be challenging to measure the impact of an anger management program because of the difficulty of isolating it from other factors that may influence behavior. Other influences include the shock of being incarcerated or the exposure to the court system and threat of incarceration; the impact of other treatment programs; and the influence of changes in age, physical and mental health, finances, family circumstances, and employment status.

However, some corrections officials believe that viewing an anger management program in isolation from other factors affecting behavior may be the wrong approach. Joe Lehman, secretary of corrections in Washington State, believes a better approach would be to evaluate anger management programs in terms of how their success relates to other influences and to other programs.[91] This represents systems thinking, which focuses on interrelationships rather than on the individual program. Because no program operates in a vacuum, and a program's effectiveness may be positively or adversely affected by other factors, it may be more reasonable to study these interrelationships in order to maximize whatever positive potential exists for anger management.

Caveats to Prison Research

Confronted with pandemic prison overcrowding and limited resources, policymakers should evaluate the research conducted in correctional settings in order to best allocate those resources to programs that are most effective. However, decisionmakers must exercise caution in interpreting and generalizing the results of studies and remain mindful of the limits inherent in

studying prison populations. Edwin Megargee of Florida State University articulated these concerns as follows:

> Prisoners represent only a small portion of all those who commit criminal offenses, and an even smaller fraction of the overall population. Those of us who do assessment research in correctional settings must continually remember that we are dealing with atypical, highly biased samples of people exposed to massive situational influences specifically designed to alter their attitudes, personality, and behavior. Incarceration is a massive intervention that affects every aspect of a person's life for extended periods of time. We must be extremely cautious in generalizing the findings we obtain among prisoners to people in free-world settings, just as we must be careful to replicate free-world findings before applying them in correctional settings.[92]

He also cautions that offenders have different approaches to tests administered during initial assessment compared to later tests taken voluntarily for research purposes, noting that offenders who volunteer differ dramatically from those who do not.[93] For example, a report on the Anger Management Program at the Colorado State Penitentiary showed that inmates who refused to participate in the program differed in important ways from those who did participate; the most important difference was that non-participants had been significantly more aggressive in their recent behavior.[94] The efficacy and validity study noted:

> . . . the qualities which result in the greatest recent history of aggressive behavior also serve to reduce the likelihood of participation in a voluntary Anger Management Program. If confirmed in subsequent studies, this may well justify the involuntary imposition of such programs on that portion of the population which most needs it. It may also be found that this group properly avoided such a program because it would have no remarkable effect on their behavior.[95]

Conclusion

In summary, long-established principles and methods of controlling anger and aggression are being broadly used in innovative applications both outside and within legal and correctional settings as one method to reduce violence. The use of anger management as a facet of conflict resolution in schools holds promise for reducing violence in the future. However, not all of these applications may be appropriate and some may be harmful.

Widespread program application suggests that anger management is a useful social skill that can be learned and applied by people facing stress in all walks of life, including persons under supervision in the criminal justice system. Studies show that anger management programs have significant utility in reducing conduct reports in prison and have impact on reducing short-term recidivism for some juveniles. If anger management skills are useful in maintaining family and work relationships, they will be of value in integrating offenders back into the community.

Anger management training alone may be insufficient for certain offenders and potentially harmful to their victims. Domestic batterers, some animal abusers, and non-angry violent aggressors may be more appropriately served by other treatment. Alcoholism and psychiatric disorders affect behavior and impair the success of learning or implementing anger management skills. Professional assessment to determine program needs before assignment may be more costly, but also may help avoid the danger of inappropriate sentencing and reduce the waste of treatment resources.

Although formal studies, anecdotal reporting, and self-evaluation conclude that anger management counseling is of value, we do not know to what extent anger management programs have helped people, for whom the programs are most effective, or how long the programs' effects last. We have not yet learned how to maximize the potential beneficial effects of anger management by coordinating treatment with other programs which also affect behavior. Some experts believe that participation in follow-up support groups would reinforce the learning that occurs in an anger management program, just as it does for alcohol and drug abuse programs.

Learning about anger and its relationship to undesirable behavior is an important social skill that some people lack but are capable of learning. However, if we are not studying and measuring the results of anger management counseling, we don't know how effective the program is, and we may be failing to consider other alternatives that may work more effectively. Without additional research, limits on our existing knowledge complicate comparisons between programs and inhibit analysis of how best to allocate resources in the correctional system.

Anger is often involved in the commission of crime, but is anger management of use in preventing crime? The short answer is, for certain offenders, no; for some offenders, possibly; but there is much we do not know. Anger management focuses on preventing negative behavior that arises from impulsive hostile aggression by teaching self-awareness, self-control, and alternative thinking and behaviors. It is not designed to address, and likely will have no impact on, predatory or non-emotional calculated acts of aggression.

Anger management is premised on the ability to learn new skills and the willingness to implement those skills. Persons with mental illness or impaired intellectual functioning from drug abuse or alcoholism may be unable to learn the requisite skills or may be incapacitated from implementing those skills. Others may remain more influenced by community norms that call for an aggressive response to a perceived insult. We can measure what has been learned by program post-testing and by observing skill demonstration in role-playing and discussion, but we cannot accurately predict behavior.

We do not know if a program's impact depends on whether the program is voluntary or mandatory. When a program is assigned within the realm of the criminal justice system, it carries an element of coercion. Some offenders are required to complete a program before release whereas others volunteer, although we do not know their reasons for volunteering. Those reasons may include a genuine interest in self-improvement, to avoid behavior that led to contact with the criminal justice system, to favorably impress others, to avoid boredom while incarcerated, or, in the case of some batterers, to convince domestic partners to stay with them. Instructors have observed that the most initially reluctant participants express the greatest satisfaction with what they have learned.

We know that alcoholism, drug abuse, and psychiatric disorders impair thinking ability and undermine anger management skills, but we do not know what other factors may enhance or detract from what is learned in these programs. The program goals include fostering insight, increasing the ability to predict and appreciate the consequences of behavior, and restructuring a person's environment to prevent violence. While participants are in a discussion group in a controlled environment with an incentive to conform, they may be able and willing to recognize what makes them angry, to express their feelings, and to calm themselves. However, what happens outside the program is guaranteed to be different from role-playing in a therapy group. Upon release, returning to an environment that provokes frustration and provides pressure to resume negative behavior may undermine any positive change. In contrast, having a job, economic stability, and family and friends who function well in society are factors all likely to reinforce anger management skills by providing motivation and support.

If program participants feel more in control, empowered with communication skills, and better able to cope with stress and frustration, the program may have served its purpose. If participation develops social skills and improves relationships with family, friends, and coworkers, factors known to contribute to a stable and law-abiding lifestyle, the program has value. We can measure treatment outcome by testing, by observation of demonstrated skills, by conduct reports, by recidivism rates, and by evaluation of the overall differences in the quality of life such as the ability to sustain relationships and employment. But research on the results of anger management training outside of a prison environment is very limited.

Anger management can be taught in a variety of settings in a few months' time. It may improve the functioning ability of some persons and may prevent some violence, but we need to learn how to mine the program's potential for preventing crime. We already know that crime is not always prevented by the imposition of harsher criminal penalties. Our reputation as a violent society speaks for the need to learn about controlling anger. If we believe that social controls and individual self-control play a more significant role in preventing crime, then anger management programs to develop and enhance those controls merit further study.

NOTES

[1]A search of Westlaw newspaper databases reveals that the term "anger management" was used in 67 documents in 1991, 372 documents in 1993, 749 documents in 1995, and 1,245 documents in 1997.

[2]Simon Kemp and K.T. Strongman, "Anger Theory and Management: A Historical Analysis," *History of Psychology,* Rand B. Evans, Ed., reprinted in *108 American Journal of Psychology 397* (Fall 1995).

[3]Howard Kassinove and Denis G. Sukhodolsky, "Anger Disorders: Basic Science and Practice Issues," *Anger Disorders: Definition, Diagnosis, and Treatment* (hereinafter *Anger Disorders*) Taylor & Francis (1995) at 3.

[4]Kassinove and Sukhodolsky in *Anger Disorders, supra,* report that in the 5-year period from 1986 to 1990, in anger-correlated or anger-caused events, more than 300 people were killed or seriously wounded in American schools and another 242 were held hostage at gunpoint.

[5]Frank J. Mifsud, "TV or Day Care?" *Maclean's* (Sept. 9, 1996) at 5.

[6]Christopher Elser, "Juvenile Crime Rate Rises—Students Caught With Weapons in School Set Record in Upper, Central Bucks Areas," *Allentown (PA) Morning Call* (July 24, 1997) at B1.

[7]Sandra Biloon and Marilyn Quinn, "Labor and Management Work Together in Connecticut's Vocational Technical Schools to Create a Safer School Environment," *Public Personnel Management* (Dec. 1, 1996) at 439.

[8]"Lifelines Health Calendar," *Florida Today* (Sept. 3, 1996) at 4D.

[9]Elaine McShulskis, "Workplace Anger, A Growing Problem," *HRMagazine* (Dec. 1, 1996) at 16.

[10]"Be an Explosives Expert—Managing Your Anger on the Job," *Men's Health* (Dec. 1, 1995) at 44.

[11]J. Carol Stuecker, "Employers Can Act to Check Workers' Anger," *Business First of Louisville* (May 26, 1997) at 36.

[12]Heesun Wee, "Conquering Road Rage; From Exercise Tapes to Anger Management, Experts Offer Tips on Beating Freeway Stress," *Los Angeles Daily News* (Nov. 17, 1997) at L3.

[13]Yong Tam Kui, "Alcoholism, A Hidden Problem in Malaysia," *The New Straits Times* (Nov. 23, 1997) at 12.

[14]Jill Hudson, "Summer Basketball Courts Young Men; Night Practice, Games Provide Energy Outlet and Food for Thought," *The Baltimore Sun* (July 17, 1997) at 1B.

[15]John McCormick and Sharon Begley, "How to Raise a Tiger," *Newsweek* (Dec. 9, 1996) at 52.

[16]A.D. Abernathy and C. Cox, "Anger Management Training for Law Enforcement Personnel," *Journal of Criminal Justice* (1994) at 459.

[17]Virginia Mullery, "Township's Heart Kept Beating: Patricia Jones Carries on a Tradition of Helping Those in Need," *Chicago Tribune* (July 20, 1997) at 1.

[18]Cynthia Eagles, "Violence at Work Plagues Couple for the Second Time: Husband Attacked 4 Years After Wife Shot," *Courier-Journal* (Louisville, KY) (July 3, 1997) at 3B.

[19]Dan Gunderson, "Weekend Edition," *Minnesota Public Radio* (Nov. 9, 1997), reporting on the emotional aftermath of North Dakota floods.

[20]Wayne M. Sotile and Mary Owen Sotile, "Managing Yourself While Managing Others," *Physician Executive* (Sept. 1, 1996) at 39.

[21]Kassinove and Sukhodolsky, *Anger Disorders, supra,* at 19.

[22]*Id.*

[23]Tina Daunt, "A Look Ahead: By Sending Home Less Risky Inmates and Tracking Them With Electronic Bracelets, the County Plans on Easing Jail Crowding and . . . Keeping the Dangerous Behind Bars," *Los Angeles Times* (July 28, 1997) at B1.

[24]Maya Blackmun, "Domestic Disputes Can Unleash Frightening Rage, Experts Say," *Portland Oregonian* (July 18, 1997) at A21.

[25]"Colorado's New Laws," *The Gazette* (Colorado Springs) (July 1, 1997) at A9.

[26]Brigitte Greenberg, "Novel Prison Program Tries to Cut Inmates' Gang Ties: A 12-Step Approach That Treats Affiliations Like an Addiction Appears to Find Success in Connecticut — Other States Watch Closely," *Los Angeles Times* (June 29, 1997) at A25.

[27]Michael J. Berlin, "Portland-Area Traffic Officials See Rise in Local Road Rage," *Portland Oregonian* (July 23, 1997) at A13.

[28]"Idaho Gets $600,000 to Assist Prisoners," *Portland Oregonian,* October 19, 1997.

[29]James Miller, assistant regional chief, Region 4, Wisconsin Department of Corrections, telephone interview, October 27, 1997.

[30]Cognitive behavioral therapy assumes that a person's thoughts, interpretations, and self-statements about external events strongly influence emotional and behavioral functioning. The goal in treatment is to identify and challenge irrational and distorted thinking patterns and to develop more adaptive beliefs. See, e.g., *Anger Disorders, supra,* at 113.

[31]Paul Gendreau, *The Principles of Effective Intervention With Offenders,* paper presented for the International Association of Residential and Community Alternatives "What Works in Community Corrections: A Consensus Conference," Philadelphia, PA, November 3–6, 1993.

[32]Kassinove and Eckhardt, "An Anger Model and a Look to the Future," *Anger Disorders, supra,* at 203.

[33]A. Ellis, foreword to *Anger Disorders, supra,* at xii.

[34]Kassinove and Sukhodolsky, *Anger Disorders, supra,* at 12.

[35]*Id.*

[36]Eric T. Gortner et al., "Psychological Aspects of Perpetrators of Domestic Violence and Their Relationships With the Victims," *The Psychiatric Clinics of North America: Anger, Aggression, and Violence,* Maurizio Fava, ed., 337 at 341 (June 1997).

[37]Angela Scarpa and Adrian Raine, *supra,* at 383–384.

[38]Id. at 384–386. The authors note that possible biologic pathways to antisocial or aggressive behavior involve areas of the brain associated with inhibiting response to punishment that are mediated by the septo-hippocampal region and with activating behavior in response to reward or to escape punishment that is mediated by the limbic system. Levels of the stress hormone cortisol (used to measure emotional arousal) were found to be lower in habitually violent offenders and aggressive children, yet higher in violent alcoholics. Results are inconclusive as to the role of cortisol in emotional aggression.

[39]Sergei V. Tsytsarev and Gustavo R. Grodnitsky, "Anger and Criminality," *Anger Disorders, supra,* at 93.

[40]*Felony Arrests: Their Prosecution and Disposition in New York City's Courts* (Vera Institute of Justice), Longman (1981) at 135.

[41]Tsytsarev and Grodnitsky, *supra,* citing Averill, 1983.

[42]Malcolm Feeley, foreword to *Felony Arrests: Their Prosecution and Disposition in New York City's Courts* (Vera Institute of Justice), Longman (1981) at xii.

[43]*Id.*

[44]*Id.* at 93, citing a series of surveys by Averill, and *Anger Disorders, supra,* at 83.

[45]*Id.*

[46]*Id.*

[47]*Id.* at 95.

[48]*Id.*

[49]Eric T. Gortner, *supra,* at 343.

[50]Tsytsarev and Grodnitzky, *supra,* at 100.

[51]Edward W. Gondolf and David Russell, "The Case Against Anger Control Treatment Programs for Batterers," *Response,* vol. 9, no. 3 (1986) at 1.

[52]*Controlling Anger—Before It Controls You,* American Psychological Association.

[53]Gondolf and Russell, *supra,* at 2.

[54]Richard Althouse, *Anger Management Program,* Oakhill Correctional Institution Psychological Services program materials (August 1997).

[55]*Id.*

[56]James A. Gondles, Jr., executive director, American Correctional Association, foreword to *Cage Your Rage: An Inmate's Guide to Anger Control,* American Correctional Association (1992).

[57]Oakhill is a minimum security correctional facility located a few miles from Madison.

[58]Richard Althouse, *Oakhill Psychological Services Anger Management Program Outline* (undated).

[59]Richard Althouse, interview at Oakhill Correctional Institution, July 24, 1997, and telephone interview, August 13, 1997.

[60]Richard Althouse, telephone interview, November 18, 1997.

[61]Richard Althouse, *Anger Management Program Summary Evaluation Sheet, OCI Clinical Services* (June/July 1996).

[62]Comments from summary of evaluation sheets, July - September 1997, on file with Dr. Althouse.

[63]Telephone interview with Michelle Rose, DOC field supervisor (July 9, 1997).

[64]*Twelve-Week Program Agenda and Introduction to ART,* Attic Correctional Services, Inc. (undated, copy on file with author).

[65]Nancy Gustaf, director, Deferred Prosecution Program, telephone interview, August 25, 1997.

[66]Mark Seymour, co-director, H & S Counseling, telephone interview, August 26, 1997.

[67]Lyndell Rubin, intake coordinator, Family Services, telephone interview, August 26, 1997.

[68]*Id.*

[69]Nancy Gustaf, *supra.*

[70]Eric T. Gortner, *supra,* at 341.

[71]Darald Hanusa, Ph.D., telephone interview, July 17, 1997. Dr. Hanusa has developed a model treatment plan for abusive men, Alternative Treatment for Abusive Men (ATAM). He also is concerned that some programs for batterers are deficient because they are too short, asserting that to be effective, programs should span a minimum of 24 weeks.

[72]Mark Seymour, telephone interview, August 26, 1997.

[73]*Do You Have a Healthy Lifestyle?,* H & S Domestic Violence Counseling, undated informational brochure.

[74]*Id.*

[75]Gondolf and Russell, *supra,* at 3.

[76]*Id.,* citing a study by Gondolf and Hanneken.

[77]Gondolf and Russell, *supra,* at 3, 4. Gondolf and Russell suggest that resocialization programs such as RAVEN and theme-centered discussion programs such as Second Step and accountability workshops are better alternatives that help batterers end abuse while avoiding the shortcomings of anger management treatment.

[78]Eddy and Myers, 1984.

[79]Jerry L. Deffenbacher, "Ideal Treatment Package for Adults with Anger Disorders," *Anger Disorders, supra,* at 152.

[80]Leonard W. Leeman et al., "Evaluation of a Multi-Component Group Treatment Program for Juvenile Delinquents," *19 Aggressive Behavior 281* (Nov. 1993).

[81]Larry L. Smith et al., "Research Note: An Anger-Management Workshop for Women Inmates," *75 Families in Society 172* (March 1994).

[82]Paul M. Valliant and Lynne M. Raven, "Management of Anger and Its Effect on Incarcerated Assaultive and Nonassaultive Offenders," *75 Psychological Reports 275* (August 1994).

[83]Michael L. Hammer, *Research on the Effectiveness of Anger Management Programs/Interventions,* paper prepared for Wisconsin DOC (1995).

[84]Hammer cites studies by Gaertner (1984); Macphearson (1986); McDougall & Boddis (1991); Napolitano & Brown (1991); Napolitano (1992); Kennedy (1992); Hunter (1993); Smith & Beckner (1993); and Valiant & Raven (1994).

[85]Studies cited include Cahn (1989); Faulkner et al. (1992); Flournoy (1993); Gelb (1994); Larsen (1988); and Scales (1995).

[86]Hammer cites studies by Deschner & McNeil (1986); Bridge (1988); Deschner, McNeil, & Moore (1986).

[87]Hammer cites studies by Lindquist, Telch, & Taylor (1983); Gondolf & Russell (1986); Goldolf (1988a, 1988b); Serin & Kuriychuk (1994).

[88]Hammer cites Potter-Efron (1991).

[89]Hammer cites Gembora (1986); McDougall & Boddis (1991).

[90]Gloria Thomas, attorney and auditor, Office of Audits, Investigations and Evaluation, Wisconsin Department of Corrections, telephone interview, August 20, 1997.

[91]Joseph D. Lehman, secretary, Washington State Department of Corrections, interview, September 12, 1997, Madison, Wisconsin.

[92]Edwin I. Megargee, "Assessment Research in Correctional Settings: Methodological Issues and Practical Problems," *7 Psychological Assessment 359* (1995).

[93]*Id.* at 365, citing studies by Dahlstrom, Panton, Bain, & Dahlstrom (1986).

[94]*Program Plan: Anger Management Program,* Colorado Department of Corrections (September 12, 1994), updated packet of materials marked "Property of NIC Information Center," dated January 17, 1996.

[95]*Anger Management Research Project,* Colorado State Penitentiary, Department of Corrections (September 16, 1994).

Correctional Officer Stress: A Cause for Concern and Additional Help*

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Introduction

STRESS[1] AMONG correctional officers[2] is an important concern. While the pervasiveness and severity of correctional officer stress are open to question, many officers clearly experience considerable work-related stress. Furthermore, some of the sources of stress for correctional officers appear to be getting worse. In addition to the personal suffering it causes, correctional officer stress can compromise safety at prisons and jails, create turnover that may force departments to hire less qualified applicants than they would like, and require extra taxpayers dollars to pay overtime to officers covering for sick and disabled coworkers.

The number of officers exposed to or experiencing stress is potentially large. In 1996, there were 281,332 correctional officers working custodial and security functions in the nation—209,468 working in state prisons, 59,774 in jail and detention facilities, and 12,090 in federal institutions (ACA, 1997).

This article begins by examining the evidence regarding the pervasiveness and severity of correctional officer stress. It then summarizes research about what causes this stress and what effects stress has on officers and correctional institutions. A review of selected efforts to help prevent and treat correctional officer stress follows.

The article is based on a review of the pertinent literature identified primarily through database searches conducted by the National Clearinghouse for Criminal Justice Information and the National Institute of Corrections. The article also is based on telephone interviews with nine line correctional officers, four mid-level administrators (lieutenants and captains) and two superintendents, nine providers of stress prevention and reduction services, and nine other knowledgeable individuals. Officers and administrators included individuals from public and private prisons and from federal, state, and local prisons and jails. The appendix lists the individuals interviewed for the article.[3]

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Correctional Officer Stress: How Bad Is It?

Most research on correctional officer stress has sought to identify the *sources* of stress among officers, not *how much* stress officers experience. Among the studies that have examined stress levels, no consistent evidence establishes the proportion of correctional officers who suffer stress or how severely they experience it (Huckabee, 1992). Nevertheless, the available empirical evidence suggests that stress is widespread and in many cases severe. For example, a 1984 study found that 39 percent of 241 line officers who returned a mailed questionnaire reported that their job was "very" or "more than moderately" stressful. A 1985 study found that 62 percent of 120 prison staff in daily contact with inmates reported that working with the institution bureaucracy was very or extremely stressful; at least 30 percent reported that dealing with coworkers, responding to supervisors, and the danger of the job were very or extremely stressful. Furthermore, as reviewed below, the widespread use of excessive sick time and the high turnover among correctional officers suggests that many of them are experiencing considerable stress. Anecdotal evidence from the literature (e.g., Kauffman, 1988) and the individuals interviewed for this article largely confirm this conclusion.

Several circumstances may have created increased stress for correctional officers in recent years:

- Inmate crowding has increased in state correctional facilities (BJS, 1997; Stephan, 1997).
- There has been an increase in the number of inmate assaults against staff. The number of attacks in state and federal prisons jumped by nearly one-third between 1990 and 1995 from 10,731 to 14,165 (Stephan, 1997).
- Because offenders are serving longer sentences, more prisoners do not fear any punishment or the authority of the correctional officers (Martinez, 1997). According to a superintendent, "Inmates today aren't afraid to assault staff; they don't care if they get put in segregation."
- There are more gangs—and more dangerous gangs—in prison (Martinez, 1997).

What Causes Stress for Correctional Officers?

A fundamental feature of working in prisons and jails that causes stress is that people do not like being held against their will and being closely supervised (Cornelius, 1994). According to a researcher, "Any organization or social structure which consists of one group of people kept inside who do not want to be there and the other group who are there to make sure they stay in will be an organization under stress" (Brodsky, 1982).

Studies (e.g., O'Brien & Gustafson, 1985; Harris, 1980) and several interviewees also reported that, as officers observe so many released inmates returning again and again, the officers come to feel they are wasting their time because the penal system does not result in rehabilitation. "There is no positive feedback for correctional officers," a stress prevention trainer observed.

Beyond these two general sources of stress, the interviews conducted for this article and the literature reviewed (see figure 1) confirmed the observation that "researchers have yet to sufficiently identify the factors that contribute to the stress correctional officers experience" (Grossi, 1990). To provide a framework for discussing the disparate stresses, the discussion below distinguishes among stresses caused by the organization, those created by correctional work itself, and those brought on by factors external to the institution.

Organizational Sources of Stress

Much of the literature (e.g., Lindquist & Whitehead, 1986; Whitehead & Lindquist, 1986; Cheek & Miller, 1981) and many individuals interviewed for this article suggest that the "organization" is a major source of stress for many officers. The four work conditions officers identified most consistently as causing stress are understaffing, overtime, shift work, and supervisor demands.

Understaffing. Understaffing in a correctional context is a chronic condition in which there are not enough officers available to staff authorized posts.[4] Most interviewees reported that chronic and sometimes severe understaffing are prevalent in many prisons and jails as a result of unattractive salaries, high turnover, and excessive use of sick time and disability leave (see also, Thompson, 1994; Rosefield, 1983; Delmore, 1982; Brodsky, 1982; Harris, 1980; NIC, n.d.-b).[5] Understaffing can create different kinds of stress: lack of time to complete required tasks at all or in a conscientious manner, such as head counts, searches, and paperwork; working at breakneck speed every day to complete the required work; concern that there are too few officers on line or available as back-up should inmate violence occur; and inability to get time off for special occasions or family crises.

Overtime. Staff shortages create the need for extensive and stress-producing overtime among remaining staff. As a result, some officers resort to subterfuge to avoid the extra work. According to an intake administer for a state department of corrections, "At least 100 officers have told me they don't answer their telephones because it might be the institution calling for overtime." Some officers get a second and unlisted telephone number that they keep secret from the department. In many cases, overtime is unavoidable, as when officers are told at the end of their shift that they have to remain to work the following shift to cover vacant posts (Kauffman, 1988). In one facility, officers are allowed to refuse overtime assignment only once a year; the second refusal results in a warning, the third results in a 1-day suspension, and the fourth may result in termination.

Several interviewees reported that they or some of their coworkers welcome overtime because of the extra money they can earn. However, supervisors and providers made clear that, even when officers volunteer to work overtime, the long hours result in sloppy work and, in some cases, burnout. One officer herself admitted, "Overtime is great—I worked three OTs a week for 18 months. But I got burned out, and my supervisors didn't even acknowledge my contribution." As a stress counselor observed, "Doing a double means spending 16 hours in a row with people who are not nice." Of course, if overtime causes burnout, both sick leave and turnover increase, resulting in still greater demands for overtime.

Shift work. Interviewees consistently reported that rotating shifts, still commonplace in many prisons and jails, create havoc with officers' family lives and reduce their ability to perform their responsibilities conscientiously because of fatigue and irritability (Cornelius, 1994; Kauffman, 1988). "You can tell when shift work is getting to officers," a lieutenant said. "Their work gets sloppy, their searches become careless, their units are filthy, and they stop following the rules." An officer doing rotating shifts reported, "One day I pulled over to the side of the road because I couldn't remember whether I was going to work or going home."

Supervisor demands. Several interviewees reported that supervisors are a source of stress because, as one officer said,

> They are always on you to do the job right, but you can't do it right [because of staff shortages]. There is supposed to be one officer per tier here, but now they've collapsed the posts and there is one officer for every two tiers. So there just isn't enough time for me to get inmates awakened, showered, and fed, keep my log books up to date, do my checks, and make sure the catwalks have all been cleaned and disinfected.

Of course, as another officer observed about a deputy warden who nitpicked him, "But that's his job."

The literature consistently has highlighted two other sources of organizational stress that interviewees did not identify as stressful: role conflict and role ambiguity.

Role conflict. Many surveys and literature reviews identify "role conflict" as a serious source of stress

FIGURE 1. SELECTED CHARACTERISTICS OF 10 STUDIES OF CORRECTIONAL OFFICER STRESS

Author(s)	Survey Date	Location	Population	Sample Size—Response Rate	Method	Number and Type of Facilities	Most Significant Sources of Stress
National Institute of Corrections	1990	Indiana	All correctional	317—79%	Self-administered questionnaire	1 prison	• Minimal job rewards (low pay, poor promotional opportunities, lack of supervisor appreciation) • Potential to be harmed • Conflict with coworkers • Unpleasant physical work conditions (e.g., ventilation)
Cross	1987	Michigan	Line officers work camp supervisors	994—94%	In-person interview	30 facilities	• Conflicts with inmates • Poor quality of administration • Role conflict • Lack of influence in decisions • Lack of promotional opportunities • Danger • Relations with coworkers
Grossi	1987	Kentucky	Line officers	106—NA	Self-administered questionnaire	3 prisons	• Role conflict • Dangerousness
Breen	1985	Canada	All employees in daily contact with inmates	120—45%	Mailed questionnaire	1 prison	Very or extremely stressful: • Bureaucracy (62%) • Problems with coworkers (37%) • Problems with supervisors (33%) • Dangerousness (30%) • Restrictions on personal and social life (25%)
O'Brien & Gustafson	1985	Iowa	Line officers supervisors administrators	891—47%	Self-administered questionnaire	8 prisons	• Dealing with inmates • Overly strict supervision by managers • Lack of positive feedback from managers • Inflexibility of scheduling
Lindquist & Whitehead	1984	Alabama	Line officers	241—71%	Mailed questionnaire	All prisons	• Dealing with violent or mentally disturbed inmates (63%) • Inconsistent instructions from supervisors (60%) • 39% said job was very, or more than moderately, stressful
Cullen et al.	1985	South	Correctional officers	155–62%	Mailed questionnaire	State prison system	• Role conflict • Dangerousness
Delmore	1981	District of Columbia	All department employees	756—44%	Self-administered questionnaire	Prison	High levels of dissatisfaction regarding nine work-related conditions including: • Staff shortages • Job insecurity • Lack of promotional opportunities and training • Poor pay and benefits • Dangerousness
Cheek & Miller	1981	Pennsylvania, Illinois, Washington State	Line officers	818—37%	In-person interview	Prisons	• Inadequate pay • Lack of administration support • Overcrowding • Changes in management priorities • Inmate manipulation
Cheek & Miller	1978–79	New Jersey	Line officers	143—NA	Self-administered questionnaire	Prisons	• Problems with inmates • Problems with supervisors • Conflict with coworkers • Shift work • Lack of training • Conflicting orders

among correctional officers (e.g., Grossi, Keil, & Vito, 1996; Woodruff, 1993; Philliber, 1987; Lindquist & Whitehead, 1986; Crouch, 1986; Ratner, 1985; Dahl, 1979; Dahl & Steinberg, 1979). According to one researcher, "Role conflict appears in the literature to be the predominant sources of both stress and job dissatisfaction among correctional officers" (Grossi, 1990). Researchers define role conflict as the struggle officers engage in to reconcile custodial responsibilities (maintaining security such as preventing escapes and preventing inmate fights) with their treatment functions (helping inmates to rehabilitate themselves).

However, none of the correctional officers and supervisors interviewed for this article identified role conflict as a source of stress. Furthermore, there is evidence that some officers in facilities that have introduced education and treatment programs that involve the active participation of officers find the addition of a rehabilitation mission to their custodial function reinvigorating (Finn, 1997; Parent, 1990).

Role ambiguity. A second repeatedly mentioned source of organizational stress in the literature that interviewees did not single out is role ambiguity (Woodruff, 1993; Gerstein, Topp, & Correll, 1987; Crouch, 1986; Cullen et al., 1985; Rosefield, 1981, 1983; Brodsky, 1982; Harris, 1980; Dahl, 1979; Dahl & Steinberg, 1979; NIC, n.d.-a). Role ambiguity is the uncertainty created by supervisors who expect officers to "go by the book" and follow all rules to the letter when supervisors and line officers alike know that officers must be flexible and use judgment in their interactions with inmates. According to one survey,

> While officers work in a paramilitary organization marked by explicit lines of authority and a host of formal regulations, their task of managing inmates demands flexibility, the judicious application of discretionary justice, and the ability to secure inmate compliance through informal exchanges which deviate from written rules. Ambiguous and conflicting expectations are a likely result and a potential source of stress. (Cullen et al., 1985)

It is unclear why the literature consistently identifies role conflict and role ambiguity as significant sources of stress while the interviewees failed to mention them. However, it is important to note that excessive failure to follow institutional procedures puts daily facility administration on an ad hoc, unpredictable basis, resulting in reduced inmate control. There is clearly a need to find a workable middle ground between officer rigidity and complete discretion in following procedures.

Work-Related Sources of Stress

There is a consensus in the literature and among the interviewees regarding four aspects of correctional work that are stressful: the threat of inmate violence, actual inmate violence, inmate demands and attempts at manipulation, and problems with coworkers.

Threat of inmate violence. Several published surveys of officers have identified the ever-present potential for inmate violence against officers as a significant source of stress. For example, Cullen et al. (1985) found the threat to be the second highest source of stress (see also, Kauffman, 1988; Crouch, 1986; Breen, 1986; Rosefield, 1983; Delmore, 1982; Lombardo, 1981; Dahl, 1979). More interviewees identified the threat of inmate violence as a source of stress than any other single feature of their occupation.

Inmate violence. Actual violence—including assaults, hostage taking, riots, inmates killing each other, and inmate suicides—can be a major source of stress for many officers not only during the episodes but afterwards (Freeman, 1997; Washington State Department of Corrections, 1992). According to one researcher, "Staff anxiety is intensified [after critical incidents] by the aftermath of recriminations, scapegoating, blaming, and job insecurity" (Freeman, 1997). Not all officers find these events stressful, at least once they are over. A survey of 182 officers in an institution in which 13 officers were taken hostage found that three-quarters of the staff claimed they experienced no problems in the aftermath (Montgomery, 1987).

Inmate demands and manipulation. Many officers find the constant demands and attempts at manipulation by some inmates to be stressful (Cornelius, 1994; Woodruff, 1993; Marston, 1993). According to one correctional officer, "When officers are manipulated [successfully] by inmates . . . they may experience extreme stress" (Cornelius, 1992). A few interviewees reported that managing inmates is made still more stressful when there are cultural differences between inmates and officers or when staff members have not been trained in cultural differences and how to deal with them.

Problems with coworkers. Many officers experience stress working with other officers. One survey found that 22 percent of staff viewed "other staff" as creating more stress than any other single factor except for dealing with hostile, demanding inmates (Marston, 1993). Several interviewees expressed the same opinion. The following conditions can precipitate stress among coworkers:

- Burned out coworkers venting their frustrations to their colleagues (Cornelius, 1994);
- Officers competing for limited, choice assignments (Brodksy, 1982; Dahl, 1979);
- Apprehension that coworkers will refuse to back them up or protect them in a confrontation with inmates (Brodsky, 1982; Dahl, 1979), are too inexperienced (e.g., due to high turnover) to know how to help out (Brodsky, 1982; NIC, n.d.-a), or do not have the physical or emotional strength to be effective; and

- Inappropriate officer behavior toward inmates—bringing in contraband, getting too friendly, using unnecessary force, taking questionable disciplinary action, and failing to do their work conscientiously (ACA, 1996; Crouch, 1986; Brodsky, 1982; NIC, n.d.-a).

