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Denial of Parole: An Inmate Perspective

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LIKE MANY OTHER discretionary decisions made about inmates (e.g., classification, housing, treatment, discipline, etc.), those involving parole are rather complex. Parole board members typically review an extensive array of information sources in arriving at their decisions, and empirical research has shown a wide variation in the decision-making process. The bulk of research on parole decision-making dates from the mid 1960s to the mid 1980s (e.g., Gottfredson & Ballard, 1966; Rogers & Hayner, 1968; Hoffman, 1972; Wilkins & Gottfredson, 1973; Scott, 1974; Carroll & Mondrick, 1976; Heinz et al., 1976; Talarico, 1976; Garber & Maslach, 1977; Sacks, 1977; Carroll et al., 1982; Conley & Zimmerman, 1982; Lombardi, 1984). Virtually all of this research focuses on the discretion exercised by parole board members and the factors that affect their decisions to grant or deny parole. Surprisingly, only one study, conducted over 20 years ago, has examined the inmate's perspective on the parole decision-making process (Cole & Logan, 1977). The present study seeks to advance the work on parole decision-making from the point of view of those inmates who have had their release on parole denied.

Inmates denied parole have often been dissatisfied with what they consider arbitrary and inequitable features of the parole hearing process. While those denied parole are naturally likely to disagree with that decision, much of the lack of acceptance for parole decisions may well relate to lack of understanding. Even inmates who have an opportunity to present their case through a personal interview are sent out of the room while discussions of the case take place (being recalled only to hear the ultimate decision and a summary of the reasons for it). This common practice protects the confidentiality of individual board members' actions; however, it precludes the inmate from hearing the discussions of the case, evaluations of strengths and weaknesses, or prognosis for success or failure. More importantly, this practice fails to provide guidance in terms of how to improve subsequent chances for successful parole consideration. A common criticism of parole hearings has been that they produce little information relevant to an inmate's parole readiness (Morris, 1974; Fogel, 1975; Cole & Logan, 1977); thus, it is unlikely that those denied parole understand the basis for the decision or attach a sense of justice to it.

Parole Boards

The 1973 Supreme Court decision in *Scarpa v. United States Board of Parole* established the foundation for parole as an "act of grace." Parole is legally considered a privilege rather than a right; therefore, the decision to grant or deny it is "almost unreviewable" (Hier, 1973, p. 435). In fact, when federal courts have been petitioned to intervene and challenge parole board actions, the decisions of parole boards have prevailed (see *Menechino v. Oswald*, 1970; *Tarlton v. Clark*, 1971). While subsequent Court rulings have established minimal due process rights in prison disciplinary proceedings (*Wolff v. McDonnell*, 1974) and in parole revocation hearings (*Morrissey v. Brewer*, 1972), the parole hearing itself is still exempt from due process rights. Yet in *Greenholtz v. Nebraska* (1979) and *Board of Pardons v. Allen* (1987), the Supreme Court held that, although there is no constitutional right to parole, state statutes may create a protected liberty interest where a state's parole system entitles inmates to parole if they meet certain conditions. Under such circumstances, the state has created a presumption that inmates who meet specific requirements will be granted parole. Although the existence of a parole system does not by itself give rise to an expectation of parole, states may create that expectation or presumption by the wording of their statutes. For example, in both *Greenholtz* and *Allen*, the Supreme Court emphasized that the statutory language—the use of the word "shall" rather than "may"—creates the presumption that parole will be granted if certain conditions are met. However, if the statute is general, giving broad discretion to the parole board, no liberty interest is created and due process is not required. In Colorado, as in most other states with parole systems, the decision to grant parole before the inmate's mandatory release date is vested entirely within the discretion of the parole board. The legislatively-set broad guidelines for parole decision-making allow maximum exercise of discretion with minimal oversight.

In Colorado, the structure of parole board hearings depends on the seriousness of the inmate's offense. A full board review is required for all cases involving a violent crime or for inmates with a history of violence. A quorum for a full board review is defined as four of the seven parole board members and a decision to grant parole requires four affirmative votes. However, two parole board members conduct the initial hearing and submit their recommendation to a full board re-

view. Single board members hear nonviolent cases. The board member considers the inmate's parole application, interviews the inmate, makes the release decision, and decides the conditions of parole. The personal interview may be face-to-face or by telephone. If the decision is to grant parole, an additional board member's signature is required. Given the variety of backgrounds and experiences board members bring to the job, individual interpretation and application of the broad statutory guidelines can make parole decision-making appear idiosyncratic.

In their 1986 study of parole decision-making in Colorado, Pogrebin and his colleagues (1986) concluded from their observations that the "overriding factor in parole decisions was not the relative merits of the inmate's case, but the structure of the board itself" (p. 153). At the time of their study, at least two board members rather than the current single board member made the majority of decisions. One may speculate that with only one decision-maker the decision to grant or deny parole is now even more dependent on the individual board member's background and philosophy.

Normalization and Routinization

Sudnow's (1965) classic study of the processes of normalization and routinization in the public defender's office offers insights into the decision-making processes in parole board hearings. Like Sudnow's public defender, who works as an employee of the court system with the judge and prosecutor and whose interests include the smooth functioning of the court system, the parole board member in Colorado works with the prison administration, caseworkers, and other prison personnel. Public defenders must represent all defendants assigned to them and attempt to give the defendants the impression they are receiving individualized representation. However, public defenders often determine the plea bargain acceptable to the prosecutor and judge, based on the defendant's prior and current criminal activities, prior to the first meeting with the defendant (Sudnow, 1965).

The parole board theoretically offers individual consideration of the inmate's rehabilitation and the likelihood of future offending when deciding whether or not to release an inmate. However, the parole board, like the public defender, places a great deal of emphasis on the inmate's prior and current criminal record. The tremendous volume of cases handled by the public defender necessitates the establishment of "normal crime" categories, defined by type and location of crime and characteristics of the defendant and victim, which permit the public defender to quickly and easily determine an appropriate and acceptable sentence. Such normalization and routinization facilitate the rapid flow of cases and the smooth functioning of the court system. Similarly, a two-year study of 5,000 parole decisions in Colorado in the early 1980s demonstrated that the parole board heard far too many cases to allow for individualized judgments (Pogrebin et al., 1986, p. 149).

Observations of parole hearings illustrate the rapid flow of cases and collaboration with other prison personnel. Typically, the case manager, in a brief meeting with the parole board member, discusses the inmate, his prior criminal history, current offense, institutional behavior, compliance with treatment programs, progress and current attitude, and makes a release or deferral recommendation to the parole board member prior to the inmate interview. The inmate and family members, if present, are then brought into the hearing room. The parole board member asks the inmate to describe his prior and current crimes, his motivation for those crimes, and the circumstances that led to the current offense. Typical inmate responses are that he was "stupid," "drunk," or "not thinking right." Inquiries by the parole board about the programs the inmate has completed are not the norm; however, the inmate is often asked how he thinks the victim would view his release. The inmate typically tries to bring up the progress he has made by explaining how much he has learned while institutionalized and talks about the programs he completed and what he learned from them. A final statement by the inmate allows him to express remorse for the pain he has caused others and to vow he will not get into another situation where he will be tempted to commit crimes. Family members are then given time to make a statement, after which the inmate and family leave the hearing room. A brief discussion between the parole board member and the case manager is followed by the recommendation to grant or defer parole. A common reason given for a deferral is "not enough time served." If parole is granted, the parole board member sets the conditions for parole.

"Normal" cases are disposed of very quickly. The time from the case manager's initial presentation of the case to the start of the next case is typically ten to fifteen minutes. Atypical cases require a longer discussion with the case manager before and after the inmate interview. Atypical cases also can involve input from other prison personnel (e.g., a therapist), rather than just the case manager. Those inmates who do not fit the norm, either through their background or the nature of their crime, are given special attention. The parole board member does not need to question the inmate to discover if the case is atypical since the case manager will inform him if there is anything unusual about the inmate or his situation.

During the hearing, the board member asks first about the prior and current crimes and what the inmate thinks were the causal factors that led to the commission of the crimes. Based on his observations of public defenders, Sudnow (1965) concludes, "It is not the particular offenses for which he is charged that are crucial, but the constellation of prior offenses and the sequential pattern they take" (p. 264). Like the public defender who attempts to classify the case into a familiar type of crime by looking at the circumstances of prior and current offenses, the parole board member also considers the criminal offense history and concentrates on causal factors that led the inmate to commit the crimes. It is also important for the board member that the inmate recognize the patterns of his behavior, state the reasons why he committed his prior and current crimes, and accept responsibility for them. The inmate, in contrast, generally wants to describe what he has learned while incarcerated and talk about the classes and programs he has completed. The interview exchange thus reveals two divergent perceptions of what factors should be emphasized in the decision-making process. In Sudnow's (1965) description of a jury trial involving a public defender, "the onlooker comes away with the sense of having witnessed not a trial at all, but a set of motions, a perfunctorily carried off event" (p. 274). In a similar manner, the observer at a parole board hearing has the impression of having witnessed a scripted, staged performance.

As a result of their journey through the criminal justice system, individual inmates in a prison have been typed and classified by a series of criminal justice professionals. The compilation of prior decisions forms the parole board member's framework for his or her perception of the inmate. The parole board member, with the help of previous decision-

makers and through normalization and routinization, "knows" what type of person the inmate is. As Heinz et al. (1976) point out, "a system premised on the individualization of justice unavoidably conflicts with a caseload that demands simple decision rules…. To process their caseloads, parole boards find it necessary to develop a routine, to look for one or two or a few factors that will decide their cases for them" (p. 18). With or without the aid of parole prediction tools to help in their decision, parole board members feel confident they understand the inmate and his situation; therefore, their decisions are more often based on personal intuition than structured guidelines.

Theoretical Framework

Based on a combination of both formal and informal sources of information they acquire while in prison, inmates believe that satisfactory institutional behavior and completion of required treatment and educational programs, when combined with adequate time served, will result in their release on parole. They also believe that passing their parole eligibility date denotes sufficient institutional time. Denial of parole, when the stated prerequisites for parole have been met, leads to inmate anger and frustration. As stories of parole denials spread throughout the DOC population, inmates are convinced that the parole board is abusing its discretion to continue confinement when it is no longer mandated.

Control of Institutional Behavior

The majority of inmates appearing before the parole board have a fairly good record of institutional behavior (Dawson, 1978). Inmates are led to believe that reduction in sentence length is possible through good behavior (Emshoff & Davidson, 1987). Adjustment to prison rules and regulations is not sufficient reason for release on parole; however, it comprises a minimum requirement for parole and poor adjustment is a reason to deny parole (Dawson, 1978). Preparation for a parole hearing would be a waste of both the prisoner's and the case manager's time and effort if the inmate's behavior were not adequate to justify release.

Research suggests that good behavior while incarcerated does not necessarily mean that an inmate will successfully adapt to the community and be law-abiding following a favorable early-release decision (Haesler, 1992; Metchik, 1992). In addition, Emshoff and Davidson (1987) note that good time credit is not an effective deterrent for disruptive behavior. Inmates who are most immature may be those most successful at adjusting to the abnormal environment of prison; inmates who resist conformity to rules may be those best suited for survival on the outside (Talarico, 1976). However, institutional control of inmate behavior is a crucial factor for the maintenance of order and security among large and diverse prison populations, and the use of good time credit has traditionally been viewed as an effective behavioral control mechanism (Dawson, 1978). Inmates are led to believe that good institutional behavior is an important criterion for release, but it is secondary to the background characteristics of the inmate. Rather than good behavior being a major consideration for release, as inmates are told, only misbehavior is taken into account and serves as a reason to deny parole.

Inmates are also told by their case manager and other prison personnel that they must complete certain programs to be paroled. Colorado's statutory parole guidelines list an inmate's progress in self-improvement and treatment programs as a component to be assessed in the release decision (Colorado Department of Public Safety, 1994). However, the completion of educational or treatment programs by the inmate is more often considered a factor in judging the inmate's institutional adjustment, i.e., his ability to conform to program rules and regimen. Requiring inmates to participate in prison programs may be more important for institutional control than for the rehabilitation of the inmate. Observations of federal parole hearings suggest that the inmate's institutional behavior and program participation are given little importance in release decisions (Heinz et al., 1976). Noncompliance with required treatment programs or poor institutional behavior may be reasons to deny parole, but completion of treatment programs and good institutional behavior are not sufficient reasons to grant parole.

Release Decision Variables

Parole board members and inmates use contrasting sets of variables each group considers fundamental to the release decision. Inmates believe that completion of treatment requirements and good institutional behavior are primary criteria the parole board considers when making a release decision. Inmates also feel strongly that an adequate parole plan and demonstration that their families need their financial and emotional support should contribute to a decision to release on parole.

In contrast, the parole board first considers the inmate's current and prior offenses and incarcerations. Parole board members also determine if the inmate's time served is commensurate with what they perceive as adequate punishment. If it is not, the inmate's institutional behavior, progress in treatment, family circumstances and parole plan will not outweigh the perceived need for punishment. Inmates, believing they understand how the system works, become angry and frustrated when parole is denied after they have met all the stated conditions for release.

Unwritten norms and individualized discretion govern parole board decision-making; thus, the resulting decisions become predictable only in retrospect as patterns in granting or denying parole emerge over time. For example, one of the difficulties Pogrebin et al. (1986) encountered in their study of parole board hearings in Colorado was developing a written policy based on previous case decisions:

> This method requires that a parole board be convinced that there exists a hidden policy in its individual decisions…. [M]ost parole board members initially will deny that they use any parole policy as such…[and] will claim that each case is treated on its own merits…. [However] parole decisions begin to fit a pattern in which decisions are based on what has been decided previously in similar situations (p. 149).

Method

In October of 1997, Colorado-CURE (Citizens United for Rehabilitation of Errants), a Colorado non-profit prisoner advocacy group, solicited information through its quarterly newsletter from inmates (who were members of the organization) regarding parole board hearings that resulted in a "setback," i.e., parole deferral. Inmates were asked to send copies of their appeals and the response they received from the parole board to Colorado-CURE. One hundred and eighty inmates responded to the request for information with letters ranging in length from very brief one- or two-paragraph descriptions of parole board hearings to multiple page diatribes listing not only parole board issues, but complaints about prison conditions, prison staff, and the criminal justice system in general. Fifty-two letters were eliminated from the study because they did not directly address the individual inmate's own parole hearing. One hundred and twenty-eight inmate letters were analyzed; one hundred and twenty-five from

male and three from female inmates. Some letters contained one specific complaint about the parole board, but most inmates listed at least two complaints. Several appeals also contained letters written to the parole board by family members on the inmate's behalf. Two hundred and eighty-five complaints were identified and classified into thirteen categories utilizing content analysis, which "translates frequency of occurrence of certain symbols into summary judgments and comparisons of content of the discourse" (Starosta, 1984, p. 185). Content analytical techniques provide the means to document, classify, and interpret the communication of meaning, allowing for inferential judgments from objective identification of the characteristics of messages (Holsti, 1969). In addition, parole board hearings, including the preliminary presentation by the case manager and the discussion after the inmate interview, were observed over a three-month period in 1998. These observations were made to provide a context for understanding the nature of the hearing process from the inmate's perspective and to document the substantive matter of parole deliberations.

The purpose of the present study is not to explore the method the parole board uses to reach its release decisions; rather, our interest is to examine the content of the written complaints of inmates in response to their being denied parole.

Findings

Table 1 presents the frequency of complaints regarding parole denial and the percentage of inmates having each complaint. Those complaints relating to parole hearings following a return to prison for a parole violation and those complaints regarding sex offender laws will not be addressed in the following discussion. Parole revocation hearings are governed by different administrative rules and are subject to more rigorous due process requirements and are thus beyond the scope of the current study. In addition, sex offender sentencing laws in Colorado have evolved through dramatic changes in legislation over the past several years and a great deal of confusion exists regarding which inmates are eligible for parole, when they are eligible, and what conditions can be imposed when inmates are paroled. Future analysis of sex offender laws is necessary to clarify this complex situation. We now turn to an examination of the remaining categories of inmate complaints concerning parole denial.

Inadequate Time Served

Forty-eight percent of the inmates reported "inadequate time served" as a reason given for parole deferment. Their attempt to understand the "time served" component in the board's decision is exemplified by the following accounts:

> …if you don't meet their [the parole board's] time criteria you are "not" eligible. Their time criteria is way more severe than statute.… [The risk assessment] also says, if you meet their time amounts and score 14 or less on the assessment you "shall" receive parole. This does not happen. The board is an entity with entirely too much power.…
>
> * * *
>
> I don't understand how your P.E.D. [parole eligibility date] can come up and they can say you don't have enough time in.
>
> * * *
>
> If the court wanted me to have more time, it could have aggravated my case with as much as eight years. Now the parole board is making itself a court!
>
> * * *
>
> …I [was] set back again for six months with the reason being, not enough time spent in prison. I've done 5 calendar years, I'm two years past my PED, this is my first and only felony of my life, I've never been to prison, it's a non-violent offense, it's not a crime of recidivism, I do not earn a livelihood from this crime or any criminal activity. So what is their problem?
>
> * * *

TABLE 1

Frequency of Complaints and Percentage of Inmates Having Complaint

Nature of Complaint	Frequency of complaints	Percentage of inmates with complaint
1. Inadequate time served, yet beyond P.E.D.	61	48%
2. Completed required programs	45	35%
3. Denied despite parole plan	35	27%
4. Board composition and behavior	27	21%
5. Longer setbacks after parole violation	26	20%
6. Family need for inmate support ignored	22	17%
7. Case manager not helpful	17	13%
8. New sex offender laws applied retroactively	16	12%
9. Required classes not available	11	9%
10. Few inmates paroled on same day	7	5%
11. Appeals not considered on individual basis	6	4%
12. Miscellaneous	12	9%
	N=285	N=128

> [Enclosed] is a copy of my recent deferral for parole, citing the infamous "Not enough time served" excuse. This is the third time they've used this reason to set me back, lacking a viable one.

These responses of the inmates to the "inadequate time served" reason for parole deferral demonstrate that they believe the parole board uses a different set of criteria than the official ones for release decisions. Inmates do not understand that the "time served" justification for parole deferment relates directly to the perception by the parole board member of what is an acceptable punishment for their crime. They believe the parole board is looking for a reason to deny parole and uses "time served" when no other legitimate reason can be found.

Completed Required Programs

Thirty-five percent of the inmates complained that their parole was deferred despite completing all required treatment and educational programs. Related complaints, expressed by 9 percent of the inmates, were the lack of mandatory classes and the long waiting lists for required classes. The following excerpts from inmate letters reflect this complaint:

> When I first met with them [the parole board] I received a 10 month setback to complete the classes I was taking (at my own request). But was told once I completed it and again met the board I was assured of a release.... Upon finishing these classes I met the board again [a year later]…. I noticed that none of my 7 certificates to date were in the file and only a partial section of the court file was in view. I tried to speak up that I was only the 5th or 6th person to complete the 64 week class and tell about the fact that I carry a 4.0 in work plus have never had a COPD conviction or a write-up. He silenced me and said that meant nothing…. I later was told I had been given another one year setback!!!
>
> * * *
>
> They gave me a six month setback because they want me to take another A.R.P. class…. [I]t was my first time down [first parole hearing], and I have taken A.R.P. already twice.... I have also taken… Independent Living Skills, Job Search, Alternatives to Violence, workshops and training in nonviolence, Advanced Training for Alternatives to Violence Project, mental health classes conducted by addiction recovery programs. I also chair the camp's A.A. meetings every week and just received my two year coin. I have also completed cognitive behavioral core curriculum….
>
> * * *
>
> I'm one of the Colorado inmates that's been shipped to Minnesota…. I went before the parole board [in Colorado]… and they set me back a year, claiming that I needed to complete the mental health classes.… Then Colorado sends me to Minnesota where they don't even offer the mental classes that the board stated I needed to complete.

Inmates view completion of required programs as proof that they have made an effort to rehabilitate themselves and express frustration when the parole board does not recognize their efforts. The completion of classes was usually listed with other criteria the inmates viewed as important for their release on parole.

Parole Denied Despite Parole Plan

Deferral of parole even though a parole plan had been submitted was a complaint listed by 27 percent of inmates. It is interesting to note that this complaint never appeared as a solo concern, but was always linked to other issues. These inmates seem to believe that a strong parole plan alone will not be sufficient to gain release and that the parole plan must be combined with good institutional behavior and the completion of required classes. Even when all required criteria are met, parole was often deferred. The frustration of accomplishing all of the requirements yet still being deferred is expressed in the following excerpts:

> …I was denied for the third time by the D.O.C. parole board even though I have completed all recommended classes (Alcohol Ed. I and II, Relapse Prevention, Cognitive Skills and Basic Mental Health). I have a place to parole to [mother's house], a good job and a very strong support group consisting of family and friends.…To the present date I have served 75% of my 3-year sentence.
>
> * * *
>
> I had everything I needed to make parole, i.e. an approved plan, job, adequate time served…. [The parole board member] listed "release" on my paperwork, but "release denied" on my MRD (mandatory release date).
>
> * * *
>
> [After having problems with a previous address for the parole plan]…my parents and family…were assured…that all I needed to do is put together an alternative address. I managed to qualify for and arrange to lease a new low-income apartment at a new complex.… My family was helping with this. I also saw to it that I was preapproved at [a shelter in Denver], a parole office approved address, so that I could go there for a night or two if needed while I rented and had my own apartment approved by the parole office. My family expected me home, and I had hoped to be home and assisting them, too. I arranged employment from here, and looked forward to again being a supportive father and son.… I received a one-year setback! I was devastated, and my family is too. We are still trying to understand all of this.… I am...angry at seeing so many sources of support, employment, and other opportunities that I worked so hard at putting together now be lost.

Preparing an adequate parole plan requires effort on the part of both the inmate and the case manager. When a parole plan is coupled with completion of all required treatment and educational programs and good institutional behavior, the inmate is at a loss to understand how the parole board can deny parole. Inmates often expressed frustration that the plans they made for parole might not be available the next time they are eligible for parole. "Inadequate time served" is often the stated reason for parole deferment in these cases and does not indicate to the inmate changes he needs to make in order to be paroled in the future.

Parole Board Composition and Behavior

Twenty-one percent of the inmates complained about the composition of the parole board or about the attitude parole board members displayed toward the inmate and his or her family. Several inmates expressed concern that at the majority of hearings, only one parole board member is present and the outcome of an inmate's case might depend on the background of the parole board member hearing the case:

> The man [parole board member] usually comes alone, and he talks to the women

> worse than any verbal abuser I have ever heard. He says horrible things to them about how bad they are and usually reduces them to tears. Then he says they are "too emotionally unstable to be paroled!" If they stand up for themselves, they have "an attitude that he can't parole." If they refuse to react to his cruel proddings, they are "too cold and unfeeling." No way to win!! Why in the *world* do we have ex-policemen on the parole board?? Cops always want to throw away the key on all criminals, no matter what. Surely that could be argued...as conflict of interest!
>
> * * *
>
> As I was sitting in the parole hearing for me I was asked some pretty weird questions. Like while I was assaulting my victim was I having sex with my wife also. My answer was yes. Then this man [the parole board member] says, "Sounds like you had the best of both worlds, huh?" I was taken back by this comment and wonder why in the world this guy would think that this was the best of any world.
>
> * * *
>
> My hearing was more of an inquisition than a hearing for parole. All of the questions asked of me were asked with the intent to set me back and not the intent of finding reasons to parole me. It was my belief that when a person became parole eligible the purpose was to put them out, if possible. My hearing officer did nothing but look for reasons to set me back.

Inmates often expressed the view that the parole board members conducting their hearings did not want to listen to their stories. However, if parole board members have generally reached a decision prior to interviewing the inmate, as indicated by the routinization of the hearing process, it is logical that the board member would attempt to limit the inmate's presentation. In addition, if board members have already determined that parole will be deferred, one would expect the questions to focus on reasons to deny parole. One inmate stated, "I believe that the parole board member that held my hearing abused his discretion. I had the distinct feeling that he had already decided to set me back before I even stepped into the room."

Family's Need for Inmate's Support

Many inmates criticized the parole board for failing to take into account their families' financial, physical, and emotional needs. Seventeen percent of the inmates expressed this concern, and several included copies of letters written by family members asking the board to grant parole. The primary concerns were support for elderly parents and dependent young children:

> My mom has Lou Gehrig's disease…. [S]he can't walk and it has spread to her arms and shoulders…. [No] one will be there during the day to care for her. The disease is fast moving…. My mom is trying to get me home to care for her.… I am a non-violent first time offender. I have served 8 years on a 15. I have been before the parole board 5 times and denied each time.… (I got 6, 6, 9, 6, 12 month setbacks in that order). Why I'm being denied I'm unsure. I've asked the board and wasn't told much. I've completed all my programs, college, have a job out there, therapy all set up, and a good parole plan.
>
> * * *
>
> I have everything going for me in the community. I have a full-time job. I have a 2 year-old son that needs me. I have a mother that is elderly and needs my help. This is all over an ounce of marijuana from [1994] and a walk-away from my own house. I have over 18 months in on an 18 month sentence.
>
> * * *
>
> [My 85-year-old mother] has no one. Her doctor also wrote [to the chair of the parole board] as well as other family members, including my son. All begging for my release. She *needs* me!! I wish you could [see]…how hard I have worked since I have been in prison…. Being good and trying hard does not count for much in here…. This is my 5th year on an 8 year sentence.

The parole board does not consider a dependant family as a primary reason to release an inmate on parole; however, inmates regard their families' needs as very important and are upset that such highly personal and emotionally charged circumstances are given short shrift during their parole hearing. And if they believe they have met the conditions established for release, inmates do not understand why the parole board would not allow them to return home to help support a family.

Case Manager Not Helpful

Thirteen percent of the inmates expressed frustration with their case manager, with a few accusing the case manager of actually hurting their chances to make parole. Although the inmate was not present during the case manager's presentation to the board member, many inmates declared satisfaction with their case manager and felt that the board did not listen to the case manager's recommendation. Since the present study focuses on inmate complaints, the following excerpts document the nature of the dissatisfaction inmates expressed concerning their case managers:

> [The case manager] has a habit of ordering inmates to waive their parole hearings. Many inmates are angry and do not know where to turn because they feel it is their right to attend their parole hearings…. [He] forces most all of his caseload to waive their parole hearing. That is not right! …How and why is this man allowed to do this? I would not like my name mentioned because I fear the consequences I will pay…. [T]his man is my case manager and I have not seen the parole board yet.
>
> * * *
>
> I have not had any writeups whatsoever and I have been taking some drug and alcohol classes since I have been back [parole revoked for a dirty U.A.]. I had a real strong parole plan that I thought that my case manager submitted but he never bothered to. I was planning on going to live with my father who I never asked for anything in my life and he was willing to help me with a good job and a good place to live. My father had also wrote to [the chair of the parole board] and asked if I could be paroled to him so he can help me change my life around.
>
> * * *
>
> [Some] case managers are not trained properly and do not know what they are doing. Paperwork is seldom done properly or on time. Others are downright mean and work *against* the very people they are to help. Our liberty depends on these people, and we have no one else to turn to when they turn against us.

Inmates realize they must at least have a favorable recommendation by the case manager if they are to have any chance for parole. Yet they generally view the case manager as a

"marginal advocate," often going through the motions of representing their interests but not really supporting or believing in them. Case managers after all are employees of the Department of Corrections, and their primary loyalties are seen by inmates to attach to their employer and "the system."

Few Inmates Paroled the Same Day

Five percent of the inmates related in their letters that very few inmates were paroled on a given hearing day, leading them to suspect that the parole board typically denies release to the vast majority of inmates who come up for a hearing.

> I just received a letter...and she told me that 2 out of 24 made parole from [a Colorado women's facility]…. [Also] out of 27 guys on the ISP non-res program from [a community corrections facility] only 4 made parole!! …What is going on here?!! These guys [on ISP] are already on parole for all intents and purposes.
>
> * * *
>
> Went [before parole board] in June '97. 89 went. 2 made it (mandatory).
>
> * * *
>
> I realize they're not letting very many people go on parole or to community. It's not politically correct to parole anyone. Now that Walsenburg is opening, I'm sure they will parole even less people. I have talked to 14 people that seen the Board this week. 2 setbacks….

Inmates circulate such stories and cite them as evidence that the parole board is only interested in keeping prisoners locked up. Many inmates express their belief that the parole board is trying to guarantee that all the prisons are filled to capacity.

Appeals Not Considered on an Individual Basis

Although Colorado-CURE asked inmates to send copies of their appeal and the response to the appeal, the majority of inmates mailed copies of their appeal before they received the response. Thus, it is not surprising that only four percent of the inmates discussed the apparent uniformity of appeal decisions. The standard form letter from the chair of the parole board, included by those who stated this complaint, reads as follows:

> I have reviewed your letter..., along with your file, and find the Board acted within its statutory discretion. Consequently, the decision of the Board stands.

Word of the appeals circulates among the general prison population and between prisons via letters to other inmates. Inmates suggest that the form letters are evidence that the parole board is not willing to review cases and reconsider decisions made by individual board members.

> I finally got their response. They are basically sending everyone the same form letter. I was told by someone else that it [is] what they were doing and sure enough that is what they are doing.
>
> * * *
>
> After receiving the denial of my appeal, I spoke with a fellow convict about his dilemma, which prompted him to show me a copy of his girlfriend's denial of her appeal…. It seems that [she] was given an unethical three (3) year setback, even though she has now completed 3/4 of her sentence. And she too received a carbon copy response from the [chair of the parole board's] office. It should be crystal clear that these files are *not* being reviewed as is stated in [the] responses, because if they had been, these decisions would surely seem questionable at best.

Conclusion

The nature of the written complaints reflects the belief among many inmates that the parole board in Colorado is using criteria for release decisions that are hidden from inmates and their families. A parole board decision, made without public scrutiny by members who have no personal knowledge of the inmate, depends on the evaluation of the likelihood of recidivism by others in the criminal justice system. While guidelines and assessment tools have been developed to help with the decision-making process in Colorado, it is unclear the extent to which they are used. Release decisions by the parole board appear to be largely subjective and to follow latent norms that emerge over time. The emphasis on past and current crimes indicates that inmates—regardless of their institutional adjustment or progress in treatment, vocational, or educational programs—will continue to be denied parole until they have been sufficiently punished for their crimes. As one inmate lamented in his letter of complaint,

> When the inmate has an approved parole plan, a job waiting and high expectations for the future and then is set back a year…, he begins to die a slow death. They *very often* use the reason: *Not enough time served* to set people back. If I don't have enough time served, why am I seeing the parole board? Or they will say: *Needs Continued Correctional Treatment.* If I have maintained a perfect disciplinary record and conformed to the rules, what more correctional treatment do I need…. I had a parole plan and a job in May when I seen the Board. I was set back one year. I will see them in March…. I will have no job and nowhere to live…. The Colorado Dept. of Corrections does not rehabilitate inmates. That is solely up to the inmate. What they do is cause hate and bitterness and discontent.

Findings of this study indicate that the factors inmates believe affect release decisions are different from the factors the parole board considers and thus suggest why inmates fail to understand why their parole is deferred despite compliance with the prerequisites imposed upon them. As evidenced by the above examples, inmates are not only confused and angry when they believe parole should be granted, they begin to question whether or not it is worth the effort if they are only going to "kill their numbers" (i.e., serve the full sentence). The prison grapevine and the flow of information among the entire Department of Corrections inmate population allow such stories and theories to spread. Prison officials should be concerned that if inmates feel compliance with prison rules and regulations is pointless, they will be less likely to conform to the administration's requirements for institutional control. Currently, inmates who are turned down for parole see themselves as victims, unfairly denied what they perceive they have earned and deserve. Each parole eligible case that is deferred or set back becomes another story, duly embellished, that makes its rounds throughout the prison population, fueling suspicion, resentment, and fear of an unbridled discretionary system of power, control, and punishment.

Inmates denied parole are entitled to a subsequent hearing usually within one calendar year. But the uncertainty of never know-

ing precisely when one will be released can create considerable tension and frustration in prison. While discretionary release leaves them in limbo, it is the unpredictability of release decisions that is demoralizing. As we have found, this process has resulted in bitter complaints from inmates. Perhaps the late Justice Hugo Black of the U.S. Supreme Court best summarized the view of many inmates toward the parole board:

> In the course of my reading—by no means confined to law—I have reviewed many of the world's religions. The tenets of many faiths hold the deity to be a trinity. Seemingly, the parole boards by whatever names designated in the various states have in too many instances sought to enlarge this to include themselves as members (Quoted in Mitford, 1973, p. 216).

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Overview of the Federal Home Confinement Program 1988–1996

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Introduction

Over the past two decades, home confinement has gained acceptance in the criminal justice community as a credible noncustodial sanction and alternative to incarceration. Judicial officers have used home confinement more frequently as they have learned more about what it offers (Boone, 1996). In the federal courts, the home confinement program is used as an additional sentencing option more cost effective than imprisonment or halfway house placement. According to 1997 estimates from the Federal Bureau of Prisons (BOP) and the Administrative Office of the United States Courts (AO), the average daily cost of federal custody was $64.32 while the average daily cost of home confinement supervision with electronic monitoring was $17.98.[1]

The home confinement program in the federal courts is conceptually designed as a noncustodial sanction more punitive than probation supervision but less restrictive than imprisonment. It ranges from a simple nighttime curfew to 24-hour-a-day "lock-down" home incarceration. The extent to which those in the federal home confinement program are permitted to leave their residence is determined case by case, depending on the goals of supervision and the orders of the court or releasing authority.

In the federal courts, the home confinement program is used with both post-sentence offenders (to punish) and with pretrial defendants (to ensure their appearance in court and to protect the community). It is ordered by the court as a special condition of pretrial release, probation, or supervised release. Home confinement is also used as an intermediate sanction for supervision violators and by the BOP for inmates in pre-release status serving the last 10 percent of their imprisonment term under the direction of probation officers as a courtesy to the BOP.

This article reviews the home confinement program in the federal courts and presents an overview of the program based on data collected on over 17,000 program participants from 1988 through 1996. I will include a description of the program goals and officers' responsibilities, and a profile of program participants and reasons for termination for pretrial defendants and post-sentence offenders.

Background

In March 1986, the United States Parole Commission responded to deficit reduction legislation by initiating an experimental "Curfew Parole Program" to target the early release of inmates who would normally have been placed in a BOP Community Treatment Center prior to their scheduled release to parole supervision. Participants selected for the program had their release dates advanced for up to 60 days and were monitored by probation officers through random telephone calls and weekly in-person contacts. To be eligible, each offender who volunteered for the program had to have an acceptable release plan and also had to remain at home between 9 p.m. and 6 a.m., unless granted permission to leave by the supervising probation officer.

Because of limited resources and increasing responsibilities, chief probation officers raised concerns as to whether officers would be able to enforce curfews adequately with only random telephone calls. As a result, a pilot study (a joint venture with the BOP and the Administrative Office of the U.S. Courts (AO) initiated by the United States Parole Commission) was launched in the probation offices in the Central District of California and the Southern District of Florida to evaluate the use of electronic equipment to monitor persons in the curfew program. Federal probation officers provided intensive supervision, with increased personal contacts, to ensure parolees' compliance with curfew times. Also, the BOP advanced release dates up to 180 days to allow more offenders to participate in the program. On January 19, 1988, the first federal offender was released to curfew parole using electronic monitoring.[2]

In 1989, the Judicial Conference Committee on Criminal Law approved the expansion of the pilot program to 12 districts[3] and included not only pre-release inmates and parolees, but also offenders on probation and supervised release, and federal defendants on pretrial release supervision. In 1991, the pilot program expanded nationally, with 63 dis-

[1] Components used in the calculations are based on information received from the AO's Budget Division (i.e., unit cost estimates) and the BOP (i.e., costs of incarceration).

[2] The United States Parole Commission Research Unit issued an evaluation report (Community Control Project, Report Forty Four, September 1989), which showed that only 31 out of 169 parolees failed the program in the first year.

[3] Ten districts were added to the original two districts (California Central and Florida Southern): Colorado, District of Columbia, Georgia Northern, Maryland, Michigan Eastern, New York Eastern, Ohio Northern, South Carolina, Texas Northern, and Texas Southern.

tricts participating. In 1993, the AO awarded its first national contract to BI Incorporated to provide electronic monitoring services for its offender/defendant population. Home confinement is now available in all federal jurisdictions, including Puerto Rico, Guam, and the Virgin Islands.

Today, the federal home confinement program has three components. The first is *curfew,* which restricts program participants to their residence during limited, specified hours, generally at night. The second is *home detention,* which requires participants to remain at home unless the court permits them to leave for employment, education, treatment, or other specified reasons, such as to purchase food or for medical emergencies. If strictly enforced, home detention is more punitive than curfew and provides for increased monitoring over the participants' movements. *Home incarceration* is the most restrictive component of home confinement, since the participant must remain at home at all times with few, if any, exceptions (e.g., religious services or medical treatment).

Legal Authority

In the United States courts, home confinement is authorized only as a condition of pretrial release, probation, parole, or supervised release, and it may be used by the BOP for inmates in the last phase of custody. It is not an authorized sentence in and of itself. The following is a list of authorities for the imposition of home confinement:

- **Pretrial Release.** 18 U.S.C. § 3142(c)(1)(B)(iv) (authorizing restrictions on places of abode and travel) and (vii)(authorizing curfew restrictions), support the use of home confinement condition as a condition of pretrial release.
- **Probation.** Until 1988, home confinement, with or without electronic monitoring, was imposed as a condition of probation under the court's general authority to impose conditions of release that furthered the twin goals of probation: rehabilitation of the offender and protection of the community. The Anti-Drug Abuse Act of 1988 (Pub. L. No. 100-690, sec. 7304, 102 Stat. 4181,4465 (Nov. 18, 1988)), for the first time, provided explicit authority for the court to order home confinement as a condition of probation or supervised release. Pursuant to that legislation, 18 U.S.C. § 3563(b)(19) authorizes the court to impose a condition requiring that the probationer "remain at his place of residence during non-working hours and, if the court finds it appropriate, that compliance with this condition be monitored by telephonic or electronic signaling devices, except that a condition under this paragraph may be imposed only as an alternative to incarceration; . . ."
- **Supervised Release.** 18 U.S.C. § 3583(d)(2), by cross reference, authorizes the court to impose, *inter alia,* the discretionary condition set out in 18 U.S.C. § 3563(b)(19).
- **Sentencing Guidelines.** Sections 5B1.3(e)(2) and 5F1.2 provide that home detention may be imposed as a condition of probation or supervised release, but only as a substitute for imprisonment. See also sections 5C1.1(c) and (d), which permit the court, in certain situations, to substitute home confinement as a condition supervision for a term of imprisonment otherwise applicable under the guidelines.
- **Parole.** For persons incarcerated for offenses committed prior to November 1, 1987, the Parole Commission may impose a special condition of home confinement pursuant to the provisions of 18 U.S.C. § 4209.
- **Pre-Release Inmates.** 18 U.S.C. § 3624(c) authorizes the BOP, to the extent practicable, to assure that a prisoner serving a term of imprisonment spends a reasonable part, not to exceed six months, of the last 10 percent of the term to be served under conditions that will afford the prisoner a reasonable opportunity to adjust to and prepare for his reentry into the community. The authority provided by this subsection may be used to place a prisoner in home confinement. The United States probation system, to the extent practicable, offers assistance to a prisoner during such pre-release custody. Crime Control Act of 1990 (Pub. L. No. 101-647, sec. 2902, 104 Stat. 4789, 4913 (Nov. 29, 1990)).

Program Goals

The laws and rules that govern each phase of the criminal justice process determine the appropriate purposes to be served by a home confinement condition at any given stage. For example, in the pretrial context, home confinement may be imposed only as an alternative to detention and only when it is the least restrictive condition necessary to protect the public from further crimes by the defendant and to assure the defendant's appearance at all subsequent court proceedings. Under the sentencing guidelines, home confinement is primarily to be used to accomplish punishment goals for less serious offenders.

These differing purposes target individuals at different levels of risk and will result in very different populations depending on the legal status. But the potential advantages of the sanction are the same: A cost-effective, community-based alternative that controls an individual's risk through intensive monitoring.

Use of Non-Electronic Monitoring

While surveillance techniques other than electronic monitoring may be provided so long as they are effective, home confinement without electronic monitoring requires frequent home contacts and telephone calls to verify that the person is at home when required. Consequently, these techniques are more time consuming, less reliable, and therefore discouraged. However, alternatives to electronic monitoring may be warranted for persons with special medical conditions or living arrangements (see *United States Sentencing Guidelines Manual*, 1997).

Use of Electronic Monitoring

Electronic monitoring alerts the officer when a participant leaves a specific location (usually the residence) or tampers with the electronic monitoring equipment. The participants wear a waterproof, shock-resistant transmitting device around the ankle 24 hours a day. The transmitter emits a continuous electronic signal, which is detected by a receiving unit connected to the home telephone. When the transmitter comes within the signal range of the receiver unit, the receiver unit calls a monitoring center to indicate the participant is in range or at home. The transmitter and the receiving unit work in combination to detect and report the times participants enter and exit their homes. The electronic monitoring equipment only indicates when participants enter or leave the equipment's range—not where they have gone or how far they have traveled. The range of the receiving unit in the federal program is adjustable up to 150 feet. In other words, at the maximum range setting, the participant must stay within 150 feet of the receiving unit in the residence to be considered in range or at home.

To ensure compliance with home confinement restrictions, the national electronic

monitoring contractor is required to test for the participant's presence at specific locations during prescribed hours. The contractor tracks and reports "key events" to the probation or pretrial services officer. Examples of key events include:

- Unauthorized absences from the residence.
- Failure to return to residence from a scheduled absence.
- Late arrivals and early departures from residence.
- Equipment malfunctions (e.g., transmitter or receiver/dialer).
- Equipment tampering.
- Loss of electrical power or telephone service.
- Location verification failure.
- Missed calls from receiver/dialer.

When alerted by the contractor (either by telephone or pager) of a key event, the officer investigates to determine whether the participant has failed to comply with home confinement conditions. Officers can use discretion in imposing informal sanctions in response to minor violations, such as a participant arriving home 10 minutes late. Officers may suspend or reduce the amount of time the participant is allowed away from home. More serious violations require a formal response, either by petitioning the court or notifying the BOP.

Officer Responsibilities

Home confinement supervision is a labor-intensive and time-consuming form of community supervision and can be dangerous. Officers provide round-the-clock coverage and respond to electronic monitoring alerts 24 hours a day, 7 days a week. Home confinement supervision also requires officers to make more frequent home and community visits, often in response to alerts signaling that participants may have violated program rules. Sometimes late night home visits are necessary. When officers receive an alert, they evaluate the need for a home visit based on several criteria: the offender's or defendant's history; the severity of the offense or charge; the nature of the alert, and, in the case of after-hour alerts, the increased potential danger to officers.

The Federal Home Confinement Program for Defendants and Offenders, Monograph 113, provides the general steps that federal probation and pretrial services officers consider when alerted of a participant's possible violation of the home confinement program. While some electronic monitoring key events may only indicate equipment or system problems, certain events (e.g., Unauthorized Leave, Did Not Return, Equipment Tamper, Location Verification Failure, and Missed Calls from the receiver/dialer unit) require further investigation. When officers receive such alerts, Monograph 113 provides the following general steps for officers to follow:

- Check office messages.
- Call the participant's residence.
- Make collateral calls (e.g., to relatives, employer).
- Notify the supervisor of the incident and the steps taken.
- Seek law enforcement assistance, if appropriate.
- Evaluate community and officer risk.
- Conduct a home visit to verify the participant's compliance/noncompliance at the earliest safe and feasible opportunity.
- Document all responses in the chronological record.

Data Collection and Methodology

Data were collected on 17,659 home confinement participants from 1988 to 1995 and for the first two quarters of 1996, using the Home Confinement Program Participant Tracking System (Probation Form 60). Data were recorded on the Probation Form 60 by probation and pretrial services officers in individual districts and mailed to the Federal Corrections and Supervision Division. While forms were not submitted in every case and not all data elements were included on each form, there were no discernable patterns to the data submission or their accuracy to suggest that these omissions skewed the data in any systematic way.

Variables

Eight variables were used for the review of home confinement participant data: legal status, offense category, start and end dates to calculate the length of home confinement, and type of program outcome. For participants who were sentenced under the sentencing guidelines, data were also collected on the offense level and criminal history categories as calculated by the officer in accordance with the United States Sentencing Commission guidelines. Lower offense levels represent minor federal offenses and lower criminal history categories represent minor prior criminal records.

Program Participants

Past studies have reported a rapid increase in the use of home confinement as a noncustodial sanction (Beck, et. al., 1990; Boone, 1996; Clarkson & Weakland, 1991; Vaughn, 1991). As correctional agencies become more experienced with using this sanction, the apprehension of officials towards the technology dissipates (Gowen, 1995).

As shown in Figure 1, the first 3 years (1988–90) of the federal program in the pilot

FIGURE 1
Home Confinement Cases

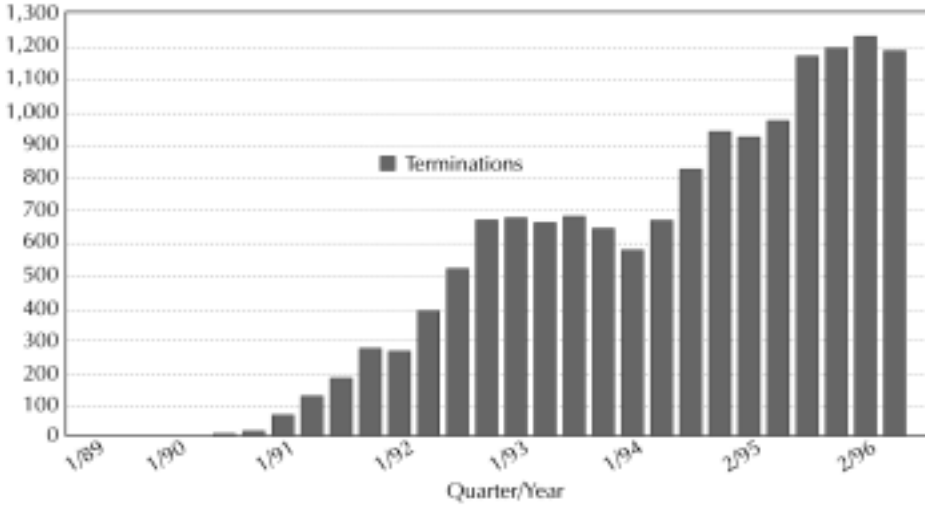
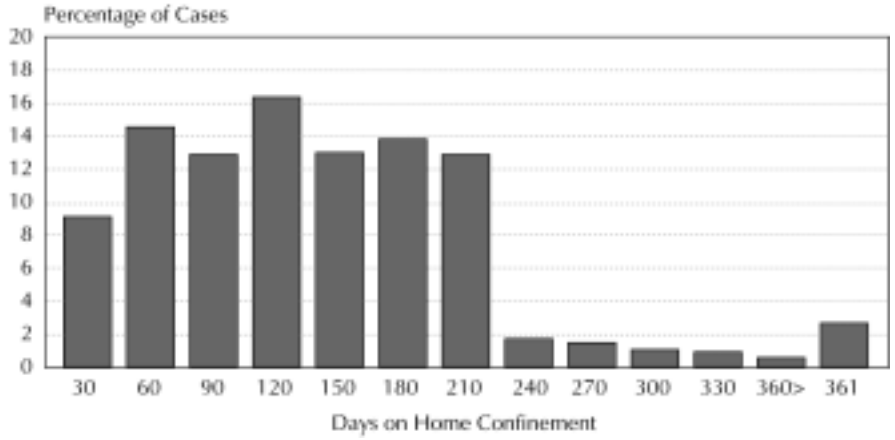


FIGURE 2
Total Number of Cases
by Length of Confinement (1988–1996)



phases shows little use of the program. Then, as more districts implemented home confinement programs (1991–93), the number of cases increased to approximately 1,300 participants. During that period districts individually contracted for electronic monitoring services with several different providers. The use of different contractors meant variations in price, equipment used, and quality of services. This may explain the fluctuations among districts in the implementation of the home confinement program during this time period.

Program growth resumed in 1994 with the acquisition of a national electronic monitoring contractor, a step that standardized the services and monitored prices for all districts. Consequently, the use of the home confinement program with electronic monitoring increased sharply and, by June 1996, there were over 2,400 participants.

Future growth will depend on technical advances in program tools that monitor participant compliance and on whether home confinement is expanded for use as an intermediate sanction for persons already under community supervision who have demonstrated noncompliance. Changes in sentencing guideline policies could also have an impact on future program growth. At this time, the federal sentencing guidelines restrict the use of the home confinement program and inhibit the size of the eligibility pool among originally sentenced offenders.

Length of Participation

When the federal home confinement program began, no national standard had been established for the length of the monitoring period. Hofer and Meierhoefer (1987) believed that this issue concerned the judiciary and suggested that a period, not to exceed 180 days, would be an appropriate starting point. Even without empirical evidence to support or refute this length limitation, two factors—conventional wisdom and federal sentencing guidelines—have, in effect, restricted individual terms of home confinement to 180 days. The conventional wisdom is that persons confined to their homes for long periods of time will get "cabin fever" and be tempted to leave or violate. Most home confinement participants, however, are allowed out of their homes for work or school. Recidivism studies that examine the relationship between the time on supervision and failure have found that those who recidivate do so early on in the term of supervision (Schmidt & Witte, 1990). It follows that because risk prediction is largely based on a person's past record, a record of good conduct under the restrictions of the home confinement program would suggest continued good conduct under the same restrictions.

Though the time limitation may be unnecessary from a risk perspective, the monitoring duration for most participants in the home confinement program in the data collection did not exceed 180 days (see Figure 2). The mean monitoring length across legal status categories was 124.65 days or approximately 4 months. Probation cases had the highest mean of 133.61 days, with pretrial and supervised release cases averaging 129.22 and 124.96 days, respectively (See Figure 3). Most of the probationers received a period of home confinement ranging from 56 to 211 days. Supervised release cases had similar ranges for home confinement terms. Pretrial defendants had monitoring times ranging from 17 to 242 days.

There appears to be a qualitative difference in the length of monitoring between post-sentence offenders and pretrial defendants. Most post-sentence offenders in the home confinement program have a specified monitoring term set by the court, and, consequently, a specific end date is known when monitoring is initiated. Conversely, pretrial defendants do not have a specified monitoring length; monitoring duration is affected by the operations

FIGURE 3
Average Home Confinement Monitoring Length

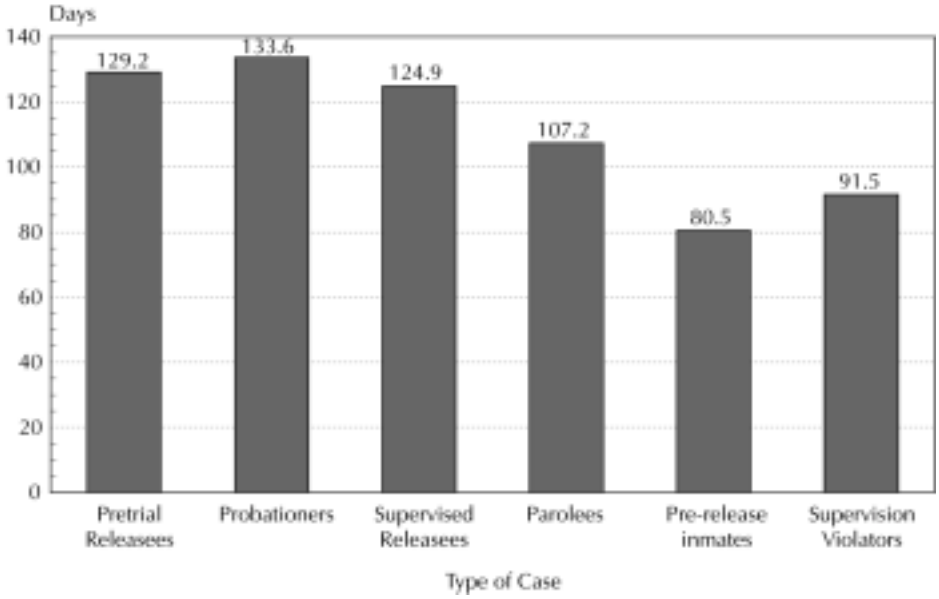
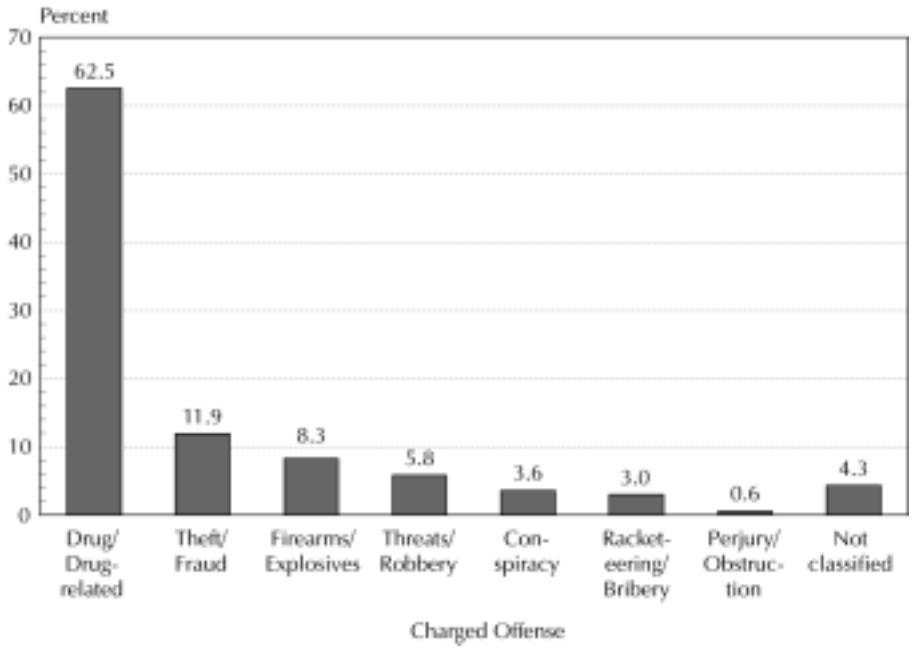


FIGURE 4
Charges for Pretrial Services Participants



of the local jurisdiction and the speed with which a case is adjudicated.

Pre-release inmates, on the other hand, are restricted by statute, BOP rules, and specific criteria, such as institutional adjustment, and the number of participants and the length of participation is therefore limited. As such, pre-release inmates have a monitoring duration that is considerably shorter—80.5 days on average—than participants on probation, supervised release, or pretrial release.

Program Participants

The data collection contained a total of 2,775 pretrial defendants and 14,459 post conviction offenders. The characteristics of pretrial defendants in the data sample contrasted with those of post-sentence offenders in several respects as described below.

Pretrial Defendants

Sixty-two percent of the pretrial defendants had drug/drug-related charges, followed by 11.9 percent with theft- or fraud-related charges (see Figure 4). Defendants with drug charges are assumed to be at higher risk of flight and pose more of a danger to the community than defendants with property-type charges. As expected, pretrial defendants had a higher failure rate than most categories of post-conviction offenders. Pretrial defendants who are placed in the home confinement program would otherwise remain detained if this program were not an alternative. The home confinement program may be used for pretrial defendants only when less restrictive alternatives to detention are not feasible.

Post-sentence Offenders

Overall, in post-sentence cases, the home confinement program was used more frequently for theft and fraud offenses than for any other single offense classification, followed by drug/drug-related offenses, conspiracies, threats, and robberies. These findings are consistent with the popular belief that participation in the home confinement program should be limited to persons charged or convicted of nonviolent crimes.

In probation cases, 49 percent of the offenders in the sample had convictions for theft/fraud, followed by 19 percent for drug/drug-related offenses (see Table 1). In supervised release cases, 43 percent of the offenders in the sample had convictions for theft/fraud, followed by 26 percent for drug/drug-related offenses.

However, in parole cases, 52 percent of the offenders in the sample had convictions for drug/drug-related offenses, followed by 20 percent of the offenders who had convictions for theft/fraud offenses. Likewise, in pre-release cases, 61 percent of the offenders had drug/drug-related convictions and 18 percent had fraud/theft-related convictions.

Among supervision violation cases, or those placed into the program as an intermediate sanction in lieu of revocation of supervision, 52 percent had underlying drug/drug-related convictions, followed by 26 percent who had theft/fraud-related convictions.

Overall offenders had limited prior criminal histories. The majority of the post-sentence offenders—54.8 percent—had an average criminal history category of "I," which typically represents no more than one prior conviction that resulted in a sentence of less than 60 days. Approximately 8.6 percent of the post-sentence offenders had an average criminal history category of "II," which typically represents no more than one prior conviction that resulted in a sentence of at least 60 days but not more than one year (see Table 2).

Sentencing guideline offense level scores were recorded for most offenders where guidelines were applicable.[4] Of the 13,997 cases that had offense level recorded, over 50 percent had an offense level of 15 or less on an offense level scale of 1-43 (see Figure 5).

Program Participant Outcomes

The participant success rate of a home confinement program hinges upon the selection of participants and the enforcement of the program rules once a person is placed into

[4]Offenses levels were not recorded for most parolees unless they had another conviction that fell under the federal sentencing guidelines. There were also a small number of petty and misdemeanor cases where guidelines did not apply and did not have offense levels recorded. Out of 14,459 post-sentence cases, 462 did not have this information.

FIGURE 5
Home Confinement Participants with Recorded Offense Levels

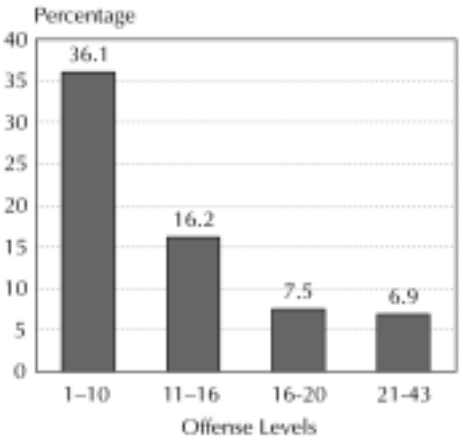


TABLE 1

Post-Sentence Case—Type Conviction

Offense	Probation		Supervised Release		Parole		BOP Inmate		Supervision Violator	
	No.	*Pct.*	No.	*Pct.*	No.	*Pct.*	No.	*Pct.*	No.	*Pct.*
Drug/Drug-related	1,272	*18.7*	649	*25.7*	204	*53.5*	751	*60.3*	192	*50.8*
Theft/Fraud	3,300	*48.4*	1,102	*43.7*	77	*20.2*	218	*17.5*	100	*26.5*
Firearms/Explosives	271	*4.0*	168	*6.7*	6	*6.6*	72	*5.8*	16	*4.2*
Threats/Robbery	290	*4.3*	81	*3.2*	42	*11.0*	28	*2.2*	20	*5.3*
Conspiracy	816	*12.0*	253	*10.0*	25	*6.6*	80	*6.4*	19	*5.0*
Racketeering/Bribery	289	*4.2*	96	*3.8*	17	*4.5*	64	*5.1*	9	*2.4*
Perjury/Obstruction	27	*0.4*	21	*0.8*	1	*0.3*	3	*0.2*	1	*0.3*
Not Classified	547	*8.0*	152	*6.0*	9	*2.4*	30	*2.4*	21	*5.6*

TABLE 2

Criminal History Category (Post-Sentence)

Category	Probation		Supervised Release		Parole		BOP Inmate		Supervision Violator	
	No.	*Pct.*	No.	*Pct.*	No.	*Pct.*	No.	*Pct.*	No.	*Pct.*
I	5,183	*65.7*	1,966	*65.6*	27	*6.7*	724	*54.8*	200	*45.2*
II	507	*6.4*	249	*8.3*	3	*0.7*	113	*8.6*	46	*10.4*
III	321	*4.1*	207	*6.9*	1	*0.2*	87	*6.6*	42	*9.5*
IV	85	*1.1*	61	*2.0*	—	—	36	*2.7*	16	*3.6*
V	24	*0.3*	27	*1.0*	3	*0.8*	15	*1.1*	8	*1.9*
VI	—	—	—	—	—	—	—	—	—	—
VII	—	—	—	—	—	—	—	—	—	—
VIII	—	—	—	—	—	—	—	—	—	—
Unknown	1,764	*22.4*	487	*16.2*	372	*91.6*	347	*26.2*	130	*29.4*
Total	**7,884**	***100.0***	**2,997**	***100.0***	**406**	***100.0***	**1,322**	***100.0***	**442**	***100.0***

TABLE 3

Participant Outcomes by Legal Status

Legal Type	Successful Percentage	Unsuccessful Percentage
Probationers	94.0	6.0
Supervised Releasees	90.0	10.3
Parolees	88.3	11.7
Pre-release Inmates	95.0	5.3
Supervision Violators	75.0	24.7
Pretrial Releasees	77.0	23.0

the program. In the past, objective risk assessment of participants in any type of criminal justice program (e.g., probation or home confinement) has been met with pessimism among practitioners about the ability of statistical models to improve the ability to predict recidivism (Schmidt & Witte, 1990) for two possible reasons: First, it is correctly assessed that empirical models rarely have been able to predict more than 50 percent of supervision outcomes. Second, supervision and community program failures are incorrectly blamed on the use of a statistical device even though the responsibility lies with the releasing authority and the supervising officer. As a result, selection of participants for the home confinement program frequently has been based on the assessment of judges and probation officers (Hofer & Meierhoefer, 1987).

Although no predictive scales have been specifically developed for the federal home confinement program, a number of factors often are considered by the releasing authority before imposing home confinement as a condition of release. Candidates are evaluated on their personal histories, substance abuse history, criminal history, and stability in the community. However, the severity of the offense of conviction has historically taken precedence in the selection process (Hofer & Meierhoefer, 1987).

Corbett and Fersch (1985) suggested that violent offenders and habitual property offenders be excluded from the program as they represent a greater risk to public safety. Boone (1996) reported that policy makers and judges do not believe that offenders who commit violent offenses should be considered for home confinement. Most researchers, as well as practitioners, believe that dangerous individuals should not be allowed to participate in the home confinement program. They assume that when these persons reoffend, there is an increased likelihood that they again will commit a violent act.

Out of the 17,000 program participants in the data collection, 89 percent successfully completed a term of home confinement without incident.

Defendants with drug charges appear to have a higher risk of flight and pose more of a danger to the community than defendants charged with crimes against property. As a result, pretrial defendants in the study had a failure rate double that of the entire sample of post-sentence offenders in the program.

Of the 3,011 pretrial defendants in the home confinement program, 694 (23 percent) failed. A majority of these defendants either tested positive for illegal substances (7 percent) or incurred unauthorized leave violations (7.9 percent). This is not surprising given the high incidence of substance abuse in the criminal community. Review of correlations (omitted from this analysis) indicated *positive urinalysis* often coincided with *leave* violations.

Of the 14,459 post-sentence offenders, 12,856 (or 89 percent) successfully completed the program. Success rates among this group of participants were consistent each year and comparable to the general federal supervision population.

As a subtype of post-sentenced offenders, supervision violators, or those offenders placed on home confinement as an intermediate sanction for violating supervision conditions, showed a higher failure rate than pretrial defendants. Among post-sentence cases, supervision violators had the highest percentage of program failures (24.7 percent), followed by supervised release cases (10.3 percent) (see Table 3).

Supervision violators and pretrial defendants have comparable failure rates and share some common characteristics. Both groups consist of individuals who represent a greater risk of program failure. Supervision violators are individuals who already have demonstrated noncompliance with existing supervision conditions. Pretrial defendants are placed into the home confinement program as an alternative to detention and only when less restrictive alternatives are not feasible. Both supervision violators and pretrial defendants represent high risks for the home confinement program, but, unless a history of violence is present, the risk is controllable with a well-structured program and close supervision by officers.

Overall, among the post-sentenced offenders with unsuccessful terminations, the main reasons for termination included testing positive for illegal substances (23.3 percent) or incurring unauthorized leave violations (22.6 percent). Below are the descriptions of some of the types of reasons for program terminations, along with contrasting outcomes in these categories for particular types of cases:

Tamper: Sometimes participants or others tampered with the electronic monitoring equipment. They can do this by disconnecting the equipment, or by disconnecting the receiver unit, transmitter, or telephone line/service from the service unit in the participant's home. In each case, the supervising officer is alerted and investigates the situation. Of the supervision violators who were unsuccessfully terminated, 5.2 percent were terminated for tampering. Among the pre-release inmates who failed the program, only 0.6 percent had been terminated for tampering.

Unauthorized Leave: Sometimes participants left home (or stayed away) without authorization. Participants are required to comply with a daily activity schedule that specifies when they may leave and return home. Unauthorized leave violations were reported in 13.1 percent of the unsuccessfully terminated supervision violator cases and in .9 percent of the unsuccessful pre-release cases.

Abscond: Participants sometimes left the residence and remained away from home for such a length of time that the participants' whereabouts were determined as unknown. Supervision violators who failed the program absconded from supervision most often (8.1 percent) compared to only 0.4 percent of the pre-release case failures.

New arrest: Some participants were arrested or charged with a new offense, including misdemeanor offenses, such as driving under the influence or shoplifting, or more serious offenses such as theft, fraud, or drug possession, while in the home confinement program. While only 0.7 percent of pre-release inmates were terminated from the program because of a new arrest, 4.8 percent of the supervision violator failures were rearrested.

Conclusion

The use of the home confinement program is growing around the country. As the merits of this safe and cost-effective community corrections program become more widely understood, its use is likely to increase. The results of the descriptive analysis indicate that the federal home confinement program is operating within the expectations of its role with all types of federal criminal supervision cases.