Stress From Outside the System

There appear to be two significant sources of stress for officers that originate outside the prison or jail: poor public image and low pay.

Low public recognition/image. According to one researcher, "Many [officers] feel they are perceived, and come to perceive themselves, as occupying the lowest rung of the law enforcement pecking order" (Brodksy, 1982; see also, Kantrowitz, 1996; Hill, 1994; Smith, 1994; Philliber, 1987; Stalgaitis, Meyers, & Krisak, 1982). Another researcher reported that "a negative image of corrections is regularly portrayed in the media . . . [with officers depicted] as stupid, animalistic, and senseless abusers of socially wronged individuals" (Van Fleet, 1992). As one officer said, "The public hasn't a clue as to what correctional officers do. Someone asked me just the other day if I beat inmates all the time."

As a result, "over the years, many husbands and wives of correctional officers have complained to me that they lie when asked what their spouses do for a living—not because they are ashamed of their spouses' work but because their spouses are ashamed of working in corrections" (Van Fleet, 1992). The end result is that some officers come to feel isolated and estranged from friends and family (Maghan & McLeish-Blackwell, 1991; Kauffman, 1988; Harris, 1980). A female officer said she routinely tells other people "I work for the State," refusing to specify her precise job.

Poor pay. Studies have reported that many officers cite low pay as a source of stress (Stohr et al., 1994; Stalgaitis, Meyers, & Krisak, 1982; Delmore, 1982; Brodsky, 1982; Cheek & Miller, 1981; Rosefield, 1981; NIC, n.d.-a). Several interviewees confirmed this finding. Starting pay in one private institution was $14,000 to $16,000 a year. In one state, officers start out earning $18,000; the most they can earn after 18 months is $26,400. The beginning salary in another state is $12,000. (By contrast, the starting salary in Massachusetts was nearly $31,000 in 1997.)

What Are the Effects of Stress?

Stress creates several problems for officers and for institutions:

Impaired health. In addition to causing unhappiness and suffering among those experiencing excessive stress, stress may result in physical illnesses ranging from heart disease to eating disorders. It also can precipitate substance abuse among susceptible individuals (Woodruff, 1993; Cheek & Miller, 1983).

Excessive sick time. For many years, reports in the literature have suggested that correctional officers take excessive sick leave as a means of coping with stress on the job (e.g., Cornelius, 1994; Ratner, 1985; O'Brien & Gustafson, 1985; Brodsky, 1982; Cheek, 1982; Dahl & Steinberg, 1979). Studies in New York State and California found that correctional personnel used more sick leave than did other state workers (Cheek, cited in Cornelius, 1994). Most interviewees reported that officer stress still results in extensive overuse of sick time and disability leave—at a time when unscheduled absenteeism in industry as a whole is at its lowest rate this decade (Maxwell, Perera, & Ballagh, 1997). One lieutenant guessed that 20 percent of officers who call in sick are just burned out. A captain estimated that 90 percent of officers abuse their sick time in this manner.

Excessive sick time increases the overtime required of other officers—and therefore exacerbates *their* stress and impairs *their* work performance. Thus, taking "mental health days" is a response to stress but also a cause of further stress. It is also expensive. California spent a reported $1.86 million in overtime pay in 1975–76 alone to cover posts for officers on sick leave (Cheek & Miller, 1981).

Burnout. Numerous reports, confirmed by several interviewees, have indicated that stress can lead to burnout among officers (Cornelius, 1994; Woodruff, 1993; O'Brien & Gustafson, 1985; Cheek & Miller, 1981; Dahl & Steinberg, 1979).

High staff turnover. Many studies (e.g., Slate, 1992; O'Brien & Gustafson, 1985; Brodsky, 1982) and interviewees reported that staff turnover is very high in many facilities. The average turnover in prisons nationwide in 1986 was nearly 12 percent (ACA, 1997), but in some states, such as Arizona, South Carolina, and South Dakota, the rate was over 25 percent. The high turnover is likely to be at least in part a result of stressful work conditions including low pay and burnout. Some rookies quit when they discover that the job is not what they expected.

The high rate of turnover is one explanation for understaffing—departing staff cannot be replaced quickly enough. However, turnover among experienced staff also forces remaining staff to work with a large number of rookies who are not as trustworthy or experienced coming to their aid in a crisis. "One day last month, my entire second shift were rookies," an anxious 3-year veteran officer reported. This problem is compounded when assignments are passed out on the basis of seniority, resulting in the least experienced officers staffing the least desirable—and typically the most dangerous and demanding—posts. Because these inexperienced officers are the ones who are least equipped to do their jobs, performance may be impaired, leading

to increased risk of conflict with inmates and other officers including supervisors. Finally, if constant turnover results in inmate exposure to officers who have not yet learned the institution's procedural rules and how to enforce them consistently, inmates may either increase their attempts to manipulate staff in an effort to test or exploit the officers' inexperience or be genuinely confused about what behavior is and is not allowed. Either result could increase officer stress.

Reduced safety. Several interviewees reported that stress often results in impaired work performance such as sloppy searches and careless counts. By making officers less patient, stress may reduce their ability to resolve confrontations peaceably, resulting in increased use of force to get inmates to obey.

Prematurely early retirement. Stress has been implicated in excessive disability retirements (Slate, 1992). Even when physical ailments are the reason for the disability, the illnesses may have been brought on by stress. In the 1970s, time off for disability by New York State correctional staff was 300 percent higher than the state average. Sixty percent of the disability leave was for heart, emotional, or drinking problems (Wynne, 1978). Stress-related disabilities among officers exceeded $40 million in California in 1985 alone (Ratner, 1985).

Impaired family life. The literature (e.g., Breen, 1986; Black, 1982) and interviewees agree that correctional officers experiencing excessive stress damage their family relationships by displacing their frustration onto spouses and children, ordering family members around just as they issue commands to inmates, and becoming distant by withholding information about their work that they feel family members will not understand. Shift work and overtime can create stress by making it difficult for officers to attend important family functions.

Resources to Help Officers Are Limited

It appears that there are not many recognized resources correctional officers can access for help in coping with stress. In addition, many officers who do have access to assistance fail to take advantage of it. This review identified several programs designed to help prevent and treat stress among correctional officers. The types of available stress services fall into four categories:

- academy training;
- in-service training;
- critical incident stress management; and
- individual counseling.

Academy Training

Many correctional officer academies provide up to several hours of class time devoted to warning recruits about potential sources of stress, symptoms of stress, and coping mechanisms. However, most academy training appears to be generic rather than focused specifically on correctional work. Discussions focus on the nature of burnout rather than on features of the correctional environment that can cause stress. Coping mechanisms include meditation and exercise but exclude on-the-job strategies that might reduce the stresses of being a correctional officer. Perhaps for these reasons, one officer reported that what he learned about stress at the academy "went in one ear and out the other." Another said, "The problem with academy training is you forget it when you're on the job," adding that "the older staff tell you to forget everything you learned there anyway."

The National Institute of Corrections' National Academy of Corrections has stopped using its module on stress in its training curriculum for correctional managers (NIC, n.d.-b). The academy does not offer classes on stress for recruits.

In-Service Training

As far back as 1982, a researcher could write that "administrative departments in the United States are adding stress training segments to their curricula for new recruits to correctional services, in the hope that this will aid officers in doing their jobs effectively" (Inwald, 1982). A researcher recently reported that "it appears common practice for many correctional and detention managers to offer stress management training as a part of initial orientation and training or through scheduled in-service training sessions" (Marston, 1993). A recent *Corrections Compendium* survey of state departments of corrections confirms this observation (Hill, 1997). Among the 41 responding states, 13 reported devoting 1 to 2 hours of annual in-service training to stress programming, 12 reported 3 to 5 hours, and 4 reported 6 to 8 hours. Only 11 states reported devoting no time to stress programming.

Examination of several curricula used in these classes suggests that, as with academy classes, the presentations are generic in nature. Two psychologists with the New York City Department of Correction, while noting that "behavioral interventions such as stress management . . . have become common components of correctional training curricula," added that the courses

> may not be appropriately utilized, particularly if the skills have not been fully mastered. Moreover, these interventions may be too generic to effectively address the concomitants of a given individual's exposure to prison violence. The very existence of such training may lull administrators and officers into a false sense of security with regard to its effectiveness in ameliorating the negative emotional effects of occupational violence. (Safran & Tartaglini, 1995).

William Wilkie, the acting director of the National Academy of Corrections, confirmed this perception:

> There is more talk about it [officer stress] as a concern than actual insertion into [academy or in-service] training curriculums. Whatever was put in has become routinized and doesn't address officers' stress situations or stress. It's perfunctory: here's [sic] the symptoms and here's how to alleviate them. We need stuff that is more specific to *corrections*. So a lot of departments say they are doing it [providing stress training], but it's so generic it's useless.

Individual Counseling

A few large prisons and sheriff's departments have in-house units (distinct from Employee Assistance Programs) devoted exclusively to treating officer stress:

- Since 1987, the Manatee, Florida, Sheriff's Department, with 1,000 employees, has funded an in-house Behavioral Science Unit consisting of a clinical psychologist who counsels patrol and correctional officers and another psychologist who does fitness-for-duty evaluations and pre-employment testing. The clinician carries a caseload of about 14 clients, whom he sees usually for brief, focused counseling but may continue to treat for 30 to 40 sessions. The unit provides an 8-hour block of training on stress management at the police academy attended by sheriff's deputy recruits.
- The Massachusetts Department of Corrections funds a stress program consisting of five full-time, paid, trained peer supporters. In addition to providing individual counseling and making referrals when professional assistance is needed, the unit teaches stress management at the academy and during in-service training sessions. Staff members conduct mandatory critical incident debriefings as well. The unit has served 3,600 clients in the past decade including fire fighters and police officers who, for reasons of confidentiality, are afraid to seek help from their Employee Assistance Programs.

Some departments make use of private counseling organizations to provide stress counseling services. These organizations typically offer the entire spectrum of stress services including not only individual counseling but also academy and in-service training and critical incident debriefing:

- The Counseling Team, a private organization consisting of 13 full-time professional counselors in San Bernardino, California, has been providing stress services to officers, supervisors, civilians, and family members in correctional agencies (and law enforcement agencies) since 1982. The team is contracted by two sheriff's departments to provide individual counseling, critical incident debriefings, and academy and in-service training to officers and civilians. The team also trained the current 40 peer supporters in the area as well as training peers in Washington State (Washington State Department of Corrections). Under a subcontract, the Counseling Team provides critical incident debriefing services to officers in most of the state's prisons.
- Family Services of Pawtucket, Rhode Island, has been offering stress services to 1,400 correctional officers, civilian employees, and their families in the Rhode Island Department of Corrections since 1985. The program has a contract with the State Department of Corrections to establish a Stress Management Unit to "provide and make available to all employees stress education and stress management training . . . to be responsive to the post traumatic needs of correctional personnel . . . [and] to insure a therapeutic avenue for all Department of Corrections employees who demonstrate stress and stress-related symptoms." According to the contract, the unit provides: a 3-hour program to existing employees and a 4-hour class to new employees; a person with clinical expertise in stress management to be on call 24 hours a day to respond to emergencies; and a cadre of trained peer supporters to assist individuals with minor stress.

The department pays for any employee's initial visit to the unit; employees (or their insurance) bear the cost of subsequent visits. A lieutenant has coordinated the 25 peer supporters for 6 years on a volunteer basis. He also teaches the in-service and pre-service stress management units.

It appears that most prisons and jails throughout the country do not have access to these kinds of specialized, confidential services. According to Gary Dennis, Director of Mental Health for the Kentucky Department of Corrections, his nationwide training activities have led him to conclude that most officers only have Employee Assistance Programs (EAPs) to turn to for help. According to Gary Cornelius (1994), "EAPs, when properly staffed and used, can help correctional staff effectively deal with their stress." However, most interviewees reported that most officers feel EAPs will not maintain confidentiality and are unfamiliar with the nature of correctional officer stress.

Critical Incident Stress Management

Most prisons and larger jails have in-house specially trained teams to address the stress that many officers experience after a critical incident such as a hostage taking, riot, or murder of an officer. However, as noted above, some departments contract with outside organizations—such as Family Services and the Counseling Team—to provide critical incident debriefings. At least two other organizations exclusively or primarily address post-critical incident stress:

- Upon request, eight specially trained mental health professionals with Post Trauma Resources, an independent organization in Columbia, South Carolina, will provide critical incident debriefings and brief

post-trauma counseling to officers in prisons and jails throughout the country. The company provides these services to all types of workplaces from banks (e.g, after an armed robbery) to industries (e.g., after an industrial accident). Corrections represents only five percent of its business. The National Institute of Corrections (NIC) funds Post Trauma Resources to train other professionals in other states to conduct critical incident debriefings supported by peers who do early outreach. The firm has prepared guidelines for NIC on how to go about developing a critical incident debriefing program (NIC, n.d.-b). Post Trauma Resources helps correctional managers prepare appropriate responses to work-related traumas before they occur so that managers can initiate a response immediately after a trauma occurs. The organization provides debriefings and limited individual counseling to survivors and observers of traumatic events.

- The On Site Academy in Gardner, Massachusetts, provides week-long residential treatment for individuals in public safety fields, including correctional officers, after they have experienced a traumatic work-related incident. In the past 5 years, the program has treated officers from federal prisons and several state correctional systems as well as a number of Massachusetts jails. The program is administered primarily by volunteers. It is the only residential facility for corrections officers in the world. The academy also offers a "respite model"—corrections officers may stop by for help after a critical incident without an appointment. The academy secures referrals by word of mouth and through formal arrangements with Massachusetts jails.

The chief obstacles to establishing effective and comprehensive stress programs for correctional officers appear to be failure to recognize the need for stress services, lack of empirical evidence that the services can benefit officers or corrections departments, and lack of funding. Three essential strategies for making sure a program succeeds are marketing, addressing officers' concerns about confidentiality (e.g., Ratner, 1985), and overcoming officers' attitude that seeking help shows they are weak people (Van Fleet, 1992; Brodsky, 1982). Officers are particularly concerned that seeking help could jeopardize their chances for promotion or make other officers suspicious that they cannot be counted on for back-up.

Conclusion

This review has confirmed that there is little reliable empirical evidence that identifies the severity and sources of stress for correctional officers, in large measure because existing research has relied almost entirely on self-reports and was conducted when several conditions presumed to be related to stress (e.g., crowding, increased violence, gangs) were less problematic than they are today. More reliable indicators of stress would make it possible for interventions to target more accurately the precise causes of officer stress. What is needed is a study that examined a range of surrogate, but objective, indicators of stress such as:

- staff turnover rate
- sick leave use
- absenteeism and tardiness
- inmate grievances or complaints
- disciplinary actions against officers
- disability claims
- premature retirements or disability pensions

Data permitting, the study should examine institutional conditions over time to determine whether they are associated with the proxy measures of stress identified above—for example, whether increased crowding is associated over time with increased absenteeism. Other institutional conditions that might be examined for any association with stress include:

- condition of the physical plant
- staff training levels
- inmate-officer ratios
- staffing levels
- numbers of assaults against officers and among inmates
- increases and decreases in programming levels
- increased cell time
- removal of amenities

The Federal Bureau of Prisons' Key Indicators Strategic Support System—KISSS—has collected time series indicator data on such variables as turnover and sick leave that could be used to study the relationship between stress (through the proxy measures) to the institutional conditions identified above. Studies in state and local or private facilities would require data extraction from existing administrative records.

NOTES

[1]Because stress can be defined in a number of different ways, it has become a catchall "buzz word" for all kinds and levels of emotional and mental problems. This article uses the common dictionary definition of stress: a mentally or emotionally disruptive and upsetting condition occurring in response to adverse external influences and a stimulus or circumstance causing such a condition.

[2]The term "correctional officer" as used in this article includes individuals with direct responsibility for inmate custody and security including line officers and mid-level supervisors (lieutenants and captains).

[3]No civilians were interviewed. However, the stress programs contacted for the study serve civilians as well as officers. Furthermore, some civilians have more direct contact with inmates than some officers. For example, kitchen staff, laundry supervisors, and maintenance workers may supervise inmate trustees several hours a day.

[4]Relative to the number of custody or security employees, the number of inmates rose from 4.2 to 4.6 between 1990 and 1995 (Stephan, 1997).

[5]The ratio of corrections officers (including supervisory personnel) to inmates was 1:4.64 in 1996 (ACA, 1997). However, since this calculation includes officers on all three shifts, the average ratio per shift was nearly 1:14.

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APPENDIX

Respondents

Line Correctional Officers (respondents were guaranteed anonymity)

Minority Female: Eastern Seaboard women's prison
Male: private juvenile facility
Male: Federal Bureau of Prisons facility
Minority Male: Southern prison
Male: Midwestern prison
Male: Southwestern private prison
Minority Male: Midwestern county jail
Male: Northeastern prison
Male: Texas prison

Supervisors

Male: Lieutenant, California county sheriff's department
Male: Warden, federal prison
Male: Warden, Southwestern prison
Female: Lieutenant, Southern county sheriff's department
Male: Lieutenant, Northeastern prison
Minority Female: Captain, Southern prison

Providers

Bohl, Nancy. Director, The Counseling Team, San Bernardino, California
Carr, John. Director, Family Services, Pawtucket, Rhode Island
Duggan, Hayden. Director, On Site Academy, Gardner, Massachusetts
Super, John. Counselor, Manatee (Florida) County Sheriff's Department
McCarthy, Kevin. Director, Intake and Counseling Unit, Hunt (Louisiana) Correctional Center
Johnson, Roger. Director of Programs, Northeastern New York Safety and Health Council, National Safety Council
Bergmann, Larry. Director, Post Trauma Services, Columbia, South Carolina
Hollencamp, James. Director, Massachusetts Department of Correction Stress Unit
Nouri, Gloria. Director, Stress Management, New Jersey Department of Corrections

Additional Individuals Contacted

Dennis, Gary. Director of Mental Health, Kentucky Department of Corrections
Huddleston, Taylor. Training Supervisor, Texas Department of Criminal Justice, Institutional Division
Kamerman, Jack. Professor, Department of Sociology and Anthropology, Kean University, Union, New Jersey
Kerle, Ken. Staff, American Jail Association
Maghan, Jess. Associate Professor, Criminal Justice, University of Illinois at Chicago, and former Associate Commissioner of Training and Research Development for the New York Department of Corrections
Marette, Mike. Director, American Correctional Unit, American Federation of State, Municipal, and County Employees (AFSCME)
Swisher, Steven. Trainer, National Academy of Corrections
Taylor, William. Staff, American Correctional Association
Wilkie, William. Acting Director, National Academy of Corrections

Successful Mentoring in a Correctional Environment*

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"The greatest gift is a portion of thyself."
—Emerson

IT BEGAN simply. A few weeks after starting my career as a correctional officer I found myself gravitating toward a fellow officer with about 3 years of experience working in the institution. He wore his uniform professionally, handled inmates firmly, was never late for duty, and was always the first or second officer on the scene of an emergency. The officer and I worked the same shifts, usually within the same security posts, and had the same days off. While I frequently went to him with questions and concerns about my new career and its responsibilities, I soon realized that he was "keeping an eye" on me, gently but firmly correcting my missteps (there were many during my probationary year) and shoring up my confidence when I need it. I noticed that when I was confronting an inmate, he seemed to be in the background, watching the interaction, seemingly prepared to step to my aid should the need arise (as it did a number of times).

Throughout the next few months we had an unspoken, yet clearly defined, relationship. He had assumed the responsibility of being my mentor, my first in a new career field.While I had similar relationships while serving in the military (in addition to being a protégé—someone who is mentored—I also had served as a mentor to other service personnel), not until years later did I clearly recognize the importance of such associations. I credit my first mentor for helping me get past my first year in corrections without serious mistakes and for helping me establish a professional work ethic that remained with me at all the correctional facilities to which I later was assigned.

The word "mentor" is ancient. It was first used in *The Odyssey,* written by Homer in 800 B.C. Ulysses, gone to fight in the Trojan Wars, leaves his son Telemachus in the care of his friend Mentor. Mentor becomes the friend, protector, and educator of the boy, guiding him into adulthood.Successful mentors in an organization often perform the same roles—helping the new employee mature and succeed in the organization.

Types of Mentors

While all mentors share the common goal of helping the employee prosper, mentors normally focus on one of two responsibilities: the protégé's job-specific growth or career enhancement and development.

My first correctional mentor was concerned about my learning the specifics of the role and responsibilities of being an officer—what were the proper techniques to use when interacting with inmates, which inmates were more dangerous or manipulative than the others, what were the culture and values of the staff, institution, and agency. He helped me become part of the organizational culture and create an identity in the correctional environment.

Besides pointing out which staff members were trustworthy and which were not, explaining how to read a correctional roster, and introducing me to fellow officers in the correctional services department, he also helped me establish the foundations that led to me becoming an effective correctional officer. His mentoring did not replace formal training. It supplemented the topics taught with "real world" application. He discussed subjects not normally taught in the classroom.

After about 10 years in corrections, I found my second mentor (rather, he found me), a highly placed member of the correctional agency who involved himself in helping me understand and achieve the second mentoring responsibility—career enhancement and development. Even now, after almost 20 years in corrections and dozens of supervisors and managers, I still consider my second mentor (now retired) to be the finest manager and leader I ever worked with. A warden, this individual projected all of the traits (discussed later in this article) that make a successful mentor and leader.

My protégé/mentor relationship with this individual started the same way as the first—simply. One day I was working for him as a department head, and a few months later a relationship had been forged that led him to mentor me on career development issues. He coached me on various aspects of my job, served as a confidant when I lost patience with certain aspects of

***Opinions expressed in this article are those of the author and do not necessarily represent the opinions of the Federal Bureau of Prisons or the U.S. Department of Justice.**

the organization, discussed the political realities of operating a maximum security facility, opened doors for me to help my career advancement, and served as a role model whom I deeply respected and whom I knew possessed integrity and trustworthiness in a sometimes capricious environment.

The difference between my two mentors was significant—they were miles apart in status in the organization, pay grade, length of service, and experience. They also looked at organizational philosophies differently. However, they had many of the traits commonly defined as necessary for being a successful mentor. And these two relationships also had one very significant thing in common—both of them came about informally.

Choosing a Mentor—Formally or Informally

Informal relationships are the more natural mentoring process. In the informal process, usually a protégé seeks out a mentor through the use of a set of conditions established by the seeker. The protégé uses his or her perceptions of a person's trustworthiness and comparability with the protégé himself or herself to decide if the person would be an appropriate mentor. If the mentor/protégé relationship forms, it is normally an unofficial relationship between a junior and a more senior employee who will work together to achieve a specific purpose set by the protégé, such as learning technical skills or enhancing the protégé's career.

A recent *New York Times* article[1] cited a 2-year study by the Center for Workforce Development that indicated that during a typical workweek, "more than 70 percent of worksite training took place informally, with employees sharing information with one another." The study went on to state that

> informal learning initiatives have their roots in the concepts of teaming, which many companies adopted more than a decade ago, and more recently, of mentoring. In the team approach, management sets the goals and workers decide the membership of each team and its methods. Informal learning goes a step further by leaving it to the workers to teach and set goals themselves, handing over much more responsibility for their own training.

However, a formal mentoring process can be successful *if managed and structured correctly.* While it is difficult (some would say near impossible) for an organization artificially to "match up" a successful protégé and mentor pair, the key benefit to the organization is that the organization plays a role in determining what values, norms, cultural anchors, and traditions are passed on from one organizational generation to another (which may or may not be a good thing).

Formal mentoring involves a great deal of time establishing certain career objectives, goals, and steps and completing management-generated paperwork and documentation. The "natural" interaction between two persons is replaced by mechanical processes. Informal processes require a certain high degree of trust between the two individuals, which happens naturally over a period of time. The formal process is created with set time frames and schedules. If it is not structured properly, employees will see it as just another impotent "feel good" management program.An organization advertising a mentoring program to its employees must have a comprehensive strategy in place to address the needs of both mentors and protégés and not just create a paper project of memoranda and reports.

While this author believes that in most organizational settings informally establishing a mentoring relationship is better for all concerned than the mechanical process of a formal approach, in either case the selection of any protégé and mentor must be based on genuine interest, preference of participants, and a sense of partnership and mission. Many of the same traits to be discussed are found in both informal and formal mentoring relationships; however, the remainder of this article will focus on the methods and processes necessary for an organization to establish a successful formal management mentoring program.

Formal mentoring programs cannot and must not replace standard training programs. As Murray noted,[2]

> Some organizations look to mentoring as a way to avoid the formidable task of developing unskilled managers and supervisors. This solution is short-sighted at best and creates monstrous problems because one then has to work around the managers who lack basic people skills.

Key elements for a successful formal mentoring program can best be described as the linkage between three organizational elements—management responsibilities, the mentor's interest and skills, and the protégé's interest and ability to learn. Each will be discussed in turn.

Management Responsibilities

When management establishes a formal mentoring program, it should do so for the right reasons. Management must provide necessary resources for the program to succeed. Kram[3] notes the following as organizational obstacles to a mentoring program:

1. "A reward system that emphasizes bottom-line results and does not also place a high priority on human resource development objectives creates conditions that discourage mentoring."

When a warden or agency head considers only the technical ability of staff and places little emphasis on developing staff resources, mentoring and coaching become distractions from the job rather than enhancements to it. Where advancement through the ranks only is viewed from a technical expertise or political

view rather than from a management development perception, mentoring programs will fail. In this light, mentors who fail to receive recognition and rewards themselves for their skills, abilities, and interest in a mentoring program will view their role of working with protégés as of no value. Mentoring in this environment will fail.

2. "The design of work can interfere with building relationships that provide mentoring functions by minimizing opportunities for interaction between individuals."

This is normally not a problem if time is scheduled for mentor/protégé meetings. Correctional work is not isolated to the extent that employees have little contact with their coworkers—on the contrary, the work of corrections involves significant team interaction. However, at institutions and correctional agencies where staff turnover is high, little time is scheduled for mentoring responsibilities, or the mentor is of such seniority that the protégé has difficulty scheduling meetings, the mentoring program carries significant burdens.

3. "Performance Management Systems can encourage or damage mentoring programs."

Evaluation systems, if not geared toward building human resources and if focused only on technical responsibilities, will create a system that hampers mentoring programs. Performance evaluation systems should concentrate on performance feedback, career planning and development, and employee needs. As a management tool, the right evaluation system can be used in conjunction with any formal mentoring program.

4. "The culture of an organization—values, informal rules, rituals, and behavior of the leadership—can make mentoring useless or damaging to a protégé."

Any "sink or swim" management philosophy, where new employees are tossed out into the correctional environment with little or no management support, is in direct conflict with mentoring responsibilities. In a correctional environment, such a philosophy is a disaster waiting to happen.Additionally, agencies that use closed communication systems, or foster mistrust between employees and management, or reward leaders who are poor role models, untrustworthy, dishonest, or ineffectual will have an inferior environment for mentoring.

5. "An individual's assumptions, attitude, and skill level can interfere with developing mentoring relationships."

Protégés must trust management and mentors for the process to work. A protégé who distrusts the leadership of the agency, questions the motives of the mentor, or challenges the basic philosophical foundations on which the organization is built will not be a good candidate for a mentoring program. Also, mentors who are cynical, angry at the organization, at odds with the mission of the organization, or see no advantage to a formal mentoring process will create an obstacle in the program that will set the protégé and the program up for failure.

The Mentor's Responsibilities

Mentors often are described as sponsors, coaches, teachers, guides, counselors, and role models. They are that and more. Depending on the employees (new worker, mid- to late-year careerist), mentors often do many of the following:

- Provide information on the mission, goals, philosophies, and behaviors of the department, division, institution, and agency (for the new employee);
- Help teach the technical responsibilities of the position (for the new employee);
- Provide feedback on the protégé's performance (for the new or mid-career employee);
- Provide information on matters of trust and integrity concerning persons with whom the protégé will be interacting (for the new or mid-career employee);
- Coach (for the new or mid-career employee);
- Provide a role model for the protégé to observe (for the new employee);
- Provide introduction to upper-echelon employees in the organization (for the mid-career employee);
- Make recommendations to higher-level staff concerning career advancement for the protégé (for the mid-career employee); and
- Serve as a confidential colleague (for the new or mid-career employee).

The Mentor's Traits

A mentor should have most of the following characteristics:

- Interest in the protégé
- Sensitivity and understanding of the protégé's needs and development

- An open, direct, and genuine personality
- Excellent interpersonal communication skills
- Time to be available for the protégé regularly
- A commitment to the employee and the agency
- Ability to maintain confidentiality
- Honesty
- Responsiveness
- Objective and clear thinking
- Awareness of the political ebb and flow of the organization
- Access to organizational networks

A mentor carries a heavy responsibility and must approach the commitment to act as a mentor in a skillful, thoughtful manner. Most of the items on the above list are based on common sense and require little explanation. However, some need to be discussed in greater detail:

Time. If the mentor/protégé relationship fails, it is likely that it did so because the mentor or protégé was not dedicated to the relationship and gave insufficient time to it. Effectiveness of the relationship correlates directly to the protégé's access to the mentor. Meeting for 20 minutes once a month is not mentoring. Passing each other in a hallway and saying, "Hello, how are you?" is not mentoring. Calling the protégé 5 minutes before the end of the work week to inquire how the week went is not mentoring.

Mentoring requires an energetic, fluid, and sincere interaction between participants. Mentors must avail themselves to protégés regularly and frequently. The point of the mentoring relationship should not be on filling out forms required by the organization to gauge how wonderful the program is (if the focus is on record-keeping, the mentoring program is likely not going to be wonderful), but on helping achieve the goals that benefit the protégé, the mentor, and the organization.

Confidentiality. The protégé must be able to trust the mentor if the relationship is to succeed. If the protégé is experiencing difficulties with a current supervisor, the protégé should feel comfortable discussing the issue with the mentor without worrying that the information will be carried back to the supervisor.

In a March 1998 survey conducted by Accountemps, executives from the nation's 1,000 largest companies were asked what was the single greatest benefit of having a mentor. Sixty-four percent said that serving as a confidant and advisor was. It would be difficult, if not impossible, to serve a protégé as a confidant without the necessary trust and confidentially that follow along with that relationship.

Objective/Clear Thinking. Mentors often must play the "devil's advocate" to help the protégé make the most effective decisions. Mentors must look at the organizational environment realistically and not feed a protégé's unreasonable expectations. When a protégé is caught up in an organizational problem and operating on emotion rather than clear thought, the mentor should be in the position to bring the protégé back on track.

Awareness of the Organization's Political Environment. The mentor must understand the political ebb and flow of the organization to better serve the protégé. Who is in, who is out, what are the current philosophies of top management, and where the social/political/ethical land mines lie are all topics of concern to the protégé. Such topics help protégés in their continuing culturization into organization.

Access to Organizational Networks. Mentors help protégés move up in the organization by introducing them to key players, discussing their abilities with other managers, and connecting them to inter-organizational communication networks.While program descriptions often state that mentors are not to assist protégés in job promotional opportunities, the reality is that, depending on the mentor, protégé, and situation, that is exactly what the mentor's (and protégé's) goal is.

The Protégé's Traits

A successful mentoring program also hinges upon the attitude, learning ability, and values of the protégé. These traits can best be described as:

- Is committed to the organization;
- Is willing to learn, strive, and succeed;
- Has good interpersonal communication skills and a positive attitude;
- Is ambitious and ethical;
- Is an active learner, receptive to feedback and coaching;
- Has an investment in his or her organization and career and is willing to assume responsibility for his or her own career advancement; and
- Is focused and highly motivated.

As previously noted, protégés can be either at the entry level or highly experienced in their career. In the formal process, protégés must identify what goals and outcomes they wish to pursue with mentors—such as career development or promotional achievement.

Link Between Organization, Mentor, and Protégé

The organization must provide an environment in which the following elements of the mentor/protégé relationship occur:

- **Mutual Respect.** The protégé must recognize and respect the knowledge and skills of the mentor.The mentor must recognize the goals of the protégé and respect the protégé's aspirations to increase his or her professional development.
- **Trust.** The protégé and mentor must respect and trust each other. Confidentiality is the cornerstone of this link.
- **Partnership and Camaraderie.** The mentor and protégé are a professional team dedicated to reaching mutually agreed-upon goals. This partnership is reflected in the active work and decisions toward attaining goals, developing strategies and tactics, and networking. The mentor also provides friendship and counsel to the protégé.
- **Communication.** The mentor and protégé must communicate regularly. Meetings, work site visits, and lunch-time chats all play a role in developing and maintaining the relationship. The mentor gives the protégé the opportunity to discuss problems and concerns and set goals at these meetings. The mentor normally provides clear, objective, and analytic guidance.
- **Time.** For the relationship to work, the mentor must make time for the protégé. Meetings may occur in many different forums, but should allow for meaningful, effective, and purposeful communication. Organizational leadership must support the time requirements necessary for a successful mentor/protégé relationship.

Ending a Mentor/Protégé Relationship

Mentor/protégé relationships end, either through successful conclusion or through the consequence of a dysfunctional association. As with most mentoring relationships, both of mine came to an end as a result of my moving on in the organization.The protégé typically will "outgrow" the mentor. If the relationship continues, a problematic association may form, what Shea calls "Empty Vessel Mentoring."[4] Shea describes the mentor believing that he or she still has a fountain of wisdom to pour into the protégé's vessel—but the protégé believes that the vessel is full.

Detaching from the mentor can be accomplished by establishing formal goals, strategies, and objectives early in the relationship. The protégé and mentor should be able to clearly determine that the protégé is achieving the agreed-upon objectives. When objectives are met, the formal relationship can begin to evolve into a less constrained one. Detaching also can be accomplished by showing growth. The protégé should be able to show career growth and development to the mentor as the learning process and relationship continue to develop. The protégé must be able to show that learning has occurred as a result of the mentor's interaction and start to move away from the relationship when the mentoring process is no longer of significant value.

Not all mentor/protégé relationships are meant to be. Sometimes a bad match is made. Keeping such a relationship alive is not a good idea. A poorly established mentoring relationship can interfere with career goals of both the mentor and the protégé and create organizational problems, morale issues, and resentment. If a mentoring relationship is not working, the protégé or mentor should terminate it as soon as possible using good communication skills and a caring attitude so as not to adversely affect the morale of the individual involved.