The low percentage of new criminal conduct among program participants in the data reflects well on the program's implementation by pretrial services and probation offices. It is also a good indicator that officers are making appropriate recommendations for the home confinement program as a special condition of release.

While it is apparent that the federal home confinement program has received increased acceptance on the part of probation and pretrial services officers and judicial officers, there

are still unanswered questions that, if answered, might yield a broader application of this sanction. Plans are underway to fully implement electronic data collection for the home confinement program at the national level. This will make it possible to analyze a larger number of variables, conduct comparison and follow-up studies, and monitor performance of national home confinement policies and procedures. In combination, these efforts will help develop objective participant selection criteria, establish appropriate standards for officer contact with participants, and ensure consistent response time for officers responding to electronic monitoring alerts.

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Sober and Socially Responsible: Treating Federal Offenders

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THIS ARTICLE PROPOSES the integration of characterological therapy with substance abuse treatment. The integration of these two models addresses most fully the clinical challenges presented by the federal offender population. The ideas presented here are an outgrowth of observation and experience working in contract agencies with this population, first as a clinician in an outpatient substance abuse agency and currently as the Clinical Supervisor at the Salvation Army Corrections Center in Chicago. The Salvation Army (which is the largest federal community corrections facility in the country) is working to integrate these two models in individual and group treatment as well as in the milieu.

Clients arrive at our offices because they have broken the law. Embedded in the lawbreaking behavior we often see longstanding maladaptive personality patterns. In general, substance abuse treatment offered by community agencies to the offender/clients focuses primarily on addiction issues and does not address criminal thinking or other personality problems. Clients mandated for mental health treatment generally receive substance abuse treatment and whatever mental health services the individual clinician decides to deliver. While some mental health clinicians may choose to address personality disorders, others may not, focusing on acute (Axis 1) conditions such as depression and anxiety disorders. Although mental health clients are distinguished from the general population by the presence of Axis 1 disorders, and these do need to be addressed, there is a high co-morbidity and often personality disorders underlie the Axis 1 problems. The work of characterological therapy is to modify dysfunctional, maladaptive personality patterns. Characterological therapy can support and enhance substance abuse and mental health treatment currently offered.

This article describes the maladaptive personality patterns clients present, discusses the theory behind characterological therapy, and notes major limitations in most current outpatient treatment in addressing the client's presenting problems. The article suggests ways that outpatient substance abuse treatment can be strengthened by adding characterological therapy. It describes the main features of characterological therapy and looks at ways that counselors and therapists can be selected, trained, and supervised to provide United States Probation and Bureau of Prisons clients with the highest quality and most comprehensive services.

Maladaptive Personality Patterns Clients Present

Embedded in lawbreaking behavior we often see longstanding, maladaptive personality patterns. In the community corrections setting, four distinct patterns are seen repeatedly. Some clients are antisocial. Their primary issues are a victim stance with a concomitant projection of blame onto the system, rejection of the legitimacy of rules and law, and rejection of authority. Their motto might be "Nobody is going to tell me what to do." Their stance is defiant.

Other clients are schizoid, the loners. Their core issue is trying to take care of themselves in a world they regard as totally hostile. Other people are seen as obstacles to get over, around, and through with as little contact as possible. When they commit a crime, it is generally in the wake of severed relationships in work and personal life: they have run out of conventional resources and commit crimes in desperation. The majority of our clients with bank robbery convictions fall into this category. Their motto might be "Leave me alone." Their stance is vague, evasive, and secretive.

We encounter a third personality disorder in our borderline clients. They move from one crisis to the next. Their crimes are committed in a crisis context, usually accompanied by drug and or alcohol abuse. Their core issue is abandonment and their crimes are almost always committed in the context of relationship failures; when excessive demands they place on relationships cause others to retreat, they act out and commit crimes in anger. Their motto might be "Nobody cares about me." Their stance is "If you meet all my needs, I'll be very good, but if you don't, I'll be horrid." These clients are easily identified by their histories of suicide attempts, overdoses, and self-mutilation and by their tendency to "split"—that is, to shift their characterizations of important others between all good and all bad. They share with their cousins the dependent personalities a complete lack of boundaries.

Dependent clients constitute another group whose personality disorder we encounter. Our dependent clients commit crimes in the context of relationships also. However, their goal is to prevent abandonment. While the borderline commits crimes because a relationship has failed, the dependent commits crimes to keep a relationship. It is common

for dependent clients, especially but not exclusively the women, to report that they participated in criminal activity to "hold" a partner without whom they feel they could not survive. They are really the "nicest" and most pleasant clients to work with. Their motto might be, "I'll do anything for you dear, anything!" and their stance towards the therapist is, "I'll throw myself on your mercy."

Commonly, the clients' substance abuse and personality disorders have a reciprocal relationship, continually reinforcing each other in a circle of escalating dysfunction. For example, the "borderline" substance abuser medicates intense and unstable emotional states with drugs which have the effect of intensifying the instability. The antisocial personality increases drug use or relapses when s/he doesn't get his/her way or when s/he perceives others trying to control him/her.

Some counselors argue that the criminal behavior we see is secondary to drug abuse—i.e., clients steal, lie and manipulate because they are addicts—and that the antisocial behavior will disappear when the addiction is treated. These clinicians would see no need for additional "characterological" work. However, increasing research indicates that the characterological problems clients present often precede their drug use (Doweiko, p. 455; Fishben and Pease, p. 384). My experience taking federal probation client histories indicates that half of the clients were diagnosed as having "conduct disorders" (the diagnosis for childhood antisocial conduct) prior to taking their first drink or drug. However, even without the documented diagnosis of a preexisting personality disorder, substance abuse and criminal activity normalize antisocial thinking that needs to be addressed in treatment.

The Theory Behind Characterological Therapy/ Counseling

In characterological work, personality disorders are conceptualized as long-term consequences of developmental deficits (also called developmental arrest). Deficits occur in the individual's ability to attach to others (bonding) or in the individual's ability to individuate (poor boundaries between self and others). Traditional psychoanalytic theory posits that the different points of development at which the arrest occurs accounts for the structure of the disorder--whether it is anti-social, schizoid or dependent, for example, may depend on the point in early development where the individual's environment failed to deliver the basic conditions for continued emotional growth. (Note: Though there may be disagreement about how and when these disorders arise, it is clear that they exist and are harmful to the individual and to society.) Usually on the "disorder continuum" we think of schizoid and antisocial personalities as having the earliest disruption of growth conditions, with failure of attachment occurring during the first months of life. Thus, according to this theoretical model, many of the most schizoid and antisocial clients are akin to "orphanage babies" or "failure to thrive" babies who missed out on life's earliest socialization and bonding experiences. Although the schizoid client is more isolated and the antisocial client more aggressive, both disorders are associated with lack of empathy for others and lack of remorse for harm caused. Moving along the disorder continuum, borderline and dependent personalities are seen as the result of disruptions of growth conditions at later stages, and are more associated with failures of the environment to nurture towards individuation. Dependent structures are thought to be the result of the environment requiring more independence than the child is developmentally capable of and borderline structure is the result of punishment of early attempts at separation.

Personality disorders need to be understood as existing on a continuum—the "pure" borderline or antisocial disorder does not exist—these are generalizations only. Real clients may show a combination of deficits associated with different disorders. For example, it is common to see clients with both borderline and antisocial features.

It is important to recognize that while deficits are experienced within individual families, the conditions that produce a childhood lacking the basic requirements for development are often rooted in the ills of our society, including poverty, racism, drug abuse by caretakers, and lack of opportunity. Our clients are all too well aware of these injustices. We can and should empathize and acknowledge them at the same time that we insist that the client's deviant response is self-destructive and also especially destructive to those in his/her immediate family and community who may have suffered the same inequities.

Limitations That Have Existed in Programming

Programming Has Not Traditionally Addressed Characterological Issues

When awarded contracts for treatment services, community substance abuse agencies are often unprepared to deal with the more serious and chronic offender population. Substance abuse treatment services have too often been the same services offered to the agency's non-offender population. This treatment, whether it is individual, outpatient, or intensive outpatient, features goals that are behaviorally oriented—abstinence, avoidance of persons, places, and things associated with use, meeting attendance, etc. These behavioral prescriptions have offered the clients a needed structure for sobriety. The limitation of this model when applied to the U. S. Probation and Bureau of Prisons population is that the "core" thinking or "script" of the personality disorder can stand in the way of accepting a behavioral structure for sobriety. Characterological therapy addresses these core issues, enabling the client to make better use of behavioral prescriptions. For example, an offender whose core issue is his victim stance will feel that the requirement to attend intensive outpatient therapy is unfair. His energy will be directed to resisting the program and its goals as a way to "stand up to the system." He may complete the program but obtain few benefits.

There has too often been a Poor Understanding and Response to the Mandate

Another major problem is that outpatient substance abuse agencies, with their mix of mandated and voluntary clients, have special problems defining their relationships with mandated clients. In practice, most counselors experience discomfort regarding their relationship to the mandate. An example of this attitude is reflected in the primary substance abuse treatment text used in one agency where I worked. It advises the drug abuse counselor to "…initially disassociate himself from the coercion process" because "the coercion process hangs like a cloud over the counseling process" (Miller and Rollnick, p. 129). While such disassociation may be appropriate with other populations (for example, employees required by their employers to seek counseling), for our clients it

dooms the therapy or counseling to be ineffective. Therapists or counselors who become defensive or apologetic about being involved in the mandate or try to disassociate from the mandate contribute to the client's loss of confidence that help is available within this structure. In addition, antisocial clients may be tempted to test the clinician by engaging in manipulation and collusion against the probation officer, and borderline clients may use the counselors' discomfort with the mandate to "split"— i.e., characterize the probation officer as all bad.

Counselor Selection Has Often Been Inappropriate for the Population

Counselors who have passive styles tend to emphasize empathy and support without providing needed direction for change. They may maintain a veneer of professionalism, but underneath they really don't know what to do with the client. The result is a mutual "going through the motions" without change. These counselors, though well-meaning, over time become little more than a source of social support for the clients and can tend to form inappropriate alliances which sabotage the probation officer. Counselors who have their own issues with authority are less likely to model respect for the law and the rights of others. Attitudes toward authority are conveyed to the clients both verbally and nonverbally and are reflected in the counselor's lack of boundaries and discomfort with his/her own leadership role in relation to the client.

Supervision Has Not Been Required by the Contract

Supervision is a key element of successful programming. It sets a baseline for worker performance. Even workers who have good generic skills need to develop and refine their skills in terms of specific populations. Agencies have multiple contracts from various funding sources, each with its own regulations and requirements. In this atmosphere the specific kinds of supervision required for U.S. Probation clients is unlikely to take place unless it is clearly required.

Characterological Treatment Has the Following Characteristics

Responsibility for Characterological Change is Placed on the Client

Current substance abuse treatment calls for client acceptance of responsibility for behavioral change. The characterological model adds a critical dimension of responsibility for underlying personality traits. While deficits are not labeled the client's fault and while real empathy can be expressed for the painful losses implicit in current deficits, these are viewed as the client's starting point, with the treatment plan being something of a road map as to where the client needs to go. Simple analogies help the client to understand the task at hand—for example, if your car is damaged, even through no fault of your own, you still have the responsibility to fix it to make it driveable. This position enables the therapist or counselor to avoid using the client's history of "developmental disasters" to reinforce the client's victim stance or blame others for his/her mistakes. It also avoids an overly rigid "Yochelson and Samenow" position that the offenders are "just bad apples." In this therapy, the degree of change is the yardstick by which the client's success or failure is measured. Clients are directly told that this work is about change, that they are responsible for working on the change process, and that they can learn to live more effectively.

The Therapist Functions as a Benevolent Authority/Directs the Treatment

In current substance abuse treatment literature, as mentioned above, there are few clear guidelines for therapists to establish relationships with clients. In numbers of substance abuse treatment texts that were reviewed in preparation for writing this article, counselors were advised to be warm, trustworthy, and nonjudgmental, and to treat the client as an equal, but they were also given caveats such as "these characteristics do not mean that the chemical dependency counselor should be permissive" (Doweiko, p. 375). This lack of clarity leaves substance abuse counselors to their own devices, so that the mix of the counselor's and the client's personalities dictates the counselor/client relationship.

In characterological therapy, the therapist takes a relational stance as a benevolent authority. Clients can be directly told: I am going to be a kind of coach to help you live your life so that you are not in trouble with the law and are sober. With the U S. Probation population, the authority of the therapist or counselor is different from that of the probation officer. It is less legally and more clinically based. Clients need the legal authority of the probation officer. Care must be taken by the therapist or counselor to support the legal structure that is (and it is) preventive to recidivism, while helping the client to internalize values such as respect for the law and the rights of others. The clinically based authority of the therapist/counselor is a new experience for many of our clients—it is an authority based on the therapist's knowledge and experience. For some clients, the acceptance of this kind of authority is a first step in connecting or reconnecting with society. We could call this "soft" authority; most of the authority that we experience in the course of normal life is "soft"—the teacher, the clergyman, etc. Paradoxically, it is the client who has little or no "soft" authority in his/her life or who rejects all soft authority who comes to the attention of the legal structure. This is true of the vast majority of our population when they enter treatment. So it is of great importance that the counselor or therapist support the probation officer and be clearly in charge and directing treatment.

In Treatment, Deficits (Points of Developmental Arrest) and Strengths are Identified

In substance abuse treatment as it is now practiced, change is measured in terms of behavioral goals met; it does not include needed changes in personality traits. In Alcoholics Anonymous, change is measured in terms of a spiritual awakening that results from acknowledging one's own powerlessness and turning one's life over to one's higher power. The AA process of change includes making a moral inventory, making amends and carrying the message to other addicts/alcoholics.

The self-examination of the twelve steps, especially when mentored by a knowledgeable and supportive sponsor, can yield good results in terms of a direction for characterological change. But this is a haphazard process for many clients, as finding a good sponsor can be hit or miss. An obvious problem is that severely character-disordered clients do not engage in the process because their ability to connect, accept soft authority, and examine themselves is so limited. Even those who sincerely participate in moral inventory work may lack a baseline from which to proceed. Their characterological deficits are obscured from their own view by long-held defensive postures. Thus, their moral inventories can end up being "laundry lists" of misdeeds without the unifying perspective of the core issues. In the characterological approach, clients get a clear perspective on their under-

lying problems and a clear statement on what their role in treatment will be.

We start with our theoretical concepts: The problems the client has are the consequence of developmental arrest. Each client receives an individual assessment which is primarily a tool for identifying developmental deficits. As deficits are identified, strengths are also identified and care is taken to balance the identification of deficits with the identification of strengths. It needs to be said, also, that a good therapist does not throw all the client's deficits at the client at once. As mentioned above, most clients have built elaborate defenses to obscure their view of their own deficits. Clients with multiple deficits are often best served by working on one deficit at a time—the therapist will try to choose a deficit that, if corrected, will most improve the quality of the client's life.

Change is Presented as a Decision to Mature

An important part of characterological work is to have each client confront ways in which he/she has not matured. This is another important element of the change process not touched by traditional programming. In identifying deficits, the therapist might say to the client, "There are some ways in which you haven't finished growing up." Here a wonderful quote from Steve Johnson, a leading authority on personality disorders, is applicable (Johnson 1987, p. 76):

> All characterological healing involves, at core a decision to grow up—a decision to mature with respect to those infantile issues at which one is quite literally arrested. The decision to grow up is a decision to finally give up those…hopes of magical fulfillment—fulfillment without effort, without compromise, without limitation—without a rapprochement with reality.

In a sense, the characterological therapist rewrites this statement for each client. For some, it's the magical dream of a life without rules or consequences, for others it's a life without demands, for many it's a life without pain or hard choices.

Clients may be helped to decide to work on maturation issues by the therapist's real empathy for the pain their unconscious script decisions have caused them. Much of the work of therapy consists of identifying self-destructive patterns and outcomes, and helping the client to learn and practice new patterns. Clients have often developed complex defenses to obscure their script decisions, and these defenses need to be dealt with, so that the core characterological issues can be addressed.

In general, clients bring their own personal circumstances to the choice to mature. Clients who are relapsing don't consider the possibility. Con artists who are experiencing rewards from antisocial behavior simply don't see the benefits of change. Favoring the decision to mature, for example, are the following influences—a child or a relationship demands better functioning, the client is tired of being in and out of prison, incarceration has caused pain for the families, etc. The emotional climate in which each client confronts these issues is a powerful factor outside of the therapy room. The probation officer is an important part of that climate, as well. Probation officers who consistently monitor the offender's progress and apply appropriate consequences contribute to a climate in which the client is more likely to choose to mature.

The Therapeutic Relationship Is a Laboratory for Change; Script Decisions Are Identified, Processed and Rewritten

Perhaps the most important factor in the successful outcome of treatment is for the counselor/therapist to avoid playing his/her role in the client's script. Script decisions are the core thinking of the personality disorder. They are the reason for things always turning out the same for the client. The client will bring his thinking and behavior into the treatment room. The therapist or counselor will be subject to the same maneuvers that the client makes use of in other situations. Instead of reacting by "playing his/her role in the client's script," the therapists and counselors identify the script and make a decision not to participate. For example, schizoid clients will look for reasons to cut off the therapeutic relationship, either by attacking the therapist for some perceived imperfection or by wearing the therapist out with negative behavior. The therapist must avoid falling for that effort, and must help the client stay connected. Instead of reacting to the client's negative behavior, the therapist examines it as an in vitro expression of the script, helping the client to understand and examine his/her own behavior. Antisocial clients enter treatment with a "script" in which the therapist (who represents the hated society) is "bad" rather than the client. Accordingly, they may attack the therapist's competence and integrity, labeling the therapist as an oppressor and taking the victim role. It is very important not to play one's role in the client's script, in this case the "heavy" or "enforcer." Instead of being reactive to these early maneuvers, therapists should examine them to learn more about the client. Having refused to play the assigned role, the therapist is able to define his/her role in relationship to the antisocial client.

Borderline clients may also try to rework the relationship for their own ends--their needs for friendship and their dependence issues. They will bring in a script that calls for the therapist to provide all manner of inappropriate services to them, then state "You don't care about me" when the therapist puts appropriate limits. The therapist avoids falling for the client's script by neither rejecting the angry client nor succumbing to his or her demands, but staying centered and refusing to participate in the destabilization of the therapeutic relationship. In all cases, it is important not to humiliate the client when these maneuvers are exposed--they are labeled as outside of conscious awareness, automatic. As obvious as it may be to others, clients do not see their own role in their problems.

Clear Treatment Goals are Identified

In current chemical dependency treatment, goals are behavioral—for example, the avoidance of persons, places, and things associated with substance use. Characterological therapy adds goals that are cognitive and affective. Clients know their goals and are given regular reviews on how they are meeting them. This is the more concrete part of the therapy. Some of the more typical goals are listed below to give the reader a sense of what clients themselves may say they are working on. However, this is by no means a comprehensive list of treatment plan goals.

- Eliminating all or nothing thinking.
- Eliminating false norming (inappropriate comparison—e.g., citing an accomplice who went unpunished rather than looking at the criminal act or the victim).
- Eliminating the victim stance.
- Developing patience and working for things/avoiding the "quick fix."
- Choosing non-destructive relationships.
- Developing boundaries.

- Pacing and prioritizing (learning not to be overwhelmed).
- Avoiding abandonment crisis.
- Developing executive skills such as planning, decision making.
- Acknowledging and experiencing interdependence with others.
- Recognizing when thinking is becoming grandiose/ recognizing limitations.
- Learning to compromise.

The Selection, Training, and Supervision of Counselors and Therapists for Characterological Work

Therapists and counselors need to be selected carefully for work with this population. Several factors are especially important in staff selection. The first is the clinician's own attitude towards authority. Staff who either resist appropriate authority or who tend to take authority inappropriately are not suited to work with the U. S. Probation/Bureau of Prisons population. The counselors need to function as a "soft authority." A second important criteria for staff selection is the workers' ability to process their own reactions as a means of understanding the client, rather than reacting with behavior that reinforces the client's script. Additional factors important in staff selection are counselor standards and willingness to grow. In general, therapists and counselors do not receive training in graduate school that helps them deal with the offender population, and so these clinicians must be willing to acquire new skills.

Basic training in the contextual issues (e.g., the mandate, relationship with the probation officer, soft authority with clients) and basic characterological theory can be covered in a workshop format followed by regular supervision, both group and individual. Such supervision is essential for effective characterological counseling and therapy to take place. Group supervision and individual supervision provide the opportunity for treatment staff to review cases, receive feedback from the characterological perspective, and make appropriate revisions in treatment. Live supervision, where the trainer/consultant serves as a supervising co-therapist, provides the opportunity for modeling appropriate characterological treatment.

Conclusion: Characterological Work in the Milieu

The community corrections setting offers a unique opportunity for the treatment staff to work with the milieu staff—both Resident Advisors and Security staff—to create an environment where the milieu and the treatment deliver a consistent message. When training in this model crosses the traditional lines between treatment and milieu, much of the "splitting" and chaos that the difficult clients effect upon the facility can be reduced and staff can work together with a common understanding of their respective roles in the change process. Characterological training gives staff at various levels a common language and common concepts with which to communicate.

Resident advisors and security staff receive training in the characterological treatment model that takes into account their specific functions. Resident advisors are the case managers who monitor movement and progress through a system of levels of increasing freedom and responsibility. They receive training on the types of personality disorders and goal setting within the milieu. For example, the resident advisor and the counselor might be working with a client who has a poor sense of his/her own limitations (grandiosity). Although the goal of helping the client to accept his/her limitations and be more realistic is shared by both, the resident advisor's work may take the concrete form of helping the client to accept the employment that is available at his/her skill level. The drug treatment specialist would focus on the client's overall feeling that life is not offering what it should, thus dealing with the grandiosity on a more general cognitive and affective level, and connecting the client's feeling to his/her criminal behavior and/or substance abuse. Consulting with each other, these two professionals can stay "on the same page" regarding treatment goals, although their tasks may be different.

Similarly, security staff receive appropriate training that is consistent with this model. They learn to recognize basic behavior patterns that clients present and how to avoid responses that escalate into power struggles. A major issue with security staff is to avoid interactions in which clients can successfully label themselves as victims. These interactions tend to occur when security staff lose "emotional neutrality" and, confronted by the client's challenge, feel a need to demonstrate personal authority. Staff at all levels can reduce their reactivity to the anti-social script.

It is when staff at all levels can communicate a message of personal responsibility and choices that the environment becomes an agent of resocialization and rehabilitation for our federal offenders. When treatment supports the milieu and the milieu supports treatment, the environment becomes a corrective social experience.

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Genetic Factors and Criminal Behavior

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WHAT CAUSES AN individual to become a criminal? How does an individual who is raised in a stable adoptive home grow up to become Jeremy Strohmeyer, the young man convicted of raping and murdering an eight-year-old girl in a Nevada casino? The response to this question varies according to several factors, including the political climate and the theoretical orientation of the respondent. Social factors have received the majority of the attention; environmental variables such as socioeconomic status, for example, are most commonly studied in relation to criminal behavior. But social variables may not be sufficient to account for the wide range of variance observed in criminal behavior. For example, based on all accounts, Jeremy Strohmeyer was adopted into a loving and supportive environment. An investigation into Strohmeyer's biological background, however, revealed a history of schizophrenia and criminality in his biological parents. Perhaps other factors, alone or in concert with previously identified environmental variables, may better explain why some individuals travel down a criminal path.

Brennan (1999), in a recent issue of *Federal Probation*, addresses the gap found in current sociological and criminological literature in relation to acknowledging the influence of "non-social" factors.

Genetic factors, an important source of influence implicated in a variety of mental disorders such as schizophrenia, depression, and anxiety disorders, may play a role in predisposing certain individuals to criminal behavior. A genetic background positive for criminal behavior or mental illness, however, does not mean that the individual will develop the disorder later in life. In fact, most individuals who have a criminal biological parent do not become criminal. What we are stating is that certain individuals, due to genetic and/or environmental markers, may have an elevated risk of becoming criminal. Put another way, offspring of criminal biological parents may have a greater chance of engaging in criminal behavior than offspring of non-criminal biological parents.

The mention of genetic factors in relation to crime is sometimes met with resistance, a reaction which may be partially attributed to earlier efforts to identify observable physical characteristics associated with criminality. For example, in 1876, Cesare Lombroso proposed that criminals tended to have atavistic features, consisting of protruding jaws, receding foreheads and chins and asymmetrical facial features. Such theories have since been discounted. Genetic and biological research efforts today have largely moved away from this type of research. Nevertheless, there are still myths surrounding the role of genetics in relation to crime. To this end, several myths will be discussed, followed by evidence which links non-social or genetic factors to criminal behavior. These are by no means all of the myths, but may be the most commonly held inaccuracies regarding this type of research.

Myths

1. Identifying the Role of Genetics in Criminal Behavior Implies That There Is a "Crime Gene"

It is difficult to imagine that a single gene encodes for criminal activity; a more plausible scenario is that multiple genes interact to create an increased risk for criminal behavior. Moreover, genetic factors are likely to be associated with other behavioral characteristics that are correlated with criminal behavior, such as impulsivity and sensation-seeking behaviors.

2. Attributing Crime to Genetic Factors is Deterministic

Genes alone do not cause individuals to become criminal. Moreover, a genetic predisposition towards a certain behavior does not mean that an individual is destined to become a criminal. The notion that humans are programmed for certain behaviors fails to acknowledge important environmental factors which are likely to mediate the relationship between genetics and crime. For example, the expression of a genetic liability towards a certain behavior may be minimized or neutralized by positive family rearing conditions. Negative family rearing conditions might trigger a genetic vulnerability. Such an occurrence suggests that genes and the environment interact to either elevate or reduce the risk for certain negative outcomes.

Genetic Epidemiological Studies

Family, twin, and adoption studies, three epidemiological designs which are employed to examine environmental and genetic sources of influence, suggest that criminal behavior may be genetically mediated. These three epidemiological designs, however, provide varying opportunities to test for genetic effects.

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The limitation of family studies, for example, is that genetics and environmental sources of influence cannot be separated. Therefore, given the limited utility of family studies to separate issues of nature versus nurture, this section will focus on two other epidemiological research designs which are better equipped to test for genetic effects.

Twin Studies

Twin studies compare the rate of criminal behavior of twins who are genetically identical or monozygotic twins (MZ) with the rate of criminal behavior of dizygotic twins (DZ) in order to assess the role of genetic and environmental influences. To the extent that the similarity observed in MZ twins is greater than that in DZ twins, genetic influences may be implicated.

To date, over 10 twin studies, carried out in different countries, have tested for a genetic effect in crime. Taken together, these studies support the interpretation that criminal behavior may be a genetically mediated outcome. Specifically, a greater concordance rate for criminal behavior is observed for MZ twins than for DZ twins. Some researchers believe that the twin methodology may be flawed in that MZ twins, in addition to sharing more genetic information than DZ twins, are also more likely to be treated more similarly than DZ twins. Studies comparing the concordance rates in MZ twins reared apart can avoid this problem, but it is difficult to obtain such subjects. Christiansen (1977) has noted that several of the earlier twin studies had cases in which a set of monozygotic twins were raised in separate environments; these preliminary data suggest that studying MZ twins reared apart may be an important behavioral genetics tool to investigate the etiology of criminal behavior. To our knowledge, only one modern twin study has employed this type of research design to test whether criminal behavior may be genetically mediated.

Grove et al. (1990) investigated the concordance of antisocial behavior among a sample of 32 sets of monozygotic twins reared apart (MZA) who were adopted by non- relatives shortly after birth. Grove found substantial overlap between the genetic influences for both childhood conduct disorders (correlation of 0.41) and adult antisocial behaviors (correlation of 0.28). Although these findings are based on a small number of subjects, the Grove findings are congruent with the findings from other twin studies and extend the twin literature by evaluating MZ twins raised in separate environments.

Adoption Studies

Adoption studies provide a natural experiment to test the existence and strength of inherited predispositions. Adoptees are separated at birth from their biological parents. Thus, similarities between the adoptee and biological parents can be regarded as estimates of genetic influences, while similarities between the adoptee and the adoptive parents may be thought of as estimates of environmental influences. Adoption studies have been carried out in three different countries: the United States, Sweden and Denmark.

Iowa. The first adoption study to explore the genetic transmission of criminal behavior was carried out in Iowa by Crowe (1974). The sample consisted of 52 adoptees (including 27 males) born between 1925 and 1956 to a group of 41 incarcerated female offenders. A group of control adoptees were matched for age, sex, race and approximate age at the time of adoption. Seven of the 52 adoptees sustained a criminal conviction as an adult whereas only one of the control adoptees had a conviction. Since these adoptees were separated from their incarcerated mothers at birth, this tends to implicate a heritable component to antisocial behavior. A separate series of adoption studies carried out in Iowa by Cadoret and colleagues have supported Crowe's original findings. These independent replications lend support to the notion that criminal behavior may have important genetic influences.

Sweden. Bohman et al. (1978) examined the criminality and alcoholism rates among 2324 Swedish adoptees and their biological and adoptive parents, as determined by a check with national criminal and alcohol registries. The authors noted that a biological background positive for criminality contributed to an increased risk of criminality in the adopted-away children.

Denmark. Mednick, Gabrielli, and Hutchings (1984) carried out a study of the genetic influence on criminal behavior using an extensive data set consisting of 14,427 Danish adoptees (ranging in age from 29 to 52 years) and both sets of biological and adoptive parents. They found that adopted-away sons had an elevated risk of having a court conviction if their biological parent, rather than their adoptive parent, had one or more court convictions. If neither the biological nor adoptive parents were convicted, 13.5 percent of the sons were convicted. If the adoptive parents were convicted and the biological parents were not, this figure only increased to 14.7 percent. When examining sons whose biological parents were convicted and adoptive parents remained law-abiding, however, 20 percent of the adoptees had one or more criminal convictions. Moreover, as the number of biological parental convictions increased, the rate of adoptees with court convictions increased.

The finding that recidivism may be a genetically transmitted trait led us to investigate whether genetics play a role in persistent forms of criminal offending. Based on age of onset and duration of offending, Moffitt (1993) suggests the existence of two qualitatively different types of offenders; (1) individuals whose criminality is confined to adolescence, or adolescent-limited offenders, and (2)individuals whose criminality occurs during the adolescent period and extends into adulthood, or life-course persistent offenders. Genetic factors may play some role in explaining differences between the two groups. Moffitt suggests that life-course persistent antisocial behavior may have an underlying biological basis, whereas adolescent-limited antisocial behavior may be better explained by situational environmental factors. We tested this theory within the context of an adoption design. The results suggest that the biological parents with a criminal conviction were more likely to have an adopted-away son who evidenced life-course persistent offending than adolescent- limited offending (Tehrani and Mednick, in preparation). These data support the contention that genetics may play a role in persistent forms of offending.

These data, obtained from three different countries and in different laboratories, lend support to the notion that criminal behavior appears to have a strong genetic component. But what about serious forms of criminal behavior, such as violent offending? Our research group has investigated whether violent offending may be heritable.

Is There a Genetic Liability to Violence?

Twin and adoption studies have been employed to address this question, yielding mixed results. Cloninger and Gottesman (1987), for example, reanalyzed the twin data collected by Christiansen (1977) and grouped subjects as either violent offenders or property offenders. Heritability for property offenses was found to be 0.78 while heritability for violent offenses was .50. Although the genetic effect for property offenses was greater

than for violent offenses, the data suggest that violent offenses may also have a heritable underlying component. Two independent adoption studies, however, have failed to provide support for the hypothesis that violence is a heritable trait (Bohman et al., 1982; Mednick et al., 1984). The largest adoption study to date was carried out in Denmark by our research group (n=14,427). As stated earlier, Mednick, Gabrielli and Hutchings (1984) reported a significant relationship between the number of criminal convictions in the biological parent and the number of convictions in the adoptees. Subsequent statistical analyses revealed that this relationship held significantly for property offenses, but not significantly for violent offenses.

A study in Oregon provided an important clue that mental illness, particularly severe mental illness, may be genetically related to violence. In a classic study, Heston (1966) followed up a sample of 47 offspring born to schizophrenic mothers and compared them to a group of matched controls. These offspring were separated from their mothers shortly after birth and placed in foster care or orphanages. Heston was primarily interested in determining if adopted-away offspring of schizophrenic mothers were at increased risk of becoming schizophrenic themselves. The findings supported the original hypothesis, as 5 of the 47 offspring became schizophrenic. An interesting finding is that an even greater number of the adopted-away offspring of schizophrenic biological mothers actually had been incarcerated for violent offenses. Eleven (23.4 percent) of the adoptees had been incarcerated for violent offenses. Since these offspring were not raised by their schizophrenic mothers, this suggested the possibility that at least certain forms of mental illness and criminal violence may share a common genetic basis.

With the Heston study in mind, Moffit (1987) investigated the role of parental mental illness in the emergence of violent offending among the Danish adopted-away sons. When only the criminal behavior of the biological parents is considered, she found no increase in violent offending in the adoptees. A significant increase in the rate of violent offending is noted only among offspring whose biological parents were severely criminal (typically the biological father) and had been hospitalized one or more times for a psychiatric condition (typically the biological mother).

These findings suggest that a biological background positive for mental disorders may be associated with an increased risk of violent offending in the children. Other disorders in the biological parents may also increase the risk of violent offending in the adopted-away offspring. One such disorder which may elevate the risk of violent offending in children is the presence of alcoholism in the biological parents.

The Genetic Link Between Violence and Alcoholism

Recent molecular genetics studies report that a gene related to the serotonin system may be associated with increased risk for the co-occurrence of violence and alcoholism. These efforts have been fueled by the robust finding that alcoholism and violence, in humans and non-human primates, may be related to serotonergic dysregulation (Virkkunen et al., 1989; Higley et al., 1992). In a reanalysis of data from the Swedish Adoption Study, Carey (1993) noted that paternal violence is linked to alcoholism in adopted away males. We are currently investigating the possible genetic link between violence and alcoholism (Tehrani and Mednick, in preparation). Within the context of the Danish Adoption Cohort, we found that alcoholic biological parents were twice as likely to have a violent adopted-away son than non-alcoholic parents. In contrast, the risk for property offenses in adopted-away sons of biological parents with alcohol problems was not significantly elevated. The significant genetic effect was specific to violent offenders.

Moreover, violent offending (but not property offending) among the biological parents was related to severe alcohol-related problems in the adopted-away males. These findings from our adoption cohort are in agreement with data from the Swedish adoption study, and support the overall interpretations from recent molecular genetic studies.

Conclusions

Genetic factors represent one source of influence on criminal behavior. Until recently, their role had been ignored or discounted. The data that are emerging from research labs around the world indicate that excluding genetic factors from consideration may limit opportunities to advance the understanding of why some individuals become criminal. Apart from satisfying our scientific curiosity, this type of genetic research could potentially contribute to prevention efforts. Investigations into the etiological correlates of criminal behavior may lead to promising new directions for treatment and intervention. These etiological factors, either social or genetic, may help to identify individuals who are at elevated risk of certain negative outcomes. If, for example, we identify individuals who are at increased genetic risk for criminal offending, environmental buffers such as educational programs may be implemented to help reduce the risk that this genetic predisposition will be expressed. Put another way, the genetic vulnerability may be counterbalanced by positive environmental conditions. Two adoption studies have already noted this. For example, in the Danish and Swedish adoption studies, adopted-away children of criminal biological parents who were raised in higher socioeconomic adoptive homes evidenced a significantly reduced rate of criminal convictions, as compared to adoptees raised in low or middle class adoptive homes. Such an observation suggests that crime prevention efforts may be most effective when all risk factors, social and genetic, are evaluated.

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Training Juvenile Probation Officers: National Trends and Patterns

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BY THE EARLY 1990s, the juvenile justice system was facing yet another crisis in its 100 years of existence—juvenile violent crime rates had increased. From the late 1980s through the mid 1990s, juvenile arrests for violent crime as well as weapons and drug violations experienced large increases (Snyder and Sickmund, 1999). Primarily because of the concern with the violent crime rate increases, the juvenile justice system responded with a plethera of reforms designed to exact harsher punishment (Torbet et al., 1996). Despite the resurgence of the get tough movement with juvenile offenders, juvenile probation remained and still remains the most widely used option in the juvenile justice system (Snyder and Sickmund, 1999). However, recent research suggests that the caseload that juvenile probation officers supervise may be changing.

According to Torbet (1996, p. 4), juvenile "probation is the 'catch basin' of the juvenile justice system and is being confronted with increasing and … more dangerous caseloads." Between 1987 and 1996, the number of juveniles being placed on probation by the juvenile courts increased 58 percent (Snyder and Sickmund, 1999). In 1985, 15 percent of the juveniles adjudicated delinquent and placed on probation committed a crime against a person. By 1994 that percentage had climbed to 22 percent (Sickmund, 1997). In 1996 the percentage dropped only one percent to 21 percent (Snyder and Sickmund, 1999).

The challenges that juvenile probation officers face today are becoming increasingly difficult. According to Torbet (1996, p. 4) "the mission of probation will need to evolve even further to respond to not only the juvenile offenders but also to the community." These concerns raise the research question: Are we preparing our juvenile probation officers to face the challenges of their current caseloads and the challenges that the communities have issued to juvenile justice personnel? Is the training that juvenile probation officers receive effective and efficient given the challenges of the job? One way to answer this question is to determine nationwide trends and patterns in juvenile probation officer training. To date there has been little to no information collected about current juvenile probation officer training practices. Therefore, that is the focus of this research.

Methodology

In the fall of 1999, a telephone survey was conducted of all 50 states and the District of Columbia to gather information regarding training requirements for juvenile probation officers. In each state, a training contact person was identified. Each state received a survey, either by fax or mail, requesting follow-up information. States were surveyed regarding: what juvenile probation officers are called in that state; if that position is certified by the state; if there is mandatory training for that position, and if so, who mandates and who monitors the training process; what mandatory training consists of with regards to pre-service, basic fundamental and ongoing training; and what recommended training consists of with regards to pre-service, basic fundamental, and ongoing training.

For purposes of this research, pre-service training was defined as training offered or required after hiring, but before job duties could be assumed. Basic fundamental job requirements were defined as training offered or required within a certain period of time once job duties were assumed, and continuing ongoing training was defined as training offered or required on a continuing interval. The distinction between "mandated" and "recommended" training was reflected in the survey instrument.

There were follow-up mailings, phone calls, and faxes in an attempt to gather information from as many states as possible. Information was received from 43 states and the District of Columbia for a return rate of 86 percent.

Literature Review

Despite the changing juvenile probation caseloads and challenges, training of juvenile probation officers is not a new topic. Professionalism in the juvenile justice field has been an ongoing issue for some time. With regards to juvenile probation officers, several recognized correctional agencies and national institutions have made recommendations concerning ideal training standards. Discussed below will be standards recommended by the American Corrections Association, the American Bar Association, and those recommended in the *Desktop Guide to Good Juvenile Probation Practice.*

The American Corrections Association recommends 40 hours of general orientation before juvenile probation officers are given their job assignments. This training should consist of policy and procedure, organizational structure, the agency's rules and regu-

lations, and where relevant, those of the supervising agency as well. Moreover, the ACA recommends that every full-time professional juvenile probation officer be given 40 hours of training annually. The ongoing training should be designed to keep employees familiar with the changing juvenile justice field and to deepen their knowledge of the fundamental skills required to do their job successfully. This "retraining provides employees an opportunity to exchange experiences, define problems from their perspective, and communicate to the administration issues of special concern" (American Corrections Association, 1983, p. 13).

The American Bar Association recommends that "all personnel with direct supervisory responsibility for juveniles" have 80 hours of pre-service training with an additional 48 hours within the first six months of employment. The pre-service training should be designed to comprehensively provide an orientation to the job requirements. Included should be training in departmental policy, including the code of conduct, cultural diversity, special needs, constitutional rights, community services for juvenile offenders, supervising offenders including security problems, and other problems that juvenile probation department personnel encounter. Besides the initial training, the ABA recommends 80 hours of ongoing annual training. The areas of concentration should include updating departmental policies, job challenges, and updating tasks and programs (Shepherd, 1996, p. 33-35).

The National Center for Juvenile Justice in the *Desktop Guide to Good Juvenile Probation Practice* cited the National Advisory Commission Standards for training, which recommends "40 hours of initial training and 80 hours of ongoing training annually." The training should be in the areas that impact the juvenile probation officer's ability to provide services (Torbet, 1993, p. 120).

Perusal of these different standards reveals that juvenile probation officer training standards remains an area where there is little agreement regarding recommended hours, levels, and types of training. Our research will disclose the national trends and patterns of juvenile probation officer training.

Major Research Findings

Job Title

Responding to the question of what title was given those supervising juvenile offenders in the community, 68 percent of the respondents (30 states) stated they use the title **probation officer** or **juvenile probation officer**. Other states used titles such as juvenile justice specialists, juvenile community corrections officers, juvenile or youth service counselors, corrections agents, juvenile service officers, or juvenile justice case managers.

Certified Position

When asked if the position was state certified, 45 percent of the respondents (20 states) stated that their states certify the juvenile probation officer position. Forty-eight percent of the respondents (21 states) do not certify (Refer to Table 1). Three states responded that certification procedures were under development. When asked to identify the certifying agency, the respondents' answers ranged from the Department of Probation and Parole to individual circuits/counties.

Mandated Training

Eighty-two percent of the responding states (36 states) mandate juvenile probation officer training (See Table 2). Seven states do not mandate training. All the states that certify the position require some form of training. We next compared training hours of those states that certify against those states that do not. Those that certify require an average of approximately 101 hours of training compared to the average of 97 training hours for the states that do not certify.

Mandating Agency

Responses varied greatly as to who mandates training. The most common response, given by nine states, was the Department of Corrections (either adult or juvenile). Other responses included administrative order, statute, court mandate, and agency policy. Five states answered that no agency mandates the training.

Training Monitor

Thirty-one of the 36 states (86 percent) monitor mandated training. Agencies that monitor the training include the Department of Youth Services or Juvenile Justice Department (8 states), Administrative Office of the Courts (8 states), Department of Corrections (4 states), State Probation Services (4 states), Professional Development Bureau (4 states), Juvenile Court Judges Commission (1 state), State Supreme Court (1 state), POST Council (1 state), and individual circuits/counties (2 states). Three replying states did not know

TABLE 1

States' Position on Certifying Juvenile Probation Officers

	State Certifies	No State Certification
Alabama	•	
Alaska		•
Arizona	•	
Arkansas	•	
California		•
Colorado	•	
Connecticut*		•
District of Columbia	•	
Florida	•	
Georgia		•
Idaho*		•
Illinois	•	
Iowa		•
Kansas		•
Louisiana		•
Maine		•
Maryland		•
Massachusetts	•	
Michigan	•	
Minnesota		•
Mississippi		•
Missouri		•
Montana	•	
Nebraska		•
Nevada	•	
New Hampshire	•	
New Jersey	•	
New Mexico	•	
New York		•
North Carolina*		•
North Dakota	•	
Pennsylvania		•
Rhode Island	•	
South Carolina		•
South Dakota	•	
Tennessee		•
Texas	•	
Utah	•	
Vermont		•
Virginia		•
Washington	•	
West Virginia		•
Wisconsin		•
Wyoming		•

*Under reorganization with possible certification being reviewed
**States not listed did not respond to questionnaire

TABLE 2

Responding States that Mandate Juvenile Probation Officer Training

Alabama
Alaska
Arizona
Arkansas
California
Colorado
District of Columbia
Florida
Georgia
Illinois
Iowa
Louisiana
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Pennsylvania
Rhode Island
South Carolina
Tennessee
Texas
Utah
Vermont
Virginia
Washington
Wisconsin

who monitors the training or did not have a training monitor.

Mandatory Pre-service (Training Prior to Assumption of Duties)

Fourteen states require pre-service mandatory training of their juvenile probation officers. The required hours for the training range from 16 to 120. The median training hours for pre-service mandatory training is 40 hours. This indicates that one-half of the states require 40 hours or more of mandatory pre-service training while the other half have 40 hours or less of mandatory pre-service training. The mode score for mandatory pre-service training is also 40 hours. This indicates that 40 hours is the most common number of training hours for mandatory pre-service training (Refer to Table 3).

Mandatory Fundamental Orientation Training

Twenty-six states responded that they have mandatory fundamental orientation training (Refer to Table 3). The required hours for the training range from eight to 195. Generally most states require this training within the first year of employment.

Mandatory Continuing In-service Training

Thirty of the states require mandatory continuing training. The range of required training hours is from eight to 40 hours (Refer to Table 3). The median number of continuing in-service training hours is 30, which shows that half of the states fall on either side of the 30 hour range. The mode continuing in-service training hours is 40, indicating that 40 hours is the most common number of training hours among the states. Almost half of the respondents (50%) who mandate continuing training require 40 hours of continuing training every year.

Conclusions

According to Patricia Torbet (1996), there are approximately 18,000 juvenile probation officers in the United States. Most earn between $20,000 and $39,000 per year and receive basic benefits packages. Most have five to ten years of experience. Most chose the job "to help kids," and most cite their major job frustrations as dealing with the attitudes of the clients and their families, not being able to really impact the lives of the youth they supervise, and not being able to define and measure success (Torbet, 1996, p. 1). Furthermore, juvenile probation officers are facing increasing caseload sizes, changing types of offenders on their caseloads, public concern about the success of their jobs, and legislative reaction to that public concern.

Authors such as Ronald Corbett (1999) suggest that juvenile probation reform itself by following five specific steps: "let research drive policy, emphasize early intervention, emphasize the paying of just debts, make probation character building, and prioritize violence prevention" (p. 83-85). These reform steps would create a "doable agenda, not one that would likely entail additional large expenditures but would rely on reallocating existing resources and redeploying current staff" (p. 85). It seems that there are lots of concerns and opinions voiced and research being conducted on the "oldest and most widely used vehicle through which a range of court-ordered services is rendered" (Torbet, 1996, p.1).

This research was designed to examine the training requirements and recommendations that exist for juvenile probation officers throughout the United States. How are we training juvenile probation officers for the challenging and changing jobs that they are facing?

The research yielded the major finding that nearly one-half (45%) of the responding states certify juvenile probation officers, as most of these professionals are called. Two additional states are contemplating state certification. Certification indicates a move toward a professionally credited position with job-specific training. This suggests that the juvenile probation officer position is one that is gaining considerable recognition as a very influential position in the criminal justice system. Just as police officers must be certified to perform their duties, so the trend is growing for certified juvenile probation officers.

Eighty-four percent of the respondents mandate training for their juvenile probation officers. Who mandates and oversees the training varies greatly by state. States are more likely to have fundamental orientation training as opposed to pre-service training, and more still require continuing in-service training which is most commonly 40 hours per year.

The research raised additional questions for research we are now engaging on. What topics are in the curriculums being used in juvenile probation officer training? Are there similarities, or perhaps more important, vast differences? Who funds the training program in each state? How often is training offered? Are there criteria for judging its effectiveness? In other words, does current training provide or enhance the tools that juvenile probation officers need to do the demanding jobs that they have chosen? Defining successful training for juvenile probation officers may be fraught with difficulty, but according to those who supervise juveniles, successful training should include acquiring better tools to "help kids" (Torbet, 1996, p. 1).

TABLE 3

Training Hours for Responding States

State	Mandatory Pre-Service	Mandatory Fundamental Orientation	Mandatory Continuing
Alabama	Applicants without experience 40 hrs supervised in-service	80 hrs classroom within 6 months of hiring	40 hrs / yr
Alaska	40 hrs orientation workbook	No	40hrs / yr
Arizona	No	70 hrs of academy within first yr	16 hrs / yr
Arkansas	No	Week long course within 1st yr of employment (Approx. 40 hrs)	12 hrs / yr
California	No	134 hrs within 1st yr of employment	24 hrs / yr
Colorado	No	84 hrs within 6 months. Additional 16 hrs within 2 yrs	40 hrs / yr
Connecticut	No	No	No
District of Columbia	40 hrs	2 weeks direct supervision on Job Training (Approx. 80 hrs)	40 hrs / yr
Florida	No	120 total hrs within 1st yr of employment (Orientation within1st 14 days, Core/basic training and Intervention services training within 1st 6 months)	40 hrs / yr
Georgia	40 hrs	120 hrs within 1st yr	24 hrs / yr
Idaho	No	No	No
Illinois	No	40 hr basic within 1 yr	20 hrs / yr
Iowa	No	4 weeks (approx. 100 hrs) training program within 1st yr	15 hrs / yr
Kansas	No	No	No
Louisiana	40 hrs	40 hrs of POST* within 1st yr	40 hrs / yr
Maine	No	No	No
Maryland	80 hrs	No	40 hrs / yr
Massachusetts	10 days of probation orientation & 5 days of management training (approx. 120 hrs)	No	No
Michigan	No	Approx. 83 hrs within 2 yrs	No
Minnesota	40 hrs preservice academy training and 40 hrs orientation	No	40 hrs / yr
Mississippi	No	8 hrs	No
Missouri	No	No	No
Montana	40 POST*	No	No
Nebraska	No	120 hrs within 6 to 12 months	24 hrs / yr
Nevada	7 week POST*	No	40 hrs / yr
New Hampshire	78 hrs preservice and shadowing	144 training core to be completed within 1st yr of employment	30 hrs / yr
New Jersey	No	Approx. 84 hrs within 1st two months	12 hrs / yr
New Mexico	No	80 hrs	40 hrs / yr
New York	No	70 hrs of fundamentals of probation practice within first 6 mo./ 17 hrs of basic peace officer training within first 12 mo. and 47 hrs of firearms training within first 6 mo. (134 total training hrs)	21 hrs / yr
North Carolina	No	40 hrs orientation within first 4 months	8 hrs / yr
North Dakota	No	Basic 4 yr curriculum	No
Pennsylvania	No	No	40 hrs / yr
Rhode Island	2 weeks (Approx. 80 hrs)	No	20 hrs / yr
South Carolina	16 hrs orientation	62 hrs within first 3 months additional 56 hrs within 1st yr	40 hrs / yr
South Dakota	No	No	16–20 hrs / yr
Tennessee	120 hrs	No	40 hrs / yr
Texas	No Reply	40 hrs within 1st yr	80 hrs within 2 yrs
Utah	No	40 hrs	20 hrs / yr
Vermont	No	55 hrs within first 6 months, 75 additional hrs within 2 yrs	30 hrs / yr
Virginia	No	40 hrs within 60 days	40 hrs / yr
Washington	No	80 hrs within 1st 6 months	No
West Virginia	No	No	No
Wisconsin	No	195 hrs within first 18 months of employment	No
Wyoming	No	No	No

*POST – Peace Officers Standard Training **States not listed did not reply

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Who Lives in Super-Maximum Custody? A Washington State Study

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THE GROWTH OF super-maximum facilities in the United States can be traced to the experience of the Marion Federal Penitentiary in the early 1980s, when a series of assaults and murders led authorities to institute a "lockdown" regime characterized by single-cell housing, an absence of congregate activity, confinement for 23 hours per day, restrictions on commissary and other amenities, and the use of handcuffs and leg restraints when inmates are escorted to enclosed exercise areas, showers, or no-contact visits. These restrictions dramatically reduced the incidence of violence at Marion. With some local variations, they have been replicated in the new or retrofitted units that, as of 1995, had been established in 36 states. The pervasiveness of control in such units is established not only by security protocols, which are designed to minimize opportunities for assault, but by architectural and surveillance technologies that permit constant monitoring of what inmates are doing in their cells.

It is perhaps no coincidence that the rapid growth in prison populations since the 1980s has been accompanied by proliferating super-maximum facilities within prison systems, for both trends express the logic of incapacitation: To make the community safer, we lock away the dangerous and predatory in a place where they cannot harm us. Ward and Carlson describe the corresponding policy in prison management as "consolidation—the intentional concentration of the most aggressive, escape-prone, and disruptive prisoners in a single facility where the level of security and the overall regime is specifically designed to accommodate them." The authors go on to comment that "the consolidation strategy can positively impact the quality and life of other prisons in the system."[1]

Though the logic of incapacitation is intuitively appealing, the policy raises troubling issues. Perhaps the most salient problem from a prison management perspective is the difficulty of releasing an inmate who has been deemed dangerous back into a general population setting. If risks are avoided by transferring an inmate to an IMU, they are incurred anew when he is returned: the restrictions that prevent him from harming others while in solitary confinement also prevent his keepers from assessing confidently what he would do when restrictions are lifted. This concern is exacerbated by the possibility that the subject will have been embittered or debilitated by the experience, and more prone to lash out once released. Thus, recidivism by those returned to general population or the community, and fear of releasing others, may create rising demand for super-maximum capacity.

Not all super-maximum residents may raise the "tiger-by-the-tail" problem, but then questions arise about whether all inmates in them are there for good reason, and truly merit the degree of restriction these facilities impose. Such concerns are heightened by evidence that a disproportionate number of super-maximum custody prisoners have problems coping with prison due to mental illness, brain damage, or other factors; that needed treatment is not provided in such settings; and that vulnerable inmates are further damaged by sensory deprivation and other disorienting features of the environment. Finally, some studies of inmates in isolation indicate that even those who start out healthy can become withdrawn, incapable of initiating or governing behavior, suicidal, or paranoid.[2] Because of these concerns, the use of super-maximum confinement has given rise to litigation and has attracted a determined group of critics.[3]

Because these issues hinge on differing views of the purposes of corrections and the rights of inmates, there will remain issues of interpretation and grounds for disagreement that cannot be resolved by purely empirical methods. Defenders and critics of super-maximum facilities may agree, however, that it is important to devise methods of working inmates out of isolation, reducing repeated super-maximum placements, and preventing long-term solitary confinement of those whose ability to manage themselves is limited by mental illness or brain damage. To that end, systematic studies are needed of who lives in super-maximum custody, how they got there, and what effects it has on them.

To address the first of these questions—who lives in super-maximum custody—we conducted a study of all residents of Intensive Management Units (IMUs) in Washington state prisons. We used the Department of Corrections Offender-Based Tracking System (OBTS), the Department's electronic database for managing the classification and

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movement of inmates. From this database, we were also able to develop a typology of the patterns that led to inmates' placement in IMUs. A more extensive study including staff and inmate interviews and medical record reviews is underway.

The Washington State Study

In Washington, facilities elsewhere described as "super-maximum" are officially classified as maximum security, with a corresponding inmate classification of maximum custody. As of November, 1999, the four maximum-security IMUs in Washington held 222 inmates; an additional 10 inmates on maximum custody status were assigned to a high-security residential treatment program for mentally ill prisoners. These 232 male inmates were the subjects of our study. There were 171 (74%) with intensive management status: an administrative classification that assigns inmates to maximum-security settings for renewable 6-month periods, with the possibility of earlier release through informal interim reviews. The remainder were inmates assigned to IMUs for shorter-term disciplinary or administrative segregation or whose cases (and classification) were pending investigation.

It is important to bear in mind that intensive management status is an extended form of administrative segregation, which is justified on preventive grounds: concerns about escape risks, prison rackets, what the inmate will do to others, or what others will do to him in a general population setting. Disciplinary segregation, in contrast, is a time-limited sanction for a specific infraction. Not surprisingly, subjects with intensive management status were distinguished from the others by more violent crimes, longer prison sentences, higher infraction rates, and more violent infractions.

Case-by-case reviews of the Department's OBTS files were conducted to retrieve the following kinds of data:

- Demographics: age, ethnicity, offense, sentence;
- Disciplinary: major infractions, good time loss (the Department distinguishes between minor infractions, which are dealt with on living units, and major infractions, which require formal hearings and are recorded in OBTS);
- Housing: time spent in IMUs, segregation, various residential mental health units;
- Mental health status: indicators of serious mental illness, including diagnosis, where available, and narrative information in case management records.

OBTS also records narrative notes by Departmental case managers and others who supervise inmates, and some of the major infraction reports are accompanied by brief descriptions of the behavior that incurred the infraction. These notes suggest the issues that subjects posed and the basis for decisions about them. From these sources, we identified a small set of prison adjustment patterns among IMU inmates, which shed some light on the high variability we found among subjects.

Data were collected only for the current incarceration. In addition to distinguishing intensive management status inmates from other IMU residents, we defined a group of 77 chronic IMU inmates (33%) who had spent more than half of their current prison terms in IMUs. Some comparisons to the entire population of Washington inmates were based on data regularly collected and published by the Department's Office of Planning and Research.

IMU Residents vs. Other Prisoners

Compared to all Washington prisoners, IMU residents were younger, had been convicted of more violent offenses, had much longer prison sentences, and had much higher rates of major infractions.

- The average age of IMU residents was 30.5, vs. 34.5 for all Washington prisoners. There were 32 percent under 25, compared to 21 percent of all Washington prisoners.
- There were 33 percent of IMU residents convicted of homicide, vs. 13 percent for all Washington prisoners; an additional 38 percent had been convicted of other violent offenses, vs. 27 percent for all Washington prisoners (sex offenses were classified separately). Thus, the rate of violent convictions was 30 percent higher for IMU residents than for all prisoners.
- The median sentence of IMU residents was 156 months, the average sentence 224 months. The average sentence of all Washington felony offenders sentenced to prison in fiscal year 1996 was 47 months.[4] There were 27 IMU residents (12%) sentenced to Life Without Parole (23 cases) or Death (4 cases).
- IMU residents had committed an average of 7.7 major infractions per year, vs. 0.9 per year in a study of general population inmates.[5]

IMU residents were similar to all Washington prisoners in the proportion who were white (71%), but had a lower proportion of African Americans (18% vs. 23%) and a higher proportion of Native Americans (7% vs. 3%).

Correctional Profile of IMU Residents

Table 1 presents summary data on current IMU residents. Their youth, long sentences, and high infraction rates were noted earlier. Looking at the average and median values, there is little that is surprising about Table 1: Since they are young inmates with long sentences, many IMU residents have lengthy periods left to serve; since they are in IMUs because of concerns about their behavior, we may expect to find high infraction rates and considerable good time credit loss due to misbehavior.

What Table 1 also shows, however, is that there is no typical IMU resident. There was wide variety among subjects: many with short sentences, and others with very long ones; many with few infractions, and some with hundreds. For these reasons, Table 1 displays median (midpoint) values as well as means (averages). The means are higher than the medians because of a small number of inmates (not the same for each item) with counts or rates at the extreme high end on these variables. The standard deviations reflect the extent to which values were dispersed across the range for each item.

Based on these data and other studies of the disciplinary patterns of prison inmates, we might expect to find a considerable variety of issues raised by IMU inmates, particularly with respect to factors such as age and length of previous prison experience. Although the vast majority (146, 63%) are serving their first Washington prison terms, some have previously been incarcerated as often as 11 times and others for as long as 20 years.

An earlier phase of this project was concerned to study and develop interventions for a specific sub-population of frequent IMU residents who may be described as "behaviorally disturbed": inmates whose behavior, while not a clear expression of classic mental illness, has extreme and irrational aspects that

TABLE 1
Summary Profile of IMU Residents
N = 232

Item	Mean	Median	Minimum	Maximum	S.D.
Age	30.5	29	17	66	9.3
Sentence (Months)	224	156	12	1,020	189
Months Served to Date	58	42	2	305	54
Months Left to Serve*	160	79	1	892	184
Months in IMUs	21	12	0	129	24
Good Time Lost (mos.)	14	10	0	97	16
Percent of time in IMU	40%	32%	0%	100%	28%
Major Infractions	34	20	0	258	43
Annual Major Infractions Rate	7.7	5.6	0	66	7.7

*To calculate months left to serve, terms of life without parole were assumed to end at age 75.

appear to reflect psychological disturbance. These inmates are of particular interest because their behavior may resist both the mental health and the disciplinary interventions normally applied in prisons. We reviewed the OBTS files of 40 inmates who had been identified by prison staff as fitting this profile, and developed a list of index infractions commonly found in this group: attempting or committing homicide, staff assault, inmate assault, fighting, throwing objects (generally urine or feces), threatening, destroying property, and self-mutilation.

In the current study, the prevalence of index infractions ranged from 10 (4%) who had committed or attempted homicide to 60% with infractions for fighting and 60% for threatening. Some IMU residents had many instances of particular infractions: e.g., aggravated inmate assault, 20 counts; threatening, 94 counts; throwing, 99 counts. (Aggravated assaults are those in which the victim was hospitalized.) There were none with multiple prison homicides or attempted homicides, and four who had committed two or three aggravated staff assaults.

Chronic IMU inmates (with more than half their prison terms in IMUs) were similar to other IMU residents in age, offense, and sentence length. There were particular index infractions, however, that were more prevalent among chronic IMU inmates: staff assaults (48% vs. 29%), throwing (53% vs. 33%), and destroying property (56% vs. 36%).

We also compared chronic IMU inmates with other (non-chronic) residents with respect to the numbers of infractions they tended to commit. Their infraction rates were not significantly different. To strengthen the power of the analysis, infractions were divided into two groups: those that indicate a disposition to violence (homicide or attempt, other assaults) and those that indicate that the inmate is disturbed though not necessarily assaultive: threatening, throwing, destroying property, self-mutilation. (Fighting was left out of the analysis because both its prevalence and the average number of instances were identical across groups of IMU residents; also, it does not necessarily reflect a proclivity for initiating violence). Chronic IMU inmates committed "violent" infractions at no greater rates than non-chronic inmates, but did tend to commit more "disturbed" infractions (Mann-Whitney, p=.012). These data support the contention that some chronic IMU placements reflect a subpopulation of behaviorally disturbed inmates.

Mental Illness Among IMU Residents

The criteria for mental illness are controversial in assessing a group of inmates whose conduct has resulted in IMU placement. As mentioned earlier, the setting itself may induce psychiatric symptoms. More generally, if we conceptualize illness in terms of conditions that hamper normal functioning, it may appear to the outsider that only the mentally impaired would put themselves into an environment as extreme as the IMU, and that disgust would prevent normal adults from handling and throwing feces. The understanding of mental illness employed here sidesteps rather than resolves these issues. Serious mental illness is conceptually defined as a major thought disorder, mood disorder, or organic brain syndrome that fits a well-established DSM-IV category, substantially impairs functioning, and requires treatment. Having stipulated this much, we still have the problem of recognizing mental illness in a population survey. This task is especially complicated in prisons.

Although residential and outpatient mental health facilities have been established for some time, serious mental illness has been an official component of Washington's inmate classification system for only three years. Neither administrative procedures for assessment, nor electronic procedures for recording inmates' mental health status, have been fully carried out. There is therefore no single indicator in OBTS that can be relied upon to identify inmates whose functioning is severely impaired by mental disorder. Fuller assessments will require interviews and review of residents' medical charts. In the meantime, we have employed five proxy indicators, each of which provides reasonably strong evidence of serious mental disorder:

- Confirmed SMI: the inmate has been evaluated by a mental health professional and an assessment of serious

mental illness has been recorded electronically *(SMI yes)*.

- Multiple acute care admissions: three or more admissions to an acute mental health care facility at the state penitentiary, to which disturbed IMU residents may be transferred on a short-term basis *(Acute care user)*.
- Case management notes: mention of hallucinations, delusions, or prescription of psychotropic medications in narrative case management records *(Case mgt notes)*.
- Mental health residency: 30 or more days in one of the Department's residential mental health units *(MH residency)*.
- Diagnosis: an electronically recorded diagnosis of psychotic disorders, bipolar disorder, major depression, dementia, or borderline personality *(Diagnosis)*.

Table 2 displays the occurrence of these indicators among IMU residents. There are no significant differences between all IMU residents and chronic IMU inmates in the frequency of these indicators. From the limited electronic evidence, it appears that approximately 30 percent of IMU residents show evidence of serious mental illness. This is substantially higher than the 10–15 percent estimates of prevalence in total inmate populations.[6]

IMU residents whose OBTS files provided evidence of serious mental illness resembled other subjects in their crimes of conviction and sentence lengths. Yet they had significantly higher infraction rates (Mann-Whitney, p=.002), more violent infractions (p=.023), and more disturbed infractions (p<.001). This pattern is consistent with other findings that mentally ill inmates have greater difficulty coping with prison settings.[7]

Patterns of IMU Careers

We have noted above that there is no typical resident, and that our subjects show considerable variation on all the characteristics we have discussed. The following discussion of major patterns among IMU residents is intended to indicate reasons for the extreme variability. These patterns have been inductively derived from OBTS chart reviews—including narrative descriptions of inmate behaviors by mental health staff, custodial officers and case managers—in light of the statistical data generated in this study. Our approach to the behavior of IMU residents allows that people may change over time, and their actions cannot simply be explained by enduring individual attributes. While people are in prison their lives follow a trajectory that reflects their changing dispositions, the way they fit or fail to fit with their settings, and the expectations others have of them. Following Toch and Adams,[8] we mark this approach by using the term "career," and presume neither that patterns are deliberately chosen nor that they are forced upon the individual.

As mentioned above, IMU residents are generally younger than general population inmates. There were 25 (11%) under 20. Some were juvenile offenders, tried and convicted as adults, who have come to the IMU within one month of entering prison. Two overlapping patterns are typical of younger IMU residents:

- *Protection Issues.* Some younger inmates are formally on protective custody or are perceived by staff to be using IMU time as an informal strategy to achieve protective custody. That is, by committing a serious infraction within a short time of incarceration, they are thought to be avoiding a real or perceived problematic placement in general population. Once in IMU, they remain relatively infraction-free.
- *Impulse Control Issues.* There is also a subset of younger inmates who are described by staff as "explosive," "out of control," incapable of maintaining attention, and unable or unwilling to adhere to unit expectations. Mental health and case management information in these cases includes Axis I diagnoses of post-traumatic stress disorder and attention deficit-hyperactivity disorder, and histories of alcohol or drug addiction, special education, learning disability, intermittent explosive disorder, or psychiatric medication. These inmates tend to commit infractions at much higher rates, especially for fighting, throwing and threatening.