Multiple Mentors

One aspect of formal mentoring often overlooked is a multiple mentor program. Such programs involve a number of mentors, usually of different expertise and specialties, who work as a group with one or more protégés. Loeb[5] discusses this unique idea, noting

> Just as you have to manage your own career and be your own CEO, so you have to create your own board of advisors. These multiple mentors should be the people you can trust and turn to—individually—for counsel.

Correctional agencies, with their numerous specialized staff—yet all with a common focus—appear to be an ideal environment for multiple mentoring programs.

Conclusion

Corrections frequently has had difficulty attracting and maintaining a professional workforce. The correctional work environment is not an easy environment to work in or recruit into. Additionally, employees and job applicants are more sophisticated now than in past years. They have a multitude of options to choose from when deciding where to work.Individuals look to organizations for more than just a paycheck. They want to work at agencies that foster the development of human resources and support such growth initiatives as formal and informal mentoring relationships. They want to be treated as individuals, not as cogs in an organizational machine, and they want to have assistance in preparing for career advancement.As Chartrand[6] pointed out,

"A good job with an average salary can have hidden value if the company offers training, in-house expertise, mentoring programs, links with business schools, and a flexible attitude toward employees changing departments to earn broad experience."

Correctional agencies can prepare their staff for greater responsibilities, utilize the skills and knowledge of experienced staff, and create a team-building enterprise through the formation and support of a well-run, properly supported mentoring program. When considering establishing or supporting a mentoring program, or becoming a mentor, the words of Robert Louis Stevenson offer guidance: "We are all travelers in the wilderness of this world, and the best we can find in our travels is an honest friend."

NOTES

[1]Susan J. Wells, "Forget the Formal Training. Try Chatting at the Water Cooler," *New York Times,* May 10, 1998.

[2]Margo Murray, *Beyond the Myths and Magic of Mentoring.* San Francisco, Jossey-Bass Publishers, 1991.

[3]Kathy Kram, *Mentoring at Work.* Lanham, MD: University Press of America, 1988.

[4]Gordon Shea, *Mentoring: Helping Employees Reach Their Full Potential.* New York: American Management Association, 1994.

[5]Marshall Loeb, "The New Mentoring," *Fortune,* November 27, 1995.

[6]Sabra Chartrand, "There's More Than Money to a Good Job," *New York Times,* September 15, 1996.

Up to Speed

A REVIEW OF RESEARCH FOR PRACTITIONERS

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Exploring the Implications of Four Sanctioning Orientations for Community Corrections

BY M. KAY HARRIS

Introduction

THESE ARE exciting but challenging times to be involved in community corrections. A great deal of innovation is occurring at many levels. There is talk of new paradigms, legislatures are authorizing new intermediate sanctions, and new programs are being developed across the country. The feast of new ideas and practices is giving fresh energy to practitioners who had tired of fighting the ideas that nothing works and that community corrections programs are nothing but a slap on the wrist. Yet the pace and scope of change make it hard to digest all that is being offered. There is a temptation to want to "take one of each" product, to have a bit of everything. But it is prudent to consider how well the different offerings may go together before heaping them all on a plate.

There is a growing sense that the field needs a new narrative to help in making choices and in explaining them to other justice system practitioners, public officials, and citizens in general. Advances seem to be moving in many directions at once. Certain buzzwords and themes are repeated, but there is a lack of overall coherence in the messages being broadcast. Thus, a narrative is called for that offers a compelling vision of what community corrections can achieve, a vision that can attract sufficient numbers of adherents to guarantee its implementation. This will require articulation not only of important goals that people believe are worth pursuing, but also the presentation of a persuasive case that the means for achieving them are at the field's command.

This article is intended to help advance the formulation of more vivid narratives for the field by fleshing out some of the implications of pursuing one or another of four popular orientations toward sanctioning. This is not meant to suggest that these are the only perspectives that might be embraced. Rather, the aim is to utilize a set of widely discussed perspectives to illustrate the significance for community correctional practices of adopting one or another. Although each of these orientations has received a lot of attention in recent years, the narratives that attempt to tell their stories are in different stages of development. Moreover, the four outlooks reflect some rather marked differences in values, assumptions, methods, and outcomes sought. Yet they often are jumbled together. Thus, it is important for policymakers to wrestle with the question of which of these or other orientations best captures their aspirations and can guide their methods most effectively.

Nearly 15 years ago, I developed a monograph, *The Goals of Community Sanctions,* which was published by the National Institute of Corrections (NIC) as a tool for dialogues about how and why decisionmakers wanted to use non-institutional correctional programs (Harris, 1986). That manuscript grew out of work done for seminars offered by NIC's National Academy of Corrections in 1984 and 1985 on community sanctions and reducing jail and prison crowding. Those sessions involved managers of community correctional agencies working to clarify the goals and philosophies of their sanctioning policies and practices. To assist in that process, the monograph was designed to help clarify distinctions among major sanctioning philosophies and to facilitate exploration of their implications for community sanctions. It therefore revisited the traditional goals of sentencing, including retribution, deterrence, rehabilitation, and incapacitation, and offered illustrations of how these aims were translated into features of a sanctioning system.

Rather than focusing on the traditional philosophies of punishment, this article highlights a number of broader orientations toward sanctioning. These viewpoints embody or reflect possible agency missions and can serve as orienting bases for resolving issues about agency policies and practices. They typically encompass

more than one of the long-standing goals of sentencing. Specifically, this discussion focuses on Risk Control or Limited Risk Management, Effective Correctional Intervention, Structured Sanctioning, and Restorative or Community Justice. Each of these orientations has elements that recommend it, but this article is not intended to make a case for adopting one or another of these perspectives. Rather, the aim is to encourage closer attention to the general framework within which particular programs or projects are being developed and greater awareness of the implications that flow out of decisions to embrace a given orientation.

The Outlines of Four Alternative Orientations

As noted above, this article employs four broad orientations to sanctioning as vehicles for exploring the implications of trying to shape policies or programs to be consistent with a given orientation. Before illustrating the possible ramifications of adopting a particular sanctioning orientation for such matters as the types of knowledge, information, and personnel needed to operate effectively, it is necessary to provide brief descriptions of each of the four general perspectives that are being used. The aim is less to provide definitive summaries of each orientation than to offer a general description that will allow inferences to be made as to design features of programs or policies that would follow logically from each framework.

These are obviously wide categories, and there are many variations among policies and programs falling within each. These four orientations to sanctioning also are employed at different levels. Sometimes individual programs, such as a victim-offender mediation program or an intensive supervision program, have been shaped on the basis of one of these perspectives. In other cases, an agency has decided to adopt a particular orientation, such as Risk Control or Effective Correctional Intervention, to guide all of its policies and operations. In other situations, efforts have been made to conform all of a jurisdiction's decisionmaking at one or more phases of the criminal justice process, such as sentencing and parole release, to an orientation like Structured Sanctioning or Restorative Justice. This means that in a given state or locality, and even within a given agency, elements of more than one of these orientations often are present.

Arguably, it would be desirable to organize this analysis according to a larger number of more specific frameworks. What is here being treated as an orientation called "Restorative and Community Justice" is an especially broad category that well could be divided into at least two totally separate perspectives. However, there also are important common features that distinguish programs that fall within any of these four broad categories from programs that are more consistent with another orientation. Because the aim here is not to provide a definitive account of a particular orientation, but rather to illustrate the difference that choice of orientation can make, these wide categories are sufficiently distinct for these purposes.

Risk Control

A Risk Control orientation is based on recognition that no correctional program can eliminate all risks. Furthermore, it is not feasible to incarcerate all offenders for long terms, a tactic that undoubtedly would reduce crime significantly but still not totally eliminate criminal behavior. At the heart of a Risk Control orientation is the belief that correctional agencies can assess the various kinds and degrees of risk that different types of offenders pose and then apply different control measures that correspond to the risk levels identified. Two major types of activities are involved, risk assessment and risk intervention. The assessment function is intended to distinguish between offenders who pose such extreme levels of risk that they should not be allowed to remain at liberty in the community and those who, while not risk free, pose lower risks. The risk intervention function involves both imposing controls on offenders under community supervision and monitoring the performance of those offenders. Controls can be adjusted, up to and including confinement, as offenders' circumstances or behaviors change. Thus, although risk of reoffending cannot be totally eliminated, the idea of Risk Control is that risk can be managed.

The roots of Risk Control lie in disenchantment with rehabilitative efforts. Beginning in the late 1960s and early 1970s, the ideas spread that available treatment programs were ineffective in reducing recidivism and that continued efforts to offer rehabilitative programs and services to offenders resulted in doing nothing more than coddling the offenders so treated. Many people then were attracted to the line of thinking set forth by James Q. Wilson in *Thinking about Crime* that if government lacks knowledge about how to rehabilitate, at the least it can incapacitate known offenders (Wilson, 1975). Such reasoning fueled crime control policies designed to achieve the confinement of repeat offenders or those deemed dangerous, and this general line of thinking carried over into community programs. Many probation and parole agencies began to emphasize the law enforcement and surveillance aspects of their traditional duties.

Feeley and Simon have described the resultant orientation as reflecting a "new penology" quite dissimilar from the "old penology" (Feeley & Simon, 1992). They identified changes between these two types of correctional practice in the following three major areas:

1. a shift from the discourses of retributive judgment and clinical diagnosis to a language of probability and risk;

2. a change in emphasis from goals having an external social referent like reducing recidivism to objectives emphasizing the efficient control of managerial or internal system processes; and

3. the deployment of new techniques that focus on managing groups of offenders rather than methods for individualizing. (p. 450)

A Risk Control orientation exemplifies the "new penology."

Effective Correctional Intervention

A narrative for community sanctioning that focuses on Effective Correctional Intervention calls for reaffirming rehabilitation as a central organizing principle of correctional treatment, but in improved form. Specifically, the call is for redesigning the interventions used within the correctional system to achieve the strikingly positive results that well-designed programs can achieve. Sometimes called competency development, treatment, or simply rehabilitation, this orientation rests on both a normative preference for trying to address the needs of offenders constructively and an empirical rejection of the idea that "nothing works" to reduce reoffending.

Many community corrections professionals entered the field with hopes of making a difference in the lives of people in conflict with the law, and they want to do more than monitoring and catching their charges in wrongdoing. Many practitioners never accepted the idea that treatment is ineffective; rather, they observed that the field had suffered from a dearth of treatment resources and insufficient documentation of positive results. Recently, these beliefs have received strong research backing. Studies of various types have documented that surveillance alone is not effective in achieving long-term behavioral change, that treatment programs generally have positive effects in reducing reoffending, and that well-designed interventions can have extremely positive results. Furthermore, some research findings suggest that "treat 'em mean" programs—those that involve only surveillance, punishment, and control with no treatment components—are associated with increases in subsequent offending.

An underlying theme of this orientation is that the "bad rap" from which correctional treatment programs have been suffering is an artifact of poorly conceptualized or incompletely implemented programs, as well as of flawed studies and unsophisticated interpretations of the available research. Armed now with greater knowledge, and a commitment to better designing and implementing programs consistent with that knowledge, this narrative supports not simply "kinder, gentler" interventions, but also more sophisticated ones. To qualify, these interventions should concentrate resources on the higher-risk offenders placed on community supervision (the risk principle), address only those needs of offenders most closely associated with the likelihood of future crime (the "criminogenic needs" principle), and pay heed to the interaction effects among various types of offenders, treatment providers, and settings (the responsivity principle).

Restorative or Community Justice

Two related sets of initiatives have emerged in recent years that rest on very different assumptions from the Risk Control and Effective Correctional Intervention orientations. Rather than giving primary or exclusive attention to offenders and how their control or treatment can affect public safety, advocates of these perspectives urge a more expansive view of crime, how best to respond when it occurs, and how to reduce its damage to the quality of life. As used here, "Restorative or Community Justice" refers to activities that build on the ideas central to both Restorative Justice and Community Justice perspectives.

In a Restorative Justice perspective, crime is conceptualized as harm to people and relationships, and the primary goals of justice intervention therefore should be to resolve the conflicts, to prevent additional harm, and to seek to repair the damage already done, insofar as that is possible. Offenders continue to be an important focus of attention in Restorative Justice models, but not as mere objects of punishment or control measures. Rather, efforts are made to engage offenders in trying to "make things right" to the full extent consistent with the satisfaction of all involved. In addition, preference is given to processes in which victims and community representatives participate in more central ways than is true in conventional criminal justice practice. Restorative Justice generally has been associated with such practices and processes as restitution, community service, victim-offender mediation, and other forms of conflict resolution, as well as victim services and efforts to address the needs of offenders.

The term "Community Justice" is being used as a broader umbrella concept for a range of efforts designed to increase the role of community members in setting priorities and developing strategies for preventing crime, responding to disorder, and enhancing the quality of community life. Community justice initiatives are not focused exclusively on responding to offenders or crimes after the fact, but also on addressing the local problems that are conducive to crime. Many community justice initiatives have emerged from the grass roots level, rather than from criminal justice or other public agencies. Community-oriented projects with justice system involvement include such initiatives as community justice or mediation boards, community policing, drug courts, community courts, community prosecution, and community defense.

Structured Sanctioning

Rooted largely in concern about disparity in sentencing and other dispositions, and bolstered by additional concerns about the potential abuses of wide and largely unreviewable discretion, many reforms adopted in the last decade or two have been intended to promote more Structured Sanctioning. Jurisdictions

have adopted new decisionmaking policies or guidelines for sentencing, parole release, probation and parole revocation, pretrial release, and other dispositional decisions. These initiatives have aimed to make decisionmaking more predictable, more consistent, and less susceptible to the prejudices or quirks of individual decisionmakers. In addition, some Structured Sanctioning reforms have incorporated information developed from empirical research intended to improve the effectiveness of the decisions made in achieving stated goals of the decision stage. In light of research evidence that statistical predictions are more accurate than clinical ones, efforts have been made to improve decisionmaking by structuring policies to reflect research knowledge.

A range of approaches has been used to limit, guide, and structure the exercise of discretion. The factors given weight in the policies developed have varied to some extent, but decisionmaking guidelines commonly incorporate dimensions reflecting the seriousness of the current offense or violation and some measure of prior criminal history. As noted, some decisionmaking tools have incorporated an actuarial dimension, including information on factors correlated with offender risk of reoffending or other misbehavior (e.g., failure to appear). Such Structured Sanctioning policies have been adopted at the pretrial release and parole decisionmaking stages.

When the most recent round of efforts to develop clear policy guidance for pretrial and dispositional decisions got under way in the early 1980s, a major concern was with meting out "just deserts" or "doing justice." This goal was reflected in many efforts to equalize sanctions by linking the severity of the penalty more closely to the seriousness of the crime. This was a major goal of sentencing guidelines systems developed in Minnesota and Oregon, for example. More recent Structured Sanctioning initiatives have given more attention to "truth in sentencing" and other efforts to limit parole and other releases from incarceration before offenders have completed their maximum terms. Some policy changes also have been motivated by desire to regulate growing demands on prison beds, especially the portion of that demand resulting from high rates of probation and parole revocation.

A number of Structured Sanctioning initiatives have been focused explicitly on better regulating use of secure confinement resources. For example, as a result of studies conducted in New Hampshire suggesting that many youths who were being committed to the public training school there did not appear to be serious or chronic offenders, a committee was appointed to study dispositional policies for delinquency cases. Guidelines designed to increase the consistency of training school placement decisions and encourage the placement of only the most serious and chronic delinquents in the institution were developed (Barton, 1998). Other projects directed toward Structured Sanctioning have arisen from concern about inequities in treatment in the absence of clear policy standards. Concern that racial minorities are over-represented in secure facilities within both adult and juvenile justice systems has fueled a variety of efforts to develop dispositional policies that would be race-neutral in application.

Exploring the Implications of Competing Sanctioning Orientations

Whether or not they are consciously mindful of embracing any particular orientation toward sanctioning, those who are shaping policies, programs, and practices in criminal justice typically bring some type of underlying conception to the process. The following sections of this article are designed to illustrate the significance of choices made as to which of these four broad orientations to sanctioning (or others) will be reflected. Because the various perspectives reflect important differences in underlying interests, stated goals, and sentencing philosophy, efforts to design innovations or reforms that will best satisfy the underlying goals should mirror the internal structure and logic of the preferred orientation. Each of these frameworks suggests different answers to questions about how best to structure decisionmaking and policy development processes, the types of personnel needed, the optimal features of sanctions to be employed, and other design issues. Some of the key differences in features that logically would follow from adoption of one or another of these four orientations to sanctioning are suggested in the accompanying table and discussed below.

Primary Aims, Philosophies, and Outcome Measures

Although it sometimes is argued that all correctional programs should have enhancement of public safety as a primary goal, there are rather dramatic differences among sanctioning orientations in the extent to which this is a dominant aim and in the ways in which the activities involved are related to security ends. Risk Control, Effective Correctional Intervention, and Restorative or Community Justice orientations all emphasize one or more aspects of community safety, but that is not necessarily a primary aim in Structured Sanctioning approaches.

Among the means employed to enhance the security of the community, a Risk Control orientation is perhaps the most modest in its aspirations. A Limited Risk Management approach is not directed toward trying to assist offenders to become law abiding in the future. What is promised is that offenders under supervision, at least medium- and higher-risk offenders, will be subject to restrictions on their activities and to extensive monitoring and that any missteps will be met with a swift response. Thus, the major crime prevention

TABLE 1. IMPLICATIONS OF FOUR ORIENTATIONS TO SANCTIONING

	Risk Control/Limited Risk Management	**Effective Correctional Intervention**	**Restorative or Community Justice**	**Structured Sanctioning Policy Development**
Primary Aims	Provide effective supervision to minimize new crimes & violations by offenders while under supervision; provide swift response when violations occur	Reduce rates of reoffending through effective risk management & appropriate correctional intervention & treatment	Engage victims, offenders, & community in repairing harm caused by crime, healing relationships, & addressing causes of crime & conflict	Promote equity and predictability through development of guidelines or policies to govern dispositional decisionmaking
Dominant Philosophy	Incapacitation & Specific Deterrence	Rehabilitation & Specific Deterrence	Restitution, Community Needs, Reconciliation	Retribution/Just Deserts & Deterrence
Primary Outcome Measures	Effective sorting/ movement of offenders on continuum of control; revocation/ resentencing as needed to control risk	Improved cognitive and life skills; reduced reoffending	Participant & community satisfaction/ confidence; improved quality of community life	Extent of conformity of decisions with guidelines & acceptability of reasons for exceptions
Implications for Policy Development	Requires development of refined supervision policy, with supervision standards linked to risk levels	Requires assessing risks, needs, & other offender & staff characteristics & formation of policies to address risk, needs, & responsivity	Requires fundamental rethinking of traditional operations, activities, & desired outcomes & delineation of new ones	Requires purposive redefinition & scaling of sanctioning options and their target populations
Key Decisionmakers	Judge makes In/Out decision & may impose conditions; corrections personnel determine risks & set/modify supervision levels	Judge makes In/Out decision & may impose conditions; corrections personnel determine risks, needs, and most appropriate interventions	Victims, community members, CJ reps, & offenders involved in determining how to respond to crime; judge has formal authority	Commissions or policy boards establish overall policies; judge retains formal sentencing authority (appealable) within the policies
Decisionmaking Tools	Requires development and use of validated risk assessment instruments	Requires development of validated risk, needs, & other assessment tools (e.g., to match offenders, staff, & interventions)	Requires skilled facilitators, safe setting, & communication linkages with victims & community members	Requires structured array of sanctioning options & policies to guide their use (often in the form of a grid)
Key Items of Information	Offender risk level	Offender risk level & "criminogenic needs" & key characteristics of offender, treatment provider, & setting	Type & extent of harm; preferences of victims, community, & offender; offender needs	Offense gravity and offender's criminal history; may include risk assessment, other items
Technical or Substantive Knowledge Required	Ability to design or select, validate, & use risk assessment instruments	Knowledge of what works to reduce reoffending; interpersonal skills & effective treatment skills	Skill in problem solving, mediation processes, community participation, & collaboration	Talent in policy development & guideline construction, monitoring, & adjustment
Implications for Staffing & Training	Suggests retraining to emphasize monitoring, surveillance, & enforcement duties	Requires retraining of staff in effective intervention approaches & referrals or contracts for services	Demands redefining roles & ways of working & new skills for (e.g., in mediation, collaboration, & problem solving)	Requires training in application of guidelines & how to monitor and enforce sanctions employed
Implications for Correctional Operations	Implies redeployment of staff based on risk-adjusted workload indicators & elimination of activities not linked to risk control	Requires reorienting operations and external services to focus on "criminogenic" needs, risks, & responsivity	Requires reorganization to focus on needs as defined by victims, citizens, & community members; may involve physical decentralization	Requires restructuring activities as defined by guidelines (e.g., for collection, enforcing conditions, surveillance, or treatment)
Characteristics of Appropriate Sanctions	Incapacitative; oriented toward surveillance, restriction, & detection of violations & crimes & swift enforcement	Rehabilitative; responsive to risks, needs, & other characteristics of offenders & treaters	Restorative, compensatory, rehabilitative, reconciliatory, reintegrative, & preventive	Proportionate to offense gravity, equitable, & certain
Examples of Appropriate Sanctions	Intensive supervision; house arrest with electronic monitoring	Probation with cognitive or behavioral programming	Restitution, community service, & agreements struck among victims, offenders, & community	Punitive penalties that can be scaled easily (e.g., fines, jail terms)
Examples of Programs or Processes With this Orientation	NY Probation's ISP for high-risk cases & kiosk reporting for the rest	Drug courts; cognitive probation; women offenders treatment network	Circle sentencing; victim-offender mediation; family group conferencing	PA's sentencing guidelines; OR's revocation guidelines

strategies in a Risk Control orientation involve limitation of opportunities to engage in misbehavior (partial incapacitation) and the threat of likely detection and the consequent imposition of unpleasant consequences for any violations (specific deterrence).

This perspective also reflects an explicit acknowledgment that not all offenders are suitable candidates for community supervision. One of the stated purposes of risk screening is to identify high-risk offenders for whom institutional placements are thought to be required. Such a straightforward approach is continued with respect to the categories of offenders judged to be suitable for community supervision. Risk Control advocates are careful to acknowledge that even medium- and lower-risk offenders cannot be expected to be completely crime free. As its names imply, a Risk Control or Limited Risk Management orientation does not attempt to eliminate risks but rather seeks to manage or control them.

Because post-supervision crime reduction is not an aim, later recidivism is not an appropriate outcome measure for Risk Control activities. Indeed, developing appropriate outcome measures for this approach is somewhat challenging. Means need to be devised for assessing how well the process of sorting and managing offenders according to the risks that they pose has been achieved. This is complicated by the difficulty of interpreting the way in which detection of violations or of new crimes reflects on the effectiveness of the Risk Control strategies employed. Should discovery of violations be considered a failure of the behavioral controls imposed or a success in detecting misbehavior? Should revocation and subsequent incarceration for a new offense be viewed as a reflection of poor initial prediction or an indication that appropriate consequences were provided as threatened? Each agency that follows a Risk Control orientation needs to determine how it will resolve these and related questions for the purposes of evaluating staff performance.

The Effective Correctional Intervention orientation is more ambitious and future oriented than Risk Control. The goal is that interventions employed with offenders will help produce law-abiding behavior that will continue even when supervision and controls have been ended. This approach aims to enhance community safety by working to alter the choices offenders make, seeking to reduce the likelihood that individual offenders will choose to reoffend in the future. It does this by concentrating on addressing offenders' "criminogenic needs." These are deficiencies known or believed to be associated with criminal behavior, such as having antisocial associates or attitudes.

Like Risk Control, an Effective Correctional Intervention approach incorporates features aimed at incapacitation and specific deterrence (e.g., assessing risk and varying monitoring and controls accordingly). However, the emphasis on risk management is more a means to an end than an end in itself. An Effective Correctional Intervention approach seeks not simply to monitor and constrain offenders, but also to reeducate, reorient, or reform them. In this instance, recidivism is an appropriate outcome measure. In addition, intermediate measures also should be used to assess the extent to which the linkages hypothesized between the direct consequences of the interventions and longer-term outcomes exist in practice. Is improvement in cognitive skills correlated with reduced levels of reoffending, for example?

A Restorative or Community Justice orientation is even more ambitious in its aspirations for community safety. Correctional strategies focused on Effective Correctional Intervention do little in the interest of primary prevention and nothing to address larger social or structural factors that may contribute to crime. High quality correctional programs may have indirect preventive effects, as, for example, when offenders learn how to be better parents, which can reduce the intergenerational transmission of attitudes or behaviors conducive to criminality. But the Effective Correctional Intervention orientation, like Risk Control, focuses almost exclusively at the level of the individual offender. This is in contrast to a Restorative or Community Justice orientation, which aims for a more comprehensive approach to safety. It directs attention toward the needs of victims both to be safe and to feel secure, the problems offenders have that may contribute to offending, and the factors that may promote crime and conflict at the familial, community, or institutional levels.

In their comprehensive work on Community Justice, Clear and Karp describe the many elements of this broader view of public safety considerations. Arguing that a criminal incident is a warning sign of possible future transgressions by the offender or others, they identify responsibilities of all parties to criminal incidents that are related to desire for enhancing safety. They suggest that offenders must demonstrate commitment to being law-abiding, victims and onlookers should be involved in identifying conditions that will reduce fear and resentment toward offenders, and community institutions should be responsible for both insulating victims from further harm and for safely reintegrating offenders into the community (Clear & Karp, 1998, p. 128). This last duty involves a community responsibility for providing offenders with the assistance, supervision, and supports needed to live in the community crime free. It also means helping to arrange for offenders to perform the reparative tasks for victims and the community that can facilitate the offenders' full acceptance as members of the community.

In addition, from a Restorative or Community Justice perspective, crafting a good response to crime means more than figuring out what to do about offenders and victims involved in specific situations. Taking a longer-range view suggests the importance of engaging

in more comprehensive fact finding and problem solving. Like other behavior, criminal behavior is rooted in a variety of personal, familial, social, and community characteristics, experiences, and structures. To be effective, crime reduction efforts in a Restorative or Community Justice orientation need to address the larger contextual forces, such as domestic violence, poor schools, neighborhood instability, poverty, racism, and lack of opportunity that shape the experiences and choices of individuals.

Because Restorative or Community Justice represents such an ambitious approach, many outcome measures are likely to be required. For participants in processes designed to respond to specific incidents of crime, it will be appropriate to assess the extent to which all parties kept their promises, for example. In addition, outcome measures should be designed to assess the level of satisfaction participants derive from their involvement in such processes, as well as their confidence that similar harms can be avoided in the future. Perhaps the greatest challenge will be to develop measures that can provide useful guidance on how well Restorative or Community Justice practices are contributing to the achievement of the larger ambitions underlying them. A variety of means of assessing changes in the quality of community life attributable to Restorative or Community Justice activities will need to be developed.

As noted above, a Structured Sanctioning orientation places concern about public safety in a different perspective than any of the other three perspectives being discussed. This perspective may be adopted to advance a number of different goals, but the major emphasis typically is on enhancing equity, predictability, and consistency in sanctioning. Public safety concerns may or may not serve as one of the major dimensions of interest in the structuring of a framework of policies to satisfy those interests. Some sanctioning policies and guidelines are oriented around risk assessments, but others focus almost exclusively on deserts-related considerations. The primary aim is to promote consistency in decisionmaking; the goals to be served by the decisions vary.

The differences in treatment of public safety considerations among Structured Sanctioning approaches can be illustrated by looking at any of the decisionmaking contexts in which such an orientation has been adopted. For example, policies guiding revocation practices for probation and parole violations may emphasize either a just deserts/accountability perspective or a more risk-oriented view. The aim in the former case is to scale responses in accordance with the seriousness of violations. In the latter situation, the aim is to structure revocation policies to facilitate adjustment of controls as risk levels and probabilities of misbehavior change (see, for example, Burke, 1997).

Similarly, policies adopted to structure decisionmaking at sentencing have varied in the extent to which crime reduction has been a major focus. For example, when Minnesota established its statewide sentencing guidelines, greater emphasis was given to considerations of retribution or desert, with secondary attention allotted to deterrence. This meant that the policies gave greatest weight to offense severity, with lesser weight attached to prior criminal history. It also led to a choice of determinate sentences and abolition of parole. Pennsylvania's sentencing guidelines, on the other hand, reflected greater interest in both incapacitation and rehabilitation. They too employed offense gravity and prior record scores as anchoring dimensions of the sentencing grid, but the range allowed for individuation was left much broader than in Minnesota. In addition, Pennsylvania retained indeterminate sentencing and parole as a method of early release.

Because of this variability of goals underlying different Structured Sanctioning schemes, some of the outcome measures will need to be tailored to the particular features adopted and operative goals. However, gauging the extent to which policies are followed, and assessing the appropriateness of reasons for departures, will be appropriate in virtually all sites in which Structured Sanctioning frameworks are in force.

Implications for Policy Development and Decisionmaking

The importance of dominant orientation is illustrated well by exploring the implications for policy development and decisionmaking of following one or another orientation toward sanctioning. Many policies would have to be changed to accommodate a shift among any of the four perspectives described. Indeed, because most jurisdictions now have programs and practices that represent more than one orientation, substantial policy development work would be required simply to honor the logic of any specific viewpoint. Among the major variables relevant to decisionmaking that might change on the basis of the sanctioning orientation selected are the following: key actors and their roles, the nature of instruments or tools to aid decisionmaking, information needs, and specialized knowledge or skills.

In a Risk Control model, judges typically make the major dispositional decisions, such as determining which offenders should be sent to prison and which ones should be placed on probation. Probation personnel, however, may play a key role in performing or arranging for the completion of risk assessments and advising judges about the risks posed by offenders awaiting sentencing. In addition, community corrections personnel may be given substantial authority for setting and adjusting surveillance and supervision plans. According to risk principles, decisionmaking should be focused on determining the risks posed by various categories or

groupings of offenders and matching those levels of risk with appropriate behavioral controls and types of supervision. In some jurisdictions, judges may prefer to play an active and ongoing role in determining the precise conditions of supervision. Generally, however, it will be up to community correctional agencies to develop supervision standards linked to varying risk levels.

In the ideal scenario from a Risk Control perspective, all decisions about initial dispositions, the conditions of supervision, and modifications and termination of the sentence would be made with reference to validated risk assessment tools. Achieving this in practice requires that informed decisions be made about which risk assessment instruments may be most appropriate, how to validate them on the target population in question, and how they should be used to structure case management. Not every decisionmaker needs to have all of these types of knowledge, but knowledgeable staff or outside resource people need to be involved in selection, validation, and regular training in the use of such instruments.

An Effective Correctional Intervention perspective typically involves the same decisionmakers as a Risk Control model. However, adoption of this orientation requires that the types of decisionmaking tools, the items of information to be gathered, and the technical or substantive knowledge required all must be expanded to incorporate knowledge about what works to reduce reoffending. According to Andrews, this means that the "delivery of appropriate correctional treatment service is dependent upon assessments that are sensitive to risk, need and responsivity" (Andrews, 1994, p. 3). Decisionmaking policies therefore should be based on appropriate information and assessment tools that gauge "criminogenic needs" (i.e., those characteristics of people and their circumstances that are linked to criminal behavior) in addition to risks posed by offenders.

The responsivity principle, which states that styles and modes of service should be matched with the learning styles of offenders, means that tools also are needed that can help match offenders with appropriate staff in the most appropriate settings and programs. Unfortunately, well-designed instruments are not readily available for accomplishing this, although some are now being tested. In theory, however, it is clear that an Effective Correctional Intervention orientation requires a body of knowledge about the predictors of criminal behavior (risk factors), the causes of criminal behavior (criminogenic need factors), and the best means of influencing the occurrence of criminal behavior (an effective intervention technology). All of these elements require the active involvement of staff or other resource people in all aspects of policy development and decisionmaking for community sanctions who are both knowledgeable about the principles of effective intervention and skillful in applying those principles in both assessment and clinical or treatment situations.

The cast of decisionmakers and key participants is broadened substantially in a Restorative or Community Justice orientation, and different types of information, knowledge, and skill are required. One of the major distinguishing features of this perspective is that it aims to correct the situation in contemporary criminal justice in which "there is no room for the community to become a responsible player in the response to crime" (Clear & Karp, p. 125). In conventional criminal justice practice, the conflict established by a crime is regarded as one between the accused and the accuser. Until recently, the state all but replaced the actual victim in the accusatory role. Even with the impetus provided by the victims' movement to re-place victims in more influential positions within the justice process, the possibility that representatives of other community interests at stake should be involved has been largely ignored.

A Restorative or Community Justice orientation recognizes that community members not directly involved in specific crimes nonetheless have important interests in crime-related situations. As Clear and Karp have noted, community members have pasts and futures with both the offenders and the victims (p. 124). Although many Restorative or Community Justice activities to date have focused primarily on specific offenders and related victims, the orientation clearly suggests a need for securing broader community involvement. Thus, although judges retain formal sentencing authority within Restorative and Community Justice approaches, the ideal response to crime in this orientation would be shaped through processes that involve victims, offenders, justice system employees, and community representatives.

Another important dimension of a Restorative or Community Justice approach is that the role of the state changes rather dramatically. The state's role, as carried out by criminal justice officials and employees, becomes one of cooperating with community members in problem solving and helping to design and manage processes that facilitate the accomplishment of the goals of this orientation. This means ensuring that both victims and offenders are treated fairly. Representatives of the justice system also are likely to be involved in such activities as information gathering (e.g., about victims' losses and needs) and helping to arrange facilitation for victim-offender meetings. They also are likely to play some role in engaging community involvement in responding to crime and related problems. These examples suggest that knowledge and skills in mediation, community organization, and collaboration, for example, may prove far more important than casework, legal skills, or other abilities typically demanded in conventional sanctioning processes.

Adoption of a Structured Sanctioning orientation typically does not result in changes in the personnel who make day-to-day dispositional and sanctioning de-

cisions, but it may involve some transfer of power and authority to the group or groups responsible for formulating the policies that will structure the decisionmaking. Sanctioning policies, and the frameworks developed to help operating personnel follow them, are formulated by a variety of bodies. These include sentencing guidelines commissions, probation agency working groups established to recommend new revocation policies, and policy teams composed of key actors from across the system established to develop a structured array of sanctioning options. Some of these bodies are brought together solely to formulate new policies, and responsibility for administering the policies developed rests with the operating agencies. In other cases, such entities may have a continuing role in monitoring and policy revision.