These patterns overlap because some younger inmates fear that older, tougher inmates will victimize them, and are unskilled at observing inmate and staff norms. In an attempt to prove themselves manly, they may escalate minor disagreements or perceived provocations into fights and infractions. Staff may also feel some of these young men are safer in IMU settings because fellow inmates find them so irritating.

TABLE 2

Indicators of Serious Mental Disorder Among IMU Residents (N=232)

Indicator	Number	Percent
Acute care user	22	9%
SMI yes	34	15%
Case mgt notes	29	12%
MH residency	45	19%
Diagnosis	29	12%
Multiple Indicators	38	16%
Any Indicator	67	29%

Among older inmates, there appear to be three very general IMU career patterns.

- *Paying the Price.* Some IMU inmates are experienced at doing time, are serving long sentences, and have extensive prison careers. Although they may have multiple admissions into IMUs during their current incarceration, they spend the vast majority of their time in general population. These inmates land in IMU for serious infractions incurred as "the cost of doing business" while living in general population, serve their IMU time with few or no infractions, and return to population.
- *Progressively Poor Adjustment.* Other inmates spend less time in general population, and a larger percentage of their time in IMU. This seems to reflect a general pattern of frequent but relatively short IMU admissions which become lengthier as the number of admissions increases. These inmates are often described by staff as socially inept, and as having difficulties negotiating their roles according to institutional and cultural codes. There appears to be an inverse relationship between the amount of time they live in IMU and their ability to maintain themselves in general population.
- *Stalemate.* Some inmates have become stuck in IMU and serve more of their time in IMU than in any other prison setting. These inmates are described by prison staff as being "at war with the system," and this is thought to explain their extremely challenging and apparently self-defeating

behaviors. The infractions that typify this career pattern include "violent" ones such as aggravated assault and destruction of property, and "disturbed" ones such as throwing and threatening. As these behaviors are interpreted by staff in the context of "war," they are often described as "strategic."

Another set of issues is represented by inmates with serious mental health issues, as demonstrated by the mental illness indicators described above. As mentioned above, rates of all types of infractions are higher for mentally ill inmates. Not surprisingly, IMU inmates who meet our mental illness criteria account for almost all those with recorded suicide attempts (5 of 6) or infractions for self-mutilation (21 of 24). They tend to divide their time between acute care housing, mental health residential housing, and IMU. Within this group we can distinguish two chronological patterns.

- *Route to IMU.* This pattern is characterized by movement between acute care and mental health housing for a time before being admitted to IMU, with IMU admission becoming an increasingly frequent event. In these cases, inmates are described as escalating in violence, unpredictability, or extremely bizarre behavior, and as difficult to manage in other prison settings. They are often recognized as psychotic or seriously mentally ill.
- *Route to Treatment.* The second pattern among IMU inmates with serious mental health issues is movement from IMU to acute care or mental health housing. Here inmates may be characterized by staff as decompensating, manipulative, or some combination of both.

Reflections

The variability in the profile of IMU residents displayed in Table 1, and the distinctive career patterns we have described, indicate that not all IMU prisoners pose the same management problem. Perhaps then not all of them should be subject to the same solution. The resort to a single solution to diverse problems is by no means unique to Washington. Its IMU population at the time of study represented 1.6 percent of a prison population exceeding 14,000, a rate below the average for states that acknowledge super-maximum facilities.[9] The progressive character of Washington's prison management is illustrated by its willingness to support this research. Our concluding remarks on the complexity of tailoring IMU responses to distinct problems raise policy issues of general application.

First, we must qualify the judgment that intensive management represents a one-size-fits-all response. It is reassuring that not all subjects were relegated to chronic IMU residency; the severity and persistence of assaults and threats evidently play a role in administrative decisions about length of stay. Furthermore, Washington's facilities have a level system by which inmates can earn greater degrees of privilege (e.g., in-cell televisions) through compliant behavior. Thus, there is already some variety in outcomes and conditions.

The architecture and procedures that define intensive management, however, were designed with one kind of case in mind. It is exemplified by a man whose record substantiated the comments he made to one of us:

> Personally, I'm beyond rehabilitation: I mean, I'm gonna do what I want to do when I want to do it, and anybody who gets in my way or says differently is gonna be dead. I'm spending the rest of my life in prison, I really have nothing to lose…

It is worth questioning whether restrictions that appear to respond to this sort of case are needed for inmates who mainly pose protection issues, or for those temporarily paying the price for misconduct in general population. It is further worth questioning whether standard expectations for compliant conduct, and for improving one's chances of leaving IMU, are realistic with inmates suffering from organic defects or mental illness. We may also be concerned about the extent to which the IMU regime itself contributes to the pattern of progressively poor adjustment.

To cope with the diversity of issues presented by IMU inmates, a reasonable first step would be to institute systematic intake assessments. The purpose of such assessments would be twofold: first, to evaluate how severely restricted the inmate needs to be, e.g., whether he poses a security risk that warrants suspension of routine medical or dental visits; second, to begin developing a plan for release from IMU that would include behavioral contracts, programming, and planning his next placement with expectations for conduct or treatment there. The additional effort required for individual assessment and planning may pay off in terms of shortened stays and reduced levels of tensions in IMUs, as more inmates see some hope of working themselves out of the box.

The typology we have described here carries a number of risks for misinterpretation or misapplication. One likely misapplication could be made by planners impressed with contemporary methods of psychological assessment and classification: applying a schema like that presented in the previous section by devising research-based, actuarial methods to determine which type an inmate represents. Different sets of procedures and programs, perhaps associated with different IMU locations, could then be applied based on whether an inmate is a protection case, a progressively poor adjuster, and so on. It is important to be clear that like our work, this approach aims to recognize differences; but there is a critical conceptual distinction. The first asks, who is this individual and how do we respond to his issues; the second, which type does he belong to and which program do we apply.

The project of matching type of IMU program to type of IMU inmate is sprinkled with practical and conceptual snares. Consider, for example, the role of the IMU as a hidden strategy of self-protection. It would be at least mildly paradoxical for a Department to recognize this function formally, since the strategy so often takes the form of assaults which the Department's disciplinary and segregation procedures are intended to discourage. Furthermore, to classify one group of IMU inmates as protection cases and separate them from others, by program or location, would in effect label them as protective custody clients. By incurring this stigma, they would also incur the associated presumption, by other inmates, that they are probably snitches. As a result, their return to general population settings would be fraught with peril; recognizing this, the subjects of the intervention would be likely to resist it. We describe this knot of paradox not to argue that there is no way out, but to illustrate how pulling on one string in the IMU situation leads us back to questions about the larger prison setting: what options are open to inmates who feel threatened, and which are they willing to use?

A further difficulty with the project of matching type of IMU program to type of IMU inmate is the likely resistance of staff. Even if inmates are not classified by type but instead staff are enjoined informally to take account of who the inmate is, they may have difficulty accommodating the resulting com-

plexity. Both in IMUs and in the larger prison setting, a small number of officers are charged with controlling a great number of people who don't want to be there. Treating everybody the same regardless of who they are—as exemplified by the slogan, "firm, fair, and consistent"—is a simple way of conserving effort and avoiding the liability incurred if too much slack is mistakenly given to an inmate who then wreaks mayhem. In addition to concerns about efficiency and liability, staff also have convictions about fairness and accountability that may be offended by attempts to vary the regime according to the diverse issues that inmates present. These difficulties are not insuperable, but achieving flexibility in response will be a challenge given the methods of staffing and training that prevail in prisons.

The conceptual danger of formally matching IMU program type to IMU inmate type is that such classifications may misconstrue the different patterns inmates exhibit. First, they are not solely a function of individual behavior or character, but effects of interaction with a system. Second, they are neither mutually exclusive nor fixed. For example, a young and newly admitted inmate may raise protection issues, but also fit the study criteria for mental illness; over time, he may fall into an IMU pattern of progressively poor adjustment, or he may eventually work himself out of IMU and into general population. Even in the example cited above—where we may be glad both that the man is in prison and that he is away from other prisoners—we are glimpsing a particular stage in a career. He now presents his keepers with a stalemate, and returning him to population raises the tiger-by-the-tail problem described in the opening of this article; but we could find others "just like him" except that they are now living in other settings and avoiding violent conflict.

To construe patterns as a typology of individuals ignores not only the overlapping and evolving nature of the patterns, but the role of inmates' past and present settings and the conditions and practices that characterize them. Protection issues, as we saw above, reflect both the vulnerability of certain inmates and formal or informal arrangements for relieving threats in general population. The pattern of progressively poor adjustment demonstrates both the instability of some inmates and the repetitious nature of reactions (e.g., infractions for threatening) that feed the cycle. The careers of mentally ill IMU inmates implicate the accessibility and effectiveness of prison mental health programs, but also raise the question how such severely impaired individuals landed in prisons rather than hospitals. Considering another pattern, paying the price, one inmate now paying for his role in a prison drug ring is also paying a lifetime price for his heroin addiction, because of drug-related robberies that subjected him to "three strikes" laws.

The last cases recall the connection suggested in the opening of this article, between the processes that feed expansion of prison populations and those that increase reliance on super-maximum facilities within prison systems. Our findings show significant differences between general population and IMU inmates, but also support doubts about whether the IMU solution is imposed rationally upon all of them. Like IMU staff, prison workers are confronted with individuals posing a variety of complex issues but are afforded a narrow range of methods to "fix the problem." While responding to this challenge, they may also be troubled by the feeling that not all of their clients belong in this restricted setting. Locating problems solely within the individuals that present them is one means of setting such doubts aside. Both within prisons and in the larger criminal justice arena, a single solution is applied to individuals reflecting a diversity of issues. In both cases, doubts about the fairness of policies can be displaced by the powerful image of the predator, and the concomitant fear of appearing to excuse him or ignore the threat he represents. In both cases, humane and effective practice requires that we resist the hold of this image and encourage open discussion of where we go from here.

Endnotes

[1] David Ward and Norman Carlson, "Super-maximum custody prisons in the United States: why successful regimes remain controversial," *Prison Service Journal,* Vol. 97 (1995), p. 28.

[2] Craig Haney, "'Infamous punishment': the psychological consequences of isolation," *National Prison Project Journal,* Spring 1993, 3–7, 21; Stuart Grassian and Nancy Friedman, "Effects of sensory deprivation in psychiatric seclusion and solitary confinement," *International Journal of Law and Psychiatry,* Vol. 8 (1986), 49–65.

[3] In addition to Haney and Grassian, critics include: David Harrington, "Caging the crazy: 'supermax' confinement under attack," *The Humanist,* Jan/Feb 1997, 14–19; *Cold Storage: Super-Maximum Security Confinement in Indiana* (Human Rights Watch, 1997); *Out of sight: super-maximum security confinement in the United States* (Human Rights Watch, 2000); Roy King, "The rise and rise of supermax: an American solution in search of a problem?" *Punishment and Society,* Vol. 1 (1999), 163–186; Bruce Porter, "Is solitary confinement driving Charlie Chase crazy?" *New York Times Magazine,* November 8, 1998, pp. 52–58. The principal court case is *Madrid v. Gomez,* 889 F. Supp. 1146 (N.D. Cal 1995).

[4] *Adult Felony Sentencing: Fiscal Year 1996.* State of Washington, Sentencing Guidelines Commission, 1996.

[5] David Lovell and Ron Jemelka did a study of infractions committed at a medium security prison in the latter half of 1994 ("When inmates misbehave: the costs of discipline," *The Prison Journal,* Vol. 76, 1996, 165–179). Because of differences in methods of calculation, the general population major infraction rate of 0.9/yr is not strictly comparable to the IMU resident data, but does indicate that the rate among general population inmates is much lower than among IMU residents.

[6] H. Richard Lamb and Linda Weinberger, "Persons with severe mental illness in jails and prisons: a review," *Psychiatric Services,* Vol. 49 (1998), 483–492. In *Mental Health and Treatment of Inmates and Probationers* (7/99), the Bureau of Justice Statistics reports a 16% rate of self-reported prior treatment or mental or emotional problems among state prison inmates.

[7] Hans Toch and Kenneth Adams, "Pathology and disruptiveness among prison inmates," *Journal of Research in Crime and Delinquency,* Vol. 23 (1986), 7–21; Hans Toch and Kenneth Adams, with J. Douglas Grant, *Coping: Maladaptation in the Prison,* New Brunswick, N.J.: Transaction Books, 1989; David Lovell et al., "Evaluating the effectiveness of residential treatment for prisoners with mental illness," *Criminal Justice and Behavior,* in press.

[8] Cf. the Introduction to *Coping,* cited in (7).

[9] Comparative data from Roy King, cited in (3). The IMU population in Washington may have been slightly depressed at the time of our study, and is due to increase with the opening of a fifth facility at a new prison nearing completion.

Equal or Equitable: An Exploration of Educational and Vocational Program Availability for Male and Female Offenders

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FEMALE INCARCERATION in the U.S. has been notorious for gender-stereotyped programming, inadequate medical care, and overall conditions of neglect (Rafter 1995). Specifically, past literature reveals that female inmates were offered fewer opportunities for educational and vocational training than their male counterparts (Arditi et al. 1973). Of the programs that were offered, almost all of them prepared women inmates for "typical" pink collar jobs, such as secretarial work, horticulture, sewing, and service occupations (i.e. laundry and food service). A bleak picture for the future of women inmates emerges when one combines this historical lack of programming with the continuous increase in the number of women inmates entering state and federal facilities. The Bureau of Justice Statistics estimates that as of June 1999, there were approximately 87,199 women in state and federal prisons (Bureau of Justice Statistics 1999). This is up some 5.5 percent from the previous year, and researchers indicate that the rise in the number of women inmates is outpacing the rise in the number of males entering prison (reported as a 4.3 percent increase) (Bureau of Justice Statistics 1999).

While the opportunities for these growing numbers of incarcerated women appear minimal based upon extant research, most of the research on educational and vocational programs available to female inmates is outdated for the 1990s and is based on a small sample of institutions. Most important, this previous research cannot and does not account for the changing roles of women in today's society. Not only are more women entering post-secondary education, but more women are entering the work force than ever before (U.S. Census Bureau 1997). These changes invite a re-examination of gender disparities in prison programming, because today's female inmate is entering a different economic and educational climate than that of 30 years ago.

Thus, the present study provides a much needed contemporary, nationwide examination of the educational and vocational programs available to male and female inmates from over 470 state institutions. In addition to describing program availability, I present logistic regression analysis to assess the effects of prison gender composition upon educational and vocational program availability, while controlling for other prison-level variables (i.e., age, staff size, population size, regional location, and security level). Last, I explore and discuss some of the policy and social implications of this research.

Literature Review

Academic Education

Academic educational programming is an area where inequalities have long flourished between male and female penal institutions. Arditi et al. (1973) found that several states in his sample lacked "proper" educational programs for women. Michigan, for example, did not provide its female inmates with even a first-through-eighth-grade education. In addition, Michigan and California did not provide any study-release programs for females, but did offer such programs to male inmates. Alabama only provided male inmates with college programs. Nebraska offered only junior college classes to its female inmates, while offering four-year college programs on the premises of all of its male institutions.

This study also revealed that female institutions had fewer teachers, but better inmate/teacher ratios. For example, Ohio had a 57:1 ratio and a 107:1 inmate teacher ratio in its female and male institutions, respectively (Arditi et al. 1973). This lower ratio provided more personal attention for female inmates, while simultaneously inhibiting the scope of training and specialization (i.e., grade level and subject matter) offered to female inmates. The findings of this study, however, are somewhat limited because the authors only examined a small sample of 15 female institutions and 47 male institutions in approximately 14 states.

More recently, Ryan (1984) conducted one of the most comprehensive studies of program availability. He examined academic education program availability across 45 states. He found that 83 percent of the female institutions offered GED and ABE (i.e. Adult Basic Education) programs, while 72 percent had college programs. These results indicated that program availability had definitely increased, but they indicated nothing about the actual participation rates in prison programs nor about the qualitative characteristics of the programming offered.

In terms of participation rates, a study by Morash et al. (1994) of more than 14,592 male inmates and 3,091 female inmates revealed that a slightly greater proportion of females (48.6 percent) than of males (45 percent) had taken part in academic programs since admission to prison. In addition, slightly more females were involved in adult basic education classes and college classes.

This involvement in educational programs is much needed, since current statistics show that many of today's female inmates are entering prison with an educational deficit. A Bureau of Justice Statistics (1994) report revealed that of the female inmates imprisoned in 1991 only 23 percent had completed high school while 33 percent had dropped out of high school. In addition, 20 percent had completed a GED and about 16 percent had some college education. This evidence supports the notion that educational programming in prisons is necessary. Leaving prison with insufficient education or job skills sets these inmates up for a life of struggle and distress.

Vocational Education

An area where female inmates seem to face particularly great disparities is vocational training. Arditi et al. (1973) revealed that males in their study were offered a greater variety of vocational programs than female inmates (males averaged 10.2 programs, while females averaged 2.7 programs). Of the 62 facilities surveyed by the researchers, it was reported that the Department of Corrections often assigned male offenders to specific institutions based upon their rehabilitative needs, while female inmates only had the choice of going to one facility in their state (Arditi et al. 1973). Arditi et al. also showed that female inmates were only offered training in clerical skills, cosmetology, dental assistance, floral design, food service, garment manufacturing, housekeeping, IBM keypunching, and nursing assistance. Male inmates, however, were offered programs in air conditioning repair, auto mechanics, baking, cabinet making, carpentry, chemistry, driving, drafting, electronics, farming, horticulture, laundry preparation, leather work, machine shop, plumbing, printing, tailoring, welding, and many more. Not only were males offered more programs, but they were offered training in programs that could potentially earn them more income upon release.

Glick and Neto (1977) provide additional evidence for the existence of this disparity in their study, which showed that their sample of female institutions most frequently offered vocational programs in clerical skills, cosmetology, and food service. The researchers also point to the dubious utility of these programs. They state, "it is ironic that many correctional institutions have provided vocational training programs in fields where licensing of ex-offenders has been denied" (Glick and Neto 1977: 73). This study reiterates the idea that prisons are not looking towards the future of their inmates. Inmates (both males and females) need job skills that will help "kick start" their resocialization back into society. Fewer opportunities in prison make the reality of successful resocialization for female inmates seem extremely challenging (Simon 1975, Sobel 1982).

Watterson (1996), for example, stated:

> When a woman gets out of prison, she's given $40, a coat, an address and told to go out and see if she can make it. Most women will return; they do so because of stress, fear, and the fact that they haven't learned the skills needed for living more effectively outside while they've been locked up (p. 204).

Research from the 1980s revealed that the number and variety of vocational programs for female offenders had increased compared to earlier decades (Arditi et al. 1973; Glick and Neto 1977). Ryan (1984) reported that 83 percent of the female facilities in his sample had at least one vocational program, with some states such as Texas and Pennsylvania offering 12 to 13 vocational programs. In addition, Crawford (1988) indicated that 90 percent of the female prisons in her sample offered some type of vocational program. Moreover, Weishet (1985) reported that 15 of the women's institutions in his sample offered non-traditional programming, whereas in 1973 none of his sample institutions had offered any type of non-traditional programming for females.

Some of the most current research by Morash et al. (1994) indicated that female inmates are still receiving fewer vocational programs than males and that those they receive tend to be gender stereotyped. Their survey revealed that about 20 percent of males and females were receiving some kind of vocational training. However, a significantly higher percentage of males were involved in auto repair, construction, and trade, while females were most likely to be involved in office training. The present study will build on the available information by examining whether the programs being offered to female inmates are not just equal but equitable in terms of non-traditional training.

Work Training and Prison Industries

Through the 1900s, most correctional institutions have offered some type of industrial training, and work; however, past researchers have discovered that male prisons have enjoyed the upper hand in both the variety and number of industrial programs offered to inmates (Arditi et al., 1973; Glick & Neto, 1977; Gabel, 1982; Pollack-Byrne 1990; Morash et al. 1994). In their 1973 sample of 47 male facilities, Arditi et al. revealed that programs were offered in the following areas: auto repair, bookbindery, cabinet making, cloth manufacturing, concrete, dairy, data processing, detergent manufacturing, farming, flag manufacturing, furniture manufacturing, heavy equipment operation, library, license plate, machine shop, metal shop, printing, road sign manufacturing, shoe manufacturing, engine repair, tailoring, twine manufacturing, and upholstery. Female inmates were only offered industrial programs in canning, food service, garment manufacturing, IBM keypunching, and laundry. It is apparent that a glaring disparity existed between the types and numbers of industrial programs offered to male and female inmates. The results revealed a male to female ratio of 23:5. This constitutes an almost five to one difference in the number of available prison programs.

Many other studies echo the previous findings. Glick and Neto (1977) reported that approximately 63 percent of their sample of female inmates worked while incarcerated. However, the majority (17.3 percent) were employed in food service, followed by sewing jobs (14.3 percent), housekeeping (8.4 percent), clerical (6.2 percent), laundry (5.5 percent), medical (4.2 percent), maintenance (3.4 percent), with 3.2 percent in other occupations. Gabel (1982) showed that 66 percent of the female inmates in her study were also assigned to traditional jobs in laundry, maintenance, food service, and clerical. Morash et al. (1994) revealed that 22.5 percent of the female inmates in their study cleaned and cooked, whereas only 16 percent of male inmates cleaned and cooked. They also showed that males worked more than females in farm, forestry, maintenance, repair, shop industries, textiles, and highway maintenance (Morash et al. 1994). Duncan's (1992) comprehensive study of female prison industries throughout the United States showed that the most commonly offered programs were sewing (25 states), data entry/data processing (16 states), furniture reupholstering and clerical (7 states), and telemarketing and microfilming (6 states). Duncan (1992) concluded that these programs were offering women experience in "real world" occupations, but that equality between male and female work opportunities still posed a problem. She also reported that 14 states had no plans to expand programming for women

offenders due to a lack of space and money, while 36 states planned to expand to develop new programming for female inmates.

Methods

As mentioned previously, existing research indicates that the disparity in correctional programming opportunities between male and female inmates seems to be shrinking. Although this research is informative, much of it is outdated and based on a small sample of institutions. This prison-level analysis provides a much-needed current examination of the educational and vocational programs available to inmates imprisoned during the 1990s. Moreover, it adds to a still somewhat small body of literature that examines programming opportunities inside prison walls.

To meet the goals of this study, all of the 50 states, plus Washington, D.C., were sent letters requesting information about the available academic and vocational programs at their state-run institutions during August of 1996. In addition to the program information, I also requested information about the gender make-up, population size, staff size, security level, and age of all of the institutions within each state. If this information was missing from state reports I acquired it from the 1996 American Correctional Association's Directory of Juvenile and Adult Correctional Department, Institutions, Agencies, and Paroling Authorities.

Each state was given about one month to respond. At about four, six, and ten weeks into the study, follow-up letters were sent to those institutions that failed to respond to the initial request for information. Those states that did not respond after ten weeks were then contacted by telephone. All in all, I received information from 30 states resulting in a sample of 474 institutions (417 male and 47 female).[1] Community correctional facilities, private facilities, co-educational and medical/intake facilities were excluded from the sample.

The dependent variables in this study consisted of 8 dichotomous variables indicating the presence or absence (0=program not offered; 1=program offered) of each particular program at each institution. In terms of academic programming, my two dependent variables were *general education* (i.e., adult basic education, GED, high school) and *college education* (i.e., associate or bachelors degree programs). As Table 1 suggests, approximately 51 percent of the sample institutions offered post-secondary educational programs, while almost 100 percent of the institutions offered some form of general academic programming.

Since there was such a variety of vocational/industrial programs at each of the institutions, each particular program was assigned to a career category as listed in the U.S. Census Bureau's Statistical Abstracts. These six career categories served as my dependent variables for availability of vocational programs: *managerial and professional; technical/sales/administrative support; service; production; operator/fabricator/laborer; and farm/forestry/fishing.* For example, if a particular institution offered a sewing program, then I would assign a "yes" to the operator/fabricator/labor program category, or if an institution offered automotive training, then I would assign a "yes" to the production category. Table 1 shows that 15 percent of the sample institutions offered managerial training programs, 36 percent offered technical sales programs, 72 percent offered service-work training, 54 percent offered production programs, some 42 percent offered operator/fabricator programming, 36 percent of the institutions offered farm, forestry, and fishing program training.[2]

The key explanatory variables of interest here are the various structural characteristics of the prisons. *Gender* composition of the institution is a dummy variable coded (0=male institution and 1=female institution). Table 1 shows that approximately 10 percent (47) of the institutions in the sample were female institutions, while the rest (417) were male. *Age* of the institution is also a dichotomous variable indicating when the institution was built (0=pre 1980; 1=post 1980). Table 1 indicates that approximately 53 percent of the sample institutions were built after 1980, with some 47 percent built prior to 1980. *Security level* was measured with a series of four dummy variables (0=no, 1=yes) including minimum, medium, maximum, and other (i.e. mixed security level). Table 1 suggests that 19 percent of the institutions in the sample had a minimum security classification, 21 percent were medium security level, and 13 percent had a maximum security level. The majority of institutions in the sample (almost 48 percent) housed inmates of mixed security classifications.

In terms of size, *Population size* is a dichotomous variable measuring the average daily population of the institution (0=less than 800; 1=more than 800).[3] Table 1 shows the majority of institutions (i.e. 54 percent) housed more than 800 prisoners. *Staff size* is also a dichotomous variable measuring the number of total staff (i.e. custodial and non-custodial) working full time at the institution on a daily basis (0=less than 300; 1=more than 300).[4] Again, Table 1 reveals that approximately 58 percent of the sample institutions have more than 300 full-time staff.

The final explanatory variable is a regional location variable. The variable *Region* is a dummy variable (0=non-Southern, 1=Southern) measuring whether or not the institution was located in a Southern state as classified by the Bureau of Justice Statistics.[5] Table 1 shows that approximately 40 percent of the institutions in the sample were Southern. This variable was included because Southern institutions have a well-documented history of being the least progressive institutions in terms of academic and vocational program opportunities (Morash et al. 1994).

Results

One of the foremost goals of this paper was to see if women's institutions were offering the same "types" of educational and vocational programs as men's institutions. Table 2 controls for gender of the institution and reveals the percentage of male and female institutions offering each type of academic and vocational program. In terms of general educational programs (i.e. GED and ABE), Table 2 shows that almost 100 percent of both the male and female institutions offer some form of general education. These results run contrary to the previous work of the 1970s, which revealed that several states lacked any kind of general academic programming for women inmates (Arditi et al. 1973). These results indicate that the basic educational opportunities for female inmates have greatly increased in the past 30 years. It is possible that the years of legal battles pursued by female inmates to gain equal access to educational programs have succeeded in doing just that.

In terms of college program availability, Table 2 reveals that 52 percent of female institutions and 51 percent of male institutions offered some form of post-secondary education programs. However, this encouraging evidence of diminishing disparity is tempered by responses indicating that only about half of the institutions combined offered post-secondary education opportunities. It appears that once-thriving post-secondary correctional educational programs are now on the decline. This is very disheartening, because much research shows that post-secondary education works to reduce recidivism and increase self-esteem and employability (Knepper 1990; Harer 1995; Batiuk, Moke, and Rountree 1995).

TABLE 1

*Variables, Metrics, and Descriptive Statistics (full sample)**

		Descriptives			
Variables	**Metrics**	**Mean**	**SD**	**Min.**	**Max.**
Dependent Variables					
General education	(0=no, 1=yes)	.99	.06	0	1
College	(0=no, 1=yes)	.51	.50	0	1
Managerial	(0=no, 1=yes)	.15	.36	0	1
Technical/Sales	(0=no, 1=yes)	.36	.48	0	1
Service	(0=no, 1=yes)	.72	.45	0	1
Production	(0=no, 1=yes)	.54	.49	0	1
Operator/fabricator	(0=no, 1=yes)	.42	.49	0	1
Farm/forestry/fishing	(0=no, 1=yes)	.36	.48	0	1
Explanatory Variables					
Gender	(0=male, 1=female)	.10	.30	0	1
Region	(0=non-Southern, 1=Southern)	.40	.49	0	1
Age of prison	(0=before 1980; 1=after 1980)	.53	.49	0	1
Minimum security	(0=no, 1=yes)	.19	.39	0	1
Medium security	(0=no, 1=yes)	.21	.41	0	1
Maximum security	(0=no, 1=yes)	.13	.33	0	1
Other security	(0=no, 1=yes)	.48	.50	0	1
Population size	(0=less than 800; 1=more than 800)	.54	.49	0	1
Staff size	(0=less than 300; 1=more than 300)	.58	.49	0	1

*The total sample size is 464.

Turning to vocational programming, Table 2 suggests that a much greater percentage of female institutions in comparison to male institutions still overwhelmingly offer training in technical/sales/administrative occupations (63.8 percent to 33.4 percent) and service occupations (80.9 percent and 70.9 percent). The technical/sales/administrative category includes vocational training for jobs such as medical assistants, sales associates, clerical/office staff, and telemarketing. The jobs within the service category include food and laundry preparation, and other custodial duties. These findings are consistent with past research of Morash et al. (1994), which indicates that 85 percent of female institutions still offer gender-stereotyped "traditional" vocational programs.

Moreover, Table 2 shows that a greater percentage of male institutions offered occupational training in production (46.8 percent vs. 55 percent) and farm/forestry/fishing careers (31.9 percent vs. 37 percent). Some of the most common production courses offered were masonry, automotive, electronics, construction, graphic arts, and building trades (plumbing, electrical, etc.).

Despite this, the results from Table 2 also show improvements in program availability for female inmates. First, a greater percentage of the female institutions are offering vocational training in managerial and professional programs. This is a drastic improvement over past research, which indicated that during the 1970s females were offered no programs of this type and were only offered "typical" female jobs (Arditi et al. 1973). Also, Table 2 shows that more female institutions offer training in operator/fabricator/laborer programs (47 percent vs. 41 percent) than do male institutions. This finding is misleading because the occupation of sewing, which is a female-dominated occupation, fits into this job category. This finding suggests that females are receiving more training in non-traditional occupations when they are actually being trained as seamstresses, a program traditionally offered to female inmates.

In order to discern whether the gendered nature of the institution accounts for specific program availability while also controlling for other prison-level variables, I next conducted logistic regression analysis. Specifically, I estimated the availability of academic education programs and college programs (1=yes; 0=no), while controlling for prison characteristics. As is standard in logistic regression analysis, the exponentiated coefficients are also reported. These can be interpreted as indicating the odds of experiencing the dependent variable per unit change in an independent variable after subtracting the exponentiated coefficient from 1.0 and multiplying the absolute value by 100 (Neter, Wasserman, and Kutner 1989: 588).

Table 3 shows that gender composition of the institution did not significantly affect the likelihood of offering either type of academic programming. In fact, none of the prison variables were significant predictors of academic education program availability. However, Table 3 does indicate that several of the prison background variables were significant predictors of college program availability. Specifically, the exponentiated coefficient for the region variable indicates that Southern prisons are 77 percent (/1-.23/ X100) less likely to offer college programs than non-Southern institutions. This finding is consistent with the past research of Morash et al (1994) and Rafter (1995), which indicate that Southern institutions are the least progressive in terms of program availability, while the Midwest and Northeast are the most progressive.

Moreover, Table 3 reveals that institutions built after 1980 are about 40 percent less likely to offer college programs than institutions built prior to 1980. This finding could reflect the "get tough" policies (three strikes and mandatory sentencing) associated with the 1980s war on drugs. Also, compared to institutions with mixed security levels, the more secure medium and maximum institutions are more likely to offer college programming (i.e., 113 percent, and 184 percent, respectively). Interestingly, staff size was not a statistically significant predictor of college program availability. Intuitively, it would seem that having more staff enables prisons to offer more programming opportunities. However, Arditi et al. (1973) found that larger staff size does not necessarily mean a greater number of educators, but rather more custodial (security) staff.

To further investigate the effects of gender composition on vocational program availability, I estimated logistic regression models of vocational program availability while controlling for the other prison background characteristics. Table 4 reveals that gender composition of the institution was a significant predictor of technical, service, and operator/fabricator/laborer program availability. Specifically, the exponentiated coefficients indicate that women's institutions are 604 percent more likely to offer technical/sales training (i.e., health assistants, clerical staff, and sales associates), 208 percent more likely to offer training in service occupations (i.e., cleaning and food service industries), and almost 100 percent more likely to offer training in the operator/fabricator/labor sector (i.e., sewing). This finding is consistent with past research of Morash et al. (1994), who indicate that women prisoners are likely to be disproportionately involved in cleaning and kitchen work while incarcerated.

Not surprisingly, both the service and technical/sales jobs categories are the most female-dominated occupational categories outside of prison walls. In the United States, some 64 percent of the people employed in the technical/sales jobs are women, and 60 percent of the people employed in the service sector are women (U.S. Census Bureau 1997). These findings suggest that this abundance of traditional programming is preparing females to enter gender-stereotyped occupations in the real world, which are also among the most unstable, low paying jobs.

Moreover, Table 4 also shows that Southern prisons are 66 percent less likely to make managerial programs available to their inmates. They are also less likely to offer technical and service training programs. However, Southern institutions are 74 percent more likely to offer farm, forestry, and fishing programs.

In terms of the age of the prison, Table 4 shows that prisons built after 1980 do not offer more programming opportunities. However, the findings do indicate that newer prisons are about 82 percent more likely to offer managerial training. Overall, these results seem consistent with the get-tough policies of the 1980s.

In addition, the size of the prison, measured by the number of inmates, appears to have little effect on program availability. Specifically, Table 4 reveals that institutions with more than 800 inmates are more likely to offer production training programs (196 percent) and operator/fabricator programs (134 percent). Likewise, it would appear that institutions with a larger staff (i.e., more than 300) offer a greater variety of program opportunities.

Lastly, Table 4 indicates that when compared to prisons with mixed security levels, medium security prisons appear to offer the greatest variability in vocational training. Medium security institutions are more than 100 percent likely to offer every kind of vocational training program. In turn, minimum security facilities are more likely to offer service and farming programs, while maximum security facilities are more likely to offer managerial programs, service training, and farming programs.

TABLE 2

Availability of Programs at Male and Female Institutions

Program	Male Institutions[a]	Female Institutions[b]
General education	100.0%	100.0%
College	51.1%	52.4%
Managerial	14.0%	23.4%
Technical/sales	33.4%	63.8%
Service	70.9%	80.9%
Production	55.0%	46.8%
Operator/fabricator	41.1%	46.8%
Farm/forestry/fishing	37.0%	31.9%

a= 417 institutions
b= 47 institutions

TABLE 3

Logistic Regression Coefficients for Academic Education Program Availability

	General Education			College		
Independent Variables	**Coefficient**	**SE**	**Exp. (coeff)**	**Coefficient**	**SE**	**Exp. (coeff)**
Intercept	4.34	1.84	76.90	.24	.30	1.27
Gender	9.62	160.30	15065.29	.41	.38	1.51
Region	–.44	1.64	.64	–1.48[a]	.24	.23
Age of prison	.62	1.56	1.86	–.49[a]	.23	.61
Minimum	9.44	126.17	12600.97	.59[b]	.33	1.81
Medium	7.86	103.41	2590.99	.76[a]	.29	2.13
Maximum	–2.05	1.67	.13	1.04[a]	.36	2.84
Population size	10.21	68.83	27223.77	.31	.27	1.36
Staff size	–.12	1.53	.89	.20	.30	.50

[a] p<.05
[b] p<.10

TABLE 4

Logistic Regression Coefficients for Vocational Program Availibility

	Coefficient (Exp. Coeff.)					
Variables	**Mang.**	**Tech.**	**Service**	**Prod.**	**Opert.**	**FFF**
Constant	–3.02 (.05)	–1.18 (.31)	.13 (1.14)	–.91 (.40)	–1.09 (.33)	–1.84 (.16)
Gender	1.35[a] (3.86)	1.95[a] (7.04)	1.12[a] (3.08)	.34 (1.40)	.68[b] (1.99)	.31 (1.36)
Region	–1.07[a] (.34)	–.89[a] (.41)	–.67[a] (.51)	.02 (1.02)	–.04 (.96)	.55[a] (1.74)
Age of prison	.60[a] (1.82)	–.12 (.88)	.06 (1.07)	–.04 (.96)	–.52[a] (.59)	–.03 (.97)
Minimum	.51 (1.67)	.40 (1.49)	.75[a] (2.12)	–.02 (.98)	.00 (1.00)	.98[a] (2.66)
Medium	.68[a] (1.97)	.89[a] (2.44)	1.19[a] (3.31)	.92[a] (2.53)	.60[a] (1.83)	1.14[a] (3.13)
Maximum	1.28[a] (3.56)	.32 (1.38)	.83[a] (2.29)	.52 (1.67)	.35 (1.42)	.88[a] (2.42)
Population size	.42 (1.52)	.30 (1.35)	.26 (1.30)	1.08[a] (2.96)	.85[a] (2.34)	.25 (1.28)
Staff size	.61 (1.84)	.55[b] (1.73)	.78[a] (2.18)	.40 (1.49)	.51[b] (1.67)	.58[a] (1.78)

[a] p<.05
[b] p<.10

Discussion and Conclusion

Several conclusions and policy implications flow from this paper. First, it appears that women's prisons are offering equal opportunities in basic education and post-secondary education programming.On the whole, this research indicates that general education programs are readily available across the United States, while post-secondary correctional educational programs are not quite as widespread. The results here showed that only about half of the institutions in the sample offered some type of post-secondary correctional programming. Specifically, the gender composition of the institution proved to be a non-significant predictor of college program availability.

Moreover, it seems that post-secondary programming opportunities are on the decline. In addition, prospects for reversing this trend do not look bright. New laws such as President Clinton's 1994 crime bill, which denied Pell Grant money to inmates, make it unlikely that most inmates will be able to afford post-secondary education while incarcerated. Furthermore, a few of the state officials I spoke to while collecting this data reported that they planned to cut all post-secondary educational opportunities within the next five years.

Second, the research indicates that prisons are offering a greater variety of vocational opportunities than ever before, but women's institutions are still more likely to offer gender-stereotyped vocational training. Specifically, the women's institutions in the sample were significantly more likely than male institutions to offer training in technical/sales/administrative occupations and service occupations (i.e., typical women's work). It is possible, as Pollock-Byrne (1990) suggests, that women's institutions and/or departments of correction are more comfortable relegating this type of service/technical work to females as opposed to male inmates.

Unfortunately, the majority of the jobs these women are being trained for are among the most underpaid and unstable jobs in society. A woman leaving prison with minimal skills, earning minimum wage, will not be able to support herself or her family, and thus may turn to the government for aid or recidivate and find herself back in prison. An in-depth study of incarcerated parents by Gabel and Johnston (1995) indicates that approximately 70 percent of incarcerated women are mothers. Moreover, they report that the majority of "incarcerated mothers plan to resume custody of all or some of their children upon release from prison" (Gabel and Johnston 1995: 26). Not only do these women face enormous stress in reunifying with children and families, but their burden is compounded because they have only been trained for low-paying, gender-stereotyped occupations.

Lastly, it appears that regional location and security level, as opposed to other prison-level characteristics, have strong predictive effects on post-secondary educational and vocational program availability. This calls into question the qualitative nature and philosophy of each state's correctional system. Future researchers may want to examine these qualitative differences to see how a state's punishment philosophy (i.e., rehabilitation, retribution, incapacitation, and deterrence) affects the structure and internal workings of prisons within that state. It would also be interesting to see how community sentiment affects punishment ideology and state legislation for prisoners.

Despite these results, there are several limitations to this research that should be noted. First, the sample only contained information from 30 states, and many larger states such as California were not included. Second, this sample did not include private prisons. Little research has been done on private prisons, and it appears to be an area where much future research is needed to recognize the similarities/differences between these and state/federal institutions.

Third, lumping together many programs into occupational categories may mask some of the unique programs being offered across the country. Many states are offering very progressive programs to inmates and this study did not fully recognize these. For example, Ohio offers a program called ONOW (Orientation to Non-Traditional Occupations for Women), which prepares women inmates for jobs in trade industries. It emphasizes training and information on plumbing, carpentry, electricity, math, physical fitness, employment skills, blueprint reading, job safety issues and sexual harassment issues. The supervisor of this program told me ONOW performs several functions for inmates: 1) it increases their self-esteem; 2) it eases the transition back into the community; 3) it provides inmates with job skills that enable them to be self-sufficient, productive members of the community; and 4) it lowers the recidivism rate of those who have completed the program. Most researchers tend to ignore females when exploring the links between programming and recidivism, employability, etc. As women continue to enter prison at a faster pace than males, future researchers must fully explore the success rates of these and other programs that women inmates are participating in. It appears that women inmates have reached some equality in terms of programming opportunities; however, the equitability of these programs still remains a question.

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Endnotes

[1] The following states responded: Arkansas, District of Columbia, Florida, Louisiana, Oklahoma, South Carolina, Tennessee, Texas, West Virginia, Connecticut, Maine, Massachusetts, New Jersey, New York, Pennsylvania, Arizona, Colorado, Hawaii, Idaho, Montana, Oregon, Washington, Wyoming, Illinois, Michigan, Minnesota, Nebraska, North Dakota, Ohio, and Wisconsin.

[2] I found that the five most available programs offered at women's institutions were: cosmetology, custodial/maintenance, food service preparation, horticulture, sewing, and construction trades. In contrast, the most available programs at male institutions were: automotive, agriculture/livestock, business, barber, building trades, computers, constructions, carpentry, culinary/baking, design/drafting, food service, furniture/upholstery, graphic arts, horticulture, HVAC, laundry, machining, metals, painting, printing, welding, and secretarial. All in all, male institutions offered a much wider variety of vocational programs than did female institutions.

[3] If the documents from each state's department of corrections did not report the average daily population or if the information was outdated, then I acquired the information from the 1996 ACA Directory. This information is based on reported population as of June 30, 1995.

[4] If the documents from each state's department of corrections did not report the average daily staff or if the information was outdated, then I acquired the information from the 1996 ACA Directory. This information is based on the reported number of staff as of June 30, 1995.

[5] Regional assignments were based on information from the Bureau of Justice Statistic's report: Comparing Federal and State Prison Inmates, 1995. The Bureau of Justice Statistics classify the following states as Southern: Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

Probation Department Sentencing Recommendations in Two Utah Counties

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THE USE OF A presentence investigation report (PSI) remains an integral part of the sentencing process in many jurisdictions despite the growth of mandatory sentencing laws, three strikes, and truth in sentencing legislation, as well as the increased use of sentencing guidelines. While a PSI is required for sentencing purposes in many states, it remains discretionary in others (Clear, Clear & Burrell, 1989).

Several different groups use the presentence report for a variety of purposes. Judges rely on the PSI to help determine the appropriate sentence in a given case. Frequently, a judge's only contact with a defendant occurs in the process of accepting a negotiated guilty plea and at the sentencing hearing. Prosecutors and defense attorneys also rely on the presentence report to assist in preparing for the sentencing hearing. However, other groups use the PSI for reasons unrelated to sentencing. Probation/parole officers and prison employees use the presentence report as a tool for supervising offenders. The PSI often provides information which is helpful in identifying offender programming needs as well as risk factors that focus on the likelihood of recidivism. Parole authorities rely on the PSI when dealing with release decision-making for incarcerated inmates (Abadinsky, 2000).

Despite the various uses of the presentence report by different user groups, a recent Utah study concluded that the single most important purpose of the PSI was to assist the court in reaching a fair sentencing decision (Norman & Wadman, 2000). This conclusion resulted from surveying over 200 judges, prosecutors, defense attorneys, and probation/parole officers.

The specific content areas of the presentence report vary from jurisdiction to jurisdiction. However, some uniformity of content does exist in a large number of states. Common content areas include: 1) information regarding the current offense; 2) the offender's past adult and juvenile criminal record; 3) family history and background; and 4) personal data including education, health, employment, and substance abuse history (Black, 1990). In addition, it is not uncommon for state statutes to dictate some content areas such as victim impact statements (Clear & Dammer, 2000).

Drass and Spencer (1987) reported that many jurisdictions also include in the PSI summary information about the defendant as well as a sentencing recommendation. However, Clear and Dammer (2000) point out that not all probation systems include a sentencing recommendation in the PSI. Moreover, they assert that sentencing reforms have sufficiently restricted judicial sentencing discretion so that the PSI recommendation is much less important than it once was.

Prior studies have examined the relationship between the sentencing recommendation contained in the presentence report and actual sentencing outcomes. While there is some variation from study to study, one finding is consistently clear: In the majority of cases, judges accept the recommendation contained in the presentence report. In a 1971 study, Liebermann, Schaffer and Martin concluded that, when probation was recommended, judges followed the recommendation in 83 percent of cases. When prison was recommended, judges followed the recommendation 87 percent of the time. In a more recent study, Latessa (1993) discovered that judges followed the PSI recommendation in 66 percent of cases involving a prison recommendation, and in 85 percent of the cases where probation was recommended.

The development and implementation of sentencing guidelines began in the late 1970s in the federal courts and in a number of states (Frase, 1995). Among the states, Minnesota is credited with being the first to adopt sentencing guidelines and create a state sentencing commission to implement them (Tonry, 1993). The movement to develop sentencing guidelines grew from a desire to reduce the sentencing authority of the judiciary and thereby reduce the level of sentencing disparity in the justice system. In a 1998 national survey, the National Institute of Justice reported that 19 states and the federal government have sentencing commissions while 17 states have implemented either presumptive sentencing guidelines or voluntary/advisory sentencing guidelines. Among the 17 states, the survey concluded that 10 use presumptive guidelines while seven states' guidelines are voluntary or advisory.

Sentencing in Utah

The State of Utah predominately uses an indeterminate sentencing system in conjunction with mandatory minimum sentences for a limited number of heinous offenses. Inmates do not accumulate good time credit. The state parole board determines the actual amount of time served by each inmate.

A presentence investigation report is required by statute for all felony offenses, and for selected classes of serious misdemeanor crimes. The report contains a non-binding

sentencing recommendation from the probation department. The probation officer who prepares the PSI determines the recommended sentence by applying a voluntary sentencing guideline system to individual cases. The sentencing guidelines are calculated by combining the seriousness of the current offense(s) with the defendant's past criminal record. A matrix system is then used to arrive at the appropriate sentence. The sentencing guideline system includes a list of aggravating and mitigating factors that are used by the probation staff to adjust the severity of the recommended sentence.

This study examined the attitudes of 227 Utah judges, prosecutors, public defenders, and probation/parole officers toward specific issues related to the sentencing recommendation contained in the PSI, and the use of the sentencing guideline system. In addition, the study compared the recommended sentences from 110 randomly selected presentence investigation reports with the actual sentences imposed by the courts.

The purpose of the study was to assist the Utah State Department of Corrections in improving the quality and usability of the PSI.

Study Design and Participants

A questionnaire was initially developed to ascertain the attitudes of public employees who are considered primary users of the PSI in Utah. The four user groups were: 77 district court judges; 50 public defenders; 150 adult probation/parole officers; and 101 prosecutors. A four-point Likert Scale was used for the closed-end items. Data collection ensued after experienced members of the Utah Department of Corrections and the Utah State Judiciary tested a draft of the survey instrument.

During April 1999, the survey was distributed statewide to 378 potential respondents from the four PSI user groups. Random sampling did not occur. Instead, the researchers identified the total number of individuals from each group and used the entire population in the study. Preaddressed postage-paid envelopes were included with each questionnaire for ease of return.

Of the 378 surveys distributed, 227 were returned providing a response rate of 60 percent. All of the returned questionnaires contained useable data. Among the four PSI usergroups, judges accounted for 22 percent of the total respondents, probation/parole officers 40 percent, prosecutors 34 percent, and public defenders four percent. The participants were largely male (80 percent) and between the ages of 31 through 50 years.

In the second part of the study, 110 presentence investigation reports were randomly sampled from the probation department in two northern Utah urban counties. These counties (Weber and Davis) are located immediately north of Salt Lake City, Utah and have populations of 158,000 and 220,000 respectively. They are both considered part of the greater Salt Lake City area.

Research team members then contacted the District Court Clerk in each county and solicited the actual sentencing record for each presentence investigation report previously obtained from the probation department. The recommended sentences from the presentence reports were then compared to the actual sentences imposed by the court in order to determine 1) the degree to which judges followed the recommendation contained in the PSI and 2) how frequently the probation department deviated from their own voluntary sentencing guideline system.

Study Limitations

The findings from this study should be viewed with caution for several reasons. First, the research was conducted in just one state. Therefore, the findings should not be generalized to jurisdictions outside of Utah. Second, among the four PSI user groups, public defenders were very much under represented compared to the number of judges, prosecutors, and probation/parole officers participating in the study. This may well have had an impact on the responses to the agree/disagree statements included in the survey instrument. Finally, the 110 presentence investigation reports which were randomly sampled to compare sentencing recommendations with actual sentences imposed is a relatively small number drawn from only two counties.

Summary of Findings

The findings from this study are divided into two parts. The first asked a group of 227 respondents to reveal their attitudes towards six statements related to either the sentencing recommendation part of the PSI or the use of sentencing guidelines. These respondents consisted of four groups who use the PSI for a variety of purposes. They included 49 judges, 77 district attorneys, 85 adult probation and parole officers, and nine public defenders.

The survey instrument used to collect the data contained a four-point Likert Scale from which the participants chose the response that best reflected their view. The response choices included **Strongly Agree, Agree, Disagree,** and **Strongly Disagree.**

The second part of the findings compared the sentencing recommendations from 110 randomly selected presentence investigation reports with actual sentencing outcomes. The presentence reports chosen came from two urban counties immediately north of Salt Lake City, and included both felony and misdemeanor cases. In part, the study sought to determine whether the perceptions of the PSI user group members were consistent with reality when comparing sentencing recommendations with actual judicial dispositions.

Most Respondents Believed that Judges Follow the Sentencing Recommendation

The survey instrument asked the participants whether they agreed with the following statement: **Judges almost always follow the sentencing recommendation contained in the presentence investigation report.** Seventy-four percent of the PSI user group members either agreed or strongly agreed with this statement while 26 percent disagreed with it. Public defenders (89 percent) and prosecutors (77 percent) were the groups most likely to be in agreement with the statement. The group least likely to agree with the statement were the judges (69 percent). Since almost one-third of the judges disagreed with the statement, one might conclude that judges perceive a greater level of judicial autonomy in sentencing than any other PSI user group.

Little Support for the Idea of Removing the Sentencing Recommendation from the PSI

Some critics of the presentence report have argued that including a sentencing recommendation in the PSI removes sentencing authority from the judiciary, and gives it to probation officers (Gaylin, 1974). These respondents were asked about this issue in the following statement: **The PSI should not contain a sentencing recommendation from the probation department. Instead, the judge should decide the sentence.** Eighty-six percent of the respondents either disagreed or strongly disagreed with the statement. Prosecutors (95 percent) and judges (90 percent) were the PSI user groups most inclined to disagree with the statement. Public defenders (56

percent) were the only group for whom a majority agreed with the statement. While speculative, it could be argued that judicial opposition to this statement underscores the high level of dependence that judges have developed for having non-judicial actors (in this case probation officers) make the sentencing decision for them.

Significant prosecutorial opposition (95 percent) was not anticipated. Such a high level of disagreement with this statement by prosecutors might reflect either a distrust of placing the sentencing decision directly in the hands of judges, or prosecutors were perhaps concerned that their ability to sentence bargain might be adversely affected should the PSI no longer contain a sentencing recommendation.

PSI Sentencing Recommendation Usually Considered Appropriate

In an article published in 1985, Rosecrance argued that probation staff possess only a minimal influence over the sentencing process. He asserted that judges trust prosecutor sentencing recommendations more than probation officer recommendations. Further, Rosecrance maintained that while the probation department gathered a large amount of information about the offender for inclusion in the PSI, sentencing decisions were based on only two factors—the seriousness of the offense and the defendant's prior criminal history. Our survey asked the PSI user group members to express their extent of agreement with the following statement: **The sentencing recommendation contained in the PSI usually reflects the appropriate sentence considering both the seriousness of the offense and the defendant's prior criminal history.**

Of the 220 participants who responded to this statement, 80 percent agreed or strongly agreed with it. Judges (88 percent) and probation/parole officers (86 percent) agreed with it most frequently, while public defenders (67 percent) disagreed most often with the statement.

Sentencing Recommendations Perceived as Unrelated to Judicial Philosophy

Past studies have documented the tendency of judges to adopt the sentencing recommendation contained in the PSI. Speculation persists as to why the level of sentencing conformity is as high as it is. Cromwell & del Carmen (1999) suggest that experienced probation officers, over time, come to understand the sentencing philosophy or predisposition of the judges. The sentencing recommendation is then tailored to satisfy the perceived predisposition of the judge in a given case. In this study, the participants were asked to respond to the following statement: **The sentencing recommendation is often designed to conform to what the probation officer perceives to be the sentencing philosophy or predisposition of the judge assigned to the case.** Seventy-three percent of the participants disagreed with this statement while 27 percent agreed with it. The two groups most likely to disagree with this statement were the judges (91 percent) and the prosecutors (74 percent). The group most likely to agree with this statement was the probation/parole officer respondents (37 percent). The fact that more than one-third of the probation/parole officers who participated in the study agreed with this statement surprised us, because Utah has adopted sentencing guidelines that are used in the preparation of the PSI. The officer writing the PSI arrives at a recommended sentence after calculating the guideline and then staffs the recommendation with other probation officers. The probation department has the discretionary authority to make a sentencing recommendation that is more or less severe than the guideline dictates because the guideline system is not binding. Departure from the sentencing guideline might occur as the result of aggravating or mitigating case facts or because the probation staff understands that individual judges do have expectations for sentencing recommendations in certain types of cases.

Sentencing Guidelines perceived as Helping to Reduce Sentencing Disparity

The development of sentencing guidelines has occurred throughout the U.S. during the past 20 years (Latessa & Allen, 1999). According to a recent report in the *National Institute of Justice Journal* (1998), the federal government and 17 states have adopted either presumptive sentencing guidelines or voluntary/advisory sentencing guidelines. Proponents of sentencing guidelines believe that guidelines will limit judicial discretion and promote greater uniformity in sentencing (Heaney, 1991; Abadinsky, 2000).

In this study, we asked the respondents for their views on the sentencing guideline issue using two statements. The first statement was: **The sentencing guidelines used in the preparation of the PSI helps to reduce sentencing disparity.** Seventy-seven percent of the respondents either agreed or strongly agreed with the statement. Among the four PSI user groups surveyed, judges (86 percent) and prosecutors (79 percent) were the groups demonstrating the highest level of agreement with the statement. The group showing the least amount of agreement with the statement was the public defenders (62 percent).

The final agree/disagree statement asked the participants to respond to the following: **When making the sentencing recommendation, the probation officer preparing the PSI rarely deviates from the sentencing guideline.** Sixty-nine percent of the respondents agreed or strongly agreed with the statement while 31 percent disagreed with it. More judges (78 percent) agreed with the statement than any other group. Public defenders (55 percent) were least likely to agree with the statement. The high level of agreement with this statement from the judicial respondents was not surprising considering their strong sentiment that using guidelines helps to reduce sentencing disparity.

Conformity Found Between Sentencing Recommendations and Sentences Imposed

The remaining findings involved a random sample of 110 presentence investigation reports from two northern Utah counties in which the sentencing recommendation was compared with the actual sentence imposed by the court. Table 1 describes the presentence reports sampled by the type of case (felony or misdemeanor) and by the type of offense committed.

Of the 110 cases examined, sentences were available in 101 cases. In the remaining nine cases, the defendant either failed to appear for sentencing or the sentencing hearing was postponed. As Table 1 indicates, the majority of cases involved felony crimes, most of which were either drug related or property offenses. The range of offenses for which misdemeanor presentence reports were prepared was somewhat broader. Property offenses such as vehicle burglary and theft were most common, as were drug/alcohol crimes.

In terms of actual sentences imposed, 20 percent of the felony offenders received indeterminate prison sentences. Eighty percent of felony offenders were sentenced to some form of probation, often required to serve up to one year of jail as a special condition of the probation order.

Among the misdemeanor cases reviewed, 76 percent of actual sentences involved either

TABLE 1

Types of Presentence Reports

Type of Case	Type of Offense Committed
Felony: (N=60)	1. Possession/Distribution of Controlled Substance 2. Forgery 3. Theft
Misdemeanor: (N=41)	1. Vehicle Burglary 2. Assault 3. Possession/Use of Controlled Substance 4. Theft
TOTAL: N=101	5. Drunk Driving

formal or informal (Bench) probation often with jail as a special condition. The remaining misdemeanor cases (24%) involved either a fine or a jail commitment without probation.

In determining whether the sentence imposed matched the probation department recommendation, the researchers focused on the main element of each sentence. In felony cases, the main element of the sentence was probation, commitment to prison, or a combination of probation and jail. In misdemeanor cases, it was a commitment to jail, some type of probation, or a combination of probation and jail time. We allowed for sentencing variations in such areas as the amount of fines, victim restitution, and community service orders, while still concluding that the sentencing recommendation was substantially followed.

Of the 101 cases reviewed, the court followed the sentencing recommendation contained in the PSI in 93 cases (92 percent of the total). There was very little difference based on whether the offense was a felony or misdemeanor. Among the 60 felony cases, the court followed the sentencing recommendation in 56 cases (93 percent). In the 41 misdemeanor cases, the court followed the sentencing recommendation in 37 cases (90 percent).

With respect to departure from the voluntary sentencing guideline system used in Utah, the results were remarkably similar. Of the 101 cases studied, the probation department followed the sentencing guideline in 92 cases (91 percent), and departed from the guideline in nine cases (9 percent). In each of the nine cases in which the guideline was not followed, the offense involved was a felony. There were no departures from the sentencing guideline in the misdemeanor cases studied. In the nine felony cases in which the probation staff departed from the guideline, five resulted in a more severe sentencing recommendation than the guideline called for, while four were less severe. Aggravating and mitigating case factors were cited in each instance as the basis for departure from the sentencing guideline.

Strict adherence to the sentencing guidelines could be viewed as either positive or negative depending upon how one feels about the use of sentencing guidelines. In this study, the guideline was followed in more than nine of every 10 cases examined. If one believes that the use of sentencing guidelines promotes greater fairness and consistency in sentencing by reducing disparity, then closely following the guideline is a good thing. Conversely, one might argue that having so few cases in which the probation department deviated from the guideline creates a "cookie-cutter" approach to sentencing that is largely devoid of human involvement. A relatively simple formula decides the sentence **without** the probation officer's assessment of the case and impressions of the defendant.

While it is beyond the scope of this study to address this problem, it is important for those who are directly involved in the sentencing process to attempt to resolve this issue.

Conclusions

Almost three out of four participants (74 percent) believed that judges follow the sentencing recommendation contained in the PSI. In this study, perception closely matched reality. Of the 110 cases reviewed, judges followed the sentencing recommendation contained in the PSI 92 percent of the time. It made very little difference (93 percent in felony cases, 90 percent in misdemeanors) whether the sentencing recommendation involved a felony or misdemeanor offense. In addition, there was significant opposition (86 percent) to the notion of removing the sentencing recommendation from the PSI altogether. Only 14 percent of the respondents supported this idea.

Most of the participants appeared satisfied with the appropriateness of the sentencing recommendation made by the probation staff. Eighty percent of the respondents believed that the sentencing recommendations are appropriate considering both the seriousness of the offense committed and the defendant's past criminal history. A minority of respondents (27 percent) believed that the sentencing recommendation is often designed to conform to what the probation officer perceives to be the sentencing philosophy of the judge assigned to the case.

The respondents were asked their views on two issues related to the use of sentencing guidelines. The first statement asked whether the use of the sentencing guidelines helps to reduce sentencing disparity. Seventy-seven percent of the respondents believed that using the guidelines helps to reduce sentencing inequities. In a related statement, 69 percent of the participants believed that when making the sentencing recommendation for inclusion in the PSI, the probation officer rarely deviated from the sentencing guidelines. This perception also matched reality. In this study, the probation staff followed the sentencing recommendation derived from the voluntary sentencing guideline system used in Utah in 91 percent of the presentence reports examined. In only nine cases did the probation department recommend a sentence different from that dictated by the sentencing guidelines.

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Training the Substance Abuse Specialist

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IN "SELECTING THE SUBSTANCE Abuse Specialist" (Torres & Latta, 2000), we describe the various probation and parole officer typologies found in the literature and conclude that the authoritative traits needed to effectively supervise substance abusing offenders are most likely to be found in the law-enforcer, "make-him-do-it" style. The non-directive, social-worker approach, while well meaning, only reinforces manipulative, game-playing behavior in the substance abusing offender. Traits exhibited by substance abusers—such as impulsivity, sociopathy or psychopathy (a cluster of problematic and high risk traits), depression, low energy, egocentricity, low self-esteem, anxiety, and a low tolerance for frustration—in combination, do not readily respond to the disease model approach. Pathological lying, irresponsible behavior, lack of empathy, callousness, and willingness to become engaged in a diverse range of criminal behavior requires the firm style of an authoritative officer. Rettig (1977) perhaps best summarizes the substance abusing mentality in the autobiography, *Manny: A Criminal-Addict's Story*. In the book, Manny, while serving time at New York's infamous Sing Sing prison, comments on the "dope fiend mentality," when Raul, his closest friend in the "joint" inadvertently sets him up for a "hit." Manny says:

> "I should of known anyway. You see, Raul was a classic of the *dope fiend mentality*. Man, I can't tell you that too many times. You can't trust dope fiends…See, when you let down your defenses even for a minute.…I forgot that Raul was a dope fiend. For me Raul was a pal and a buddy in the joint…We hustled together and scored dope together. So, I let down my defenses and became really human toward the guy, and I got screwed… When you're a dope fiend there's no rules, no regulations, no system of buddy-buddy or friendship that counts…He thought like a dope fiend and the cardinal idea here is to hustle who you have to and get by, so long as you can keep scoring. Dope fiends are always conning each other…And the same thing that happened to me in the joint happens all the time in the streets. Don't ever trust any dope fiend; they'll turn on you every time for a five-dollar fix (Rettig, 1977, p. 88-90).

In view of the personality traits and behaviors exhibited by substance-abusing offenders, we have emphasized that the probation officer who is a substance abuse specialist should possess authoritative personality traits such as dominance, imposing demeanor, and decisiveness. These desirable authoritative traits were also differentiated from the less desirable authoritarian traits like harshness and a dictatorial attitude. Needless to say, excellent organizational skills are important in probation and parole generally, but even more so with a substance abuse caseload, due to its high level of activity. The probation or parole office seeking an effective supervision program to reduce the incidence of drug use and new criminal conduct will establish a definitive office philosophy and policy. Our approach in Los Angeles combines a high level of surveillance to monitor abstinence from drugs and alcohol with *a heavy reliance on community resources*, especially the therapeutic community modality of drug treatment. An effective strategy also depends on specialized drug caseloads. Once the appropriate officers are selected for the drug specialist position, relevant training must be provided.

Developing a Substance-Abuse Training Program

The Central District of California (CDC) has 20 years experience with the substance abuse specialist position. A series of articles in *Federal Probation* (Torres: 1996a, 1996b, 1997a, 1997b, 1998a, 1998b, 1999, & 2000) outlined in considerable detail the philosophy and strategy developed in the CDC for supervising substance-abusing offenders, using a rational choice model rather than the more common disease model perspective. Torres (1996a, p.22) reports:

> In summary, I conclude people have the ability to choose whether or not to continue their substance-abusing behavior, even while I acknowledge that disparate economic, social, psychological, and biological conditions place individuals at a higher or lower risk of substance abuse and criminality. For the probation officer, the most effective approach in supervising the substance-abusing offender is to set explicit limits, to inform the probationer/parolee of the consequences for noncompliance, and to be prepared to enforce the limits when and if violations occur. The preferred course of action for many, if not most, users is placement in a therapeutic community, with credible threats and coercion if necessary.

As senior U.S. probation officer (USPO) drug specialists began retiring, and in anticipation of further retirements, the chief U.S. probation officer (CUSPO) concluded that there was an urgent need for a substance abuse specialist development training program. In early 1999, the CUSPO selected a committee comprised of the deputy chief U.S. probation officer (DCUSPO), the two assistant chief deputy probation officers (ACDUSPO), the substance abuse coordinator (SAC), and the aftercare coordinator (AC), to develop a training program for officers interested in applying for this specialized position. It should be noted that the substance-abuse specialist position in the CDC has historically been a grade-13 position (the USPO journeyman position has been a grade 12). Therefore, it was anticipated that the prospect of promotion to a senior USPO position with an increase in pay would prove attractive to many line officers seeking the position, would provide a greater challenge, or both. Once the academic portion of the program had been established it was determined that the SAC would conduct and coordinate all phases of the training program and evaluation process. In April, 1999, the CUSPO distributed the following announcement to all officer staff in supervision services:

> Our office is introducing a substance abuse specialist development program to assist in filling vacancies and preparing for future openings. Any interested officer may apply. The program will include academic as well as practical experience. The practical experience involves direct individual assessment by a substance abuse team who will identify areas for development. Selected applicants will be required to work for a period of two to four months with a drug caseload at the branch office where the applicant is presently assigned. Level of proficiency will be evaluated. The number of applications received will aid in determining the selection process. Again, any officer with an interest should apply. Submit your name by April 28, 1999 (CDC, memorandum, April 21, 1999).