The types of information and specific skills needed to develop and utilize Structured Sanctioning approaches vary with both the types of decisions to be guided and the goals underlying the policy development process. In many cases, policies give considerable weight to the seriousness of crimes or violations. In such cases, processes must be arranged to allow responsible authorities to establish policies that define and rank harms. In addition, such processes need to facilitate the matching of sanctions of corresponding severity to each level of offense gravity. Different types of knowledge and skill obviously are needed when other objectives, such as offender risk assessments or determination of resource implications of alternative policy proposals, are to be factored into the policy formulation process.

Implications for Staffing and Operations

Each of these four sanctioning orientations has significant implications for the staffing and operation of sentencing processes and community correctional programs. The table suggests some of these ramifications. In light of the fact that many probation and parole officers continue to adhere to a dual role orientation that includes treatment as well as enforcement, convincing existing staff to concentrate on Risk Control alone may be challenging (see, e.g., Ellsworth, 1996). An agency adopting a Risk Control orientation, for example, might need to retrain personnel to utilize new risk assessment instruments, to assume more active monitoring and enforcement duties, or to adhere to new violation procedures. Indeed, adoption of a Risk Control perspective might lead agencies to rethink the backgrounds and qualifications they seek in employees. Although performing risk assessments might require interviewing and classification skills for which a degree in social work or psychology might prove useful, such an educational background may be unnecessary or inappropriate for conducting urine tests, searches, and other monitoring and surveillance activities.

If an agency wants to pursue an Effective Correctional Intervention orientation, on the other hand, skills relevant to both risk and needs assessments, as well as to case planning and delivery of well-targeted competency development or treatment-oriented services, will be required. This is not to suggest, however, that existing personnel can be assumed to have the necessary skills. Even if a large proportion of current staff have backgrounds in human service delivery, substantial reorientation and retooling may be required to deliver the cognitive and behavioral interventions that the research identifies as being most effective. Although many of the interventions that require specific types of clinical skill may be delivered by outside service providers, agency staff will need to be able to determine which providers offer high quality services. In addition, some intervention strategies recommend agency-wide training and involvement of all staff in modeling and reinforcing the behaviors in which offenders are being trained.

Embracing a Restorative or Community Justice perspective is likely to require more sweeping changes in staffing and operations than following any of the other orientations. Just as community policing, community prosecution, and other manifestations of a Community Justice orientation have demanded review of core functions and activities, agencies involved in managing community sanctions must revisit virtually every aspect of existing practice. For example, staff need to learn to work with community members in identifying and solving general neighborhood or area problems rather than focusing solely on known offenders under their supervision. Thus, personnel are needed who can mobilize citizen involvement, share power, and help resolve individual and group conflicts in creative ways. Under this orientation, probation and parole staff also are charged with forming active partnerships with local police, neighborhood associations, victims, and families. It also is likely, as Clear has argued, that offender-based classification systems based on risk assessments will have to be augmented by place- or geographically-based classifications that target specific crime problems that compromise the quality of community life (Clear, 1996).

Adoption of a Structured Sanctioning orientation also can have significant implications for staffing and program operations. This approach involves development of policies and protocols that guide and limit the choices of individual decisionmakers. Deviations from presumptive decisions or ranges must be explained and often are subject to review for consistency with the principles underlying the stated policies. These changes require that field staff or parole board members used to relying on their own clinical or experience-based decision practices adapt and undergo training in how and why to follow the policies in force. Day-to-day

practices may undergo substantial change as greater consistency is demanded in such matters as modifying and enforcing conditions of community sentences.

Implications for Selecting Sanctioning Options

The array of sanctioning options available in a jurisdiction should reflect the purposes and values dominant in the prevailing sanctioning orientation. Ironically, however, the process often works in the opposite direction. Sanctions are selected for a variety of reasons, such as successful implementation in another jurisdiction or the advocacy of a charismatic champion, even if no conscious decision has been made about the criteria that sanctions adopted in the site should satisfy. The accompanying table illustrates the types of options that might be seen as appropriate to each of the four orientations.

In a Risk Control scheme, appropriate sanctions would be those that facilitate collection of information about offenders' activities, such as personal or electronic surveillance, blood and urine testing, and home and work site visits. In addition, appropriate sanctions would be designed to limit or restrict opportunities for reoffending, involving such constraints as curfews, house arrest, or intermittent confinement, for example. Of course, effective Risk Control would mean that the level of monitoring and controls should be varied in accordance with the risk levels of offenders. Offenders in higher risk groups should be subject to more intensive or restrictive measures and those in lower risk groups should experience fewer limitations and constraints. Many probation and parole agencies employ an array of supervision levels and controls for precisely this purpose (see Byrne, Lurigio, & Petersilia, 1992).

A vivid example of an approach incorporating Risk Control principles was provided by the New York City Adult Probation Department when it undertook a "reengineering" of probation. The review and design process, which lasted for more than a year and included *pro bono* involvement from the business community, led to a comprehensive redeployment of personnel and a reassignment of offenders. Probationers classified as falling within the high-risk category were assigned to intensive supervision. Those in the low-risk category were assigned to periodic "reporting" through insertion of identification cards into kiosks erected throughout the city to accommodate such a system of check-ins.

An example of how a probation department could convert research findings on the characteristics of effective interventions into an agency-wide Effective Correctional Intervention service package was developed by Mark Carey, director of the Dakota County, Minnesota, community corrections agency (Carey, 1997). It was Carey's aim to develop a case planning and service construct that could be delivered by a typical agency without the addition of significant levels of new resources. The construct was intended to provide a framework for providing risk-needs assessments, appropriate cognitive and behavioral interventions, and evaluative activities, all to be performed by existing personnel. This model illustrates one way in which an agency could restructure its activities to function in complete consistency with a particular sanctioning orientation.

Drug courts are another popular innovation that incorporates at least some features of an Effective Correctional Intervention orientation. The aim in such programs is for judges to attempt to intervene early with defendants with substance abuse problems as they enter the justice system. The model calls for early assessments to be conducted that can serve as a guide for the development of comprehensive services to assist the defendants in completing a treatment program as they progress through the judicial system. Active judicial involvement is incorporated at all stages (see, e.g., Goldkamp, 1994, 1998). With support from the Centers for Substance Abuse Treatment, several jurisdictions in the United States also are involved in efforts to develop a continuum of services for women with substance abuse problems and other needs who come in contact with the criminal justice system. Although the details of the models being developed vary from site to site, the potential exists for such initiatives to follow principles consistent with an Effective Correctional Intervention perspective.

No jurisdiction in the United States has yet embraced a Restorative or Community Justice orientation as the guiding focus for all aspects of its criminal justice operation. However, many states and localities have adopted such an approach for one or more components of the justice system (e.g., community policing) or with certain segments of the correctional population (e.g., community panels in Vermont that determine dispositions for lesser felony cases) (see Barajas, 1996; Galaway & Hudson, 1996). Some approaches, such as family group conferencing, were developed elsewhere—in New Zealand in this example—but are being implemented now in North America and other countries. In that model, family members, friends, and key supporters of the victim and the offender meet as a group to help resolve a criminal incident with the help of a trained facilitator. Sentencing or peacemaking circles are being used in Canada and in a few places in the United States. These involve victims and offenders, along with their families and supporters and other interested community members, as well as justice system representatives, in processes directed toward the development of a consensus on elements of a workable sentencing plan (Stuart, 1997). In addition, academics and other analysts are beginning to develop the outlines of a philosophical basis for community-oriented criminal justice and to explore in some detail what a community-oriented justice practice might look like (see, e.g., Clear & Karp, 1998).

As mentioned earlier, a Structured Sanctioning approach has been utilized for virtually all decision stages within the criminal justice process, from pretrial release to parole revocation (see, e.g., Goldkamp, 1995; Goldkamp & Gottfredson, 1985; Goldkamp et al., 1995; Burke, 1997). Because this orientation offers a framework more than a particular program thrust, a wide array of pretrial release and sanctioning options have been incorporated into the structures developed. Early sentencing guidelines schemes, such as those developed in Minnesota, focused primarily on the "in/out" decision (i.e., on which categories of offenders should be sentenced to state prison and which should not) and on sentence length. Guidelines developed more recently have incorporated a wider array of sanctions. Pennsylvania's sentencing guidelines, for example, include intermediate punishments and restorative sanctions along with state and local confinement and probation options.

Although sanctions intended to serve incapacitative or rehabilitative purposes have been added into some Structured Sanctioning arrangements, the emphasis of this orientation on equity and proportionality means that penalties with a punitive or retributive function may be most appropriate. Such measures can be scaled easily to allow penalties to be imposed that are commensurate with the seriousness of the offense category. In addition, unlike sanctions meant to serve risk management or treatment purposes, punitive measures do not require individualization or variability on the basis of perceived risks, needs, or other factors. The more definite penalties suggested by a punitive approach thus may be more consistent with an orientation where the emphasis is on certainty and predictability.

Discussion and Conclusion

This article is intended to have both immediate practical and longer-range, more conceptual uses. On the practical level, an aim is to help policymakers and practitioners be more reflective about, and more sensitive to, the implications of embracing programs, policies, or other features associated with one or another orientation toward community sanctioning. The discussion here of ramifications that flow from four broad perspectives is intended to be illustrative rather than definitive. For such an exercise to have maximum value, it should be conducted with reference to specific visions or versions of these or other orientations under consideration in a specific jurisdiction. In that type of setting, it should be possible to delineate with much greater particularity the characteristics that key participants view as flowing logically from the orientation they want to explore. Such a process can enhance the fit between the ideals of a conceptualization and the specifics of policy and program design. It also can help surface inconsistencies between stated aims and traditional or proposed practices or processes.

One issue raised by the way in which this article has been organized is whether or not the four orientations highlighted are or ought to be treated as being so different from one another. The reality is that no such clear distinctions are being drawn in practice. For good and ill, elements of two or more of these perspectives are evident in the practices of many jurisdictions. Nor is there any intellectual reason to believe that various forms of integration might not be possible.

Some Structured Sanctioning policies already are centered around Risk Control considerations. It also might work to incorporate elements of an Effective Correctional Intervention orientation with a Restorative or Community Justice orientation. For example, sentencing circles or community boards might develop agreements that call for participation of an offender in competency development activities. The specifics of the program, on the other hand, could be left to professional staff to determine on the basis of a validated risk-needs assessment. However, there is quite a bit of room for conflict between these two perspectives, as comparison of the key features and the logical implications flowing from each has shown.

It also is worth noting that serious attempts to implement any of the four sanctioning orientations described here on a consistent basis would be likely to encounter many obstacles. Although it might seem that it would be easy to generate support for a Risk Control orientation, the fact that this approach would result in little or no supervision for low-risk offenders might not sit well with policymakers convinced that "more is better." The longer-range aims of Effective Correctional Intervention may enjoy support from officials desirous of reductions in reoffending, yet claims that it is possible to achieve that goal still may be met with skepticism. It also may prove difficult for community corrections agencies to obtain the resources needed to support treatment initiatives, which can prove costly. Adoption of a Restorative or Community Justice framework might be the most difficult of any of these orientations to implement. Although the benefits promised are great, a commitment to pursuing this direction would require abandoning many long-standing practices and plunging into largely uncharted territory.

The incorporation of Structured Sanctioning into a jurisdiction's community sanctioning practices requires the articulation of explicit policies, an act that usually requires downplaying or abandoning other approaches, many of which may enjoy the support of those who currently practice them. In addition, two sets of major policy issues plague many Structured Sanctioning endeavors. First, the goals and organizing principles around which policies were structured can be forgotten, diluted by subsequent changes in law and policy, or otherwise reduced in force or efficacy over time. Second, failure to develop similar policies at other stages of the process

can seriously undermine the effectiveness of Structured Sanctioning policies adopted at just one stage. These issues reflect the difficulty of achieving and sustaining in practice reforms that offer great promise in theory.

On the conceptual level, this article aims to enhance awareness of the value of thinking about the narratives the field is employing. As noted earlier in this article, Feeley and Simon have argued that the "old penology" is being replaced by a "new penology" that looks very much like what is being described here as a Risk Control orientation. Looking at the other orientations reviewed, it might be the case that the Effective Correctional Intervention perspective, with its emphasis on rehabilitation, reintegration, and reducing reoffending, simply represents a more sophisticated embodiment of the old penology than a distinctly new penology. However, it also is possible that the Effective Correctional Intervention model may represent a melding of what Feeley and Simon saw as old and new penologies. Although it is dedicated to influencing offenders' cognition, moral reasoning, and life skills in the interest of reducing reoffending, this approach has some features that may be consistent with the new penology. It emphasizes, for example, classification into risk groupings, formal rationality, and certain managerial objectives. At a minimum, this may suggest that even efforts to intervene effectively with individual offenders have been permeated and transformed by the new penology.

Similarly, the Structured Sanctioning orientation seems to contain, or at least allow for, elements of both of Feeley and Simon's narratives. Consistent with the "old" penology, a Structured Sanctioning approach reflects a retributive base with its emphasis on equity, proportionality, and deserved punishment. It leaves little room, however, for clinical diagnosis or individualized treatment. Furthermore, although the policy frameworks for Structured Sanctioning approaches tend to employ a retributive shell (e.g., typically employing gradations of offense or violation seriousness as a primary dimension), it is increasingly common for an actuarial, risk-focused dimension to be incorporated into these frameworks as well. In addition, in some places where Structured Sanctioning policies have been adopted, there seems to have been at least as much attention given to internal, systemic interests, such as sorting probation violators into manageable groups and distributing them on a control continuum, as to larger social purposes of punishment. In short, it is possible that Structured Sanctioning is undergoing a transformation that makes it more a tool of Risk Control than a distinct, more retributively focused orientation.

The orientation that seems to have little or nothing in common with either the new or the old penology is a Restorative or Community Justice approach. This perspective does not employ the language of probability, focus on internal justice system objectives, or target offenders as an aggregate. In general, the discourses, objectives, and techniques of Restorative and Community Justice also tend to be dramatically different from those found in the old penology. Indeed, there are many indications that this emerging orientation represents a fundamentally new paradigm that has the power to transform all aspects of criminal justice ideology and practice, including all prior notions of "penology." In some manifestations, however, the offender-focused elements of Restorative and Community Justice approaches reflect old penological ways of thinking and operating. This is the case, for example, when there is a sort of collective "ganging up" on the offender, with victims and community representatives joining justice system officials in deciding how the miscreant should be punished, made to repair tangible and intangible harms caused by the crime, and coerced into changing his or her life (see, e.g., Harris, 1989, 1998).

The Restorative or Community Justice ideal, however, represents a dramatic departure from both the social management of "the criminal class" that may characterize the new penology and the focus on the individual offender for blame and subsequent reformation characteristic of the old penology. Indeed, it may be somewhat anomalous to discuss Restorative or Community Justice in the terms of penology at all because it is an orientation that is not concerned simply with issues of how to respond to criminal offenders. Given the focus on improvement of the quality of community life, Restorative or Community Justice interests necessarily encompass broader criminogenic conditions and collective outcomes. Yet the Restorative or Community Justice orientation has the potential to serve as a sort of overarching narrative within which all aspects of justice system operations, including those concerned with offenders, can be reconceptualized. I hope this article can help advance the process of creating a new narrative for community corrections that provides an account of aims and methods that is both coherent and compelling.

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Looking at the Law

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The Imposition of Restitution in Federal Criminal Cases

THE ISSUES surrounding the imposition and collection of restitution in federal criminal cases generate an increasing number of questions from probation officers and consistently fuel a significant amount of litigation. Three previous articles on restitution have appeared in this column (1989,[1] 1990,[2] and 1992[3]), but the issues previously discussed are primarily still active and largely unresolved,[4] and new issues have arisen with subsequent amendments to the federal statutes in 1994 and, especially, in 1996. The Office of General Counsel receives a significant number of questions regarding both the imposition and enforcement of restitution orders, and the intent of this article is to review case law and to suggest a series of steps that might be helpful for officers involved in making recommendations on the imposition of restitution.

Probation officers are advised to note both the legal principles described and the cases cited in the text as well as the notes. Cases from an officer's circuit are naturally helpful, but so are other cases where the facts or issues are similar to the case before the officer's court. For this reason, brief factual summaries often are provided for cases in the text and notes. However, there is no substitute for a direct review of a case itself when determining if it is helpful. While it might be helpful to use appropriate case law to support certain points, officers should be careful not to rely on cases with significantly different fact patterns because restitution issues are extremely fact-specific. For this reason, a case in another circuit, but with facts similar to those in the case before the court, probably provides more assistance to the court than one with dissimilar facts in the same circuit as the sentencing court. Also, the officer needs to be aware of whether a different form of a restitution statute was used in a particular case than that which applies to the case before the court. This is especially important given the numerous changes made to the restitution statutes during the 1990s.

This article proposes a four-step analysis to help probation officers determine the victims of, and compensable losses incurred from, an offense for restitution purposes. Those steps involve 1) the determination of whether restitution is mandatory or discretionary, 2) the identification of victims of the offense, 3) the determination of victim's harms caused by the offense, and 4) the determination of which of those harms are compensable as restitution. The article then briefly reviews the ways in which the statute allows certain plea agreement provisions to affect the imposition of restitution.

The History of Restitution in Federal Criminal Cases

> The principle of restitution is an integral part of virtually every formal system of criminal justice, of every culture and every time. It holds that, whatever else the sanctioning power of society does to punish its wrongdoers, it should also insure that the wrongdoer is required to the degree possible to restore the victim to his or her prior state of well being.[5]

Putting this simple principle into practice in federal criminal cases is far easier to contemplate than to achieve. Despite the universally recognized benefits of restitution, a federal sentencing court has no inherent authority to order restitution. Rather, the court's authority stems purely from statutory sources. In fact, until 1982 restitution could not be imposed as a separate component of a federal criminal sentence, but only as a condition of probation pursuant to the Federal Probation Act of 1925 (FPA)[6] and was completely within the discretion of the court. By 1982, Congress wanted to give courts authority to impose restitution other than merely as a condition of probation[7] and passed the Victim Witness Protection Act of 1982 (VWPA),[8] now codified at 18 U.S.C. §§ 3663–3664. The VWPA, as amended, is the primary statutory source for restitution as a separate component of a federal sentence. This is confirmed by the sentencing guidelines, which provide that the court is to "enter a restitution order if such order is authorized under 18 U.S.C. §§ 3663–3664."[9]

Thus, the VWPA ultimately determines the court's authority to issue a restitution order in a federal criminal case. The scope of this statutory restitution was clarified in 1990 in *Hughey v. United States,* in which the Supreme Court held that the language of the VWPA, which authorizes courts to compensate victims "harmed as a result *of the offense*" (emphasis added),[10] limits restitution to "the loss caused by the specific conduct that is the basis of the offense of conviction."[11] Ever since the "*Hughey* limitation," however, Congress has steadily expanded restitution and has recently made restitution mandatory in most cases.

In 1990, as a response to *Hughey,* Congress passed amendments to the VWPA[12] which slightly broadened restitution by expanding the scope of the offense for restitution purposes. The amendments did not, however, change the fact that restitution under the VWPA is limited to the offense of conviction. One 1990 amend-

ment authorized courts to impose restitution to victims directly harmed by the defendant's criminal conduct within a scheme, conspiracy, or pattern of conduct, so long as the scheme, conspiracy, or pattern is an element of the offense of conviction.[13] Another 1990 amendment authorized the court to order restitution as agreed by the parties in the plea agreement.[14] When and how these amendments can be applied is still being litigated to some extent.

In 1992, Congress enacted the first mandatory restitution provision, the Child Support Recovery Act (CSRA).[15] In 1994 it passed the Violence Against Women Act,[16] which added mandatory restitution for four specific offenses in title 18.[17] The VWPA also was amended to authorize reimbursement to victims for expenses involved in participating in the investigation and prosecution of the case.[18] Finally, on April 24, 1996, Congress significantly amended the VWPA by passing the Mandatory Victims Restitution Act of 1996 (MVRA).[19] The MVRA added § 3663A, which now requires mandatory restitution for certain offenses, such as crimes of violence and title 18 property offenses. The MVRA also expanded discretionary restitution by creating "community restitution" for victimless drug offenses in § 3663(c). The MVRA potentially broadened the definition of "victim" for both discretionary and (the new) mandatory restitution by changing "victim of the offense" to "person directly and proximately harmed as a result of the commission of an offense."[20] It is not known yet whether courts will interpret "directly and proximately" as slightly expanding the imposition of restitution or not, but restitution will presumably still be limited primarily to the "offense" of conviction. Finally, the MVRA strengthened the imposition and enforcement provisions at § 3664 for all restitution orders.

Ex Post Facto Issues

After each amendment to the VWPA, the circuits disagreed among themselves whether the amendment could be applied to offenses committed prior to its enactment without violating the *ex post facto* clause of the U.S. Constitution.[21] While this issue is no longer frequently encountered regarding earlier amendments, it currently is being litigated regarding the MVRA. Our office and the Department of Justice have advised that the procedural portions of the MVRA are applicable, as indicated in the Act,[22] to convictions entered after its enactment. However, the substantive provisions—those that cause the restitution amount to be higher or that convert discretionary to mandatory imposition—are only applicable to offenses completed on or after the date of the Act (April 24, 1996).

Most courts that have considered the issue have agreed that the substantive provisions of the MVRA are subject to *ex post facto* constraints.[23] Also, two courts have held that, where the offense continued past the date of the MVRA, restitution may be based on pre-Act conduct as well as the post-Act conduct.[24] However, the Seventh Circuit has held that the *ex post facto* restriction does not apply to the MVRA because restitution is not a criminal penalty.[25] On the same rationale, the Eighth Circuit held that repayment of child support under the CSRA (18 U.S.C. § 228) is not subject to *ex post facto* considerations.[26]

The Determination of Victims and Compensable Harms for Restitution

Restitution requires a different analysis than other sentencing considerations under the guidelines, with which courts have more frequent experience. This, combined with the many changes to the restitution statutes, has led to much litigation and numerous reversals of restitution orders.[27] Moreover, relatively few defendants have the financial resources to pay restitution.[28] Therefore, it is important that restitution orders be well founded and enforceable wherever possible.

This article suggests four steps that would be useful to probation officers in determining what restitution should and can be recommended:

Step One:

- Determine whether restitution is discretionary or mandatory.

Step Two:

- Identify the victims of the offense of conviction.

Step Three:

- Identify the harms to those victims that were caused by the offense of conviction.

Step Four:

- Identify those harms that are compensable as restitution.

It is important that these steps be followed in sequence, particularly with regard to identifying victims *before* considering harms, in order to avoid considering harms to persons who are not victims of the offense of conviction, as required by the VWPA. It is a process of elimination, or narrowing, beginning with the scope of the offense of conviction as the outside limit for victim identification, with each step narrowing the focus eventually to harms that are compensable as restitution.

Step One: Determine Whether Restitution is Mandatory or Discretionary

The first step is to determine whether restitution is mandatory or discretionary in any particular case because there are significant differences between the two that impact on the determination of restitution. Restitution is mandatory for those kinds of offenses listed in

§ 3663A(c), in which an identifiable victim has suffered a physical injury or economic loss.[29] It is also mandatory for a few specific title 18 offenses.[30] The vast majority of federal offenses with identifiable victims now require mandatory restitution. After imposing full restitution, the court can consider the defendant's ability to pay in setting the payment schedule.[31] The one statutory exception to the imposition of mandatory restitution in the specified offenses applies only to title 18 property offenses, where the number of identifiable victims is so large that restitution is impracticable, or where complex factual issues would complicate or prolong sentencing and outweigh the need to impose restitution.[32]

However, restitution is still discretionary for those offenses listed in section 3663(a)(1)(A),[33] which include all other title 18 offenses (not specified in § 3663A),[34] drug offenses with or without identifiable victims, and title 49 air piracy offenses. It is also still discretionary when imposed solely as a condition of supervision. In deciding whether to impose discretionary restitution, the court must consider not only the harm to the victim(s), but also the defendant's present and future ability to pay the restitution (to be discussed in a future memorandum) and "such other factors as the court deems appropriate."[35]

Exceptions to imposing discretionary restitution are broader than those applicable to mandatory restitution, and apply in *any* case. These include, if the defendant cannot pay the restitution,[36] if the determination would unduly complicate or prolong the sentencing,[37] or if the restitution would likely interfere with forfeiture.[38] However, it is arguable, although yet untested, that once the court decides to impose discretionary restitution, it must impose the full amount, based on § 3664(f)(1)(A), added by the MVRA, which states, "In each order of restitution, the court shall order restitution to each victim in the full amount of each victim's losses as determined by the court and without consideration of the economic circumstances of the defendant." Also, a preference for full restitution may be inferred from the fact that, if a court does not order restitution, or only orders partial restitution, it must include reasons in the Statement of Reasons pursuant to § 3553(c).

Step Two: Identify the Victims of the Offense of Conviction

The government has the burden of proving the harm suffered by the victims for restitution purposes by a preponderance of the evidence.[39] Any dispute as to the proper amount or type of restitution also is resolved by the court by a preponderance of the evidence.[40] The determination of harm for restitution purposes must begin with the identification of the victims to avoid including harm to persons other than victims of the offense of conviction.

1. Scope of the Offense. The most important thing for probation officers to remember regarding restitution is that the scope of the offense for restitution victims is narrower than that for relevant conduct under the sentencing guidelines. Despite the changes to the VWPA in the last decade, the basic rule announced in *Hughey,* that restitution is only authorized for victims of the offense of conviction, remains intact. In fact, the rule could be said to have been fortified by the fact that, in subsequent amendments to the VWPA, Congress has chosen not to change the language of the VWPA that focuses on the "offense of conviction" for restitution purposes.[41] The "loss caused by the conduct underlying the offense of conviction establishes the outer limits of a restitution order."[42] Therefore, a restitution determination begins with an examination of the scope of the offense of conviction. For example, a bank robbery includes acts in furtherance of taking property belonging to the bank, from a person, by force and violence. It does not, however, include car theft that might have been committed in preparation for the robbery, although the car theft may be part of relevant conduct for guideline purposes.[43]

Therefore, victims for restitution purposes are only those who are harmed by the conduct of the offense of conviction. "The definition of victim provided in [the VWPA] is much narrower than the one in the guidelines, and it is § 3663—not the guidelines—that governs the authority of a sentencing court to require restitution."[44] The guidelines define "offense" as "the offense of conviction and all relevant conduct under § 1B1.3,"[45] and relevant conduct includes acts committed in preparation for, or in avoidance of detection of, the offense and foreseeable, jointly undertaken acts of others. Moreover, computation of "loss" in economic crimes for guideline sentencing can be based on such factors as *gain* to the defendant or *intended loss;* these generally are not included in computing harm for restitution purposes, although gain can sometimes indicate what portion of a larger loss is attributable to a defendant.[46] Restitution is most comparable to unrecovered, *actual loss.*[47] Where courts rely on relevant conduct to determine restitution, the restitution often is vacated on appeal.[48]

Appellate courts have been very conservative in identifying victims of the offense for restitution. For example, in *United States v. McArthur,*[49] the defendant shot someone coming out of a bar and was charged with violating § 924(c) and with possessing a firearm unlawfully. He was acquitted of the § 924(c) offense, but convicted of the possession charge, and the court ordered restitution for medical costs to the victim of the shooting. But the order was vacated because the Eleventh Circuit held there could be no victim of a mere possession charge.[50] Similarly, in *United States v. Cobbs,*[51] the defendant was convicted of possessing 89 unauthorized credit cards and of using one card, and the court im-

posed restitution for the use of all the cards. However, the Eleventh Circuit vacated the restitution order, holding that there was no loss from the conviction for possessing the cards, and only the count of using the one card could support restitution. There have been two similar cases in the Fifth Circuit involving credit cards, as well.[52] And, in the Fourth Circuit, in *United States v. Broughton-Jones,*[53] where the defendant was convicted of lying to the grand jury about a fraud transaction, the court rejected the government's argument that the fraud conduct was inextricably intertwined with the perjury conviction and vacated a restitution order to the fraud victim. The court noted that, while it is conceivable for there to be a victim of perjury (e.g., where the perjury had the effect of delaying government efforts to recover stolen or defrauded money), in this case the fraud victim was not a victim of the perjury.[54]

Another Fourth Circuit case, *United States v. Blake,*[55] illustrates the difference between determining victims for guideline sentencing and for restitution. The defendant was convicted of using stolen credit cards; he admitted he had targeted elderly women in order to take their purses and use their cards. The court imposed the vulnerable victim guideline enhancement at sentencing and ordered restitution for not only the use of the cards, but also for the cost to the elderly women for replacing their purses and wallets. The defendant appealed, claiming the elderly women were not victims for either guidelines or restitution purposes. The Fourth Circuit upheld the vulnerable victim enhancement because the guidelines define an offense as "an offense of conviction and all relevant conduct,"[56] which includes conduct "in preparation" for the offense, such as the targeting of the elderly women. However, the court vacated the portion of the restitution order for the cost of the women's purses and wallets, even though it believed the result to be "poor sentencing policy," because the elderly women were not "victims" of the offense of "use" of the credit cards, for restitution purposes.[57] Some courts have, on occasion, taken a slightly broader view.[58]

2. Who Can Be a Victim? The VWPA refers to victims as "persons." However, "person" is defined in the federal code to "include . . . unless the context indicates otherwise . . . corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals,"[59] and restitution frequently has been ordered for such entities.[60] Although the government is not mentioned in the code definition, the context of the VWPA indicates the government can be a victim. For example, the government receives payment when it is a victim only after individual victims are paid.[61] The government has been frequently awarded restitution.[62]

Victims may receive restitution even if not named in the indictment and even where other victims are so named. For example, the mother of a kidnapping victim could receive restitution for her lost wages.[63] The victim can be a successor in interest, such as a government agency that insured the victim bank's accounts.[64] The right to restitution can be assigned by the victim to another party, such as a secured creditor, who actually may have suffered the loss.[65] However, the victim cannot waive restitution because it is not solely a right of the victim, and thus restitution is not limited by a civil suit or settlement agreement.[66] There can be more than one victim of an offense, and sometimes one victim suffers direct harms while another suffers more indirect harms from the offense. For example, when a company pays bonuses to its employees based on a defendant's submission of false financial statements to a bank, the bank *and* the company are both victims of the offense.[67] Similarly, a court may order restitution to a third party that compensates the victim for loss caused by the defendant,[68] although such a provider is to receive payment after all other victims are paid, pursuant to § 3664(j)(1). The defendant has the burden of establishing any offset from restitution that, for example, the victim received in a civil suit for the "same loss" that is the subject of restitution.[69]

Sometimes questions arise regarding how specific the court must be in naming victims in the judgment. One instructive case is *United States v. Seligsohn,*[70] in which the Fifth Circuit upheld restitution to the Internal Revenue Service, insurance companies, union benefit funds, and numerous individual homeowners, who were all victimized by the defendant. The court said, where the victims are numerous and difficult to identify, the sentencing court should name whatever victims it can and otherwise describe or define the victim class specifically enough to provide appropriate guidance to the government in identifying them.[71] In *United States v. Berardini,* the First Circuit upheld a restitution order that included (unnamed) victims that were identified but not yet located by the time of sentencing, and for whom a fund was to be maintained by the Clerk of the Court for the 20-year term of enforcement, in case the victims came forward.[72]

3. Conspiracies and Schemes. One of the 1990 amendments to the VWPA expanded the definition of victim, which also could be viewed as broadening the scope of the offense of conviction, to include, "in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern."[73] While two circuits already had interpreted the offense of conviction under the VWPA to include the conspiracy or scheme of which it was a part,[74] most circuits had not done so. The 1990 amendment allows the court to "look to the *scope of the indictment* in order to determine whether it *details a broad scheme* encompassing transactions beyond those alleged in the counts of convic-

tion."[75] Note that the offense of conviction need not be a conspiracy, so long as it contains a conspiracy, scheme, or pattern as an element.

Varied interpretations of when VWPA amendments apply can make the study of restitution cases confusing. For example, after passage of the 1990 "scheme" amendment, there was a split among the circuits as to whether it could be applied to offenses committed prior to its passage. Therefore, there are cases decided well after 1990 that do not allow restitution for acts outside the offense of conviction, even if part of the same scheme or conspiracy.[76] These offenses were probably committed prior to the 1990 amendment, in a circuit that did not allow the amendment's retroactive application. Courts now generally uphold restitution for all victims of the scheme, so long as the scheme or conspiracy is described or incorporated in the offense of conviction.[77]

If a conspiracy is among the offenses of conviction, or if the criminal conduct is alleged and proven as a scheme, the court will be able to identify restitution victims more broadly than if the offense is charged and alleged only as a substantive, isolated offense. Therefore, again, the nature of the proof (if tried) or the allegation in the indictment or plea agreement may be significant. For example, in *United States v. Jackson*[78] the offenses of conviction included conspiracy to possess and utter unauthorized securities (checks) and possession of unauthorized credit cards and identification documents. The court ordered restitution to persons from whom the purses and identification documents were stolen. However, in contrast to the results of *Blake, Hayes,* and *Cobbs, supra,* the Eighth Circuit upheld the order, even though the defendant was not convicted of theft or conspiracy to commit theft because the court found the evidence at trial proved that theft of the documents and cards was "in furtherance" of the check writing scheme, organized and run by the defendant.

The inconsistent results may be the product of different interpretations among the circuits, or they may illustrate the effect of more thorough allegations and/or proof, or the *Jackson*[79] result may simply be an anomaly.[80] At any rate, other courts may be more likely to arrive at the *Jackson* result in the future, using a "proximately-" harmed analysis under the MVRA. One thing is certain, however: where a probation officer is recommending restitution for conduct beyond the offense of conviction, the officer should be able to articulate how the conduct is part of a scheme, pattern, or conspiracy that is an element of the offense of conviction.