Within one week, 32 officers had indicated an interest in participating in the substance abuse specialist development program. The initial memo announcing the program was distributed on April 21st and the list of the 32 candidates was announced on April 29. A meeting to discuss the selection process occurred a week later on May 6, 1999, and the actual training commenced on June 9, 1999. The academic component of the development program occurred on consecutive Wednesdays at the Roybal Federal Building in downtown Los Angeles. Attendance at all sessions was mandatory for the participants.

Academic Component: Program Curriculum

As noted above, the development program was divided into academic and experiential/on-the-job training (OJT) components. The selection and training processes occurred simultaneously. In the OJT component, participating officers supervised a drug caseload for a three-month period. Prior to the first session of the academic component, all participating officers were provided with a copy of the classroom training schedule. All participants attended the academic component together during the month of June, 1999. However, the participants were divided into two separate groups for the experiential components and the participatory forums. Group one met in July through September, and group two met from October to December, 1999. Each participant received a packet of training materials along with the Federal Judicial Center's publication "Supervising Substance Abusers," participants manual, lesson plans, and self-study packet. The academic training component consisted of four modules and three "participatory forums" which are described below.

Module I: Central District Substance Abuse Philosophy

The primary purpose of this module was to present in detail the CDC's philosophy regarding substance abuse and supervising offenders. New USPO drug specialists must understand not only the policy of the district, but also the underlying rationale for our specific approach. This module also included a discussion of the ideal psychological orientation and temperament of the substance abuse specialist, and required organizational skills. This training module included a discussion of the following issues:

- Establishing a specific philosophy is often problematic because officers subscribe to differing philosophies and often hold fiercely to their positions.
- The approach/strategy utilized in the CDC has proven effective in deterring drug use and preventing new criminal conduct.
- Historical development of CDC's total abstinence approach. CDC struggled to find a balance between excessive disparity in handling drug aftercare violations and a rigid approach that allowed little discretion to consider individual circumstances.
- The roots of CDC policy in the Classical tradition of criminology.
- Disagreement with the popular notion that addiction is a disease.
- The legal perspective of the problem of illegal drug use.
- The protection of the community and the offender through a total abstinence approach, the CDC's primary goal as it relates to drug abuse.
- Implications for caseload management and casework implementation of the total abstinence approach, the offender is responsible for his/her drug use, CDC requires action on every incident of drug use, offenders are to be carefully structured regarding total abstinence expectations, and rapid detection through a sophisticated drug testing program.
- Review of Federal Judicial Center studies of aftercare programs.
- Probation officer styles as they relate to the philosophical orientation of the CDC.
- Knowledge and skills that are essential to the substance abuse specialist:
    - Handling confrontation effectively.
    - Treating offenders firmly, professionally, and with respect.
    - Identifying a wide range of sophisticated manipulations.
    - Setting limits and sticking by those limits.
    - Having strong organizational skills and the ability to set priorities.
    - Being diligent in field note recording.
    - Recognizing that drug caseload is like being on a treadmill.
    - Recognizing high potential for burnout.

- Realizing that colleagues will usually not be sympathetic to your workload because "that's why you get the big bucks."
- Recognizing that you will make a difference in the lives of *some* offenders but most long-term users will continue to use drugs.
- Acquiring a high degree of knowledge and awareness of community for substance abusing persons.

Module II: Interviewing/Structuring and Assessment

This module focused on interviewing, structuring, and assessing the substance-abusing offender. This session addressed dual diagnosis treatment modalities and initial referral strategies. As in the other modules, the training was conducted by substance abuse specialists with over 20 years of experience and included the following topics:

- Beliefs and philosophies about chemical dependency.
- Red flags of abuse.
- Risk issues and liability.
- Focus of the addict/alcoholic: "getting over" on the PO.
- List of substance abuser characteristics.
- Importance of consistency and meaning what you say.
- Testing for illegal and legal drugs.
- Collection of an offender's drug/alcohol history data.
- The drug aftercare case summary.
- Phases of testing.
- Specific gravity and stalls.
- The drug program intake interview.
- Consequences for drug aftercare violations (stalls, no-shows, positives, alcohol).
- Community Correctional Center versus therapeutic community placement.
- Importance of random drug testing.

Dual Diagnosis (DD) and the Substance-Abuser

- Definition and overview of the dual diagnosis disorder.
- Clinical data on DD.
- Severity of adjustment problems incurred by DD offenders.
- Identification and Evaluation.
- Federal Judicial Center Videotape: Substance Abuse and Mental Disorder Concurrent Illness.
- Treatment and Supervision Strategies.
- Assessing potential danger and crisis intervention.
- "Strengths approach:" Accentuate positive and establish support system.
- Addressing non-compliance: Incremental sanctions.
- Fairness, consistency, and availability.
- Offender perspective: Presentation by 53-year-old dual diagnosis offender discussing supervision and treatment interventions that have been effective.

Module III: Supervision of Substance Abusers, Problems, and Violations

The primary purpose of this module was to discuss specific issues in the supervision of substance abusers, unique problems, and the types of violations that a drug specialist can anticipate. Treatment modalities and referral strategies in response to a violation were also discussed by two senior USPO drug specialists. This module included:

- Re-examination of philosophical approach and differentiated between free-will and disease model of addiction.
- Examination of terms such as relapse, disease, caused, "crying for help," compassion.
- Confrontation versus enabling.
- Case studies for discussion: example of high risk cases.
- Job burnout versus job satisfaction.
- Primary goal of supervision: protection of community.
- Phases of substance abuse testing.
- Indicators or "red flags" that signal problems:
  - Physical signs.
  - Emotional/Psychological signs.
  - Social/Interpersonal signs.
  - Legal problems.
  - Supervision problems (stalls, late, no shows, diluted tests).
- The positive drug test: what does it mean?
- Characteristic responses by offender to the "dirty" test and probation officer response:
  - Lie or downplay extent of problem.
  - Mitigate or blame others.
  - Challenge drug testing methods or procedures.
  - Respond emotionally or angrily.
- Treatment intervention strategies: least restrictive to most restrictive.
- Treatment modality should fit the offender and the drug of abuse.
- Factors to consider in determining treatment or punishment.
- Immediate response is critical.
- 12-step programs: the 12 traditions of AA/NA
- Rational recovery program.
- Counseling: private versus contractual.
- Halfway-house participation.
- Combining treatment modalities as a response to violation.
- USPO responsibility to know programs available in community.
- Implementing court intervention in response to violation(s).
  - Court modification: should be clear and specific.
  - When modification is refused by offender, what does USPO do?
  - Citation or warrant decision.
- Case scenarios and recommendations.
- Dos and don'ts.
  - Don't assume an offender is clean

and sober because he or she has completed a drug testing program in another district or unit.

- Never advise an offender of a positive test in their home.
- Test suspended cases on a surprise basis.
- Don't negotiate on the collection date of any surprise test.
- Never negotiate sanctions with a violator.
- Don't tell an offender a warrant has been issued.
- Don't make idle threats. Say what you mean, and mean what you say.
- Don't allow an offender's personality to influence your decisions.
- Don't let an offender's praise influence your decisions.

Module IV: Substance Abuse Testing and Drug Trends

The segment on substance abuse testing and drug trends was presented by PharmChem laboratory staff and included the following issues:

- Drug testing procedures/specimen collection.
- Precautions against adulteration.
- Laboratory procedures
  - Emit screening.
  - Gas chromatography/mass spectrometry.
- Electronic results reporting.
- Quality control.
- Federal probation routine drug test panel.
- Adulteration testing.
- On-site testing—how does it work?
- PharmChem sweat patch & drug detection in sweat: How does it work?
- Patch versus urine: window of detection.
- Sweat patch: court challenges.
- Using non-instrumental hand-held testing devices.
- Centralized laboratory.
- On-site instrumentation based.
- On-site non-instrument based.
- Tips for using non-instrumental testing devices.

The above topics were presented during the academic component; however this outline does not reflect the considerable detail and elaboration outlined by each of the presenters. For example, PharmChem gave a detailed explanation of the sweat patch, as well as discussing who can't wear the patch. In addition, the presenters pointed out the advantages and disadvantages of the sweat patch versus urine drug testing. Non-instrumental hand-held testing devices were also covered in detail. At the beginning of the PharmChem presentation the participants submitted a list of questions, and these were addressed by the presenters throughout the day.

Participatory Forums

The experiential component of the substance abuse coordinator training included "participatory forums" in which USPOs-participants applied some of the information obtained from the academic component and also discussed problems and issues arising from their experiences in supervising a drug caseload. For example, in participatory forum number one, officers received training with forms that are used by the drug specialist. Later, the participants were divided into two groups with each group being required to present violation letters and recommendations that they had made. These were then discussed by the entire group.

Completing court letters on special drug aftercare violations and making recommendations promotes an understanding of the various treatment options and sanctions that a USPO has available. Types of drug aftercare violations were also discussed as part of this training exercise. In another exercise, the group was again divided to discuss the potential use of an initial interview checklist. An initial interview checklist is used by some officers to assure that they have adequately reviewed the major items. Officers may choose to use both a checklist and a supervision folder. It has been recognized by some officers that the initial interview covers an array of information, conditions, and instructions and, therefore, it is almost impossible for any one offender to absorb all that is covered. To address this initial interview information overload, some officers use the supervision folder, which contains the judgment and commitment order, conditions, district map, monthly supervision reports, USPO's business card, appointment and map to the aftercare agency, firearms restriction form, and a list of various community resources. The supervision folder is individualized and may contain more or less information depending on the officer. It is bound and given to the offender at the end of the initial interview. Officers all discussed what the checklist should include and what the folder should contain. Lastly, the first participatory forum addressed the issue of drug aftercare contract vendors and what types of problems might be encountered. Topics included prompt intake interviews and expeditious notification of positive test results and/or no shows.

The second participatory forum asked officers to differentiate between the complexity and problems associated with a drug versus a regular supervision caseload. The purpose of this exercise was to move to consider the scope and nuances of supervising a drug caseload and what it might mean to be a drug specialist for most of one's career. At the last participatory forum, USPOs discussed further the various forms that must be handled by the SAC. Other topics were Oral Fluid Testing Technologies and Sexually Transmitted Diseases. The participatory forum concluded with a discussion of a self-evaluation form that each USPO participant was required to complete at the end of the development training program.

Experiential Component: Supervising a Substance-Abuse Caseload for Three Months

Following the academic component of the development program, participants switched caseloads with the substance-abuse specialist in their units or were assigned active drug testing cases and obtained three months of first-hand experience supervising a substance abuse caseload. During this period, participant's caseload management was overseen by the substance-abuse specialist (if one was present in the particular branch office), the supervisor, and the SAC. To monitor the activities of the participants, a form was developed to be completed by the end of each month. The monthly statistics form compiled the number of activities and reports completed by each participant in the substance abuse specialist program. There were 10 types of activities and reports compiled for each participant. These

included the number of initial interviews conducted, summaries dictated, violations reports completed, court appearances, number of positive drug tests submitted, total number of cases being supervised, and the number of delinquent monthly reports. Item 11 on the form allowed the participant to include a comment(s) on any extraordinary activity which occurred during the period.

Supervisor Evaluation

At the conclusion of the experiential component, each supervisor was asked to rate the participate on a 1 to 10 scale, with 1 being poor and 10 being excellent. Supervisors were asked to evaluate the USPO on personal relations, professional skills (as related to supervising a drug caseload), caseload management, time management, and professional development.

Self-Evaluation

At the end of both the academic and experiential components of the development program, participants were required to complete a self-evaluation form and to detail what they had learned about personal relations, professional skills, caseload management, time management, and professional development, as related to being a substance-abuse specialist. Officers were asked whether, following the training, they were now prepared to assume a substance-abuse caseload assignment. If so, they were then asked to list their first three area office choices. Participants could also check off a box indicating they were interested in becoming a substance abuse specialist, "but not at this time" or to simply check that they were "no longer interested in becoming a substance abuse specialist."

Staff Support Evaluation

In most jurisdictions, support staff have little or no input in the evaluation and assessment of officer staff for promotion. However, a third level of evaluation was established wherein the clerical staff of each office contributed to the assessment of the drug specialist candidates and a specific form was developed for their evaluation rating and comments. Selected support staff evaluated the officer-participant on 12 items using a 5 point rating scale, with 5 being outstanding and 1 being below average. The dimensions evaluated were:

1. Participant is knowledgeable of office practices and procedures.
2. Participant is available and approachable.
3. Participant demonstrates "people skills."
4. I am able to express my opinion and feel heard by the participant.
5. Participant communicates directions clearly so I know what is expected of me.
6. Revisions of court letters are edited in such a manner that I can read and understand them without causing any delay in my work.
7. Participant responds in a timely manner to any questions I have regarding assignment of cases.
8. Participant treats me with respect.
9. Participant treats offenders with respect.
10. Participant gives me positive recognition and/or feedback.
11. Participant possesses a good sense of humor.
12. Participant models the character and work ethic he/she expects from others.

In addition to rating the participant along these 5 dimensions, an additional question was posed, "Would you choose to work in the same office with the participant?" Support staff responded to the question and then were asked to "please comment." At the bottom of the form was a blank space where support staff were to indicate the overall rating given to the participant.

Selection Process

At the end of the "substance abuse specialist development program," the participants were ranked by the substance abuse coordinator (SAC) with input from the aftercare coordinator (AC). Of the 32 initial applicants, 27 completed the development program. As part of the assessment process, the SAC sat in on initial interviews conducted by all 27 participants. The SAC then provided a written assessment and suggestions for improvement to each participant, participant's supervisor, and ADCUSPO. An attempt was made to observe a second initial interview to determine if each participant had improved and/or integrated the suggestions from the SAC's first assessment. Though time did not permit a second observation with all 27 participants, about three quarters of the participants did receive a second assessment. At the conclusion of the training program, the SAC and AC reviewed the various evaluation forms and conducted an initial ranking based on the SUSPO's rating forms. The second level of ranking incorporated the participants' self-evaluations and support staff assessments. In the third and final step of the ranking process the SAC, based on evaluation scores and assessment criteria, listed each participant from 1 to 27. This list was then presented to the chief U.S. probation officer (CUSPO). The SAC also assessed the need for a substance abuse specialist in each area office and identified vacancies.

Conclusion

Within one week of announcing and introducing a substance abuse specialist development program to assist in filling vacancies, 32 U.S. probation officers within the district had applied for the "development program." Once the list was established, the district moved expeditiously to commence the actual training program which was broken down into two separate components, academic and experiential. The academic component contained four all-day modules which included topics on the district's substance abuse philosophy, interview/structuring, assessment, dual diagnosis, supervising the substance abuser, problems/violations, as well as a presentation by the Pharmchem Laboratory on testing methodologies and drug trends. As part of the experiential component three "participatory forums" were conducted, which allowed the participants to integrate the concepts that were presented in the academic modules with their experiences from the OJT component. The SAC also identified the need for a substance abuse specialist in each office and identified vacancies.

The experiential or OJT component allowed each participant to have the actual experience of supervising this type of demanding caseload for three months. Each participant was required to maintain and submit monthly statistics on the activities which occurred. These included initial interviews conducted, number of case summaries dictated, violation reports completed, as well as court appearances and other miscellaneous activities.

At the end of the development program, considerable input on performance was obtained from supervisors, support staff and the substance abuse coordinator as well as a self-evaluation by the participants themselves. Based on these combined evaluations, the

substance abuse coordinator in consultation with other administrators developed a rank order list of the participants to submit to the chief probation officer for appointment and promotion.

At the writing of this article, the academic and experiential components had concluded and a list ranking of the participants had been submitted to the chief U.S. probation officer for his consideration. While it is still too early to determine if this development program will be effective in selecting officers appropriate for a substance-abuse caseload, we think that, at a minimum, we have established objective criteria and a process that ensures fairness. Furthermore, the classroom and OJT training components would seem to provide essential academic training by veteran drug specialists while also permitting the participants to supervise a drug caseload for three months. It is hoped that the development program will help us select drug specialists who possess a basic understanding of substance abuse issues and subscribe to the district's philosophical orientation. This should result in greater consistency in carrying out the district's strategy for supervising substance abuse offenders, which in turn will allow us to continue a practice that has been effective in reducing drug use and new criminal conduct in the substance-abusing offenders under our supervision. It is a strategy that we believe serves the best interest of the community we are obligated to protect as well as offenders who confront further legal and social consequences if they continue to use and abuse drugs and alcohol.

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UP TO SPEED

A Review of Research for Practitioners

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Juvenile Curfew Laws and Their Influence on Crime

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During the 1990s, many American cities adopted juvenile curfews, hoping that they would reduce crime rates and protect young people from harm. Curfew laws had been common in the United States since the turn of the twentieth century, but they had lost some of their appeal with changing ideas about delinquency control. As rates of youth violence soared in the late 1980s, policy makers began to reexamine old approaches.

Ruefle and Reynolds (1996) found that 77 percent of U.S. cities with a population of 200,000 or more had a curfew law in effect during 1995. Most of these laws were recent: since1990, 60 percent of the cities had either adopted a new ordinance or revised an existing one.

The popularity of curfews was not limited only to the largest jurisdictions. Seventy-three percent of cities with populations of 100,000 or more had a curfew in 1995 (Ruefle & Reynolds, 1996), and 80 percent of cities with populations of at least 30,000 had one in 1997 (U.S. Conference of Mayors, 1997).

Along with the enactments came increased attention to enforcement. Arrests for curfew and loitering law violations rose steadily through the 1990s, almost tripling between 1988 and 1997 (Maguire & Pastore, 1999, p. 337). Although the available statistics do not separate curfew from loitering arrests, one might reasonably assume that curfews account for the bulk of the increase.

Public officials generally express high levels of satisfaction with their laws, and most believe that they reduce crime (U.S. Conference of Mayors, 1997). Limited evidence from surveys and focus groups shows that curfews also are popular with adults and–at least in principle–with juveniles (Crowell, 1996; Ruefle & Reynolds, 1995; Reynolds, Ruefle, Seydlitz, & Jenkins, 1999). Yet studies of the effects of the laws on crime are few, and they do not strongly support the idea that curfews are successful in achieving their goals.

This article reviews research on curfew laws, especially evaluations of their impact on crime. Including this introduction, the article consists of five sections. The article's second section summarizes the requirements and status of current laws, while the third section considers how curfews might affect youth crime rates. The fourth section reviews evaluations of preventive effects, and the fifth section concludes.

Structure, Operation, and Legality of Curfew Laws

The details of curfew laws vary from area to area, but their basic provisions are highly similar (see Maguire & Pastore, 1997, pp. 112-117). Among cities with populations of 100,000 or more, the upper age subject to the laws ranges between 14 and 17, with 16 and 17 being the most common choices. Curfews usually begin at between 10:00 P.M. and midnight, and they usually end at between 4:00 and 6:00 in the morning.

The laws differ more substantially in minor respects. Some curfews begin later on weekend nights than on weekdays, and some begin later during summer months than during the school year. Many cities specify earlier curfews for younger children than for older ones. A few cities, such as Las Vegas and Orlando, place special restrictions on entertainment districts.

Besides their nighttime curfews, some cities also impose curfews that cover the daytime period when most young people are in school. A 1997 survey found that 20 percent of cities with populations of 30,000 or more had ordinances that applied to both daytime and nighttime hours (U.S. Conference of Mayors, 1997).

Sanctions and enforcement procedures differ more across jurisdictions than do the requirements of the laws themselves (see, e.g., Garrett et al., 1994; Office of Juvenile Justice and Delinquency Prevention, 1996). Some police departments take violators into custody, while others cite them, return them to their homes, or simply tell them to move along.

The most common penalties for violations are fines for the juveniles or their parents, community service work, and diversion to counseling programs. Many cities have special centers to hold curfew breakers, often with access to social service agencies. A central feature of most current laws is a minimum amount of legal formality, reducing the

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time and paperwork that police officers must devote to enforcement.

Despite their favor among local officials, the legal status of curfew laws is problematic. The Supreme Court has repeatedly refused to rule on their constitutionality, and state and federal courts have issued conflicting decisions (see Hemmens & Bennett, 1998; 1999 for authoritative reviews of the legal issues). The American Civil Liberties Union regularly challenges the laws, and it has prevailed in several cases.

In 1994, the Fifth Circuit Court of Appeals upheld Dallas's curfew. Two features of the Dallas law apparently accounted for its legal success. First, the city showed that juveniles committed a large share of Dallas's crimes, and that crime rates were high during curfew hours. Second, the city allowed many exceptions to the law, and so employed the least restrictive means of accomplishing its goals.

After the Fifth Circuit ruling, other cities adopted laws that were close copies of Dallas's ordinance. Two of these, in Charlottesville, Virginia and Washington, D.C., also survived challenges in the federal courts. Efforts to overturn curfew laws continue, and future decisions may eventually strike them down. For the time being, however, the Dallas model gives them a reasonably secure legal basis.

The Criminology of Curfew Laws

Arguments in Favor of Curfew Laws

The basic premise of curfew laws is extremely simple, which likely helps explain their popularity. Simply, restricting the hours when young people may be in public should limit their opportunities to commit crimes or become victims.

The idea that home confinement might strengthen public safety applies to any segment of society, of course. Curfews ultimately are possible only because of the subordinate legal status of juveniles. Still, young people commit a sizeable fraction of the nation's crimes, and this helps justify singling them out for special attention.

In 1997, for example, juveniles made up almost 20 percent of persons arrested for criminal offenses in the United States (Snyder & Sickmund, 1999, p. 116). According to the National Crime Victimization Survey (NCVS), at least one offender was a juvenile in about a quarter of all serious incidents of violence (Snyder & Sickmund, 1999, p. 62). Youth homicide rates also increased sharply in the late 1980s, and this played a major role in renewing interest in the laws (e.g., Ruefle & Reynolds, 1995).

Strengthening the case for curfews, many studies find that juvenile crimes often occur when groups of young people are away from home and adult supervision (e.g., Osgood, Wilson, O'Malley, & Johnston, 1996). Sherman (1995) argues that juvenile groups—along with convicts and firearms–are in fact a foreseeable risk factor for crime. Curfew laws then allow the police to reduce this risk by breaking up clusters of idle youths.

Although discussions of curfews usually stress their potential to cut youth offending rates, the laws might also reduce the chances that juveniles will be harmed by others. In the 1995 and 1996 NCVS, about 20 percent of violent crime victims were 12 to 17 years old. Persons in this age group were twice as likely as adults to report that they had suffered a criminal attack (Snyder & Sickmund, 1999, p. 26).

Homes are not always wholesome places, and some young people could be less safe there than on the streets (Reynolds, Seydlitz, & Jenkins, 2000). Yet without data to the contrary, it seems likely that most juveniles face a lower probability of victimization when they are away from public areas.

Besides these direct benefits, curfew laws also might indirectly help reduce crime by strengthening parental control. The laws forbid all young people from being on the streets during specified hours, and this could make it easier for parents to restrict their own children's activities.

Arguments Against Curfew Laws

Their logical appeal aside, several considerations suggest that curfew laws might in the end have little influence on youth crime. Most important, the laws heavily depend on enforcement for their effectiveness. Like public drinking, street prostitution, and illegal parking, curfew violations are a minor offense that is often widespread. Faced with other demands on their resources, police departments may then largely ignore violators in favor of more pressing concerns. The resulting low enforcement levels might never be sufficient to convince juveniles to obey the laws.

As noted earlier, curfew and loitering arrests have increased greatly during the past decade, suggesting that at least some cities have made serious enforcement efforts. In addition, and as also noted above, current laws attempt to minimize the time that police officers must spend processing the juveniles whom they apprehend. Despite these points, curfew enforcement can be a time-consuming task for the police (e.g., Cottman, 1999), and it can be expensive for city governments. New Orleans, for example, spent $600,000 on overtime pay while enforcing the first year of its ordinance (Reynolds, Seydlitz, & Jenkins, 2000).

Because of resource constraints, occasional bursts of enforcement are the usual strategy for suppressing curfew breaking and similarly minor crimes. Sherman (1990) reviewed eighteen studies of "crackdowns" on minor offenses, and found that almost all produced some deterrent effect. Still, the bulk of the impact occurred during the crackdown period, and any residual deterrence was short-lived. This suggests that the effort required to make a curfew effective over the long-term may be greater than most cities can sustain.

Besides their enforcement problems, curfews also do not match the times at which juvenile offenses are most prevalent. Almost 60 percent of violent youth crimes occur on school days, reaching their peak immediately after classes end. Violent incidents then decrease through the rest of the day, settling at relatively low levels through the hours when most curfews are in effect (Snyder & Sickmund, 1999, pp. 64-66).

One can overly stress the implications of this finding. Juvenile violence peaks later on days when schools are not in session, and the pattern apparently varies somewhat across cities (Office of Juvenile Justice and Delinquency Prevention, 1999). Still, total youth violence rates are four times higher between 3:00 P.M. and 7:00 P.M. than during the usual 10:00 P.M. to 6:00 A.M. curfew period (Snyder & Sickmund, 1999, p. 65). Curfew laws may thus be limited in the number of crimes that they can influence.

Finally, curfews attempt to prevent serious crimes by enforcing a law against a minor infraction. Research beginning with Wolfgang, Figlio, and Sellin (1972) shows that a small proportion of young people commit a large share of all serious juvenile offenses. If the possible penalties for major crimes do not daunt these frequent offenders, the mild sanctions attached to curfew violations may deter them even less.

One can construct a plausible argument that curfew laws will reduce juvenile offending and victimization rates. Yet one can also construct a plausible argument that they will be ineffective. As in other areas of criminal justice, the impact of the laws must be determined through empirical research.

Research on the Effects of Curfew Laws

Research Designs and Data

The most satisfactory way to study the impact of a curfew law would be through an experiment, with a sample of cities randomly assigned to curfew and no curfew conditions. The randomization would insure that both groups were equivalent (within chance) on all crime-related factors besides the law. One could then credit the curfew with any changes in crime after it began.

The control necessary to impose randomization precludes the use of a large multi-city experiment in practice. A less demanding and almost equally strong alternative would randomly assign curfew enforcement across neighborhoods within a single city, but no evaluation has yet attempted this strategy.

Lacking randomized assignment to conditions, evaluations of curfew laws must fall back on quasi-experiments. All existing studies use a time series design, comparing counts or rates of crime before and after a curfew, or studying the relationship between crime rates and curfew enforcement levels. Here periods before the law or with lower levels of enforcement replace the no curfew control group. This design has several strengths (see, e.g., Cook & Campbell, 1979), but the lack of random assignment makes inferences from it much less certain than from an experiment.

Public officials and the press often report evidence that appears to show curfews are wildly successful (e.g., Garrett et al., 1994; Office of Juvenile Justice and Delinquency Prevention, 1996). This evidence generally comes from a primitive and unsatisfactory use of time series data. Here the comparison uses only a few time points–often only a *single* time point–before and after a law began. Yet crime rates change due to the influence of many causes, and apparently impressive decreases (or increases) may reflect only typical variations. Adequate time series designs, including all of the studies discussed below, use multiple time points to increase the stability of the estimates.

Even with many observations, time series studies are vulnerable to the possibility that other causes of crime also changed markedly at the time a curfew law began. Besides comparing crimes or victimizations before and after a law, evaluations often use control series to reduce the threats posed by these other variables. Standard control series include crimes among adults, in cities that did not adopt new laws, and during periods of the day not covered by the laws. While the additional comparisons cannot replace random assignment, they help strengthen the conclusions from the analysis.

Curfew laws may affect a variety of crime-related outcome variables, and studies differ in the measures that they examine. Perhaps the most obvious outcomes are juvenile crime commission rates. Unfortunately, direct measures of youth crime do not exist, and evaluations must instead use juvenile arrest rates or total crime rates as proxies.

Both proxy measures have important limitations. Although curfews might reduce total crime rates, examining only the total will obscure any more subtle effects on juvenile crime rates alone. On the other hand, juvenile arrest rates may not fully track juvenile crime rates, and arrest data suffer from incomplete reporting (e.g., Maltz, 1999). Juvenile arrests also depend partly on police attention to youths, and this may increase after a curfew law begins. These sources of error will add to the uncertainty in interpreting a study's results.

Besides estimating the impact of curfews on offending, some researchers also analyze data on juvenile victims of various types of crime. Given that they are reasonably accurate, the victimization data should allow a straightforward evaluation of whether the laws protect young people from criminal harm.

While the study designs and measurement methods of current evaluations are not entirely satisfactory, neither are they wholly without value. The limitations are not unique to curfew law studies, and similar problems affect most research in criminal justice. Still, the limitations do imply that one should regard any single evaluation with considerable caution. Progress in understanding the effects of the laws is most likely to come from the cumulation of multiple studies, using a variety of sites, data sources, and analytical methods.

Evaluation Findings

Currently, only a handful of studies evaluate the success of curfew laws in preventing crimes. This scarcity of research limits the scope of generalizations about the laws, and any overall conclusions must be highly tentative. The existing studies are impressively consistent, however, in finding that curfews have little or no preventive effect.

The earliest evaluation, by Hunt and Weiner (1977), examined an ordinance that the city of Detroit adopted in 1976. Separately for robbery, burglary, and total serious crimes, Hunt and Weiner plotted average daily offense counts for two-hour periods during August 1976, immediately after the curfew began. They then visually compared these plots against daily August averages during a four-year period before the law.

For the hours covered by the curfew, offense counts in August 1976 were lower than those in the comparison years. Yet accompanying the decrease during the curfew period was a counterbalancing increase earlier in the day. Due to this temporal displacement of offenses, the law produced no overall change in crimes.

While Hunt and Weiner's study relied on visual presentations, the other studies used quantitative methods. Fritsch, Caeti, and Taylor (1999), for example, studied the effects of a Dallas program that targeted gang members through heavy enforcement of curfew and truancy ordinances. Their study compared five experimental areas with five controls, using a year of data before and after the program.

Fritsch and associates found only one decrease among the twelve types of crime that they examined, and this occurred in both the experimental and control sites. They also found, however, that gang-related offenses decreased markedly in three of the experimental areas while remaining stable in all five of the controls. The program was therefore apparently successful in suppressing gang activity, but its effects were not strong enough to influence crime rates overall.

Reynolds, Seydlitz, and Jenkins (2000) also used temporal comparisons in their study of New Orleans's juvenile curfew. The New Orleans ordinance is perhaps the most prominent of the curfews that began during the 1990s. The city's mayor heavily promoted the law as an effective response to youth crime, and President Clinton appeared with him to encourage other cities to adopt similar statutes (Moral, 1995; Harris, 1996).

To evaluate the curfew, Reynolds, Seydlitz, and Jenkins compared weekly data, divided into curfew and non-curfew periods, for one year before and one year after the law began. They examined a wide range of outcomes, including juvenile and adult arrests and victimizations. They also conducted a supplementary analysis of variations in curfew enforcement.

Reynolds and associates found no evidence that the law affected any of their outcome measures. All reductions in offenses or victimizations were small and temporary, and

increases in crime occurred more frequently than deceases.

Gouvis (1999) obtained similar results in her evaluation of a curfew law in Prince George's County, Maryland. Gouvis studied total victimizations for 87 months before the curfew began, and for 54 months after it. She analyzed data for periods within and outside the curfew, separately for juveniles and for young adults. Consistent with the other studies, she found no evidence that the law reduced juvenile victimizations. Additional analysis of spatial patterns showed that the geographic distribution of victimizations also remained stable after the law began.

Most curfew law research examines changes in outcome variables over time within a single jurisdiction. In contrast, McDowall, Loftin, and Wiersema (2000) used a panel design to study the impact of the laws over time in a sample of cities. This strategy has the advantage of including a comparison group of areas that did not change their laws. Youth offenses in a single city might not drop significantly if one compares the periods before and after a curfew began. If one compares crime rates after a law with crime rates in cities that did not adopt curfews, a decrease might be more apparent.

Many cities enacted their laws during a time of rising youth violence rates. Other variables may then have partially masked effects that were due to the curfews. If these confounding variables operate in the same way across all areas, cities that did not begin curfews provide an estimate of what would have happened without the new laws.

Although panel designs have some advantages over single city case studies, they also have limitations. In particular, panel studies assume that the effects of the laws and of other variables are identical in all areas. This is an important requirement, and it may often be untrue. Rather than replacing case studies, one might best regard panel designs as an alternative method of approaching the same issues.

McDowall, Loftin, and Wiersema evaluated the effects of curfews using annual data from a sample of 57 large counties. They estimated the impact of new and revised laws on juvenile arrests for ten offenses between 1985 and 1996, and on juvenile homicide victimizations between 1976 and 1995. They also studied the influence of variations in enforcement on these outcomes, and they separated daytime and nighttime laws. Reflecting the spread of curfews, 28 of the cities in their sample introduced new laws during the study period, and 14 revised existing statutes.

In accord with the other work, McDowall and associates found little evidence that curfews affected juvenile crime or victimization rates. Still, an exception appeared in this pattern: juvenile arrests for burglaries, larcenies, and simple assaults decreased significantly after cities revised existing laws.