There are also, however, some restrictions on restitution orders involving schemes or conspiracies which may be important. First, the statutory passage involving conspiracies or schemes authorizes restitution for *"the defendant's* criminal conduct in the course of the scheme, conspiracy, or pattern."[81] While courts have not generally focused on this point, presumably the scope extends only to the defendant's conduct. However, this probably includes the conduct of others that was foreseeable to, and jointly undertaken by, the defendant, consistent with relevant conduct considerations for jointly undertaken criminal conduct.[82] At any rate, the court must make an individualized determination for each defendant regarding restitution.[83] For example, in *United States v. Neal,*[84] where the defendant was only convicted of accessory after the fact, but received the same (full) restitution order as all other defendants, the First Circuit vacated the order because there was no basis in the record to determine if the defendant was responsible for the total loss caused by the conspiracy or not. However, as the Ninth Circuit held in *United States v. Baker,* restitution is not automatically less for a defendant convicted of accessory after the fact, even though the possible fine and imprisonment are less than for the underlying offense, because there is no such restriction on restitution.[85]

Also, the acts for which restitution is imposed must be part of the *same* scheme or conspiracy as the offense of conviction. The Eleventh Circuit vacated a restitution order in *United States v. Ledesma,*[86] where the defendant was convicted of conspiring to export two stolen cars, and the sentencing court had imposed restitution to be paid to the owners of the stolen cars. The appellate court held that the exportation was not part of the same conspiracy as the vehicle theft.

Finally, acquitted counts can present some unique concerns, particularly with regard to schemes and conspiracies. For example, where some counts of bank fraud are acquitted, restitution may not be ordered for victims of those counts *if* the acquittal is interpreted to mean that the conspiracy did not include the acts charged in the acquitted counts.[87] On the other hand, there is no blanket prohibition on imposing restitution for acquitted counts, and there are situations where courts have imposed restitution for losses to victims associated with acquitted counts, particularly if the scheme or conspiracy of conviction encompasses activity that was not covered by the acquittal.[88]

Sometimes an appellate court analyzes the plea colloquy to determine what the defendant understood, and what the scope of the offense of conviction was, for restitution purposes. While it is safer to make restitution determinations based on the written record and the evidence, it may be helpful to know that such additional information can confirm or refute other indications in the record regarding whether the offense extended beyond the acts stated in the offense of conviction. For example, in *United States v. Obasohan,*[89] the offense of conviction alleged a conspiracy to traffic in counterfeit credit cards, and the indictment named one specific credit card "among others." The Eleventh Circuit upheld the restitution order for the defendant's trafficking of

counterfeit credit cards beyond the one named in the indictment as conduct "in furtherance" of the conspiracy. It also noted that the defendant was told at the plea that he would be held responsible for any cards he trafficked in during the conspiracy, and that evidence was presented at sentencing of the additional acts committed by the defendant as part of the conspiracy.[90]

Obasohan is instructive for another reason, as well: In order for information to assist the probation officer in formulating a recommendation to the court, it must get to the officer prior to the completion of the presentence report. Therefore, officers should be alert to the kind of evidence needed to determine restitution order, such as that in *Obasohan,* and should ask the parties for their positions and supporting evidence during the presentence stage.

Step Three: Identify Victims' Harms That Were Caused by the Offense

After having identified the victims of the offense for restitution purposes, the next step is to consider the harms suffered by those victims "as a result of the offense of conviction." Having first identified the victims of the offense enables officers to avoid recommending restitution for harms suffered by non-victims (i.e., victims of relevant conduct outside the offense of conviction). The government has the burden of proving harm to the victim(s) by a preponderance of the evidence (§ 3664(e)). The good news is that, although courts are extremely conservative in defining victims for restitution (as discussed above), courts are likely to take a broader view of both what harms are caused to those victims by the offense conduct and which harms are compensable as restitution.

Probation officers should remember that when determining harms to the victims whom the officer has already identified, the main consideration is whether the harm was *caused* by the offense conduct. However, the VWPA does not provide a causation standard, and the Supreme Court, in *Hughey, supra,* simply defined restitution as "the amount of loss sustained by any victim as a result of the offense."[91] Nor has Congress provided a definitive causation standard after *Hughey.* The cases have established that a pure "but for" standard of cause-and-effect sweeps too broadly.[92] The First Circuit devised a modification of a "but for" standard to determine which losses to a bank were caused by the defendant's fraud, for restitution purposes:

> We hold that a modified but for standard of causation is appropriate for restitution under the VWPA. This means, in effect, that the government must show not only that a particular loss would not have occurred but for the conduct underlying the offense of conviction, but also that the causal nexus between the conduct and the loss is not too attenuated (either factually or temporally). The watchword is reasonableness. A sentencing court should undertake an individualized inquiry; what constitutes sufficient causation can only be determined case by case, in a fact-specific probe.[93]

Restitution orders have been vacated if the connection between the offense conduct and the harm is not close enough. For example, the Ninth Circuit held that a defendant convicted of tax fraud could not be ordered to pay restitution for the amount outstanding on an automobile loan for which he used proceeds from the fraud[94]; and, where the (doctor) defendant was convicted of filing false insurance claims, the Third Circuit held he could not be ordered to pay restitution to a patient who became addicted to painkillers obtained during the doctor's scheme and had lost his job—because the patient was not the victim of the defendant's filing of false insurance claims.[95]

In 1996, the MVRA added the words "directly and proximately" to describe how restitution victims are harmed by the offense of conviction,[96] but there have been no cases analyzing the effect of these terms. "Proximately" invokes the concept of "proximate cause," which, in contract and tort law, means that conduct must be at least a "substantial factor" in causing an injury before liability is found.[97] This seems to be the concept behind the requirement in civil racketeering[98] cases where, in order to sue for treble damages, the plaintiff must prove that the defendant's conduct was a "proximate cause" of plaintiff's injury.[99] However, "proximate cause" usually involves the concept of "foreseeability," which, like the "substantial factor" aspect of "proximate cause," limits liability that would otherwise be too broad if based purely on "but for" (direct) causation.[100] The concept of "foreseeability" is not unknown to criminal law. "Foreseeable" acts of others in jointly undertaken conduct are attributable to the defendant's relevant conduct under the sentencing guidelines.[101] Also, the Sentencing Commission has been considering and testing a reformed definition of "loss" for guideline purposes that contains a "foreseeability" concept.[102] In these respects, "proximately" might be viewed as intended to exclude indirect consequences of an offense from restitution. However, case law even prior to the MVRA generally did not allow for restitution for indirect, "consequential" harms from an offense. For example, restitution has been held *not* to include a bank fraud victim's costs of reconstructing bank statements and borrowing money to replace stolen funds.[103]

The calculation of harm for restitution sometimes involves some of the same issues as computation of "loss" for guideline sentencing, and can get complicated. Sometimes an estimation of loss is imposed as restitution. For example, the Ninth Circuit held that an illegal alien smuggled into the country by the defendant who was forced to work as a maid under slave conditions was entitled to restitution based on the difference between the minimal wages paid to her and what she should have earned.[104] The Sixth Circuit held that a victim is entitled to the retail value, as opposed to actual cost, of goods which the defendant acquired by fraud and then

sold (at retail prices).[105] The Tenth Circuit case of *United States v. Diamond* provides an example of how complex restitution computations can be where there are complex financial transactions, and illustrates the importance of the government being able to prove that the loss resulted from the offense conduct, rather than related conduct which contributed to the loss.[106]

Restitution usually cannot include routine costs that might otherwise have been borne by the victim. For example, in *United States v. Menza,*[107] the defendant was convicted of manufacturing methamphetamine after his homemade meth lab exploded, damaging his apartment and injuring him. The court ordered restitution for the cost to the government for disposing of numerous chemicals (legal, illegal, and unknown) and to the landlord for cleaning costs, but the Seventh Circuit vacated the order and remanded for the court to determine which costs were directly caused by the meth lab offense and which were routine costs to the landlord and the government. On the other hand, some courts have refused to require sentencing courts to engage in tedious fact finding where there may be a few non-restitution costs mixed into a large number of items[108] or when calculating loss is extremely difficult.[109] Similarly, restitution orders for "buy money" (money given to defendants by the government in reverse stings) have been struck because they are viewed as routine costs in investigating and prosecuting a case (or that the government is not a "victim" harmed by the offense—which leads to the same result).[110] Likewise, restitution orders for victims' attorneys' and investigation fees have been invalidated as not "caused" by the offense.[111] Note, however, that these results may be slightly different after the 1994 amendment allowing restitution for victims' costs for participating in the investigation and prosecution of the case, discussed below.

The more likely interpretation of the addition of the term "proximately" is that it will expand, or broaden, the scope of restitution slightly beyond that currently accepted by the courts. Every other provision of the MVRA indicates a clear congressional intent to maximize the imposition and enforcement of restitution, to the extent possible. The concept of foreseeability can logically support liability for harms that might otherwise be considered indirect. An expansive interpretation is further supported by other congressional amendments, such as the 1994 amendment authorizing restitution for such "indirect" costs as child care, lost income, and transportation associated with victims' participation in the investigation and prosecution of a case (discussed under compensable harms, below).

Thus, an analysis that takes into account the MVRA's addition of the terms "directly and proximately" may ultimately slightly broaden the narrow interpretation of direct harm formulated by *Hughey,* and may allow courts to award restitution to victims where the victim-identification or compensable-harm determination is otherwise a close one. Such "grey areas" might include, for example, the shooting victim in *McArthur, supra,* the credit card use victims in cases like *Hayes, supra* (especially where the date of possession includes the dates of use), or perhaps the elderly theft victims in *Blake, supra.* Such an expansion may also support restitution for psychological counseling where the "injury" is less obvious, such as that in *Haggard,*[112] discussed below. However, it should be clear that the interpretation of "proximate" has not yet been tested in the courts. Moreover, the VWPA language upon which *Hughey* was based regarding the "offense" has remained substantially unchanged, so any expansion in the identification of victims or harms will most likely be incremental.

Step Four: Identify Those Harms That Are Compensable as Restitution

Restitution is a statute-based penalty, so most courts have interpreted the harms listed in restitution statutes to be the only harms compensable as restitution. For example, specific kinds of restitution are listed in the VWPA for when there is "damage to or loss or destruction of property of a victim"[113] or when there is "bodily injury to a victim."[114] Psychiatric and psychological care is only listed for where the victim suffers "bodily injury."[115] Most courts have read the statutory listing of harms to be exclusive of other remedies,[116] with only a few exceptions.[117]

However, in other respects, once victims of the offense are properly identified, appellate courts generally are willing to try to find statutory authorization to uphold restitution orders for harms caused to those victims. This is especially true where the sentencing court ties the award to pertinent language in the VWPA or a specific restitution statute. This is especially important for probation officers to remember when formulating recommendations regarding restitution. For example, in the early case of *United States v. Keith,*[118] the defendant was convicted of assault with intent to rape, and the victim suffered bodily injury. The VWPA allows compensation where there is bodily injury for costs for "nonmedical care and treatment,"[119] and the Ninth Circuit upheld a restitution order for the cost of the victim's air fare for a visit to her family, as "nonmedical care and treatment" for the victim's trauma, caused by the defendant's offense conduct. Years later, the same court, in *United States v. Hicks,* praised the *Keith* order as an example of a sentencing court taking "pains to fit the restitution order into the language of the statute."[120] In *Hicks,* however, the court vacated a restitution order for psychological counseling for IRS employees who were in buildings bombed by the defendant but who did not suffer bodily injury, because the sentencing court made no effort to expressly tie the restitution to a statutory harm.

Two other cases that illustrate courts' willingness to uphold restitution for harms suffered by victims of an offense include one prior to the MVRA and one after. In *United States v. Haggard,*[121] the Ninth Circuit upheld a restitution order to compensate the mother of a kidnapping victim for lost income, even though it conceded the VWPA requires a bodily injury before psychological harm can be compensated. The court also gave an indication (in *dicta*) of a plausible perspective from which to argue that "physical injury" could be interpreted to include such "injuries" as nausea, bronchitis, and a recurring eye infection, if suffered as a result of trauma from the defendant's conduct.[122] More recently, in *United States v. Akbani,*[123] the Eighth Circuit upheld a restitution order to a victim bank for attorneys' fees, reasoning that, although where there is damage to or loss of property attorneys' fees are not listed as a compensable harm, where there is *no* loss of or damage to property the listed harms do not apply. Also, it noted that "there is no blanket prohibition in the VWPA against inclusion of attorneys' fees," and "the VWPA requires only that the restitution ordered by the district court be based on losses 'caused by the specific conduct that is the basis for the offense of conviction.'"[124]

Congress made it easier to award what might otherwise be seen as "indirect" costs to victims in 1994 by enacting an amendment to the VWPA that reads, "(4) in any case, [the court can] reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense."[125] Although restitution harms are primarily those that are directly caused by the offense, as discussed above, this provision allows compensation for some "indirect" harms. A recent case that illustrates reliance on this provision is *United States v. Malpeso,*[126] in which the Second Circuit upheld a restitution order to the FBI to cover costs in relocating a victim. The court noted the 1994 amendment would have authorized restitution for the relocation costs if the victim had borne his own expenses, and the court could compensate the FBI for those expenses—especially since the statute also allows the court to order restitution to third parties who compensate victims harmed by the offense.[127]

In a recent Second Circuit case, *United States v. Hayes,*[128] the court relied on language in one of the special restitution statutes, as well as the 1994 provision regarding investigation and prosecution costs to the victim in upholding a restitution order for the victim's housing costs, even though the victim lived with her parents while fleeing the defendant, on the rationale that restitution is authorized to a third party that compensates a victim for harms from the offense. The defendant was convicted of crossing state lines in violation of a protective order, for which restitution is required.[129] The restitution order also included costs to the victim for obtaining a protective order, and the defendant argued that the costs were incurred prior to the actual offense conduct and thus not caused by it. But the Second Circuit upheld the restitution order because the special statute requires restitution for the "full amount of the victim's losses as determined by the court,"[130] and specifically mentions "costs incurred in obtaining a civil protection order" and "any other losses suffered by the victim as a proximate result of the offense."[131] Perhaps most interestingly, regarding the chronology of events, the court said that Congress did not intend restitution to be restricted to the dates of the offense conduct because it authorized restitution for victims' costs incurred in the investigation and prosecution, which are incurred *after* the offense conduct.

Courts' willingness to compensate bona fide victims of offenses where possible also may be partly due to their longstanding familiarity with the FPA, which, since 1925, simply stated that restitution could be imposed (as a condition of probation) "for actual damages or loss caused by the offense for which conviction was had."[132] There was no listing of compensable harms that could be read as a limitation on what could be compensated. Also, the treatment of offenses committed between 1982 and 1987, when both the VWPA and the FPA were available, further illustrates courts' willingness to uphold restitution orders where possible. Where the sentencing court did not specify which authority it relied upon in imposing restitution, appellate courts upheld the order if *either* statutory authority supported it. For example, although courts generally presumed that the order was pursuant to the VWPA if not imposed solely as a condition,[133] in those few cases where the FPA better supported the restitution order, as it did regarding compensable harms, it was upheld under the FPA.[134]

The message to probation officers making recommendations on restitution is to make every effort to tie the restitution to a specified, compensable harm under the VWPA and/or any applicable specific mandatory restitution statute. When this is done, the order is likely to be upheld, so long as the harm was suffered by a victim of the offense of conviction.

The Effect of Plea Agreement Provisions on the Imposition of Restitution

After determining what restitution could lawfully be imposed in a case based on the principles discussed above, the officer should carefully review the plea agreement to determine if it allows restitution to be imposed for a greater amount than would otherwise be authorized. One court has recommended that scrutinizing the plea agreement should be the *first* step in determining restitution in a case.[135] However, because more restitution may sometimes be lawfully imposed than

what the defendant agrees to pay, officers should not stop with the plea agreement.

Courts have interpreted Rule 11, Federal Rules of Criminal Procedure, to require that the defendant be advised at the plea of the possibility of a restitution order, or, if not, at least of the possibility of a fine as great as any restitution ultimately ordered.[136] The VWPA and MVRA provisions regarding plea agreements, however, appear intended to expand restitution beyond what might otherwise be imposed, and it is in those contexts that probation officers should be aware of the provisions and the case law.

There are three provisions in the VWPA that involve plea agreements with which probation officers should be familiar. Two were enacted as part of the Crime Control Act of 1990. Section 3663(a)(3) reads, "The court may also order restitution *in any criminal case to the extent* agreed to by the parties in a plea agreement"[137] (emphasis added). This provision allows the parties to agree to a restitution order that "overrides" other constraints on restitution in two ways. First, the court can impose restitution *in any offense,* even if it is not one for which restitution would otherwise be authorized under the VWPA. This has been used to support restitution for offenses outside of title 18.[138] Second, the court can impose restitution *to the extent* to which the parties agree. For example, this provision was used to uphold a restitution order where the defendant agreed to pay restitution for losses from dismissed counts that might not otherwise have supported restitution.[139]

Prior to 1990, some courts had prohibited the imposition of restitution to victims outside the offense of conviction, even where the defendant agreed to the amount in a plea agreement.[140] A second provision added in 1990, § 3663(a)(1)(A), addressed this: "The court may also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense."[141] Finally, in 1996, § 3663A(c)(2) was added as part of the MVRA. It allows the court to impose mandatory restitution for an offense not listed in § 3663A, if the plea agreement specifically states that a mandatory restitution offense gave rise to the plea agreement.

Some cautions regarding plea agreements apply. Where the plea agreement simply states the government will ask the court for a certain amount of restitution, the provision will probably *not* be read as a specific agreement by the defendant to pay that amount.[142] Likewise, a simple statement of an understanding that the court may order restitution for any victim of the offense of conviction will not allow the court to impose any restitution beyond what could otherwise be imposed for that offense.[143] An oral acknowledgment by the defendant at the plea that he or she could be ordered to pay restitution will not be considered an agreement by the defendant to pay restitution, where the plea agreement is silent (and particularly where it contains an "integration clause," stating it constitutes the entire agreement between the parties).[144] However, where the plea agreement is general, e.g., restitution will be determined by the court, or where the amount of restitution is uncertain, some courts have been willing to examine transcripts of the plea and sentencing hearings to determine whether the parties actually agreed at those later stages to a specific sum of restitution.[145]

The general rule is that a restitution order will be upheld under these provisions so long as the agreements are specific.[146] The Ninth Circuit cited an example of the level of specificity required: The defendant agrees "...to make restitution for the losses stemming from [the two offenses in the information] and from the other five transactions, all in return for the government's agreement not to prosecute [the defendant] for offenses arising out of the other five transactions."[147] Another example is an agreement upheld by the Second Circuit that specifically provided that restitution need not be limited to the counts of conviction and which had a separate rider that explained the scope and effect of the agreed upon restitution.[148]

Despite the requirement for specificity, probation officers report that the most commonly encountered plea agreement provision is still a statement that the defendant agrees to pay full restitution for the offense, which, as the case law indicates, permits the imposition of nothing beyond that which could otherwise be imposed, according to the principles involving victims and harms discussed above. As one frustrated appellate court said, after painstakingly analyzing the plea agreement and the transcripts of both the plea and sentencing hearings, "the government would be well advised to give greater consideration to the impact of the VWPA and *Hughey* in future plea negotiations where it seeks restitution of a specific amount from a defendant pursuant to a plea agreement."[149] Moreover, the MVRA added a note to 18 U.S.C. § 3551 which provides that the Attorney General shall ensure that "in all plea agreements . . . consideration is given to requesting that the defendant provide full restitution to all victims of all charges contained in the indictment or information, without regard to the counts to which the defendant actually pleaded." Whether that ever comes to pass or not, it can only be suggested that probation officers review whatever plea agreement provisions there are, to determine if they support any broader restitution than can otherwise be imposed using the principles described in steps one through four, above.

Conclusion

It would be prudent for every probation officer involved in writing presentence reports to carefully review §§ 3663, 3663A, and 3664 in their entirety—even if the officer was familiar with the VWPA prior to 1996—because the MVRA made so many changes. It also would

be a good idea to maintain restitution reference materials, such as a copy of the statutes, the September 1995 memorandum of the Administrative Office of the U.S. Courts, this article, and any other memoranda or references on restitution. Next, the officer needs to be mindful of the principles discussed herein involving the specific language of the restitution statutes regarding the scope of the offense, harm caused by the offense, and harms that are compensable as restitution, and to consider using the four steps suggested above in determining victims and harms for restitution purposes. In applying these principles and steps, it would be wise to consider the yet-untested effect of the terms added by the MVRA that might redefine the scope of victims and harms for restitution under the VWPA, as amended by the MVRA. Hopefully, understanding these principles will help officers make the best possible restitution recommendations to their courts.

NOTES

[1]"Looking at the Law," Adair, *Federal Probation,* May 1989, pp. 85–88, discussed early cases on a defendant's ability to pay and whether restitution orders can be subsequently modified—two still active issues.

[2]"Looking at the Law," Adair, *Federal Probation,* September 1990, pp. 66–71, primarily discussed the Supreme Court case of *Hughey, infra.*

[3]"Looking at the Law," Adair, *Federal Probation,* December 1992, pp. 68–72, discussed the aftermath of *Hughey, infra,* as well as the issues raised by the 1990 statutory amendments on conspiracies or schemes and plea agreements.

[4]A helpful memorandum, dated September 1, 1995, was sent to all probation officers by the Administrative Office of the United States Courts, titled "Update to Probation Officers on the Imposition and Collection of Fines and Restitution." It will be updated in future months in light of subsequent legislation and will contain a discussion and case law on restitution issues beyond the scope of this article, such as the consideration of a defendant's ability to pay in imposing discretionary restitution, in setting payment schedules, and in enforcing restitution orders.

[5]*United States v. Webb,* 30 F.3d 687, 689 (6th Cir. 1994) (citing legislative history of the VWPA, S.Rep. No. 532, 97th Cong., 2nd Sess. 1, 30 (1982), reprinted in 1982 U.S.C.C.A.N. 2515, 2536.

[6]Codified at 18 U.S.C. § 3651–3656, repealed November 1, 1987.

[7]Senate Judiciary Report for the VWPA: "As simple as the principle of restitution is, it lost its priority status in the sentencing procedures of our federal courts long ago. Under current law, 18 U.S.C. § 3651, the court may order restitution for actual damage or loss, but only as a part of a probationary sentence." S.Rep. No. 532, 97th Cong., 2nd Sess. 1 (1982), *reprinted in* 1982 U.S.C.C.A.N. 2515.

[8]Pub. L. No. 97-291, 96 Stat. 1248 (1982), originally codified at §§ 3579, 3580.

[9]U.S.S.G. §5E1.1(a)(1).

[10]§ 3663A(a)(2). An identical provision was later added for mandatory restitution at § 3663A(a)(2).

[11]495 U.S. 411, 413 (1990).

[12]Crime Control Act of 1990 (Pub. L. No. 101-647, 101 Stat. 4863, Nov. 29, 1990).

[13]§ 3663(a)(2). An identical provision was later added for mandatory restitution at § 3663A(a)(2).

[14]§§ 3663(a)(3) and 3663(a)(1)(A). In 1996 § 3663A(3) (identical to § 3663(a)(3)) was added for mandatory restitution.

[15]Pub. L. No. 102-521, 106 Stat. 340 (1992), codified at 18 U.S.C. § 228. The Act mandated that courts impose restitution (of child support payments due) in all convictions of willful failure to pay past due child support.

[16]The Act was part of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1904 (1994).

[17]Sexual abuse (§ 2241–2245; restitution at § 2248); sexual exploitation of children (§ 2251–2258; restitution at § 2259); domestic violence (§ 2261–2262; restitution at § 2264); and telemarketing fraud (§ 1028–1029 and § 1341–1345; restitution at § 2327).

[18]§ 3663(b)(4). An identical provision was added in 1996 for mandatory restitution at § 3663A(b)(4).

[19]Title II of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214 (1996), effective April 24, 1996.

[20]See § 3663A(a)(2) for mandatory restitution and § 3663(a)(2) for discretionary restitution. Everything about the MVRA indicates that Congress intended to expand restitution, but courts have not yet analyzed what effect, if any, these particular terms might have.

[21]This clause, at Article 1, § 9, clause 3, has been interpreted to prohibit the application of a law which increases the primary penalty for conduct after its commission.

[22]The MVRA states that it "shall, to the extent constitutionally permissible, be effective for sentencing proceedings in cases in which the defendant is convicted on or after the date of enactment" (April 24, 1996).

[23]*United States v. Williams,* 128 F.3d 1239 (8th Cir. 1997); *United States v. Baggett,* 125 F.3d 1319 (9th Cir. 1997); *United States v. Siegel,* 153 F.3d 1256 (11th Cir. 1998); *United States v. Thompson,* 113 F.3d 13, 15 n.1 (2d Cir. 1997) (in *dictum*); and *United States v. Edwards,* 162 F.3d 87 (3d Cir. 1998).

[24]*Williams, supra. See also, United States v. Jackson* (unpub.) 149 F.3d 1185 (table), 1998 WL 344041 at 2 (6th Cir. (Ky.)).

[25]*United States v. Newman,* 144 F.3d 531 (7th Cir. 1998). Also, the Sixth Circuit, in an unpublished opinion, held that the MVRA is not subject to the *ex post facto* constraints because the same award could be imposed as discretionary restitution. *United States v. Ledford* (unpub.) 127 F.3d 1103, 1997 WL 659673 (6th Cir. 1997). (Note: unpublished cases are not citable for authority; also, the result here might be different under other facts.)

[26]*United States v. Crawford,* 115 F.3d 1397, 1403 (8th Cir.), *cert denied* (1997).

[27]Interestingly, few if any courts have been reversed on appeal for *not* imposing restitution, which indicates courts' efforts to compensate victims of crime. Of the few cases to which the MVRA applies, there still have been no reversals of courts' failure to impose restitution.

[28]Both a fine and restitution are mandated by the guidelines, to the extent of a defendant's ability to pay. U.S.S.G. §§ 5E1.1 and 5E1.2. Yet, in fiscal year 1997, both restitution and a fine were imposed in only 2.3 percent of federal cases, restitution only was imposed in 17.5 percent, and a fine only was imposed in 16.4 percent. Thus, in 63.9 percent of federal criminal cases there was no financial penalty imposed.

[29]§ 3663A(a)(1) provides that the court "shall" order restitution for those offenses listed in § 3663A(c), "notwithstanding any other provision of law. . . ." The listed offenses are crimes of violence (defined in 18 U.S.C. § 16), title 18 property offenses, and tampering with consumer products (18 U.S.C. § 1365).

[30]See statutes listed at note 17, *supra.*

[31]§ 3664(f)(3)(B).

[32]§ 3663A(c)(3).

[33]Discretionary restitution applies to a title 18 conspiracy (§ 371) to commit a non-title 18 offense. Thus, while title 26 tax offenses are not covered, a title 18 conspiracy to commit such an offense would allow a court to impose restitution under the VWPA. *See e.g., United States v. Helmsley,* 941 F.2d 71, 101 (2d Cir. 1991), *cert denied,* 112 S.Ct. 1162 (1992).

[34]§§ 3563(b)(2) (for probation), 3583(d) (for supervised release). Such restitution is still subject to the criteria of the VWPA involving victims and harms. *See, Gall v. United States,* 21 F.3d 107 (6th Cir. 1994). However, such orders are rare, and although they might be more easily changed, as a condition, it is unclear whether they would survive the period of supervision.

[35]§ 3663(a)(1)(B). The court also must remain faithful to the purposes of sentencing. *United States v. Lampien,* 89 F.3d 1316, 1323 (7th Cir. 1996).

[36]§ 3663(a)(1)(B)(i).

[37]§ 3663(a)(1)(B)(ii).

[38]§ 3663(c)(4).

[39]§ 3664(e); *United States v. Angelica,* 951 F.2d 1007, 1010 (9th Cir. 1991).

[40]§ 3664(e).

[41]Noted in *Gall v. United States,* 21 F.3d 107, 112 (6th Cir. 1994) (conc. op. by J. Jones). For both discretionary and mandatory restitution, a victim is a "person . . . harmed as a result of the offense." §§ 3663A(a)(2) and 3663(a)(2).

[42]*United States v. Welsand,* 23 F.3d 205, 207 (8th Cir. 1994) (citing *Hughey, supra,* 495 U.S. at 420); *see also, United States v. Baker,* 25 F.3d 1452, 1457 (9th Cir. 1994).

[43]Note, however, that restitution also can sometimes be *broader* than relevant conduct. For example, restitution can include some compensable harms that generally are *not* computed in relevant conduct, such as costs of medical, psychological, or physical treatment or therapy and funeral expenses where there has been a physical injury or death, and victims' costs of participating in the investigation and prosecution of the case. Also, restitution can be increased after sentencing with the discovery of new losses, and some special restitution statutes (*e.g.,* § 2264, domestic violence) allow compensation for "all harms," which might be even broader than relevant conduct. Finally, sometimes parties can agree to broader restitution than could otherwise be ordered, as discussed below.

[44]*United States v. Blake,* 81 F.3d 498, 506 n.5 (4th Cir. 1996) (J. Wilkins).

[45]U.S.S.G. §1B1.1, comment. (n.1(l)).

[46]*See, e.g., United States v. Berardini,* 112 F.3d 606 (2d Cir. 1997), where the telemarketing conspiracy caused $27 million loss, but, because the defendant gained $39,271 during his participation in the conspiracy, that figure was used (and agreed to) by the defendant for restitution purposes. The issue on appeal involved whether the court could impose restitution to yet-unlocated victims, as discussed below.

[47]*See, e.g., United States v. Jimenez,* 77 F.3d 95 (5th Cir. 1996) (holding that while gain to a defendant is sufficient to show intent to defraud, the VWPA requires a real or actual loss to the victim); *United States v. Badaracco,* 954 F.2d 928 (3d Cir. 1992).

[48]*See, e.g., United States v. Stoddard,* 150 F.3d 1140 (9th Cir. 1998); *United States v. Jimenez,* 77 F.3d 95 (5th Cir. 1996).

[49]108 F.3d 1350 (11th Cir. 1997).

[50]The court may have been reluctant to consider the shooting because of the acquittal. (Also, the result may have been different if the alleged date and time of possession had clearly included the time of the shooting. See discussion in *Hayes, infra,* 32 F.3d at 172–3, discussed below.) But a shooting victim *is* a victim of a felon in possession charge for guideline purposes. *See United States v. Kuban,* 94 F.3d 971 (5th Cir. 1996).

[51]967 F.2d 1555 (11th Cir. 1992).

[52]*United States v. Jimenez,* 77 F.3d 95 (5th Cir. 1996), and *United States v. Hayes,* 32 F.3d 171 (5th Cir. 1994). In *Hayes,* the defendant was convicted of possessing stolen mail (credit cards), and a restitution order for use of the cards was vacated. The court, in *dicta,* said one factor it considered was that the offense of conviction (possession) did not include the dates on which the card was used, implying that if the use-dates had been included, the court may have reached a different result. *Id.* At 172–3. (The 1990 scheme/conspiracy provision was not discussed.)

[53]71 F.3d 1143 (4th Cir. 1995).

[54]*Id.* at 1149 and n.3.

[55]81 F.3d 498 (4th Cir. 1996).

[56]U.S.S.G. §1B1.1, citing §1B1.3.

[57]The Fourth Circuit has more recently reaffirmed *Blake,* in that any pattern or scheme must be "specifically included" as an element of the offense of conviction. *United States v. Sadler* (unpub.), 1998 WL613821.

[58]*Id.* at 506. *But see, United States v. Moore,* 127 F.3d 635 (7th Cir. 1997), in which the defendant was convicted of possession of unauthorized or counterfeit credit cards, and a restitution order to vendors for the use of the cards was upheld. One possible explanation for this result is that there was no objection at sentencing, making the appellate review for "plain error"—a very high burden for the defendant to meet. *See also, Jackson,* 155 F.3d 942 (8th Cir. 1998), discussed below.

[59]1 U.S.C. § 1.

[60]The following courts are among those that have refuted early claims that restitution under the VWPA could not be awarded to entities other than persons: *United States v. Kirkland,* 853 F.2d 1243 (5th Cir. 1988); *United States v. Youpee,* 836 F.2d 1181 (9th Cir. 1988); *United States v. Dudley,* 739 F.2d 175 (4th Cir. 1984).

[61]§ 3664(i).

[62]*See, e.g., United States v. Malpeso,* 115 F.3d 155 (2d Cir. 1997); *United States v. Reese,* 998 F.2d 1275 (5th Cir. 1993); *Ratliff v. United States,* 999 F.2d 1023 (6th Cir. 1993); *United States v. Daddato,* 996 F.2d 903 (7th Cir. 1993); United States v. Jackson, 982 F.2d 1279 (9th Cir. 1992) (IRS); *United States v. Ruffen,* 780 F.2d 1493 (9th Cir. 1986), *cert denied,* 479 U.S. 963; *United States v. Helmsley,* 941 F.2d 71 (2d Cir. 1991) (IRS); and *United States v. Burger,* 964 F.2d 1065, 1071 (10th Cir. 1992) (FDIC and RTC).

[63]In *United States v. Haggard,* 41 F.3d 1320 (9th Cir. 1994), the court noted that nothing in the VWPA restricts the availability of restitution to the victim specified in the offense of conviction, and

that in a case such as this, "in which a defendant deliberately targets an unsuspecting family as the victim of his crimes, the defendant may be held to answer for the family's loss of income" in keeping with the *Hughey* rule that the loss must have been caused by the offense of conviction. *Id.* at 1329 and n.6.

[64]*United States v. Smith,* 944 F.2d 618 (9th Cir. 1991), *cert denied,* 503 U.S. 951.

[65]In *United States v. Berman,* 21 F.3d 753 (7th Cir. 1994), a government agency was a secured creditor of the direct victim organization. The court found that a victim can assign the right of restitution to anyone he or she wants. *Id.* at 758.

[66]*United States v. Cloud,* 872 F.2d 846 (9th Cir. 1989), *cert denied,* 493 U.S. 1002 (1989) (civil settlement between the victim and the defendant does not limit restitution). *See also, United States v. Savoie,* 985 F.2d 612 (1st Cir. 1993). However, the victim can only be compensated once, and the defendant may be ordered to pay whoever compensated the victim. §§ 3664(j)(1) and (2).

[67]*Kok v. United States,* 17 F.3d 247 (8th Cir. 1994).

[68]In *United States v. Koonce,* 991 F.2d 693 (11th Cir. 1993), a restitution order was upheld to a business forced to reimburse the post office for stolen money orders. *See also, United States v. Malpeso,* 126 F.3d 92 (2d Cir. 1997), where the FBI was compensated for providing witness protection and transportation expenses to the victim, as a third party provider.

[69]In *United States v. Crawford,* 162 F.3d 550 (9th Cir. 1998), the defendant failed to prove the civil suit award was intended to cover funeral expenses, for which restitution was ordered.

[70]981 F.2d 1418 (3d Cir. 1992).

[71]*Id.* at 1424. However, the court must be careful not to leave the determination of the victims to the discretion of the government or probation. Here the appellate court remanded to allow the court to more specifically name those victims.

[72]112 F.3d 606, 609 (2nd Cir. 1997). The defendant had agreed to his gain as the determining loss figure for his part in the much-larger telemarketing conspiracy, but contested the court's authority to award restitution beyond the located victims.

[73]§ 3663(a)(2). An identical provision was provided for mandatory restitution as part of the MVRA at § 3663A(a)(2).

[74]*See, United States v. Stouffer,* 986 F.2d 916, 928–9 (5th Cir. 1993), and *United States v. Bennett,* 943 F.2d 738, 740 (7th Cir. 1991).

[75]*United States v. Manzer,* 69 F.3d 222, 230 (8th Cir. 1995) (emphasis added) (quoting *United States v. Welsand,* 23 F.3d 205,7 (8th Cir.) *cert denied,* 115 S.Ct. 641 (1994). In *Manzer,* the defendant was ordered to pay restitution for 270 cloned cable TV units, although he was convicted of only a few in the count of conviction.

[76]*See, e.g., United States v. Sharp,* 941 F.2d 811, 815 (9th Cir. 1991), and *United States v. Seligsohn,* 981 F.2d 1418, 1421 (3d Cir. 1992). The split is discussed in *Guideline Sentencing: An Outline of Appellate Case Law on Selected Issues,* September 1998, Federal Judicial Center, pp. 182–3.

[77]S*ee, e.g., United States v. Hensley,* 91 F.3d 274, 276–8 (1st Cir. 1996) (restitution valid for victim of scheme even though government did not learn of victim until after defendant's plea); *United States v. Berardini,* 112 F.3d 606, 609–612 (2d Cir. 1997) (restitution valid when ordered to include as yet unidentified victims of telemarketing scheme who may be located in the future); *United States v. Silkowski,* 32 F.3d 682 (2d Cir. 1994) (restitution valid for acts beyond statute of limitations); *United States v. Henoud,* 81 F.3d 484, 489 (4th Cir. 1996) (restitution valid for all victims of scheme, not just those named in indictment); *United States v. Pepper,* 51 F.3d 469, 473 (5th Cir. 1995) (restitution valid for victims of mail fraud unnamed in indictment, where indictment described duration of scheme and methods used); *United States v. Jewett,* 978 F.2d 248, 252–3 (6th Cir. 1992); *United States v. Brothers,* 955 F.2d 493, 496 n.3 (7th Cir. 1992); *United States v. Welsand,* 23 F.3d 205, 207 (8th Cir.), *cert denied,* 115 S.Ct. 641 (1994) (restitution valid for acts beyond statute of limitations); *United States v. Rice,* 38 F.3d 1536, 1545 (9th Cir. 1994) (restitution valid for victims of scheme even though not named in indictment); *United States v. Sapp,* 53 F.3d 1100, 1105 (10th Cir. 1995), *cert denied,* 116 S.Ct. 796 (1996) (restitution valid to bank that suffered loss, even though defendant's false statements were to another bank).

[78]155 F.3d 942 (8th Cir. 1998).

[79]These references are to *United States v. Jackson,* 155 F.3d 942 (8th Cir. 1998), involving stolen drivers' licenses, which is being compared to the *Blake* case. [Note: There are three other *Jackson* cases cited herein: *United States v. Jackson,* (unpub.) 149 F.3d 1185, 1998 WL 344041 (6th Cir. 1998) (involving *ex post facto*); *United States v. Jackson,* 982 F.2d 1279 (9th Cir. 1992) (IRS as victim); *United States v. Jackson,* 978 F.2d 903 (5th Cir.), *cert denied* 508 U.S. 945 (1992) (book or movie revenues).]

[80]The *Jackson* result is somewhat further complicated by the fact that the *Jackson* court applied the MVRA language of "directly and proximately" in a pre-MVRA case, saying it had no effect on the result.

[81]§§ 3663(a)(2) and 3663A(a)(2) (emphasis added).

[82]U.S.S.G. §1B1.3(a)(1)(B).

[83]This may be similar to the individual determination required for the amount of drugs involved in drug conspiracies for mandatory minimum purposes. *See* "Determining Mandatory Minimum Penalties in Drug Conspiracy Cases," Goodwin, *Federal Probation,* March 1995, pp. 74–78, and cases cited therein.

[84]36 F.3d 1190, 1199 (1st Cir. 1994).

[85]25 F.3d 1452, 1456 n.5 (9th Cir. 1994).

[86]60 F.3d 750, 751 (11th Cir. 1995).

[87]*United States v. Kane,* 944 F.2d 1406 (7th Cir. 1991).

[88]*United States v. Chaney,* 964 F.2d 437 (5th Cir. 1992); *United States v. Farkas,* 935 F.2d 962 (8th Cir. 1991).

[89]73 F.3d 309 (11th Cir. 1996) (per curiam).

[90]*Id.* at 311, n.3.

[91]495 U.S. at 413.

[92]A pure "but for" standard would include any downstream effects of an act, even if there were also other causes. This is extremely broad and would include, for example, holding a rapist responsible for harm to a rape victim from a hospital fire, which is too broad for criminal responsibility. *See, United States v. Marlatt,* 24 F.3d 1005 (7th Cir. 1994).

[93]*United States v. Vaknin,* 112 F.3d 579,590 (1st Cir. 1997). The court rejected an "unbridled but for" causation standard for restitution. "While it is true that for want of a nail the kingdom reputedly was lost . . . it could hardly have been Congress' intent to place the entire burden on the blacksmith." *Id.* at 588. The defendant owed the victim bank for some loans not procured by fraud, but had paid some loans that had been procured by fraud. Restitution could only be ordered for outstanding fraudulent loans. *See also, United States v. Campbell,* 106 F.3d 64 (5th Cir. 1997) (bank repossessed collateral on defendant's fraudulent loan and got more for it than the value of the loan, but defendant had other, unpaid loans with the bank that were legitimate; no restitution could be imposed).

[94]*United States v. Riley,* 143 F.3d 1289 (9th Cir. 1998).

[95]*United States v. Kones,* 77 F.3d 66 (3d Cir. 1996), *cert denied,* 117 S.Ct. 172.

[96]The victim is one who is "directly and proximately" harmed (§§ 3663A, 3663), or "directly" harmed by conspiracies, schemes, and patterns, or harmed as a "proximate result of the offense" in some special restitution statutes, such as § 2327 (telemarketing).

[97]*See, e.g., Beck v. Prupis,* 162 F.3d 1090 (11th Cir. 1998) (defining "proximate cause" in the civil RICO context).

[98]Racketeer Influenced and Corrupt Organizations Act (RICO) provides for civil liability (18 U.S.C. § 1964) or criminal liability (18 U.S.C. § 1963). The RICO Act has the same causation requirement as the Clayton Act (15 U.S.C. § 15) for securities fraud cases.

[99]*See, e.g., Beck, supra* and *Holmes v. Securities Investor Protection Corporation,* 112 S.Ct. 1311, 1312 (1992).

[100]*See, Palsgraf v. Long Island Restitution. Co.,* 162 N.E. 99 (N.Y. 1928). The famous case features the majority opinion, written by Justice Cardozo, in favor of a foreseeability criteria for tort liability, whereas the minority opinion just as persuasively argues for more of a "substantial factor" and direct "but for" tort standard. States to this day base their tort standard on one view or the other of "proximate cause," as described in *Palsgraf.*

[101]U.S.S.G. §1B1.3(a)(1)(B).

[102]*See,* "'Coping With Loss': A Re-Examination of Sentencing Federal Economic Crimes Under the Guidelines," Bowman, 51 *Vanderbilt L. Rev.* 461 (1998), for reasons behind the reform effort.

[103]*United States v. Schinnel,* 80 F.3d 1064, 1070 (5th Cir. 1996).

[104]*United States v. Sanga,* 967 F.2d 1332 (9th Cir. 1992). Similarly, a police chief was ordered to pay the city 1 year of his 4 years' salary as restitution for taking bribes in *United States v. Sapoznik,* 161 F.3d 117 (7th Cir. 1998).

[105]*United States v. Lively,* 20 F.3d 193 (6th Cir. 1994).

[106]*United States v. Diamond,* 969 F.2d 961 (10th Cir. 1992).

[107]137 F.3d 533 (7th Cir. 1998).

[108]*See, United States v. Tencer,* 107 F.3d 1120 (5th Cir. 1997), and *United States v. Seligsohn,* 981 F.2d 1418, 1421 (3d Cir. 1992).

[109]*United States v. Davis,* 60 F.3d 1479, 1485 (10th Cir. 1995).

[110]*United States v. Cottman,* 142 F.3d 160 (3d Cir. 1998); *United States v. Khawaja,* 118 F.3d 1454 (11th Cir. 1997); *United States v. Meachum,* 27 F.3d 214 (6th Cir. 1994); *United States v. Gall,* 21 F.3d 107 (6th Cir. 1994); *United States v. Gibbons,* 25 F.3d 28 (1st Cir. 1994). *But see, United States v. Daddato,* 996 F.2d 903 (7th Cir. 1993), which would allow an order to reimburse the "buy money" *not* as restitution, but as a discretionary condition of supervision. *See also,* dissent in *Cottman.*

[111]*United States v. Mullins,* 971 F.2d 1138 (4th Cir. 1992); *United States v. Diamond,* 969 F.2d 961 (10th Cir. 1992). *See also, United States v. Sablan,* 92 F.3d 865, 870 (9th Cir. 1996) (no restitution for costs of victim bank meeting with FBI).

[112]*United States v. Haggard,* 41 F.3d 1320 (9th Cir. 1994).

[113]§ 3663(b)(1) and § 3663A(b)(1).

[114]§ 3663(b)(2) and § 3663A(b)(2).

[115]§§ 3663(b)(2), 3663A(b)(2).

[116]*See, United States v. Husky,* 924 F.2d 223 (11th Cir. 1991) (court could not order restitution to compensate the rape victim for pain and suffering; the list of compensable expenses in the VWPA is exclusive); *United States v. Hicks,* 997 F.2d 594 (9th Cir. 1993) (restitution could not include the cost of psychological counseling for IRS employees targeted by the defendant's bombings); *United States v. Dayea,* 73 F.3d 229 (9th Cir. 1995) (lost income could not be ordered as restitution where the victim did not suffer bodily injury).

[117]*See United States v. Haggard,* 41 F.3d 1320 (9th Cir. 1994), upholding award for psychological treatment for the kidnapping victim's mother (discussed below).

[118]754 F.2d 1388, 1393 (9th Cir.), *cert denied,* 474 U.S. 829 (1985).

[119]§ 3663(b)(2)(A) includes ". . . nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment."

[120]997 F.2d 594, 601 (9th Cir. 1993).

[121]41 F.3d 1320 (9th Cir. 1994).

[122]*Id.* at 1329 and n.7. (The court used the "plain error" standard because the defendant did not object to the restitution order at sentencing, which gives the sentencing court a greater benefit of the doubt in the analysis.)

[123]151 F.3d 774 (8th Cir. 1998).

[124]*Id.* at 779–780 (citing *United States v. Marsh,* 932 F.2d 710, 712 (8th Cir. 1991), quoting *Hughey*). The *Akbani* court was also using a "plain error" standard of review (see note 122 above).

[125]§ 3663(b)(4). An identical provision was included in the MVRA for mandatory restitution at § 3663A(b)(4).

[126]126 F.3d 92 (2d Cir. 1997).

[127]§ 3664(f)(1)(B).

[128]135 F.3d 133 (2d Cir. 1998).

[129]§§ 2262 and 2264.

[130]§ 2264(b)(1).

[131]§§ 2264(b)(3)(E) and (F). Also, like the other special title 18 mandatory restitution statutes (§§ 2248, 2259, and 2327), it cross-references the VWPA. Presumably, either could be used to support restitution orders, and they are not mutually exclusive, but rather are complementary to each other—consistent with Congress' clear intent to maximize restitution.

[132]18 U.S.C. § § 3651, repealed. *See United States v. Vance,* 868 F.2d 1167, 1170 (10th Cir. 1989) (citing leading cases in each circuit on compensating harm under the FPA).

[133]*See e.g., United States v. Chaney,* 964 F.2d 437, 451 (5th Cir. 1992); *United States v. Cook,* 952 F.2d 1262, 1264 (10th Cir. 1991); *United States v. Kress,* 944 F.2d 155, 158 (3d Cir. 1991), *cert denied,* 502 U.S. 1092 (1992); and *United States v. Padgett,* 892 F.2d 445, 448 (6th Cir. 1989).

[134]In *United States v. Landrum,* 93 F.3d 122 (4th Cir. 1996), for example, the court upheld an order for psychological treatment even though there was no bodily injury, which could be upheld under the FPA but not the VWPA.

[135]*United States v. Broughton-Jones,* 71 F.3d 1143 (4th Cir. 1995).

[136]*United States v. Crawford,* 162 F.3d 550 (9th Cir. 1998); *United States v. Fox,* 941 F.2d 480, 484 (7th Cir. 1991), *cert denied,* 112 S.Ct. 1190 (1992); *United States v. Miller,* 900 F.2d 919, 921 (6th Cir. 1990); *United States v. Padin-Torres,* 988 F.2d 280, 283–4 (1st Cir. 1993).

[137]There is no identical provision for mandatory restitution in § 3663A, perhaps because full restitution is presumed to be imposed in all such cases anyway.

[138]*See, e.g., United States v. Soderling,* 970 F.2d 529, 534 (9th Cir. 1992), *cert denied,* 508 U.S. 952 (1993); *United States v. Guthrie,* 64 F.3d 1510, 1514 (10th Cir. 1995). Without such an agreement, restitution cannot be ordered under the VWPA, for example, for nonviolent offenses not in title 18, such as title 12 equity skimming offenses. *United States v. Aguirre,* 926 F.2d 409 (5th Cir. 1991).

[139]*United States v. Thompson,* 39 F.3d 1103, 1105 (10th Cir. 1994).

[140]See discussion in *Federal Sentencing Guidelines Handbook,* R. Haines, editor, 1997, at p. 658; *United States v. Guardino,* 972 F.2d 682 (6th Cir. 1992); *United States v. Soderling,* 970 F.2d 529 (9th Cir. 1992).

[141]A similar provision, § 3663A(3), applies to mandatory restitution. The circuits disagreed on whether the 1990 amendments could be applied to previously committed offenses. For example, in *United States v. Silkowski,* 32 F.3d 682 (2d Cir. 1994), the Second Circuit held a plea agreement was applicable where the defendant entered into a plea agreement after the 1990 amendment, even though a significant portion of the loss occurred as a result of conduct committed prior to the 1990 amendment. See also, *United States v. Arnold,* 947 F.2d 1236, 1237 (5th Cir. 1991). *But see, United States v. Snider,* 957 F.2d 703 (9th Cir. 1992). However, the amendments have been in place long enough now to be generally applicable to cases currently being sentenced.

[142]See discussion, for example, in *United States v. Ramilo,* 986 F.2d 333 (9th Cir. 1993); *United States v. Baker,* 25 F.3d 1452 (9th Cir. 1994); *United States v. Soderling,* 970 F.2d 529, 531 (9th Cir. 1992) (per curiam).

[143]*United States v. Guthrie,* 64 F.3d 1510 (10th Cir. 1995).

[144]*United States v. Broughton-Jones,* 71 F.3d 1143 (4th Cir. 1995); *United States v. Guthrie,* 64 F.3d 1510 (10th Cir. 1995).

[145]*United States v. Schrimsher,* 58 F.3d 608, 610 (11th Cir. 1995); *United States v. Silkowski,* 32 F.3d 682, 689 (2d Cir. 1994); and *United States v. Lavin,* 27 F.3d 40, 42 (2d Cir. 1994).

[146]*See, e.g., United States v. Barrett,* 51 F.3d 86, 89 (7th Cir. 1995); *United States v. Osborn,* 58 F.3d 387, 388 (8th Cir. 1995) (restitution based on dismissed charges because of agreement); *United States v. Soderling,* 970 F.2d 529, 532–34 (9th Cir. 1992) (per curiam) (restitution upheld for losses outside of conviction); *United States v. Thompson,* 39 F.3d 1103, 1105 (10th Cir. 1994) (same); *United States v. Schrimsher,* 58 F.3d 608, 610 (11th Cir. 1995) (per curiam) (restitution for three stolen vehicles valid for offense involving only two because of agreement).

[147]*United States v. Soderling,* 970 F.2d 529, 531 (9th Cir. 1992).

[148]*United States v. Rice,* 954 F.2d 40, 41 (2d Cir. 1992).

[149]*Silkowski, supra,* 32 F.3d at 689.

Juvenile Focus*

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Juveniles in Public Facilities: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) reports that as of February 15, 1995 (the latest year for which data are available), public juvenile facilities held 69,075 juveniles in residential custody. These include secure and nonsecure facilities used to hold pre- and post-adjudicated individuals under the jurisdiction of the juvenile court. Just under 96 percent (66,236) of juveniles in public residential facilities were held for delinquent offenses, that is, offenses that are not illegal for individuals who have reached majority age. Only one percent of juveniles in public facilities were placed in custody for other reasons, including dependency or neglect.

School Enrollments: According to the U.S. Department of Education, a record 52.7 million students enrolled in elementary and secondary schools across the nation. This figure represents an increase of 500,000 youths joining the country's public and private schools. College enrollments also increased by 240,000, to nearly 14.6 million. The record enrollments nationally follow a period of steady growth in student populations, the result of more births and rapid immigration, and, it appears, this trend will continue. The Census Bureau projections indicate that births will remain at their current level—4 million annually—for the next decade, then begin rising from 4.1 million in 2008 to 4.5 million in 2018. The Department also estimates that 2.2 million additional teachers must be hired in the next decade to meet the rising enrollments and teacher retirements.

Teen Highway Deaths: Of all the health risks to young people, none is as dangerous as highway crashes, which account for more than 6,000 deaths per year, according to the National Highway Traffic Safety Administration. Sixteen-year-olds are almost three times as likely as older teens to be killed in a crash. Furthermore, the fatality rate for the youngest drivers is increasing.

While fatalities among all teen drivers over the past 20 years have decreased, the rate of highway deaths among 16-year-olds has nearly doubled—from just under 20 per 100,000 licensed drivers in 1975 to more than 35 in 1996. Yet, fatal teen crashes involving alcohol have been declining. In 1996, an estimated 24 percent of teen drivers fatally injured had blood alcohol levels at or above 0.10, which is lower than the 53 percent reported in 1980 and which is considerably lower than among older drivers. Male teenage drivers with blood alcohol levels between 0.05 and 0.10 percent are 18 times more likely than sober teenagers to die in a single vehicle crash, with females being 54 times more likely.

Youth Stress: Boys often have fewer people they feel comfortable turning to for support when they are in need than do girls, according to a recent study released by the Commonwealth Fund. Both boys and girls are more likely to seek counsel from their mothers than their fathers, but boys who feel stressed or overwhelmed often do not confide in anyone and are more likely than girls to try to eliminate stress through exercise or using a computer. Boys are just as likely to share feelings of stress with their peers as with their mothers, yet 21 percent of boys and 13 percent of girls share these feelings with no one.

Global Birthrate: Families around the world are having fewer children, but the overall growth in the number of young and elderly will strain the educational and health resources of many countries in the years ahead, according to a recently released report by the United Nations Population Fund. While the growth rate has fallen from 2 percent a year since 1960 to 1.4 percent, new births added to the existing population will cause a worldwide increase from about 6 billion people in 1999 to 9.4 billion in 2050. Because of past high birthrates, a record number of young people—more than 1 billion ages 15 to 24—are entering their childbearing years.

Teens and Government: Only 41 percent of American teenagers can name the three branches of government, but 59 percent can name the Three Stooges, according to a survey conducted by the National Constitution Center. The Center's nationwide telephone survey of 600 teenagers, ages 13 to 17, found that:

- Less than 2 percent recognize James Madison as the father of the Constitution while 58 percent know Bill Gates as the father of Microsoft.
- Nearly 95 percent can name the actor who played the Fresh Prince of Bel Air (Will Smith) on television, but only 2 percent can name the chief justice of the United States (William H. Rehnquist).
- Twenty-five percent know at least one of the constitutional rights the Fifth Amendment protects. Nearly 64 percent know what "The Club" protects.

***Editor's note: Please send information about new resources, developments, and programs in juvenile justice and delinquency to Alvin W. Cohn, President, Administration of Justice Services, Inc., 15005 Westbury Road, Rockville, MD 20853.**

- Nearly 74 percent know that Al Gore is vice president, well below the 90 percent who know that Leonardo DiCaprio was the male star of the movie *Titanic.*

Overweight Preschoolers: The number of overweight preschoolers from low-income families in the U.S. increased by 2 to 3 percent between 1983 and 1995, according to an 18-state study conducted by the Centers for Disease Control and Prevention (CDC). The study found increases in overweight children regardless of age, sex, or ethnicity. The CDC recommends that parents effectively change dietary and exercise habits of their children, especially to avoid hypertension, Type 2 diabetes, respiratory disease, adult obesity, and orthopedic and psychological disorders.

Child Abuse and Neglect: The National Committee to Prevent Child Abuse (NCPCA) 1997 survey estimates that 3,195,000 children were reported as suspected victims of abuse and neglect in 1997, which was an increase of 1.7 percent over 1996. An estimated 1,054,000 children were substantiated victims of abuse, a 5 percent increase over 1996. Neglect continues to top the list of most commonly reported and substantiated cases at 52 percent, followed by 26 percent physical abuse, 7 percent sexual abuse, 4 percent emotional abuse, and 11 percent other (abandonment, medical and educational neglect, or multiple types of abuse).

Sexual abuse declined from 16 to 7 percent of reported cases in the past decade. Substance abuse was cited as the most frequent problem for families reported for child maltreatment. Poverty and economic stress were listed next, followed by a lack of parenting skills due to either mental health problems, poor understanding of child development, or young maternal age. A significant number of families also were involved in domestic violence. For further information, contact NCPCA at 312-663-3520 or visit the Web site at *www.childabuse.org*.

Juvenile Curfews: Two different studies have reached conflicting conclusions about the efficacy of juvenile curfews in reducing juvenile crime. The Justice Policy Institute compared curfew arrest rates and youth crime rates from 1978 through 1996 in 21 California cities and found no evidence that stricter curfew enforcement reduced youth crime, either absolutely, relative to adults, by location or city, or by type of crime. The U.S. Conference of Mayors, on the other hand, surveyed 347 cities that had juvenile curfews and found that officials in 53 percent of the cities reported a decrease in juvenile crime that they attributed in part to curfews. However, 11 percent of the cities with curfews saw juvenile crime rates stay the same while 10 percent reported an increase in juvenile crime.

Peak Hours for Youth Crime: Violent juvenile crime on school days occurs between 2 and 8 p.m. rather than late at night, but it triples from 3 to 4 p.m. immediately after school. It dips around dinner time, rises slightly, then declines in the later evening. In contrast, adult crime rises all through the day and evening and peaks at 11 p.m. This information is from a report on youth crime released by Fight Crime: Invest in Kids, a youth advocacy group made up of police chiefs, prosecutors, and crime survivors. The study focuses on school days, when 57 percent of violent youth crime is committed.

Census of Juveniles in Residential Placement: Since 1974, the OJJDP has maintained *The Census of Public and Private Juvenile Detention, Shelter, and Correctional Facilities,* more commonly known as "The Children in Custody Series." As of 1997, a successor, *Census of Juveniles in Residential Placement* (CJRP), was inaugurated. Now, for all juvenile held in residential facilities, the CJRP will collect such information as juvenile demographics, legal status, adjudicatory information, and jurisdictional information. The CJRP—which will be collected biennially, in odd-numbered years—will be conducted again in 1999, with a reference date of October 29. For further information, contact Joseph Moone at 202-307-5929.

Sexual Abstinence: Youths who are taught to abstain from sex actually have sex just as often as those who are instructed in the use of condoms and take more risks, according to a study reported in the *Journal of the American Medical Association.* The study of African-American youth in three Philadelphia schools found that those who received an abstinence-only education were just as likely to report having sexual intercourse 1 year later as were students enrolled in a safe education program. And the sexually experienced adolescents from the abstinence-only program were less likely to use condoms than were youths from the safe sex program.

Day Care Study: The largest and longest-running national study of child care has found that children who are cared for in settings with several other children have fewer behavior problems than those cared for by a nanny alone or in very small groups. Researchers also reported that children in poor quality day care are less cooperative and more likely to throw tantrums or show other behavior problems than those in high quality care. The findings represent the third installment of a 7-year research project by the National Institutes of Health. Another conclusion is that whether children are in day care is far less important to their overall development than whether they have positive relations with their parents generally. In effect, healthy social, emotional, and intellectual development of children is substantially more dependent on a loving, stable home life than on the quantity of day care.

Teens' Closeness to Parents: A major new survey of adolescent health practices found that parents hold a larger influence than is popularly realized in protecting teenage children from risky behaviors such as smoking,

drinking, or violence. The survey of 12,000 students in grades 7 through 12 by researchers at the University of Minnesota and the University of North Carolina found that the closer teenagers were to their parents and the more connected they felt to classmates and teachers at school, the less likely they were to smoke, use drugs, drink alcohol, engage in violence, commit suicide, or have sex at a young age. The results, which were recently published in the *Journal of the American Medical Association,* are part of a continuing congressionally mandated study of 90,000 adolescents called the National Longitudinal Study on Adolescent Health. Teens' connections with their schools also were found to be important for their well-being. Teenagers who felt comfortable at school and had a sense that teachers were fair and cared about them were less likely to engage in high-risk behaviors than teenagers who felt unconnected.

Contrary to popular perception, the report states, school size, student-teacher ratio, and teacher experience did not seem to matter much in preventing high-risk behaviors. Further, teenagers who worked 20 or more hours a week were more likely to feel emotional stress and more likely to smoke or drink alcohol or engage in other risky behaviors. The survey also found that 3.5 percent of all adolescents tried to kill themselves in the past year; one-quarter are cigarette smokers; and 16 percent of seventh- and eighth-graders and almost one-half of 9th- through 12th-graders had sexual intercourse.

OJJDP Teleconferences: The OJJDP encourages juvenile justice agencies and organizations to consider using satellite teleconferences to disseminate research from their projects. *A Teleconferencing Resource Manual* has been developed as a guide to downlinking, developing, and broadcasting programs. Previous teleconferences have attracted large audiences and have received excellent evaluations. Interested agencies or individuals who would like to participate in future OJJDP teleconferences or who require assistance in locating a satellite dish should contact Eastern Kentucky University, Resource Center, Telecommunications Assistance Project, 301 Perkins Building, Richmond, KY 40475-3127; by phone at 606-622-6270; by fax at 606-622-2333; or by e-mail at *njdadeh@aol.com.*

Juvenile Careworkers: Staffs at juvenile detention and correctional facilities have less resources and training than do their counterparts in adult corrections. A survey, conducted by Criminal and Juvenile Justice International, Inc., found, among other things, that juvenile careworkers receive less than one-half the pre-service training and are assaulted more than twice as often as adult workers. Additionally, juvenile facilities have a significantly greater staff turnover per year than adult facilities do, according to 1994 data. Among other findings:

- Correctional officers working in adult facilities received 224 hours of entrance/pre-service training while juvenile careworkers received only 102 hours, with both groups receiving approximately 43 hours of annual in-service training.
- Juvenile careworkers have a 77 percent greater staff turnover per year than their counterparts in the adult system.
- Juvenile careworkers are assaulted 71 percent more often than correctional officers working in adult facilities. In 1994, juvenile careworkers had 290 percent more assaults against them that required medical attention.
- Fourteen percent more of adult careworkers than juvenile careworkers enter institutional work with a high school education and 16 percent more have a 4-year college education.
- Among juvenile agencies, 24 percent have no minimum educational requirements for hiring, as compared to only 10 percent for adult facilities.
- Starting salaries for correctional officers were 1.9 percent higher than for juvenile staffs, with salaries after pre-service training 6.9 percent higher for correctional officers and maximum salaries 11.9 percent higher.
- Salaries for adult administrators were 16 percent higher than those for their counterparts in the juvenile system.

Juvenile Drug Offenses: In 1995, juvenile courts in the U.S. handled an estimated 159,100 delinquency cases involving drug law violations, which accounted for 9 percent of all delinquency cases. When compared to the 1991 rate of 5 percent, 1995 showed an increase of 145 percent, according to an OJJDP study reported by Anne L. Stahl.

Males accounted for the vast majority of drug cases processed in juvenile court. Between 1986 and 1995, the male proportion of the drug caseload ranged from 83 to 88 percent. The male proportion was consistently higher among black juveniles (92 to 94 percent) than among white juveniles (80 to 84 percent). Each year from 1986 through 1995, about 6 in 10 drug cases involved juveniles age 16 or older. In 1995, these older juveniles accounted for 58 percent of the drug caseload.

In 1986, youth were detained at some point between referral to court and case disposition in 18,400 drug cases, representing 25 percent of all drug cases that year. By 1990, the proportion of drug cases involving detention had risen to 38 percent. Since 1991, the proportion of drug cases involving detention has dropped steadily, reaching 24 percent in 1995. However, the actual number of drug cases involving detention in 1995 (38,600) was 110 percent higher than in 1986. In 57 percent of all drug cases formally processed in 1995, the juvenile was adjudicated delinquent. In 25 percent of

the adjudicated drug offense cases in 1995, the most severe disposition imposed by the juvenile court was residential placement. The courts used probation in 53 percent of the cases and imposed other sanctions, such as fines and restitution, in 15 percent.

Private Industry Web Site: A new online index and news reporting service called "The Privatization Channel" consolidates all private prison information under one source. Located at *www.privatemanagement.com,* it tracks and archives international trends, news clippings and research reports, project information, bids, job openings, and industry criticism and acclaim. It also encourages browser feedback inside news groups, bulletin boards, and a question of the week. Further broadening its reach, the service daily will push every article posted on its site through the Corrections Connection Network *(www.corrections.com)* and onto the Pointcast Network. Persons interested in contributing to the web site should contact Kim Clark at 800-748-4336 or by e-mail at *clark@privatemanagement.com.*

Wanted: Innovative Best Practices for Adolescent Sexual Victims: The National Children's Advocacy Center is preparing a report for the U.S. Department of Justice concerning current and best practices in the investigation, intervention, and treatment of adolescents between the ages of 10 and 15 who are victims of sexual exploitation and violence. If you know of such exemplary programs or innovative techniques, contact Paul D. Steele, Department of Sociology, University of New Mexico, Albuquerque, NM 87131.

Internship Directory: The National Collaboration for Youth (NCY) has developed an on-line directory of internships in youth development. These internships give high school, college, and graduate students an opportunity to explore careers in the youth development field and work on behalf of or directly with young people in all types of settings. NCY offers agencies an opportunity to list, free of charge, internships available. To obtain an internship data form, contact NCY, 1319 F Street, N.W., Suite 601, Washington, DC 20004; by phone at 202-347-2080; by fax at 202-393-4517; by e-mail at *nassembly@nassembly.org;* or by e-mail at *www.nassembly.org* (click on "Internships").

Community-Based Youth Anti-Drug Effort: Under the Drug-Free Communities Support Program, more than $8.7 million will go to 93 sites to fund coalitions made up of young people, parents, media, law enforcement, school officials, religious organizations, and other community representatives. The programs will target young people's use of tobacco, illegal drugs, and alcohol. The coalitions also will encourage citizen participation in substance abuse reduction efforts and disseminate information about effective programs. The White House Office of National Drug Control Policy will direct the program with the assistance of the OJJDP.

Each of the grantees received awards of up to $100,000 for use over the next year. The coalitions are required to match grant awards with funding from non-federal sources. Each coalition has developed a 5-year plan to reduce substance abuse. The federal Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Prevention will provide the grantees technical assistance to help implement community prevention programs.

International Developments in Criminal Justice

By Russ Immarigeon*

Introduction

According to a news report in *The Times* of June 22, 1998, British Home Secretary Jack Straw is considering not just nationalizing probation services (currently, there are 54 regional probation services with 15,000 staff), but also calling this new entity the National Public Protection Service. The news report suggests that Straw (and the national government) are viewing the term "probation" as outdated and inaccurate (giving the public a false impression of the work probation services do with young and adult offenders). These changes are needed, the Home Office seems to believe, to make community penalties credible alternatives to incarceration. A government paper is scheduled for later release. In the meanwhile, and if nothing else, this news item gives us another opportunity to (re)assess our work.

We can look at the work we do through various perspectives. One way is to take a comprehensive overview not just of the immediate assignments we spend our days (and nights) on, but of the larger context of the invariably smaller tasks we face routinely. In this light, the recently released second edition of *The Oxford Handbook of Criminology* (Oxford University Press, $140/$45, 1,287 pp.), edited by Mike Maguire, Rod Morgan, and Robert Reiner, offers immense benefit for the scholarly or merely thoughtful student, practitioner, or beleaguered policymaker. Thirty-one British academics were asked to contribute thorough reviews of policy, practice, research, and theoretical perspectives on such areas as the history of criminology, crime in the mass media, the political economy of crime, human development and criminal careers, criminal law and criminalization, social control, feminism and criminology, victims, mentally disordered offenders, drug-related and violent crime, crime prevention, sentencing, imprisonment, and community penalties. The volume contains a good essay on "left-realist criminology," which is useful for American readers unfamiliar with this British approach (critical criminology in the U.S., it seems to me, has lost its way since its heyday in the mid-1970s). While only one article focuses specifically on probation practice, the sum of these articles and essays is a good graduate course of unlimited potential for the invested reader.

Photography is another method of taking a look at what we do. Several years ago, London-based photographer Jason Shenal proposed the idea to Graham Clark, the Governor of Wandsworth Prison, that he should spend a day each week in the prison teaching prisoners to take photographs, to see photography as an art. Clark fancied photography himself, and the project moved one step forward. Clark arranged space in the Vulnerable Prisoners Unit (VPU), which mainly housed long-term sex offenders and other men who felt at risk in the general population. Shenal, in turn, suggested having prisoners from the general population join the VPU prisoners. This broke fresh ground, but it was done. Eight prisoners were selected, four each from VPU and from the general population. The prison supplied darkroom space. Everything else was donated or volunteered. Prisoners with cameras began to circulate around the prison, an old "strangely beautiful" Victorian building. Prison officers were alternately cold and minimally hospitable. Prisoners themselves were initially startled seeing other prisoners with cameras. Security was a constant administrative concern, but the only trouble from prisoners was general population prisoners taunting their mates who were working now with VPU inmates. The photographs in *Inside Eye: Wandsworth Prison as Seen Through the Prisoners' Eyes* ($28.95; 140 pp. with 109 duotone photographs), edited by Marc Shlossman and Adri Berger, are captioned on occasion with brief, illuminating text. But there is not much text here. Pictures prevail. And the pictures tell stories about life in prison not ordinarily told outside prison walls. The prison photographers took pictures of food, of storage areas, of a prisoner's wedding, of long desolate hallways, of prisoners' cells, of prisoner solidarity, and of prisoners at work. There is a solemn, searing picture of a prisoner staring out his cell window, tears flowing down his dimly lit, darkened cheek. The pictures in this book are all that much more valuable because they could not have been taken by the most sensitive outside observer. The angles here are different. The emphasis is on routine as well as extraordinary aspects of prison life as seen by people living prison lives. Sir Stephen Tumin observes:

> Photography forces the prison photographer to look carefully around him. The photographer becomes a trained observer. He also has to learn, as he would in acting in a prison play, to work with a team, and indeed in a team. If he is going to be discharged with more understanding about his environment than when he

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came in, then photography taken seriously is a helpful form of training.

The book is available from: Art Books International, 1 Stewart's Court, 220 Stewart's Court Road, London SW8 4UD, England; phone: 0171 720 1503; fax: 0181 452 6253.

Canada

Accountability is a term tossed about too easily in criminal justice parlance. Philip C. Stenning, who teaches at the Centre for Criminology at the University of Toronto, recently collected 18 essays (15 of them written especially for this volume) that explore not just the history of accountability in government but also the implications of accountability for a criminal justice system often at the border of public patience with its operations. In *Accountability for Criminal Justice: Selected Essays* (University of Toronto Press, $65/$29.95, 530 pp.), Stenning takes "an integrated approach" that

> allows linkages and comparisons to be made which are not so obvious from the more isolated literature concerning, say, police, prosecutors, courts, or corrections, and provides the opportunity for some more general questions to be addressed. Have the political, social, and technological changes of recent years resulted in more or less accountability for decisions made in the name of "criminal justice"? What changes have occurred in the nature and implications of this accountability, and are such changes evident throughout the criminal justice system, or more so in some parts of it than others? Has there been any discernible improvement in the quality or integrity of criminal justice as a result of changes in its accountability? Or, to put it more bluntly, do we know any more about what is done and accomplished in the name of criminal justice than we did ten or fifteen years ago, and are things better (or different) as a result? Or is "accountability" in this context no more than an illusion, a game of smoke and mirrors, which conceals more than it reveals?

These questions, increasingly urgent ones I think, are, as Stenning notes, especially important for a field like criminal justice that is so centrally involved with the maintenance and denial of liberty interests, but also, I would add, for a field that is continuously struggling, and constantly being challenged, in the definition of its mission and purpose. Not all articles in this volume merit immediate attention, but there are important and timely articles on Aboriginal justice, government management, prosecution, sentencing, parole, and prison operations.

In the past year, the University of Toronto Press has published several volumes that make important presentations on healing approaches to criminal justice and to concerns about gender, race, and culture. In *Into the Light: A Wholistic Approach to Healing* (University of Toronto Press, $40/$14.95; 104 pp.), Calvin Morrisseau, program manager at Wee-chi-it-te-win Child and Family Services in Fort Frances, Ontario, describes the principles and struggles of First Nation societies to promote harmonious and cooperative relationships among Aboriginal and non-Aboriginal people. As Morrisseau notes, the deepest healing comes at the spiritual level, aided by "an independent system of individuals, families, and communities in which needs, desires, values, and purpose are communicated, and the responsibility to ensure everyone has the opportunity to grow to their full potential is shared." In *Unfinished Dreams: Community Healing and the Reality of Aboriginal Self-Government* (University of Toronto Press, $45/$18.95; 323 pp.), Wayne Warry, an applied anthropologist at McMaster University, reports his case study research in Nishnawbe communities to demonstrate the importance of community development and cultural revitalization processes for self-governing, an essential component of Aboriginal "restorative justice" efforts. Warry's study looks at health and mental health care as well as judicial proceedings to assess the promise and potential of healing approaches. Warry notes: "I present a picture of contemporary spiritual practice where many Native people are confused about, or even fearful of, traditional practices such as the seat lodge or shaking tent." Key among Aboriginal characteristics, however, are "a sense of optimism, pragmatic awareness, and a conservative approach to change" and "dedication to long term structural reform."

Much has been made of the multicultural nature of most national (and notably criminal justice) populations. Aboriginal approaches to criminal justice have been worthy, in part, because of their introduction of "new" methods of criminal justice responsivity that go beyond the limits of standard probation, prison, and parole practices. It seems necessary, however, not just to establish new ways of responding, but we must improve our understanding of what has been felt by offenders bound by class, ethnicity, gender, or race to positions of inferiority. Sherene H. Razack, in *Looking White People in the Eye: Gender, Race, and Culture in Courtrooms and Classrooms* (University of Toronto Press, $55/$21.95; 246 pp.), provides a gutsy, riveting collection of essays that "explore, in a variety of ways, what happens in classrooms and courtrooms when dominant groups encounter subordinate groups." In this book, Razack, an associate professor in the Department of Sociology and Equity Studies at the University of Toronto, focuses mainly on women, and she takes an anti-essentialist perspective, one that requires the narrative tracing of how women experience their gender and how others respond to it:

> In identifying the multiple narratives that script women's lives, we come to see that women are socially constituted in different and unequal relation to one another. It is not that some women are considered to be worth more than other women, but that the status of one woman depends on the subordinate status of another woman in many complex ways.

Razack ably explores these "complex ways" in these essays that cover interactions between race and dis-

ability, for instance, with gender. This is an exciting collection with many implications for criminal justice and human service professionals and their practice.

In the mid-1990s, Ross Gordon Green, a Saskatchewan defense attorney, spent time interviewing participants in and witnessing the processes of four Aboriginal justice models in six communities in northern Canada. The four models are sentencing circles, elder or community sentencing panels, sentencing advisory committees, and community mediation committees. Green reports his findings in *Justice in Aboriginal Communities: Sentencing Alternatives* ($20.50; 192 pp.), recently published by Purich Publishing (Post Office Box 23032, Market Mall Postal Outlet, Saskatoon, Saskatchewan S7J 5H3; phone: 306-373-5311; e-mail: *purich@sk.sympatico.ca*). The importance of this book is not just in its descriptions of these models, but also in its discussion of the role of (judicial) discretion and (crime) victims in the development of alternative sentencing programs. Judges have been very active in enabling and establishing sentencing circles and related programs that incorporate traditional native practices. These programs typically emphasize community and victim healing and offender reintegration into the community rather than punishment-based deterrence approaches. As Ross notes, Canadian judges make good use of discretionary aspects of Canadian criminal law. At the time of Green's observations, many of these programs were just getting started. Victim involvement in them was often less than desired. However, as these programs emerged, the role of victims became more central. These developments cannot be dismissed simply as a preference for offenders over victims. Instead, they reflect new practices that are, in fact, in development, rooted in traditional notions of justice, but also located within contemporary criminal justice systems. Green's analysis is as stimulating as it is encouraging.

England

England is a fascinating place to observe criminal justice shifts and trends. British observers keenly note that many American initiatives (boot camps being a notable example) seem to thrive in the British rush to constantly redo what was just started a short time ago. (The pace of change in criminal justice over the past 30 years has been staggering, but I have the impression it has moved along more quickly in England, at least in the past 10 years, although perhaps this is simply a reflection of rapid political changes in the country.) But Americans can learn much, nonetheless, from Britain's approach to its crime, sanctioning, and prison problems. Recent British literature includes important commentary on both policy and practice as the following volumes attest.

Vivien Stern, the long-time director of NACRO (National Association for the Care and Resettlement of Offenders) and the current secretary (and founder) of Penal Reform International, has written a lively commentary on the state of imprisonment in the world. In *A Sin Against the Future: Imprisonment in the World* (Northeastern University Press, $47.50/$18.95, 407 pp.), Stern uses a phrase borrowed from Norval Morris to confront imprisonment—a sin against the future—as it is practiced worldwide. Stern argues that imprisonment was borne of a different age, an institution "devised for the needs of the eighteenth and nineteenth centuries and carried out throughout the twentieth with only minor changes." The need for incarceration must be reviewed now, she says, for three reasons:

> First, prison provides a setting in which profound abuses of human rights can be carried out under the reassuring justification that this is needed to protect the public. Second, imprisonment no longer fits modern societies and their needs. It is inefficient. In many cases it gives rise to more problems than it solves. Third, the use of imprisonment needs to be reviewed because it poses a threat to our future.

Stern's book is a valuable addition to the literature not simply because of its well-reasoned proposals for reform, but also its rare attention to the oft-neglected use of incarceration in African, Caribbean, Eastern European, and Asian nations. In this book, Stern describes the use of imprisonment internationally and the conditions and impact of imprisonment; she also examines "making prisons better" and various proposals that go beyond reliance on imprisonment.

The Waterside Press has recently published three volumes that provide an increasingly detailed picture of current British practices, as well as problems associated with the practice of criminal justice in the U.K. First, Dick Whitfield, the chief probation officer of the Kent Probation Service, has written a nontechnical handbook, *Introduction to the Probation Service* (Waterside Press, 172 pp.) that gives informative treatment to such matters as the history of probation, community service orders, current pressures on probation, prison and family court work, youth justice, and release on license. Whitfield concludes:

> Probation staff operate in a climate of changing criminal justice and social policy, and in a multi-cultural society increasingly aware of its obligations to all its citizens. The distinctive contribution which probation can make, by emphasizing both the rights and responsibilities of individuals, is needed as much as it ever has been. Its foothold was achieved by earning the trust and confidence of courts; its continued growth depends not just on retaining this, but on developing it to embrace the wider community.

Long ago, I surmised that to become an effective advocate for alternatives to prison, one needed to know, and know well, the parameters and (im)practicalities of prison operations and work. Nick Flynn, deputy director of Prison Reform Trust, a leading criminal justice lobby group based in London, has just written a book, *Introduction to Prisons and Imprisonment* (Waterside Press; 157 pp.), that gives penal reformers, as well as

novices to the world of prisons, an exceptionally useful introduction to this inherently complex (and in this case British) institution. England has 139 prisons housing approximately 65,000 men and women. This volume covers the purposes of imprisonment, the history of the British prison system, prison architecture, prison conditions, prison regimes, prisoner attitudes, and Prison Service organization and staffing.

According to Penny Green, director of the Institute of Criminal Justice at the University of Southampton and a senior lecturer in law, there can be no resolving the human tragedies that have risen from the current "war on drugs" unless states go beyond criminal justice and law enforcement to examine geopolitical analysis, international poverty, Third World debt, and domestic welfare. Most drug offenders in prison, she shows, are low-level players. They are scapegoats. Green, one of a handful of scholars who have examined the "drug mule" problem, concludes:

> Drug traffickers and the drug importers that this book (focuses) on have been central to the continuing discourse on British and European drug enforcement, if, for no other reason than the borderline nature of the crimes committed. Borders have occupied a central pillar of resistance to the political and economic changes which are defining the new Europe. It is therefore around the issue of borders that the consolidation of fear and danger has been orchestrated. The pressure toward increasingly repressive drug and immigration control strategies operates at one important level to allay insecurities over the threatened changes in geo-politics to come. Drug demonization cements the variously whipped up fears seen to threaten "national identity" and concentrates public anxieties into a manageable forum.

British criminologists also have produced several fine studies centered on criminal victimization. In *After Homicide: Practical and Political Responses to Bereavement* (Oxford University Press, $78; 342 pp.), Paul Rock, professor of social institutions in the Sociology Department at the London School of Economics, turns his attention to largely British (but some Canadian and U.S.) victim self-help and lobby groups that focus on the post-victimization processes of bereavement and mourning. Like other movement groups, Rock observes,

> the(se) new victims' organizations combine features that are quite distinctively their own with familiar structural predicaments. . . . [H]omicide survivors have been driven by schisms about proper styles of representation and presentation, the appropriateness of formal and informal styles of organizing, the virtues of confrontation and negotiation, and the utility of working inside or outside the "system". . . . [H]omicide survivors have often appeared to be as much occupied by warring within factions in their own world as with turning outwards to face a larger audience of public agencies and Government.

Rock's primary attention is with the organizing and organization of these groups, including the evolution of such groups as Manwaring Trust, the Zito Trust, Justice for Victims, the Victims of Crime Trust, SAMM, and Mothers Against Murder and Aggression. Rock's method includes direct observation and questioning of organizational members. Many of these groups, he found, experienced internal tensions that threatened their existence. Rock reports that

> (t)he experience of shared emotions, validated anger, and objectified injustice could lead to a restless and strong impulse to campaign, to move away from the "tea and sympathy" of the drawing room and into the streets. Activists often deprecated quieter styles of action as no action at all, and within the center of the support group there could consequently grow the seeds of a destructive contradiction: communality engendered as anti-communality that threatened to tear community and its supports apart.

Rock's account, however, does not simply dwell on the downside of organizing "survivor" groups. These tensions, instead, are seen in the context of building, albeit in bits and pieces, a larger "movement." In this sense, Rock does a great service by capturing the complexities, as well as the great potential, of these important groups. This is a compelling account of a new constituency within criminal justice, and it is must reading for anyone interested in the promise as well as the pitfalls of organizing around issues central to bereavement and mourning after the murder of a close friend or dear family member.

In addition, Benjamin Bowling, in *Violent Racism: Victimization, Policing and Social Context* (Oxford University Press, $70; 377 pp.), provides a case study of a 7-year research project in East London to assess the impact of violent racial harassment and police efforts to contain its occurrence. Data for this study were collected through victimization studies, the search of official files, face-to-face interviews, and participant observation. Bowling, the son of a British Guyanese father and a white English mother, opens this study with historical reference. Four chapters review the historical and sociological literature on violent racism and policing, recent national and local events of the 1980s, and policy documents published by statutory agencies in the 1980s and 1990s. The second part of this book "describes the nature, experience, and effects of the problem, patterns of victimization, and explores its relation with racism and racial discrimination more generally." Such victimization, the author found, is found widely throughout minority communities in East London. The author concludes that

> while violent racism is a social process, the police and criminal justice system respond to incidents, and in this contradiction lies an explanation of why the targets of violent racism feel unprotected and remain dissatisfied with the police response despite apparent improvements in police policy.

Scotland

Scottish juvenile and criminal justice is distinguished by at least two notable reform-based initiatives: the Scottish Children's Panel and the use of social workers to provide probation services. The Scottish Children's Panel was inaugurated after the Kilbrandon

Report, released in 1964, reassessed the central position of punishment in juvenile proceedings. In a book published only several years ago, *Introduction to the Scottish Children's Panel* (Waterside Press; 126 pp.), Alistair Kelly offers a well-balanced presentation of the history, development, and practical application of these children's panels. Kelly writes: "in the children's panel system the common theme is one of care. The Kilbrandon Report emphasized that regardless of the child's trouble, care was to be applied. Children committing offenses were entitled to care as much as children having suffered abuse or neglect." A suffering, we know better now than then, many such children in fact have experienced. Kelly incorporates a discussion of the Children (Scotland) Act 1995, which addressed children's rights within the context of the emerging European Union.

In a paper delivered to the 12th International Congress on Criminology in Seoul, South Korea, this past August, Gill McIvor (Social Work Research Center, University of Stirling) and Fiona Paterson (Scottish Office Central Research Unit) stated that

> Scotland, unlike many other Western jurisdictions, including England, Wales, and Ireland, has no separately designated organization with a statutory responsibility for the supervision of offenders in the community. In 1969, with the implementation of the Social Work (Scotland) Act 1968, the newly formed local authority social work departments assumed responsibility for those statutory services to the criminal justice system which had hitherto been provided by a separate probation service. These new arrangements, which signaled a transformation to a more explicitly welfare approach to social work with offenders, resulted in social work services to the criminal justice system—such as reports, the supervision of probationers, and the supervision of ex-prisoners on release from custodial sentences—being undertaken by generic social workers who were responsible for the provision of social work services across a range of client groups and a wide spectrum of need.

In 1988, McIvor and Paterson note further, a shift occurred wherein social work services to offenders and to the courts became guided by policy objectives that stressed a reduction in the use of short periods of incarceration, as well as a reduction in criminal offending. Henceforth, local authorities were reimbursed for the full costs of establishing a range of statutory services that could help local authorities achieve a reduced level of confinement. This past year, a seven-volume set of reports was issued that evaluates the impact of this policy shift on the operation of criminal justice, the work of social work units, the behavior of criminal offenders, and so forth.

The complete *Social Work and Criminal Justice* series comes in seven volumes published by the Scottish Office Central Research Unit: Volume 1: *The Impact of Policy* by Fiona Paterson and Jacqueline Tombs; Volume 2: *Early Arrangements* by Lesley McAra; Volume 3: *The National and Local Context* by Louise Brown, Liz Levy, and Gill McIvor; Volume 4: *Sentencer Decision Making* by Louise Brown and Liz Levy; Volume 5: *Parole Board Decision Making* by Lesley McAra; Volume 6: *Probation* by Gill McIvor and Monica Barry; and Volume 7: *Community Based Throughcare* by Gill McIvor and Monica Barry.

While sufficient time had not elapsed to empirically set a foundation for an improved understanding of how criminal behavior can be reduced, there does seem to be widespread impressions that reoffending has been reduced. Further research will be vital, however, in firming up, or devaluing, these perceptions. In the meanwhile, research reported in these volumes seems to have discovered several important findings: sentences of 3 months or less have decreased (although the overall use of incarceration has increased slightly); the courts had overall confidence in the work of social workers; social inquiry report information was deemed increasingly valuable; social work impact was diminished by difficulties social workers had in obtaining certain information about the circumstances of current and previous charges; and some local areas were better than others in targeting incarceration-bound young people.

The report concludes:

> In the shorter term, most of the major structural changes to organization and management necessary to facilitate specialist criminal justice social work services have been set in place. In the longer term, full implementation of the policy will require fundamental cultural changes in the routine and understanding and practice of individual social workers, so that the responsibility model comes to be understood and broadly accepted as "good practice" takes much longer to establish.

Criminal Justice History

In 20 years, since its founding in 1978, the International Association for the History of Crime and Criminal Justice published 21 issues of the *IAHCCJ Bulletin.* Recently, responding to the growth of the historical treatment of crime and criminal justice issues, the IAHCCJ began publication of a new, twice yearly journal, *Crime, History & Societies.* The first two volumes (four issues) of the journal suggest both the format and the promise of future volumes. In the inaugural issue, Dutch historian Pieter Spierenburg assesses "serious" criminal violence among women in Amsterdam over the period 1650–1810; Leo Lucassen covers the professionalization of police and their relation to gypsies in Germany, 1700–1945; Mark Finnane examines the decline in violence in Ireland, 1860–1914; and Xavier Rousseaux offers an overview of research over the past 30 years on crime, justice, and society in medieval and early modern times.

In the second volume, Howard Parker discusses "the politics of the rising crime statistics of England and Wales, 1914–1960." A key finding is that crime statistics increasingly reflected a "supply-side politics" more than an accurate count of criminal events, helping to establish crime control over social welfare programs. The most current issue, a special issue on Latin America,

contains articles on the role of policing, morals, gender, and judicial discretion on crime in Brazil, Peru, Venezuela, and Latin America in general.

Each issue contains a forum in which historians debate important topics and a section devoted to information about upcoming conferences, special issues of journals, and so forth. Information about subscribing to *Crime, History & Societies* can be obtained from the editor (Rene Levy, CESDIP, Immeuble Edison, 43, boulevard Vauban, F-78280 Guyancourt, France; e-mail: *rlevy@ext.jussieu.fr*) or the publisher (Librairie Droz S.A., CH-1211, Geneva 12, Switzerland).

Reviews of Professional Periodicals*

CRIME AND DELINQUENCY

Reviewed by CHRISTINE J. SUTTON

"Risky Business Revisited: White Collar Crime and Orange County Bankruptcy," by Susan Will, Henry N. Pontell, and Richard Cheung (July 1998). In this article, the authors demonstrate that it was not just "risky business" that caused Orange County's $2 billion bankruptcy (the largest governmental bankruptcy in United States history), rather it was fraud and white-collar criminal acts that flourished in a "criminogenic environment." This criminogenic environment allowed for concerted ignorance among county officials, who were motivated by a fear of falling from their political positions of power.

The authors' analysis is based on several conclusions. First, the white-collar criminal acts went beyond that of a single individual (i.e. the county treasurer). Secondly, the criminogenic environment allowed the county officials to breach their fiduciary responsibilities through the use of a "casino economy approach." Profits were made from fiddling with the monetary sources by wagering billions of dollars of public funds on risky bets and side bets that were touted as safe. Loopholes were sought, and the limits of the law were pushed.

For example, the proceeds of the sale of taxable notes were used to invest in money market securities that paid higher interest rates. Officials did this knowing that such an action bypassed federal tax laws that barred local and state governments from making a profit by investing proceeds of tax-free municipal securities. A financial house of cards was built out of structured notes and reverse repurchase agreements. The strategy of borrowing short and investing long worked until interest rates rose, when the county house of cards collapsed. Thirdly, the organizational structure of the county treasurer's office checks and balances system was ineffective. Lastly, questions raised about the violations of government codes fell on deaf ears because the "fear of falling model" was motivating the responsible county officials' white-collar crimes. This model does not place emphasis on getting ahead, but rather on avoiding "falling back." It applies to those who fear losing status and prestige, as well as money and a particular lifestyle. This "fear of falling model" easily fit in the existing criminogenic environment of Orange County government, where an occupational subculture value system emphasized the goals of re-election and maintaining public services without raising taxes. The result was an environment conductive to illegal activities, i.e. white-collar criminal acts.

In closing, the authors conclude that the lack of oversight built into the existing organizational relationships allowed the frauds to transpire. Effective organizational regulations must recognize the potential for a criminogenic organizational environment.

CANADIAN JOURNAL OF CRIMINOLOGY

Reviewed by ROBERT A. TAYLOR, SR.

"Rethinking Community Resistance to Prison Siting: Results From a Community Impact Assessment," by Michael G. Young (July 1998). This article presents research findings, although limited in scope, on public support for penal institutions in local communities in Canada. As is the case with most communities in the United States, communities in Canada clearly recognize the need for more prison space and are willing to direct more financial resources toward prison construction as long as they are built somewhere else, a syndrome the author characterizes as NIMBY ("not in my backyard").

Researchers administered opinion surveys to residents in two communities in the Province of Vancouver where correctional facilities were located. Based on their assumptions that residents living close to prisons would be more aware of the impact correctional institutions have on their communities, the researchers surveyed an initial target group consisting of 60 residents living within a 2-kilometer radius of each of three prisons. The 80-item survey concentrated on four major themes: (1) perceptions about the impact of the prison on the fear of crime; (2) perceptions about the impact of the prison on the economy; (3) perceptions about the impact of the prison on the security of residents in the community; and (4) perceptions about the impact of the prison on aesthetics of the community.

***With this issue, Robert A. Taylor, Sr., senior U.S. probation officer in the Southern District of Ohio, joins *Federal Probation* as reviewer of the *Canadian Journal of Criminology*. Before his appointment as a federal probation officer in 1990, Mr. Taylor served as an adult probation officer with the municipal court in Dayton, Ohio. He holds a master of science degree in administration from Central Michigan University. He is an adjunct instructor in sociology and criminology at Ohio State University and Otterbein College and also a Federal Judicial Center instructor for new officer orientation and enhanced supervision. In 1997, Mr. Taylor was named the line officer of the year in the Great Lakes Region and received the Thomas E. Gahl Memorial Award.**

To their surprise, researchers discovered that regardless of the community, residents living within the 2-kilometer radius of prisons in British Columbia do not view the presence of a prison negatively. A majority of the respondents felt that the presence of the prison in their communities actually made them feel more secure or made no difference to their feelings of personal security or risk of victimization. A greater percentage of respondents felt that the prison contributed to the local economy and did not result in higher housing costs in their area. Finally, survey results revealed that most respondents did not feel that there was a need for improvement in the appearance of the prison.

The results of the research contradict common assumptions associated with community responses to prisons. According to the research findings, there appears to be an absence of the NIMBY syndrome in the communities that were surveyed. In general, respondents did not perceive the presence of prisons as a threat to their safety, nor did they feel that the prisons negatively affected the economies or the aesthetics of their communities.

The author attributes the general public's fear and resistance to prisons to the media and the distorted facts associated with prison operation. If communities are allowed involvement in the decision-making process before constructing new facilities in their area, and if they are kept informed about the prison's ongoing operation, community resistance could be greatly reduced. The author contends that community resistance is not the result of ignorance, irrationality, or selfishness but originates from a lack of communication between correctional planners and community leaders. More communication between correctional planners and proposed host communities could foster a greater acceptance of correctional facilities within communities.

BRITISH JOURNAL OF CRIMINOLOGY

Reviewed by JAMES M. SCHLOETTER

"**Burglary Revictimization: The Time Period of Heightened Risk," by Matthew B. Robinson (Winter 1997).** Research into the area of revictimization has usually demonstrated that a very small proportion of people and places suffer a disproportionate amount of victimization. The author studied burglary rates as reported to the Tallahassee, Florida, Police Department between 1992 and 1994 and found that 29 percent of all reported burglaries occurred at only 1.2 percent of the residences in the jurisdiction. Further, when there were revictimizations, 25 percent of the burglaries occurred within 1 week of the initial offense, while 51 percent occurred within 1 month. These findings are discussed by the author in the context of prevention of burglary revictimization.

Revictimization is defined as when the same person or place suffers from more than one criminal incident over a specified period of time. It now is accepted that very small segments of the population suffer from disproportionate amounts of criminal victimization, and this phenomenon is not due to simple chance alone. If it is true, then preventing criminal revictimizations may mean preventing a large percentage of initial criminal victimizations. If criminologists and police can determine who is most likely to be victimized by crime, then society may more ably and efficiently prevent victimization.

The author relates that revictimization often occurs due to victim vulnerability, opportunity, target attractiveness, impunity, and lifestyle. Sometimes, victims may facilitate commission of a crime by deliberately, recklessly, or negligently placing themselves at risk. This study did not attempt to answer the question of whether revictimization results from enduring characteristics of places or people or from knowledge learned by offenders during the initial offenses. The author reports that revictimization can be prevented with knowledge of the time and place of its occurrence, regardless of why it occurs.

The author studied burglary rates to determine if there was a time or place where criminal revictimization would more than likely occur. This study demonstrated that there is a time period of heightened risk for burglary revictimization immediately after the initial offense. The effectiveness of law enforcement efforts may increase if police learn that revictimization is a real phenomenon, and resources and manpower can be assigned to areas where the likelihood that crime will occur is greatest. Finally, after a criminal victimization has occurred, the victim, community, and police can take preventive measures to reduce the probability of a revictimization, such as increasing patrols, installing new locks, disseminating information to neighbors, and changing the environment around where a crime took place so as to reduce the likelihood of a repeat instance.

"The Road to the Robbery: Travel Patterns in Commercial Robberies," by Peter J. van Koppen and Robert W. J. Jansen (Spring 1998). Previous research studies have shown that the distance traveled from the robber's home to the scene of a crime is related to both the characteristics of the offender and the offense. The authors conducted a study in the Netherlands to determine a relationship between distance traveled and characteristics of robbers and types of robberies.

Criminals prefer to operate in areas with which they are familiar, so traveling into unknown areas to locate crime is very rare. Traveling great distances takes time, money, and energy, and since most criminals combine a minimal amount of effort with maximum opportunity, most crimes occur close to a robber's home.

Those criminals who commit crimes far away from home do so because the rewards may be greater and some targets are more attractive than others. Criminals tend to stay closer to home unless they have substantial incentives to travel further.

The major determinant of the distance traveled is the availability of suitable targets. The type of robbery also may determine where it occurs. Some robbers who like to rob banks put more planning and effort into committing this type of robbery, as opposed to robbing a service station. How a robber selects a target determines the distance traveled.

Another determinant of where a robbery may occur is the characteristics of the robber. Some robbers are drug addicts who need quick and easy money, so their targets do not entail much planning or organization. Those robbers who are more "professional" may travel greater distances for a possible greater reward.

The authors studied court records in the Netherlands and looked at variables such as professionalism, robbery comparisons, miles traveled, offender characteristics, targets, robbery characteristics, and the site of the robbery. The study found that the further the distance from the robbers' residence, the fewer crimes were committed. More study is needed, by debriefing robbers, to finding out exactly why a particular robbery target was chosen—whether it was location, amount of reward, or some other determinant.

THE PRETRIAL REPORTER

Reviewed by GEORGE F. MORIARTY, JR.

The October/November 1998 issue of *The Pretrial Reporter* featured a special report entitled "Dual Diagnosis: What Is It and What Does It Mean for Pretrial Services?" A companion survey on the topic also was published with an eye toward understanding the degree to which pretrial programs are responding to the dually diagnosed.

The co-occurrence of mental health disorders and substance abuse disorders is called, among other things, dual diagnosis. In 1996, the Alcohol, Drug Abuse and Mental Health Administration reported that at least 50 percent of the 1.5 to 2 million Americans with severe mental illness abuse illicit drugs or alcohol as compared to 15 percent of the general population who do so. Furthermore, a 1995 study by the Substance Abuse and Mental Health Service Administration revealed that more than one-half of all substance abusers experienced psychiatric symptoms significant enough to fulfill diagnostic criteria for a psychiatric disorder. Effective treatment for the dually diagnosed must integrate the often disparate approaches to each of these diagnoses.

The report notes that screening tools capable of capturing the duality still are being developed but points to several promising, on-going efforts. Misdiagnosis is common and can lead to neglect, abuse, over-treatment with inappropriate medications, inappropriate treatment planning and referral, and poor treatment outcomes. This problem stems from the separate bureaucracies that historically have addressed substance abuse treatment on the one hand and mental health treatment on the other. Providers have been trained in one area, and, as the report points out, the approaches and philosophies of dealing with one often are incompatible with the other. Examples provided include:

- Substance abuse treatment usually is intense and confrontational while the mentally ill are usually treated in a supportive, benign, and non-threatening fashion.
- Substance abusers are expected to be aware of their problems and motivated toward treatment, whereas the mentally ill are not required to be as insightful before admission.
- Often, the use of medication is unacceptable in a substance abuse treatment program, automatically excluding those on prescribed psychotropic medication.

The article points out that pretrial programs should contact their jurisdiction's local mental health and substance abuse agencies to see if their community is beginning to respond to the growing need for dual diagnosis treatment. Pretrial programs are urged to become catalysts for change in this area, and the article provides a wealth of information (people, programs, books, and articles) about resources available to the pretrial program ready to accept the challenge of dealing with the dually diagnosed.

ARTICLES OF INTEREST IN MANAGEMENT JOURNALS

Reviewed by MICHAEL E. SIEGEL

"Toward an Ethic of Collaboration," by Mark E. Haskins, Jeanne Liedtka, and John Rosenbaum, *Organization Dynamics* (Spring 1998). In their widely acclaimed book *The Leadership Challenge,* authors James Kouzes and Barry Posner assert "pursuing excellence is a collaborator's game" (1995, p. 152). The authors quote Alfie Kohn, who explains why collaboration is a more compelling strategy than competition in promoting organizational excellence (1995, p. 152): "The simplest way to understand why competition generally does not promote excellence is to realize that *trying to do well and trying to beat others are two different things* (emphasis in original).

Though many corporate and government executives support the positive value of collaboration, few are able to truly define it or to explain how to foster collaboration in their offices. Fewer still are able to point out examples of dynamic collaboration in their own agencies. Perhaps our approach to collaboration is similar to James MacGregor Burns' assessment of leadership as "one of the most observed but least understood phenomena on earth" (1978, p. 2).

But the article reviewed here sheds considerable light on what collaboration looks like and how managers can help their organizations achieve an "ethic" of collaboration. Ironically, the authors of this important study base their conclusions on research findings in three kinds of organizations that traditionally represent the antithesis of collaboration: a banking institution, a law firm, and a health care organization. Researchers Haskins, Leidtka, and Rosenbaum conducted interviews with 30 junior and senior professionals at three firms. Each of the firms challenged the stereotype that they were nothing more than the collection of "self-animated individual performers" who identified primarily with the discipline and only secondarily with their current institutional home.

From their interviews and observations of the three organizations, the researchers discerned an "ethic of collaboration." This ethic produced what one interviewee described as a "thermonuclear reaction" that produces enormous energy that enables colleagues to achieve "lofty individual and collective ambitions and helps them to learn and to grow in a continuously self-sustaining way."

The ethic of collaboration reflected among its practitioners an active desire for, commitment to, and engagement in relationship-centered behavior. Organization members saw this ethic as central to their capacity for creating and sustaining corporate advantage, individual learning, and outstanding client service. The organizations studied in this report reflect an infrastructure for working together that transcends specific teams and projects. The authors quote Warren Bennis, who has also studied high-performing teams:

> Something happens in these groups that doesn't happen in ordinary ones, even very good ones. Some alchemy takes place that results, not only in a computer revolution or a new art form, but in a qualitative change in the participants. . . . Great groups seem to become better than themselves.

When work groups are able to develop a sense of synergy—a "relational collaboration"—they also develop a capacity for collective improvisation, according to the authors, an ability to jointly recognize opportunity, realign, and mobilize resources in creative ways. And they do these things with a speed and agility unattainable through episodic, assigned, transactional-type collaboration.

The authors do not rest with a definition and appreciation of collaboration. They also detail how organizations can achieve this kind of collaboration by focusing on "person-centered" and "organization-centered" attributes of collaborative workplaces. Person-centered attributes include:

A Sense of Calling. Interviewees spoke about a deeply centered awareness of responding to a vocation's call. One investment banker referred to a "compelling need to serve," a lawyer about fulfilling himself and not losing his enthusiasm. The researchers suggested that the effect of this deep sense of pride in mission and vocation is a "heightened at-stakedness, a purposeful pride, an individual confidence we find lacking in other organizations."

The researchers also found that this deep sense of calling provided a path for getting people re-engaged during the naturally occurring, not particularly pleasant, times that arise in all our work commitments. They referred to this sense of elan as the "engine afterburners" that provided individuals with the vitality and drive to keep working even in the face of life's ineluctable setbacks and obstacles.

A Caring Attitude. The individuals studied expressed a genuine sense of caring about the development and well-being of their colleagues. There was no tolerance among employees for the concept "good enough" for the work performed. A related set of interviews at the Marriott Hotels quoted a doorman, who said, "I'm a doorman. I love to say I'm a doorman." One of the physicians who was interviewed explained:

> The people who are the real players here want to do the right thing. The right thing in medicine is to take care of people, give them care. Care means more than an appointment, or a bottle of pills, or an orientation. It means care. The people who are setting policy here, that's what's in their heart.

Conscientious Stewardship. Personnel in these organizations talked about preserving a legacy for others to follow. They respected the concept of institutional history. This sense of stewardship was nurtured through care and reinforced by feedback, recruiting, and decisionmaking systems congruent with one another.

We have heard about the pride Hewlett-Packard employees have in the "H-P" way or the pride with which Disney employees refer to one another as "cast members." Here is a quote from an investment banker interviewed for this study:

> I am a steward. I'm not a partner who owns the firm. I'm a partner who is taking care of the firm in stewardship for all future partners and all past partners.

Because employees have this sense of stewardship and responsibility for the reputation of their organizations, they are not afraid to admit to not knowing all the answers and are comfortable with turning to colleagues who might have more answers.

Creative Energy. Collaboration entailed working with clients to identify what their true needs are and staff members examining their own performance after the fact to check their success in actually meeting clients' needs. Staff members in these organizations have the courage to ask tough questions about their own performance.

Organization-centered elements include:

Coherent Intent. Coherent intent means keeping our attention on the goals and vision of the organization and not getting preoccupied with meaningless details. From his vantage point as president of Princeton University, Woodrow Wilson once said, "The politics of higher education are so intense, because the stakes are so small!" The same can be said about many of our organizations. Power struggles sidetrack us, turf wars and meaningless pursuits take away our valuable time, and we lose sight of what it is we're trying to accomplish.

An interesting example of coherent intent was revealed in this study in a health care organization. A multi-disciplinary team redesigned a process for sharing the results of women's mammograms. The group found that they could reduce the time it took to schedule, take, read, and report mammograms from weeks to hours. Though questioned by colleagues about the costs associated with this increased speed, the redesign group responded that the "coherent intent" was to reduce the number of sleepless nights women would spend, and after all isn't that worth the extra costs?

"A coherent intent," according to the authors, "cements individual tasks at every level to the organization's central focus." A behavioral manifestation of this idea is the Disney street sweeper who described his job to the researchers as "making the customer happy" and viewed answering customer questions as just as important to keeping the streets clean.

Capital for Learning and Relationships. Collaborative organizations display a willingness to invest in learning and colleagueship. They invest heavily in technology and other resources for the purpose of developing talent. For instance, Arthur Anderson, a huge management consulting and accounting firm, spends 7 percent of its revenues on training employees.

A physician put it well:

> If you've learned how to learn during your early years, you will be in good shape, but if you haven't, you're going to struggle. If you don't have the mentality that everything you do can be improved, we will be lost.

Congruent Systems. It is remarkable how many organizations talk about collaboration and teamwork, but all of their systems are set up to reward individual performance and subtly encourage competition. Not so in the organizations studied in this report. These organizations work hard to align their performance, reward, and recruitment systems with organization values.

Criminal justice has been an "industry" plagued by turf wars and unnecessary bureaucracy. Many have complained about the unavailability, for instance, of integrated databases to track criminal histories of defendants. According to Kathleen O'Toole, the Massachusetts Secretary of Public Safety (1997, p. 42), "The value of technology will not evolve until you break down those bureaucratic barriers in law enforcement. Turf issues exist everywhere."

If we can break down the turf wars and replace them with the kind of dynamic collaboration described in the article reviewed here, it is clear that we can achieve significant results. O'Toole gives us a picture of the kind of "integrated" information system collaboration has created in her state of Massachusetts (1997, p. 42):

> In our new single inquiry system, by making one inquiry about an individual, the police officer can determine whether an individual is on parole, has outstanding warrants, is under Department of Corrections supervision, is on probation out of state, or is a sexual offender.

We have the technology to introduce these kinds of intelligent criminal justice databases and information systems. Now all we need is the will to collaborate.

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Your Bookshelf on Review

Behind the Veil of Secrecy

Understanding Child Molesters: Taking Charge. By Eric Leberg. Thousand Oaks, CA: Sage Publications, 1997. 264 pp.

The last several years have seen an explosion of books about child molesters and sex offenders in general. Most of these books are written by treatment professionals, academic researchers, surviving victims of abuse, or criminal investigators. While all of these works might mention how the probation/parole system is involved with the child molester, that mention is usually cursory and passing. Most agree that the probation officer plays an integral role in managing the child molester, but few delineate the methods and strategies available to probation/parole staff. Eric Leberg's *Understanding Child Molesters: Taking Charge* is therefore a welcome addition to the child molestation literature.

Leberg's basic thesis is that the child molester lives and operates behind veils of secrecy and will exert enormous effort to maintain his hidden, secret life from his family, therapist, probation officers, and others. Leberg writes, "What the convicted child molester wants most is that everyone accepts him back into society with no awareness, knowledge, or discussion of his crime or crimes."

Leberg argues that the only way for the child molester to be safely reintegrated into society is for the pattern of secrecy to be broken, and the person whom he suggests has the main responsibility for doing this, by authority and role, is the probation officer. Sex offenders develop and maintain their pattern of secrecy by using several defense mechanisms, particularly blaming, denial, and manipulation. Leberg details use of each of these defense mechanisms through vignettes, and they are instructive and illuminating.

As a probation officer, Leberg clearly is familiar with the court system and follows a child molester case through the entire court process. He focuses on the presentence investigation process as the critical time to gain information about the molester's sexual proclivities and patterns of sexual abuse. The presentence writer has the opportunity to confront the molester's denial and manipulation by pointing out discrepancies between the molester's version of the offense and the official version. Very specific conditions of supervision, treatment recommendations, and incarceration options also are responsibilities of the presentence writer. By addressing these issues, the presentence writer acts as the vanguard for breaking the pattern of secrecy and prepares the molester for full disclosure that is crucial for relapse prevention.

There are four principles that Leberg maintains are necessary for anybody dealing with sex offenders, be they relatives, treatment providers, or corrections officials. These are: being clear in communication; clarifying roles and expectations; maintaining self-discipline and vigilance, and being confrontative. Those of us who have dealt with sex offenders are all too familiar with their sophist responses to simple questions. For instance, an "official residence" may be the address the molester has on his driver's license, not the place he lives. Nonetheless, he still may proclaim that it is "official" according to the Illinois Secretary of State. By clarifying exactly what the molester means by residence, the probation officer can avoid such attempts at deception.

One weakness in this book is that Leberg fails to differentiate the many types of child molesters. He does indicate that "each child molester is unique" and "requires an individualized plan," but it would have been helpful if he had suggested different supervision strategies as predicated by type of child molester. For instance, a probation officer likely would approach a predatory pedophile differently from a one-time incest offender. Indeed, one senses that most of the cases referred to in the book are incest cases, and these do present a different clinical picture and require different strategies and treatment than do pedophiles. Nonetheless, *Understanding Child Molesters: Taking Charge* is a welcome contribution to the field and useful to any probation officer dealing with this very challenging population.

Chicago, Illinois TERRY D. CHILDERS

Challenges for the Next Century

Crime and Punishment in America. By Elliott Currie. New York: Metropolitan Books, 1998. 230 pp. $23.

In his new book, *Crime and Punishment in America,* Elliott Currie examines a simple but important question: How has America's experiment with punishment worked? He bases this question on the idea that America, distinct from other developed countries, relies largely on the penal system and the threat of punishment to solve the problem of social control. His answer to this question is both compelling and thought provoking.

The key to Currie's answer comes with relaying some obvious facts about punishment in America and dispelling some myths. The fact is that America has the developed world's worst level of violence. There are a number of myths Currie deals with in the book, but central to his argument is the myth that we have that

level of violence because we are too lenient on offenders. In a well-developed series of arguments, Currie dispels this myth by demonstrating two facts about the possibility of punishment and its severity. He shows that the chance for incarceration for violent offenses has increased sharply in the last few years and that average time served is comparable to, if not more than, that of other developed countries.

Currie's analysis of America's experiment with prison demonstrates that our reliance on punishment has failed to solve our problems. He then turns to the question of what can be done. Here again Currie is faced with the task of dispelling some strongly held myths, this time about the solution—prevention and rehabilitation. Currie argues that there are two myths about prevention and rehabilitation. These myths are, first, that we have tried both prevention and rehabilitation and, second, that "nothing works." Currie argues convincingly that while there is no "silver bullet" among prevention or rehabilitation programs, we do know more about these than ever before. For example, he argues that we do know that children who are abused are at risk for becoming delinquent. His review of some currently existing programs for dealing with child abuse shows that there are programs that work. They involve comprehensive treatment strategies that are long term and deal with the problem in the larger context of the family.

In a book that takes on the difficult task of dispelling some strongly held beliefs about crime and punishment, Currie probably faces his hardest task in convincing Americans that part of the solution to the problem of crime is a better developed welfare state. His argument is that social and economic exclusion fosters crime through the effect it has on child development, abuse of children, and the ability of parents to supervise and discipline children. Even for those resistant to any policy that involves "welfare," his suggested reforms are compelling for they center on work. To give one example, Currie argues that we need reforms that ensure that people who work make a decent living that allows them enough time to raise children and participate in community life.

What becomes clear in reading this book is a simple but important point. America has relied for too long on prisons and punishment to control crime. Though prisons play an important role in the punishment of crime, punishment cannot take the place of prevention, and prevention requires strong families and communities. Building families and communities that can prevent crime takes a long-term commitment that needs to be made now.

There is one final point that needs to be made about this book. Currie ends *Crime and Punishment in America* with this thought: "In a civilized society what matters is not just *whether* we reduce crime, but *how*." The same is true of our debate about the solution to America's crime problem. It is important to have that debate, but the shape that debate takes is critical. It is too important an issue to be driven by loaded phrases designed merely to inflame the public and capture media attention, by anecdotal material disguised as data, or by half truths. Of all those writing about the solution to America's crime problem today, it is Elliott Currie who gives the reader a discussion that compels the reader to thought and respects the reader's intelligence.

Huntsville, Texas RUTH TRIPLETT

Insights into a New, Proactive Criminal Justice System

Emerging Criminal Justice: Three Pillars for a Proactive Justice System. By Paul H. Hahn. Thousand Oaks, CA: Sage Publications, 1998. 219 pp.

The traditional criminal justice system is reactive, according to the author. The manifestations of a reactive system include ineffective strategies, such as wars on crime and drugs, which amount to "swatting at mosquitoes while ignoring the swamp" and over-reliance on secure incarceration. The latter has led to prison building becoming "our greatest growth industry." On the horizon the author sees a movement toward proactive approaches that rely on community participation. The three pillars of this proactive criminal justice system are: community policing, community corrections, and restorative justice. Replacing the traditional, reactive criminal justice system with this new proactive version requires "major surgery," in fact, "a whole new paradigm for understanding the system and most of its elements," according to the author. He cautions, however, that this new paradigm should not be construed as equating with being "soft on crime."

The book is organized into two parts. The first part addresses the need for a proactive criminal justice system and the second describes each of the three essential elements of a proactive criminal justice system. The two chapters of the first part deal with the bankruptcy of the traditional "get tough" reactive policies in both the adult and juvenile justice systems and offer a new way, a proactive way, to examine the causes of and solutions to crime. The "get tough" policies, such as the "three-strikes-and-you're-out" laws that emphasize "locking 'em up" and ignore prevention measures have incurred certain costs without concomitant positive results, according to the author. There are costs associated with the construction as well as operation and maintenance of new facilities. Despite the growth in prison and jail beds, crowding is rampant. The United States stands apart from most of the world in the number of incarcerated persons, yet, an American Bar Association study that the author cites shows that "during

the almost 20 years that the incarceration rate has consistently climbed, the crime rate, both overall and reported, has sometimes increased, sometimes decreased, and sometimes stayed the same." The author believes that a more enlightened approach to crime and crime control is the epidemiological model, whose focus is on children and early intervention to prevent delinquency and crime. The second chapter takes this further by specifically exploring juvenile violence and controlling juvenile violence. In recognizing that juvenile violence is a multi-dimensional concept, issues such as guns in the inner-city, race, drugs, and violent subculture as well as the importance of early childhood experiences and the family and the impact of the family are all examined. The chapter concludes that what is needed is "early intervention" or prevention with "consequences," but not necessarily secure incarceration.

Community policing is the topic of chapter 3. It is placed historically as beginning in the 1980s, following the political era dating back to the 1840s through to the early part of the 20th century, and the reform era (professionalization of policing) that reached its peak in the 1950s and 60s, giving way to community policing a decade or so later. The author points out that community policing is not a monotonic concept; rather, it has numerous definitions. The overall underlying common philosophy encompasses the concepts of community-oriented policing and problem-solving policing. The appeal and hence the success of community policing, according to the author, derives from its flexibility and cultural sensitivity. The requirements of community policing are delineated as: community partnership and participative management, total quality management, personal qualifications and education of community police officers, and networking in the community. Basically, "community policing, when understood properly, is part of a general trend in our society toward greater sensitivity, tolerance of diversity, decentralization of control, and participative decision making."

The subject of the next chapter is community-based corrections, the second pillar of the proactive criminal justice system. Rather than narrowly defined in terms of correctional programs administered by the community, community-based corrections is intended to capture the more broad definition of a system of alternatives to incarceration that are fully integrated into the whole criminal justice process, beginning with diversion through post-conviction sanctions. The analogy of a "strainer" is used to explain that only a very few particles, or, in this context, violent defendants/offenders, warrant incapacitation or incarceration. In this scheme, secure incarceration comes into play as a measure of last resort. The success of community corrections would not fall exclusively on the traditional corrections personnel, such as probation and parole officers, but, rather, all major criminal justice officials have an integral role to play. Community-based corrections "is nothing less than our best opportunity to incorporate the legitimate public desire for safety and offender accountability with community participation, positive programming, and individual competency development in a setting of controlled risk and ongoing effectiveness evaluation." A detraction of this chapter is the author's short shrift of alternatives to incarceration at the pretrial stage of criminal proceedings.

The final chapter is on restorative justice. Restorative justice reintroduces or restores the victim as a focal player. Instead of the elements of the criminal justice system being the state and the defendant/offender, the restorative justice system involves the victim, the defendant/offender, and the community. To explain restorative justice, the author says, "[e]verything that is done should be designed to restore the fabric of the community. The intervention of the criminal justice system should be seen as an 'opportunity to do fabric repair.'" The goals of restorative justice differ for each of the three components: public safety, accountability, and competency development for the offender; communication, input, and restoration for the victim; and awareness, ownership, and restoration for the community. The tools of restorative justice are mediation and alternative sanctions. Among the latter are intensive supervision, day fines, restitution, and community services programs. "Just as community-based corrections encompasses more than halfway houses and diversion programs, and just as community policing encompasses more than foot patrols and neighborhood watches, so restorative justice encompasses more than mediation and restitution programs. It is a total philosophy of criminal justice aimed at involving the community in repair of harm done to victims and to the community at large, as well as encouraging offender accountability and the responsible involvement of offenders in community," the author concludes. Having said that, again the author does not explain how, if at all, the philosophy of restorative justice reconciles with such principles as "innocence until proven guilty," "due process," and "a right against self-incrimination."

In the epilogue the author asserts the need for a new philosophy of criminal justice planning. How can one argue against this assertion given the insufficiency, some would say failure, of the extant philosophy of "get-tough" arrest policies, "lock-'em-up" corrections policies based on retribution. Surely Benjamin Franklin's adage that "an ounce of prevention is worth a pound of cure" is right in the criminal justice context, not only in terms of short-term value but long-term effectiveness. Proactive approaches must be pursued and so a call-to-arms such as this book is welcome. Just as a building cannot be supported by merely three pillars, an expanded discussion of the tactics to support this strategy must be sought in other venues.

It would be remiss not to mention the book's extensive bibliography, made up of references and additional readings. It is certainly a mother lode of information on the subjects of community policing, community-based corrections, and restorative justice. If this book has inspired readers, as it has this reader, to learn more about these topics, the author has provided the resources to do so.

Washington, DC JOLANTA JUSZKIEWICZ, PH.D.

Two Philosophers Debate the Death Penalty

The Death Penalty: For and Against. By Louis P. Pojman and Jeffrey Reiman. Lanham, MD: Rowman and Littlefield Publishers, 1998. 176 pp. $16.95 (paper); $52.50 (cloth).

Two philosophers with differing views about the use of the death penalty as an appropriate form of punishment have collaborated on an interesting book expounding on the wisdom of the respective position of each. Louis P. Pojman, a professor of philosophy at the United States Military Academy, is in favor of capital punishment for certain crimes. Jeffrey Reiman, the William Fraser McDowell Professor of Philosophy at American University, is opposed to capital punishment.

The book is written in essay form and divided into four sections. The first essay, by Pojman, establishes the philosophical reasons for favoring capital punishment. The next essay, by Reiman, sets forth the prevailing philosophical reasons for opposing the death penalty. Finally, each author has written a rebuttal essay, identifying the flaws in the other's argument. One reason that this book is so interesting is that the authors reviewed each other's essay before its final form and offered a critique in order to strengthen the other's argument. Thus, the authors have engaged in a collaborative effort to develop the best possible arguments for and against the death penalty.

Pojman begins his essay by recounting as examples several harrowing murders. He then notes that even though the United States is one of the very few industrialized democracies that regularly employs the death penalty as a form of punishment for certain murders, the United States also has a homicide rate that far exceeds the number of murders in other industrial democracies. He observes that in certain parts of the United States, primarily in inner urban areas, the frequency of murder actually has lowered the life expectancy rate of the persons living in those areas to less than the mortality rate in certain Third World countries. Thus, he implies that if European countries have been able to abolish the death penalty, then the death penalty is a luxury that the United States can ill afford.

Pojman then develops his argument for favoring the death penalty. He relies on two reasons, one moral (or natural) and the other utilitarian, for justifying capital punishment. Having examined the basic theories of punishment, i.e., retribution and deterrence, Pojman concludes that retribution is not only permitted but is mandated in order to extract from the perpetrator an evil that is equal to the one inflicted on an innocent victim. Moreover, in accordance with the theory of deterrence, he states that demanding the life of a murderer is more likely than not to save the lives of future innocent victims. Nevertheless, despite his vigorous defense of capital punishment, Pojman does not discount the possibility that the death penalty might someday be abolished in the United States without resulting in a disservice to the notion of justice.

Reiman begins his essay by agreeing with two assertions of Pojman—that the death penalty constitutes a just form of retribution and that if the death of a murderer did in fact save innocent lives, then it would be a necessary form of punishment. Nevertheless, Reiman proceeds to explain his differences with Pojman. Even though the death penalty may be just, it still is not required to extract an appropriate amount of punishment and is not necessary to adequately recompense the victim's life. Reiman also seriously questions Pohman's assertion that the death penalty is an effective deterrent. Reiman argues that capital punishment in fact increases the level of violence in society.

In both rebuttals the authors reiterate the arguments they developed in their primary essays. They note the weaknesses in the other's position and defend their own. Pojman continues to hold "that desert creates a *prima facie* duty to punish with a harm equivalent to the crime." Reiman, on the other hand, while acknowledging that it is " in general good to give people what they deserve," nevertheless asserts that "we are not duty-bound to give them everything that they deserve." Thus, neither philosopher is persuaded by the argument of his opponent.

Although both authors examine the moral grounds in favor of or in opposition to capital punishment, their strongest arguments follow a utilitarian reasoning. Pojman notes the unacceptably high murder rate in this country and strongly believes that the death penalty offers a meaningful deterrent for preventing more murders in our society. Moreover, Pojman maintains that only by states' employment of the death penalty for certain heinous crimes can society make a clear declaration that murder is unacceptable. Reiman believes that the use of the death penalty only brutalizes an already violent society. By abolishing capital punishment, Reiman asserts that society would make a strong and clear statement that violence, even that used by the state to avenge the loss of innocent life, will not be sanctioned.

Although this book probably will not sway anyone who has already formed a firm opinion for or against the death penalty, it is a valuable book for those who

are uncertain about the use of capital punishment in our society. It is clear that the authors have a great deal of respect for each other and take seriously each other's argument. While the debate on capital punishment is a very emotional issue for many persons, these authors largely eschew sentiment and develop strictly logical arguments for or against their respective position. If nothing else, they demonstrate that issues of controversy and importance in our country can be debated with civility and intellect.

Belton, Texas TODD JERMSTAD

Topics in Contemporary Corrections

Incarcerating Criminals. Edited by Timothy Flanagan, James Marquart, and Kenneth Adams. New York: Oxford University Press, 1998. 332 pp. $21.95.

With interest in crime rates and rehabilitative efforts increasing, scholars and practitioners are revisiting the saliency of correctional ideology and practice. This is the major contribution of *Incarcerating Criminals.* The editors, Flanagan, Marquart, and Adams, present a work that is both challenging and comprehensive. They contend that America's prisons and jails are best understood within the social, economic, political, and organizational contexts in which they exist (p. ix). Therefore, the approach to most subjects in this text is interdisciplinary. The editors establish six content areas divided into the following chapters: "The Role of Punishment and the Development of Incarceration," "The Legal Environment of Incarceration," "Contemporary Correctional Institutions as People Processing Organizations," "Contemporary Prisons as Process: Correctional Intervention," "The Modern Jail," and "Future Issues and Trends." I have limited my review to a brief discussion of the preface, parts of chapters 2,3,4 and 6, chapter organization, and overall text quality.

The editors begin by providing an in-depth preface that establishes the basis for the book. The preface permits the reader to formulate an idea about the premises presented throughout the text. According to the editors, we as Americans prefer incarceration as our fundamental response to crime because we perceive it to be effective, practical, and cost effective. The editors contend that in relying almost exclusively upon imprisonment, we exclude other sanctions that may have additional benefits. They contribute this exclusive reliance on imprisonment to a belief in free-will and deterrence and suggest that rehabilitative programs increasingly are becoming a secondary correctional goal.

One characteristic prevalent throughout this text is the editors' use of sociologically based essays that present an essential macro-level introduction to the chosen topics. This approach permits the reader to develop a more refined perspective on how corrections and society have simultaneously evolved and how larger society has influenced and affected correctional theories and operations. This notion of cultural interdependence forms the basis for much of the text's logic. In essence, the editors assert that to better understand correctional ideology and evolution, we also must consider the influence of both internal and external factors.

Another quality that increases this text's practicality is chapter layout. Before each chapter's selections, the editors provide a brief introduction about the topics and issues to follow. Each chapter has an appropriate and insightful title that allows readers who simply want to browse to do so quickly and effortlessly. For example, chapter 2, entitled "The Legal Environment of Incarceration," is followed by selections about correctional litigation, cruel and unusual punishment, judicial intervention, and the impact of court cases upon correctional operations. Likewise, essay placement is logical, with each forming the foundation for those that follow. Headings and subtopics are prominently featured.

Readers will have little doubt about either the editors' or essayists' interest, insight, or knowledge. This confidence is instilled through the use of easily understandable language and a common-sense approach that quickly and clearly conveys the main precepts. For example, much of this text is dedicated to the historical elements of early prison development. Selections trace the use of punishment from its most primitive form to present-day incarceration. In this section less informed readers can obtain a necessary exposure to traditional correctional issues. This portion of the book includes selections by such noted academicians as John H. Langbein, David J. Rothman, and Nicole Hahn Rafter and concludes with a 10-page essay entitled "Prisons for Women, 1790–1980." Here, Rafter provides an enlightening essay on the subject of female convicts and prisons. This social-historical narrative begins when female prisons were nonexistent and concludes with a discussion on modern coed prisons and the pursuit for equality between male and female inmates.

The editors also include material on subjects that often are ignored. For example, essays on female officers' supervision of male prisoners (Jurik, p. 136) and HIV and condom distribution in prisons (Brien and Beck, pp. 158–162) are concise and informative. Other topics include tuberculosis within corrections (Hammett et al., p. 166) and institutionalized racism (Tonry, p. 287). Exposure to these and other controversial issues gives readers a more accurate depiction of the conditions surrounding today's correctional institutions.

In the final chapter, the editors present a sampling of essays on contemporary issues pertaining to criminal sanctioning, policies, and correctional administration. Here, racial over-representation and other characteristics of prison populations are examined. Privatization receives a respectable examination, as does estimating

the effectiveness of incarceration strategies. Future trends and probable correctional developments also are explored.

Incarcerating Criminals is timely and well designed and offers an in-depth look at the historical and contemporary nature of correctional challenges, theories, and goals. It provides an exquisite analysis of the organizational environment of correctional institutions that includes an examination of the issues confronting contemporary corrections. This text delivers precisely what it promises, an analysis of those factors influencing correctional development, and would be invaluable for persons interested in corrections, crime, and society. It would make excellent reading for both undergraduate and graduate students in disciplines as varied as criminal justice, sociology, urban studies, and public administration. The book is a solid undertaking, clearly deserving attention from the average citizen, academician, and correctional professional.

Richmond, Kentucky CURTIS R. BLAKELY, ED.S.

Diagnosis and Treatment Planning

Diagnosis and Treatment Planning in Counseling (2nd ed.). By Linda Seligman. New York: Plenum Press, 1996. 394 pp. $48.95 (hard); $24.95 (soft).

The second edition of Linda Seligman's book is even better than the first. She writes that the purpose of the second edition is to "help counselors and other mental health professionals to acquire up-to-date information on diagnosis and treatment planning and to develop related clinical skills that are essential to their effectiveness" (p. v). In other words, this relatively compact book provides the mental health worker with a wealth of information regarding the professional delivery of counseling services. The book's chapters expound upon the changing role of the counselor, opportunities for counselors, and future trends and projections. The heart of the book, however, deals with the issues of diagnosis and treatment planning.

In chapter 3, Seligman does an excellent job of outlining diagnostic systems and their use. She clearly explains the *Diagnostic and Statistical Manual of Mental Disorders* (4th edition) (DSM-IV) and discusses the limitations of the DSM-IV. The most helpful part of this chapter addresses the disorders that are found in the DSM-IV, which includes 17 very broad categories. Seligman outlines each of the categories, as well as the disorders contained in each. She also offers a cogent explanation of what each disorder is. For example, she notes that a major depressive disorder is a "significant depression of at least two weeks' duration" (p. 68). Further, she offers examples of the types of behavior that often are seen in conjunction with each disorder. In the case of a major depression, the person also may exhibit suicidal ideation or changes in appetite, weight, or sleep patterns. Knowing a person's diagnosis is critical to forming a treatment plan.

Treatment planning is the other cornerstone of this book, and Seligman devotes considerable attention to the subject. She asserts that "treatment planning in counseling is the process of plotting out the counseling process so that both counselor and client have a road map that delineates how they will proceed" (p. 157). Treatment planning also is important in that it allows progress to be measured and provides a sense of structure to the counseling process. In addition, most agencies require written treatment plans.

Seligman suggests that counselors should "DO A CLIENT MAP" when writing treatment plans. Her acronym is made up of the first letters of the 12 steps in the treatment planning process. The first step in treatment planning is to make a diagnosis. Next, the counselor and client should formulate objectives. To determine if the objectives have a high probability of being met, some assessment may be in order. Assessment can provide information that is not otherwise available to the counselor. The fourth step in treatment planning is to look at one's own ability to counsel the client in question. If the clinician is not able to counsel the client, a referral is in order. Location is another variable in the treatment planning process. The counselor must determine what type of setting will best be able to help the client. Treatment may be provided in a variety of locations, such as day treatment centers, inpatient facilities, and outpatient settings. Generally, she recommends that people be seen in the least restrictive setting. Interventions are at the heart of the treatment planning process. Ccounselors must decide exactly what interventions they will use to help the client attain success. Counselors tend to utilize interventions that mesh well with their particular theoretical orientation. However, interventions should be tailored to the client and the client's problems.

The counselor must decide what to emphasize. In other words, the counselor must decide the level of directness to use and the level of support and confrontation to maintain. Counselors also must decide how many people will be involved in the counseling. Will the counseling be individual or will the client's family members be included? Will the client be referred for group counseling? These are questions that the counselor must address when writing the treatment plan. The counselor needs to determine the number, length, and frequency of sessions. Some clients may need to be seen more frequently than others. Also, some clients may be in need of medication. If a client is suffering from a major disorder, a referral to a psychiatrist is warranted. Other adjunct services may be in order. Examples of adjunct services are peer support groups, health-related services, or professional services.

Finally, prognosis is the last piece of the treatment planning puzzle. Prognosis is determined by a number of factors including the type of presenting problem, age at onset, highest level of functioning that the client has ever attained, and the availability of adjunct services. Seligman notes that the vast majority of clients are able to make positive changes as a result of counseling.

Seligman does an excellent job of outlining the steps in making a diagnosis and writing a suitable treatment plan. At the end of most chapters she provides exercises that allow readers to check their level of comprehension. She also devotes considerable attention to the topics of intake interviewing and includes an appendix of key questions that facilitate diagnosis. In addition, readers are introduced to theories of individual, group, and family counseling. While this book cannot inform the reader of all aspects of counseling, it is quite comprehensive and a good reference for anyone who works in a treatment setting.

Huntsville, Texas PATRICIA KING

Reports Received

Addressing Community Gang Problems: A Practical Guide. Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, May 1998, 176 pp. The publication sets forth guidelines for agencies and community groups to develop individualized responses to local gang problems. It provides a foundation for understanding the diverse nature of gangs, the problems they pose, and the harm they cause and offers two analytical models for addressing gang-related problems.

Looking at a Decade of Drug Courts. Drug Courts Program Office, Office of Justice Programs, U.S. Department of Justice, 15 pp. The report, prepared by the Office of Justice Programs Drug Court Clearinghouse and Technical Assistance Project at American University, reflects information provided by drug courts operating throughout the United States as of May 1, 1998. The publication highlights the background of the drug court movement, the major areas in which drug courts differ from traditional adjudication processes, and the salient accomplishments to date.

New Directions from the Field: Victims' Rights and Services for the 21st Century. Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice, 429 pp. The publication presents a comprehensive plan regarding how the nation should respond to crime victims. It highlights the progress and changes that have taken place in the nation's justice systems and in the private sector since the release of the 1982 report of the President's Task Force on Victims of Crime. It identifies hundreds of innovative public policy initiatives and community partnerships for crime victims and recommends improvements that still need to be implemented.

Books Received

Fear of Judging: Sentencing Guidelines in the Federal Courts. By Kate Stith and Jose A. Cabranes. Chicago: University of Chicago Press, 1998, 276 pp.

The New War on Drugs: Symbolic Politics and Criminal Justice Policy. Edited by Eric L. Jensen and Jurg Gerber. Cincinnati, OH: Anderson Publishing Company, 1998, 256 pp., $24.95.

It Has Come to Our Attention

During fiscal year 1998, the **Federal Bureau of Prisons** experienced the largest 1-year population increase in its history. At midnight on September 30, the Bureau's total federal inmate population was 122,316, an increase of more that 10,027 over the population at the end of fiscal year 1997. By comparison, the population increase was approximately 7,000 in fiscal year 1997 and 4,500 in fiscal year 1996. These figures were reported in the October 5 edition of *Monday Morning Highlights.*

A National Institute of Justice (NIJ) "Research in Brief" reports on a study of "what works" in crime prevention. The study, conducted by the University of Maryland, reviewed more than 500 crime prevention program evaluations. It found that few crime prevention programs had been evaluated using adequate scientifically recognized standards and methodologies including repeated tests under similar and different social settings. Example of what works are: for delinquent and at-risk preadolescents—family therapy and parent training; for schools—communication and reinforcement of clear, consistent norms; for older male ex-offenders—vocational training; for rental housing with drug dealing—nuisance abatement action on landlords; for high-crime hot spots—extra police patrols; and for drug-using offenders in prison—therapeutic community treatment programs. For a copy of the NIJ's *Preventing Crime: What Works, What Doesn't* (NCJ 171676, 19 pp.), call the National Criminal Justice Reference Service at 1-800-851-3420.

According to the **Bureau of Justice Statistics,** more than 3.9 million adult men and women—a new record—were on probation or parole at the end of 1997. The 2.9 increase of about 110,000 persons almost matched the average annual increase of 3 percent since 1990. There were 3,261,888 adults serving a probation sentence at the end of 1997, with felony convictions accounting for more than half (54 percent). More than one-quarter of adult probationers (28 percent) had been convicted of a misdemeanor. Fourteen percent were on probation for driving while intoxicated or under the influence of alcohol, and 4 percent for other offenses. Also serving time in the community were 685,033 adults on parole, nearly all of whom (96 percent) had been convicted of a felony. Almost one-quarter of all persons being supervised in the community during 1997 were in Texas or California. West Virginia had the nation's lowest rate of community supervision at the end of 1997, with about one-half of 1 percent of its adults on probation or parole (from the BJS report *Probation and Parole Populations 1997,* August 1998).

The Bureau of Justice Statistics (BJS) also reports that robbery, assault, burglary, and motor vehicle theft rates are lower in the United States than they are in England and Wales, according to national crime victim surveys conducted in these countries. However, police statistics show murder and rape rates higher in the United States than in England and Wales. In 1995, the English and Welsh crime survey rates exceeded those in the United States by 1.4 times for robbery, 2.3 times for assault, 1.7 times for burglary, and 2.2 times for motor vehicle theft. Police statistics for 1996 showed that compared to England and Wales, the murder rate in the United States was 5.7 times higher and the rape rate was about 3 times higher (from the BJS report *Crime and Justice in the United States and in England and Wales, 1981–96,* October 1998).

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has published a new guide to help coaches educate athletes about the dangers of drug use. OJJDP, along with the Office of National Drug Control Policy, is distributing the *Coach's Playbook Against Drugs* to more than 90,000 coaches who work with more than 7 million boys and girls involved in sports at middle and high schools. The guide describes the harmful effects of drugs on players' performance, tells how to enforce rules and monitor potential trouble, and offers techniques coaches can use to get an anti-drug message across to their players. It also includes a player's pledge to keep the team drug-free and a list of resources coaches can use to find drug abuse prevention information and to learn about training opportunities. To obtain a copy, write to: Juvenile Justice Clearinghouse, Box 6000, Rockville, MD 20857; call 1-800-638-8736; or visit the OJJDP Web site at *www.ncjrs.org/ojjhome.htm.*

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