The decreases that McDowall, Loftin, and Wiersema observed are potentially interesting. The other studies examined broader crime classifications, such as all property and violent offenses, or crime totals for both youths and adults. Curfew laws may influence only a small range of outcomes, and their effects may be obscured in more general categories.

Unfortunately, no compelling argument explains why crime reductions might occur only after revised curfews, and not after new ones. The three decreases that McDowall, Loftin, and Wiersema observed might thus be due to chance.

In the only other existing evaluation, Males and Macallair (1999) used panel data from California cities and counties to study the effects of curfew enforcement on numerous outcome measures. Examining crime, arrest, and mortality rates between 1980 and 1997, they found no evidence that enforcement levels affected any of these variables. Males and Macallair also conducted two additional case studies, both of which supported their conclusion that curfews are irrelevant to youth behavior.

Implications of the Findings

As this article has stressed, one should be cautious in drawing strong conclusions from a small number of studies. The six evaluations all suffer from frail research designs and error-plagued data. None of the studies found that curfew laws had more than modest preventive effects, but six new evaluations could produce different results.

These considerations aside, one cannot easily dismiss the existing work. Some studies lacked analytical sophistication, but all used research designs that limited alternative explanations of their findings. The studies also examined a wide range of possible outcome measures. The agreement between the evaluations does not strongly encourage the hope that later work will discover larger impacts. One might then tentatively—but reasonably—conclude that curfew laws have little potential to affect overall levels of crimes or victimizations involving young people.

Yet even if their impact is not broad or general, it still is possible that curfews may be useful for controlling more limited classes of offenders and offenses. Most evaluations studied outcomes involving all young people, but curfews may be more productive if the police use them selectively.

Fritsch, Caeti, and Taylor's (1999) study, for example, found that offenses by gangs decreased after the Dallas police used curfew and truancy laws against their members. Since truancy laws are largely equivalent to daytime curfews, a combination of day and night curfews might be useful in suppressing juvenile gang activity.

Cautions about too heavily interpreting a set of results apply even more strongly to one study than to six. Still, limited evidence on the temporal pattern of juvenile crimes in Orange County, California, also suggests that curfews might help in gang control. Using data from 1994 to1996, Wiebe, Meeker, and Vila (1998) found that juvenile gang arrests occurred more often during school hours than did juvenile arrests for other offenses. These differences were modest, and some observers conclude that gang and other offenses follow the same pattern (Fox & Newman, 1997; Sickmund, Snyder, & Poe-Yamagata, 1997). Yet even if they are slight, the differences raise the possibility that general crime categories hide the effects of daytime curfews on gang crimes.

More generally, dividing juvenile crimes only into property and violent offenses might obscure the impact of curfews on specific crime categories. McDowall, Loftin, and Wiersema (2000) found that the laws did not influence most types of juvenile offenses, but they may have reduced rates of burglaries, larcenies, and simple assaults. Curfews could plausibly affect all three of these crimes, and the other studies might have missed the reductions in the broader aggregations that they used. The McDowall, Loftin, and Wiersema analysis did not fully support the idea that curfews produced the decreases, and their findings require replication. Still, curfews may affect some types of crimes even if they have no impact on offense rates overall.

In addition, differences in police tactics might influence the success of the laws. Many cities rely on periodic crackdowns, otherwise placing little stress on enforcement. Sherman (1990) suggests that crackdowns could have longer-lasting effects if the police introduced them randomly over time, and with no publicity. One could also imagine that the laws

would be more effective if the police focused on areas where the prevalence of youth problem behaviors was especially high. The existing studies are limited in their data, and none has examined the effects of variations in enforcement methods.

Curfews also could be more useful at some times of the year than at others. While juvenile violent crimes reach their high point at around 3:00 P.M. on school days, on nonschool days the peak occurs later (Snyder & Sickmund, 1999, p. 65). Heavy curfew enforcement might therefore yield greater benefits on summer evenings than on nights during the school year. Again, however, no evaluation has tested this hypothesis.

These possible effects of curfew laws are almost entirely speculations. The major point is that, even if the laws have no *general* preventive effects, the existing evaluations may hide heterogeneity across crime categories, times, and enforcement methods. Some curfews may be more effective than others, and all curfews may be effective for limited purposes. Without more evidence on these issues, one should not completely dismiss the laws as a means of reducing criminal behavior among youths.

Conclusions

Curfew laws rest on a reasonable foundation in logic, but much of what criminologists know about offenders and offending casts doubt on their ability to prevent crime. The available studies do not permit a flat conclusion that the laws are ineffective in reducing overall rates of youth offenses or victimizations. Almost no evidence addresses their potential to accomplish more limited goals. These issues notwithstanding, the existing studies suggest that, if the preventive effects of curfews are not zero, they are small.

More research would obviously be desirable, but this is the case for any area of study. Policy makers must reach decisions using the available information. Given the available information, what might they decide?

One possibility would be to ignore their apparent lack of success, and to continue to enact and enforce the laws. Prince William County, Virginia, took this approach. The county began a curfew in 1997, with the stipulation that it would expire unless an evaluation showed that it was useful.

Like other researchers, the county's evaluator concluded that the law had little effect on juvenile crime (Caplow, 1999). However, through focus groups and surveys, he also found that it was popular with adults and the police, and that juveniles did not strongly oppose it. Impressed by its appeal to the public, the county's Board of Supervisors voted to make the curfew permanent (Gretch, 1999).

An alternative possibility would be to use cost-benefit analysis to compare curfews against competing strategies for juvenile crime control (see, e.g., Cohen, 2000). All observers agree that curfew laws are expensive to enforce. If they have little influence on youth crime patterns, cities might better devote their funds to equally or less expensive programs that can reliably show even modestly larger effects.

Many researchers suggest that after-school programs may be helpful in reducing youth (and, eventually, adult) involvement in crime (see, e.g., Fox & Newman, 1997; U.S. Department of Education & U.S. Department of Justice, 2000). Unlike curfews, these programs cover the times when juvenile offenses and victimizations are highest. They use interesting activities to lure young people off the streets, rather than attempting to force them off through legal threats.

While the ability of after-school programs to reduce short-term crime rates requires more study, they appear to have long-run desirable outcomes. Given that these programs do not require larger expenditures than do curfews, they might be a wiser investment for scarce resources.

Youth curfews have a long history in the United States. Barring a Supreme Court decision against them, they are not likely to disappear in the immediate future. Since the laws *may* be helpful, and since they do no obvious harm, one might conclude that they are worthwhile even without evidence that they achieve their goals. If curfews divert funds from more clearly effective policies, however, their desirability could be a reasonable matter for debate.

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THE CUTTING EDGE

A Survey of Technological Innovation

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ONE OF THE MAJOR areas in which the Internet is only beginning to be used is distance learning. The potential of the Internet as a place for students to take online criminology courses and for criminal justice professionals to receive in-service training is great. However, several hurdles must be overcome before Web-based learning will be generally accepted as equal to (or superior to) face-to-face classroom instruction.

Rather than treating computer- and Internet-based education as a replacement for the classroom, I prefer to consider new technologies as creating the potential for a plethora of instructional delivery options. At one end of the spectrum would be a traditional face-to-face classroom environment that makes no use of new instructional technologies. These are likely to decline in number as students request Web sites, forums to post questions, etc., from all faculty and instructors. At the other end would be courses taught entirely using technology as a mediator between instructor and students. In between these two extremes are dozens of mixed mode options open for experimentation. Live classes may be less essential, and could therefore meet less frequently, in courses that feature email, discussions, chat, computer software, and/or video-conferencing. On-campus courses are also more likely to have distance learners in the classroom as Web-based video-conferencing becomes more easily accessible.

Of course, there is a genuine need for courses and training materials that are one hundred percent computer-mediated and available when students have time to participate. This is particularly true for adult working professionals and for multi-site organizations. In this article the major focus will be on what students need to know about distance learning. Included will be discussion of how various computer technologies have been applied to create learning environments, courseware products for assisting students, and video-conferencing options as teaching tools.

In its broadest sense, distance learning takes place any time a medium is introduced between the instructor and the learner. This definition would include computer-based instruction while the professor is present in the classroom, such as the use of a software program or a live Internet hook-up. Distance learning should include two-way mediated communication between the instructor and the student in which the student must both confront the instructional material presented by the instructor and produce a response related to the instructional outcome(s). The key ingredients are 1) that the instructor present material containing exercises requiring student response rather than just presenting information and 2) that the student(s) actively engage the materials rather than passively reading, listening, or watching. The student response activity may be designed to reinforce the knowledge or to apply, synthesize, or evaluate the presented materials.

Distance learning has become highly dependent on computer-assisted and Internet-aided instruction. This is one of the major factors that separates current distance learning efforts from traditional correspondence courses. The computer may be used to provide the information to be learned, activities to reinforce the information, or exercises to evaluate learning outcomes desired. Computers are particularly good for providing audio/visual materials, self-paced tutorials, drill-and-practice materials, practical exercises, and simulations.

An important shift resulting from new media distance learning is away from linear instruction and toward student-focused learning, best exemplified on the Web in the use of hypertext. Web surfing is a new form of learning; unfortunately, this has not been recognized sufficiently. Scholar Roland Barthes foreshadowed the development of hypertext with his distinction between *readerly* and *writerly* texts:

> Readerly texts, where the reader passively consumed information in a linear manner, are the norm for print technology (e.g., reading a book). Writerly texts are the norm in an electronic environment, when the reader can choose how to relate to the text by negotiating a path through it using different *links*, *nodes*, and *networks* in a *web* of information.

Within the electronic environment, you can choose to follow the materials in a linear manner or go anywhere the hypertext links lead you.

Additional Resources:

Distance Learning

Distance Education and Training Council
http://www.detc.org./

I Got My degree Through Email
http://www.forbes.com/forbes/97/0616/5912084a.htm

Education in the Ether
http://www.salonmagazine.com/21st/feature/1998/01/10feature/html

Distance Learning (Yahoo)
http://www.yahoo.com/Education/Distance_Learning/

Chronicle of Higher Education
http://this week.chronicle.com/distance/

Educause
http://www.educause.edu

Virtual University Journal
http://www.openhouse.org.uk/virtual-university-press/vuj/welcome.htm

Resources for Distance Education
http://webster.commnet.edu/HP/pages/darling/distance.htm

Distance Education Clearinghouse
http://www.uwex.edu/disted/home.html

Distance Learning Resources
http://members.xoom.com/SaksStat/de/

Distance Learning Course Finder
http:www.dlcoursefinder.com/

Using Active Learning Strategies in Teaching Criminology
http://www.fsu.edu/~crimdo/courses/active.html

Internet-based Distance Education Courses in Criminology
http://www.fsu.edu/~crimdo/sonoma/Syllabus-Conference.html

Computer-Assisted Learning:

ComputerPREP
http://www.computerprep.com/

Computer-Mediated Communication Magazine
http://www.december.com/cmc/mag/current/toc.html

Online Computer-based Interactive Training
http://www.net-campus.com/

Digital Diploma Mills
http://www.firstmonday.dk/issues/issue3_1/noble/index.html

Computer-Assisted Instruction
http://www.nwrel.org/scpd/sirs/5/cu10.html

Online Police Academy
http://www.net-campus.com/html/law_enforcement_training.html

What Courseware Products Support Distance Learning?

Through the mid-1990s, Internet-based distance learning was limited by the lack of availability of adequate tools for designing, delivering, and managing courses. Putting a course online required making sure students had an adequate Web browser, an email client, FTP program, and any specialized software needed for the course. Developing a course required that the faculty member or instructor learn how to design Web pages and become an adequate user of scanners, photo manipulation, and OCR software.

Until recently, most home Internet interaction was via slow modem connections. This was one reason why distance learning adopted asynchronous communication modes rather than real time ones. However, there are a number of advantages to asynchronous learning over what very often happens in live classrooms or using live Internet connections (e.g, chat and video cameras). Students can interact with the class when it is convenient for them and instructors can likewise respond to student posts without the immediate pressure of office visits or phone calls. Conversations can be maintained over extended periods of time and responses well thought out before posted. All conversations can be archived and used to evaluate student participation in the course. All responses can be indexed and searched to create a usable knowledge base for future versions of the course or to later write informed reference letters for students.

The use of asynchronous forum discussions permits interaction on a whole series of levels never possible with correspondence: instructors to student(s), student(s) to instructors, student(s) to student(s), instructors to instructors, etc. Group projects can be planned, researched, prepared, and presented to the rest of the class. Forums can be public or private. Outside experts can be permitted to join in public forum conversations.

In the late 1990s, comprehensive course development and delivery software began to appear. On the development side, most systems allow instructors to create easy to navigate Web sites without having to learn HTML. Delivery features include built-in email capabilities, student home pages, small group management tools, auto-grading of exams, secure student look-up of grades, FTP site for uploading and downloading of documents and other files, and a course calendar. Examples of courseware software include WebCt, Topclass, World Class Learning, and CourseInfo. Specific software also exists for creating Web lectures and other course components.

Distance Learning via Live Video Technologies

The biggest drawback to overall acceptance of asynchronous distance learning is the loss of real-time interaction, instant direct feedback, and reading of the subtleties of voice and facial expressions. Both instructors and students have come to rely heavily on these features of classroom interaction, particularly in discussion and seminar courses. Synchronous distance learning attempts to preserve the learning atmosphere of the discussion classroom. As examples of such, we'll look at the options currently available for videoconferencing.

Internet-based videoconferencing is in its infancy and will, in all likelihood, improve dramatically over the next few years. For the immediate future, traditional videoconferencing technologies will continue to be employed by those who have already invested in them. Universities attempting to fully utilize the Internet for distance education and/or computer-assisted learning will likely move toward desktop videoconferencing models.

Older video broadcast and receiving systems typically were one-way video and two-way audio. The only way the distance students could ask questions or make comments was to just start talking. Newer systems have introduced true videoconferencing, which requires two-way video and audio communication.

One variation of the satellite delivery method is the telecourse. These are packaged courses or seminars available through proprietary hardware, closed circuit TV or, in some cases, on cable television stations. Telecourses are available nationwide. Schedules for satellite broadcasts by universities and organizations, such as the American Law Network, are available. The Law Enforcement Training Network offers a 24-hour satellite channel sending encrypted signals directly to subscribing police departments, plus pre- and post-tests. FEMA (Federal Emergency Management Agency) has established the Emergency Education NETwork (EENET), a satellite-based distance learning system utilized to bring interactive training programs into virtually any community nationwide. This sys-

tem provides fire and emergency management training on a regularly scheduled basis through EENET's "National Alert" monthly broadcasts, as well as a variety of "special" videoconferences, training courses, and town hall meetings.

There are other alternatives to satellite broadcasting. These include ordinary phone line connections, high speed phone lines (ISDN, ADSL), or the Internet. Internet and Web videoconferencing are already up and running, including versions that have been optimized for 56k modem connections. However, these have not been satisfying as image quality has been poor and multi-point conferencing is not feasible.

The next step in Internet videoconferencing is the embedding of the video images within a Web page format: live Web cams. This allows additional class materials in HTML to be presented in the same computer screen space as the video interaction. Conference participants can share access to text, graphics, Java applets, etc., which have been prepared prior to the videoconference, but remain available for review after the live session has disbanded.

Criminology courses and law enforcement academy training could include live field experiences as wireless modems permit instructor or student to broadcast or receive video images from remote locations. Distance education courses in the near future will be able to use all of these features, creating video rich multimedia, interactive learning environments. These experiments will be limited only by the imaginations of the instructors designing courses and the students interacting with the materials.

Additional Resources:

Satellite 101
http://www.hughespace.com/sat101.html

Glossary of Satellite Terms
http://www.satnews.com/glossary.html

Satellite Program Providers
http://www.uwex.edu/disted/satellite/satprov.htm

American Law Network (ALN)
http://www.ali-aba.org/aliaba/aln.htm

Law Enforcement Training Network
http://www.letn.com

Emergency Education NETwork (EENET)
http://www.fema.gov/emi/eenet.htm

Federal Training Network
http://fedlearn.com

PBS Adult Learner Service
http://www.pbs.org/als/

LOOKING AT THE LAW

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Revocation Sentences: A Practical Guide

Since the enactment of the Sentencing Reform Act of 1984, the sentences available to the court upon revocation of probation and supervised release have been unclear.[1] While complete clarity continues to be elusive, a number of issues have recently been resolved. This column will discuss the most problematic aspects of determining sentences available on revocation, including sentences before and after the Violent Crime and Law Enforcement Act of 1994 (Pub. Law No. 103-322, 108 Stat 1796 (Sept. 13, 1994)) (hereinafter referred to as the VCCA), the effect of Chapter 7 of the Sentencing Guidelines on revocation sentences, sentences based on revocations of probation for drug possession, revocation of juvenile probation, and consecutive sentences on revocation of supervised release. It will also note a few instances in which there are major differences in the way circuits have resolved particular issues. As its title suggests, this column is intended to provide practical assistance to officers. Accordingly, it will avoid detailed explanations of the reasoning or history behind the principles except where such information might be helpful to understand them. It is organized according to issues, with a general rule followed by any necessary background, and any exceptions to the general rule.

1. Probation Revocation Sentences

Pre-VCCA Sentencing–General rule: A revocation sentence must fall within the guideline range available for the original sentence.

The authority to sentence upon revocation of probation is set out at 18 U.S.C. § 3565(a)(2). Prior to the amendment of that section by section 110506 of the VCCA, the section permitted the court to "impose any other sentence that was available under subchapter A at the time of the initial sentencing." The courts of appeals consistently interpreted this language to limit the court to a sentence within the guideline range available at the time of the initial sentence. A departure from that applicable guideline range was possible, but only if it was based upon a factor that was known to the sentencing court and of which notice was provided to the defendant at the time of the original sentence.[2]

If a probation sentence is the result of a downward departure, it is arguable that, on revocation, the grounds for that departure may still be used in resentencing the defendant. There is authority, however, that if the departure at sentencing was based upon a government motion under USSG 5K1.1, the court is bound by the original guideline range absent a renewal of that motion by the government.[3] As will be explained in more detail below, these provisions apply to offenders whose offenses of conviction were committed prior to September 13, 1994.

Post-VCCA Sentencing–General rule: A revocation sentence may be any sentence that the court could have imposed at the time of the original sentence.

Section 110506(a) of the VCCA amended section 3565(a) to provide that upon a finding of a violation of probation, the court may revoke probation and impose a sentence under subchapter A of title 18, United States Code. That subchapter includes sections 3551 through 3559 of title 18 and provides the court's general sentencing authority. Section 3551 permits the court to impose a sentence of imprisonment pursuant to subchapter D, which includes sections 3581 through 3586. Because these sections authorize a sentence of imprisonment up to the maximum sentence for the original offense of conviction, the same sentence is available upon revocation of probation.

At least, this is what was intended. Congress was concerned with those cases noted above that interpreted the former version of section 3565(a) to limit the court upon revocation of probation to the guideline range available at the original sentencing. In introducing the language that was eventually enacted as section 110506(a) of the VCCA, the sponsor of the amendment, Senator Strom Thurmond, articulated the purpose of the amendment as follows:

> Appellate courts have interpreted [the original language of section 3565] as mandating that the sentence upon revocation be within the guideline range that applied when the defendant was originally sentenced. Under the proposed legislation, and consistent with Congress' original intent, any sentence up to the statutory maximum authorized for the offenses for which the defendant was initially sentenced to probation could be imposed. In choosing the precise sentence in an individual case, the court's discretion would be guided by any guidelines or policy statements issued by the Sentencing Commission expressly to govern probation revocation.[4]

There are two circuits in which there are possible exceptions to this interpretation. First, in the Eighth Circuit, the opinion in *United States v. Iverson*[5] included language that has been read to indicate that the court is limited to the original guidelines upon revocation. In that case, the offender had been convicted of embezzlement in violation of 18 U.S.C. § 641 and sentenced to four years probation. When the offender's probation was revoked, the court sentenced her to six months imprisonment and three years supervised release. The offender challenged the six month sentence on a number of grounds, but the court rejected them all. In so doing, however, the court stated that the six months imprisonment was the maximum authorized. Since the statutory maximum appears to be one year, the six months limit was apparently the maximum guideline sentence, which the court appeared to assume was applicable at revocation. In addition, in a footnote, the court stated that new section 3565(a) was similar to the earlier statute and that the amendment did not alter the district court's power to sentence a probation violator within the range of sentences available at the time of the initial sentence.[6] But these references were unnecessary to the court's holding and were clearly dicta. Furthermore, no reported case in the Eighth Circuit or elsewhere has followed this dicta.[7] Officers in the Eighth Circuit, nonetheless, may wish to advise their courts of this case so that the court may make the determination as to whether the statements in *Iverson* control.

A more serious problem exists in the Ninth Circuit with the strange decision in *United States v. Plunkett*.[8] In that case, an offender had received a probation sentence after a downward departure at the original sentencing. After revoking Plunkett's probation, the court sentenced him to a sentence above that provided in the Chapter 7 policy statements, but based on the guideline range applicable at the original sentence. Plunkett argued that the revocation policy statements were binding after the VCCA amendments and that the sentence in excess of the policy statements was unauthorized. The court upheld the sentence because it was based on the original guideline range. Section 3553(a)(4)(B) refers to policy statements and guidelines in the disjunctive; therefore, according to the opinion, the sentencing court may rely on either the guidelines or the policy statements. The court stated that the policy statements were "independently binding," but that the sentencing court could also use the guidelines applicable at the original sentence.

The holding in *Plunkett* has been followed in no other circuit. It has been relied upon in the Ninth Circuit, but two recent cases cast some doubt on its viability. The opinion raises two questions: are the Chapter 7 policy statements binding? And, in probation revocation cases, is the court limited upon revocation of probation to the top of the originally applicable guideline range or alternatively to the top of the Chapter 7 policy statement range? The first question seems to have been answered in the negative in *United States v. George*.[9] That case is a supervised release case, but the court held that any implication in *Plunkett* that the policy statements are binding was not necessary to the holding in the case, and that the law in the Ninth Circuit continues to be that enunciated in *United States v. Forrester*,[10] that the policy statements are advisory.[11]

Another Ninth Circuit case casts doubt on a reading of *Plunkett* that would limit the sentencing court's authority to sentence to the top of the originally applicable guideline range upon revocation of probation. In *United States v. Vazquez*,[12] the court first cited *Plunkett* as standing for the proposition that the court's authority to sentence was to the "range of sentences available at the time of the original sentence." Noting the legislative history, the court then elaborated, stating that the VCCA amendment to section 3565(a)(2) was "intended to allow the court after revoking probation to sentence the defendant to any statutorily permitted sentence and not be bound to only the sentence that was available at the initial sentencing."[13] Although the issue in *Vasquez* was the availability of supervised release after a probation revocation sentence and did not deal directly with the question of the length of the term of imprisonment available upon revocation, it appears to challenge the underlying rationale of *Plunkett*.

It is difficult to assess the continuing viability of *Plunkett* in light of these authorities. *George* seems to establish that the policy statements are not binding and *Vasquez* suggests that the sentencing court is not bound by the original sentencing guidelines. While not overruling *Plunkett*, these cases clearly undermine its conclusion that the court must impose revocation sentences within either policy statement or original guideline ranges. Until there is more explicit guidance in the Ninth Circuit, however, officers should continue using whatever practical application of *Plunkett* may have been developed in their districts.

Application of VCCA Revocation Sentences to Offenses Occurring Prior to September 13, 1994–General rule: The application of the potentially more onerous VCCA revocation sentences to offenders who committed offenses prior to the effective date of the VCCA is prohibited by the Ex Post Facto Clause.

Because the VCCA sentencing provisions may result in a sentence up to the statutory maximum applicable to the original offense, which is normally greater than the top of the originally applicable guideline range available prior to the VCCA, the use of the VCCA provisions in a case in which the offense was committed prior to September 13, 1994, runs afoul of the Ex Post Facto Clause.[14] It had been argued that the application of the amended section to an offender whose *violation* was committed after the effective date of the VCCA could be subject to its more serious sanctions. That argument was successful in *United States v. Byrd*,[15] in which the Fifth Circuit determined that an offender who was convicted of an offense that occurred before, but who violated probation after, the VCCA could be sentenced under the VCCA revocation provisions. A recent Supreme Court decision, though not directly on point, seems to have resolved this issue. As discussed in more detail below, *United States v. Johnson*[16] appears to have finally established that the applicable event for purposes of ex post facto analysis is the commission of the offense that led to the criminal conviction, not the violation of release. *Johnson*, therefore, implicitly overrules *Byrd*.

Application of the Chapter 7 policy statements–General rule: After November 1, 1990, the court must consider the Chapter 7 policy statements in imposing a sentence upon revocation.

The promulgation of the revocation policy statements of Chapter 7 of the Sentencing Guidelines on November 1, 1990, did not substantially restrict the courts' exercise of its discretion within the statutory sentencing options for violations of probation. Most courts have held that Chapter 7, by its own terms, consists of policy statements that are not binding upon the court.[17] The court must, however, "consider" the policy statements in sentencing a probation violator.[18]

A sentence outside the range is not a de-

parture since the range is established by a policy statement and not by a binding sentencing guideline.[19] But, because the court must at least consider the policy statements, the court must articulate the reasons why a sentence outside the Chapter 7 range was imposed. In stating those reasons, as provided in section 3565(a), the court should keep in mind the factors relevant to sentencing set out in 18 U.S.C. § 3553(a). The Third Circuit has provided more specific direction:

> [T]here is no requirement that the district court make specific findings with respect to each of the section 3553(a) factors that it considered.… At the time of sentencing, the district court simply must state on the record its *general* reasons under section 3553(a) for rejecting the Chapter 7 policy statements… (Emphasis in original.)[20]

Because a sentence outside the applicable Chapter 7 range is not a departure, the court is not required to provide advance notice to the offender prior to imposing such a sentence.[21]

Since the policy statements are advisory and not binding, it is likely that they are applicable to any revocation after their promulgation and not limited to cases in which the offense upon which the probation sentence was based was committed prior to the promulgation of the policy statements in 1990.[22]

Arguments have been made that the amendment to section 3553(a)(4)(B) added by the VCCA make the Chapter 7 policy statements binding, because the section now requires the court to consider the sentencing range set out, "in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the sentencing commission." The courts of appeals have rejected these arguments because the policy statements do not contain binding sentencing ranges.[23]

Mandatory Revocation–General rule: A revocation sentence as a result of drug possession must result in a term of imprisonment unless, in the case of a positive drug test, the court determines that the offender may benefit from drug treatment as an alternative to revocation.

A 1988 amendment to 18 U.S.C. § 3565(a) required a term of imprisonment upon revocation of "not less than one-third of the original sentence" for offenders found to have possessed a controlled substance.[24] After initial confusion regarding the meaning of the term "original sentence," the Supreme Court determined in *United States v. Granderson*[25] that the required sentence was at least one-third of the top of the guideline range applicable at the original sentencing. For example, an offender whose guideline range was 0 to 6 months and who was sentenced to probation, would be subject to a sentence of at least two months upon revocation for drug possession. The maximum available sentence would be the original guideline maximum, which would be six months in the example.[26]

Section 110506(b) of the VCCA, however, removed the mandatory minimum sentence for drug possession by an offender, and section 20414 provided the court with discretion to require treatment instead of mandatory revocation for an offender who tests positive for illegal drugs (18 U.S.C. §§ 3565(e) and 3583(d)). The Office of General Counsel has advised probation officers that, absent a judicial decision on the issue, those provisions are applicable to an offender who committed the offense prior to the VCCA. The "savings clause" (1 U.S.C. § 109) prevents a change in the law that results in a lighter punishment for an offense from applying to offenders who commit their offenses prior to the change, unless Congress expressly provides for retroactive application, but the application of the savings clause to the drug testing and revocation provisions is unclear. The savings clause has generally applied to subject an offender to the sentence in effect at the time of the commission of the offense. With only one exception of which I am aware, it has not been extended to the court's authority to sanction the offender for violation of release conditions.

That exception is in *United States v. Schaeffer*,[27] in which the Fourth Circuit held that the originally applicable guideline range was binding on a revocation that occurred after the VCCA. The offender, who committed the offense prior to the VCCA, had received probation as a result of a downward departure. Because of the court's holding that the original departure, which was a result of a government motion under U.S.S.G. § 5K1.1, could no longer be relied upon absent a new government motion, the savings clause required a sentence within the original range. Despite this holding, officers are still advised to recommend consideration of the treatment options of sections 3565(e) and 3583(d) for pre-VCCA offenders unless and until there is more explicit authority to the contrary.

Imposition of Supervised Release Upon Revocation of Probation–General rule: The court may impose a term of supervised release as part of a revocation sentence of imprisonment.

It is now clear that the authority to impose a sentence of imprisonment upon revocation of probation includes the authority to impose a term of supervised release.[28]

Revocation of Juvenile Probation–General rule: Sentences for juvenile probation violators must be imposed under the provisions of 18 U.S.C. § 5037(c).

Probation in juvenile delinquency cases is imposed under the provisions of 18 U.S.C. §§ 5037(a) and (b). Section 5037(b) further provides that 18 U.S.C. §§ 3563, 3564, and 3565 apply to juvenile probation. Section 3565 is the section that authorizes a court to sentence under subchapter A of chapter 227 of title 18, United States Code. Regardless of this cross-reference, the courts have determined that the exclusive authority to sentence juveniles is located in section 5037, and that, therefore, any imprisonment sentence would have to be authorized by section 5037(c).[29]

The sentencing options under section 5037(c) are dependent upon the age of the juvenile at the time of the sentence and not the time of the commission of the act of juvenile delinquency.[30] This is particularly important to remember in the context of revocation since a juvenile may have aged from one category (under 18, for which sentences are set out in section 5037(c)(1)), to another (between 18 and 21, for which sentences are set out in section 5037(c)(2)) during probation supervision. Although the statute would permit a juvenile to be on probation past the juvenile's twenty-first birthday, it would appear that a juvenile over 21 may not be sentenced to a term of imprisonment upon revocation, since there is no provision that authorizes an imprisonment term or any other sanction for a juvenile over 21.

One district court has held that the juvenile's age at the time of the commission of the violation that led to revocation is controlling, so that a juvenile who committed the violation at age 20 could be revoked and resentenced at age 22 using the provisions applicable for a 21-year-old, section 5037(c) (2).[31] This finding, however, seems contrary to the weight of authority that considers the juvenile's age at sentencing the relevant factor for determining disposition under section 5037.

Subsections 5037(c)(1)(B) and (c)(2)(B)(ii) provide that a juvenile may not be sentenced to a term of imprisonment greater than

an adult. The Supreme Court in *United States v. R.L.C.*[32] determined that a juvenile may not receive a sentence of imprisonment longer than the sentence which the court could impose on a similarly situated adult under the sentencing guidelines. In accordance with this principle, it has been argued that in sentencing a juvenile upon revocation, the court may be required to consider the Chapter 7 policy statements since they would have to be considered in an adult case.[33] Such consideration seems meaningless since the court is not bound by the policy statements in an adult case. Nonetheless, it could be useful for the court to consider how the policy statements would apply in the juvenile situation.

2. Supervised Release Revocation Sentence

The primary issue in sentencing for violations of supervised release has been the imposition of an additional term of supervised release to follow a sentence of incarceration. The authority to impose a sentence of incarceration and the length of that sentence under 18 U.S.C. § 3583(e), while amended from time to time,[34] has been relatively clear.

Prior to the VCCA amendment of section 3583, which added subsection (h), there was no explicit authority to revoke a term of supervised release and reimpose a combination of imprisonment and supervised release to follow. The sentencing authority set out at section 3583(e) provided simply that a court upon revocation of supervised release could impose a term of imprisonment for "all or part of the term of supervised release." The majority of courts held that this section did not provide authority to impose supervised release to follow imprisonment.[35] The First and the Eighth Circuits, however, held that the authority to impose a sentence of imprisonment for only part of the term of supervised release implicitly authorized courts to reimpose, or continue, the remaining period of supervised release.[36]

After the VCCA added section 3583(h), most courts held that the Ex Post Facto Clause limited this new authority to offenders who committed their offenses after the effective date of the VCCA, September 13, 1994.[37] The First and Eighth Circuits, of course, concluded that application of section 3583(h) to offenders who committed offenses prior to 1994 was not a violation of the Ex Post Facto Clause because the authority to impose a sentence of supervised release after imprisonment on revocation had been available before 1994. The Sixth Circuit had held that when the *violation* of supervised release (as opposed to the offense of conviction) occurred after the effective date of the VCCA, application of new 3583(h) did not constitute an ex post facto application of the new law.[38]

In the recent decision, *United States v. Johnson*,[39] the Supreme Court resolved the issue of the retroactive application of section 3583(h), holding that it could apply only to those offenders who committed their offense after September 13, 1994. The Court first settled the issue regarding the applicable event for applying the Ex Post Facto Clause to increases in the punishment for violations of supervision. As noted above, the Court determined that such event was the offense, not the violation. Accordingly, any increase in the punishment for violations of supervision would apply only to those offenders who committed the offense for which they were convicted after the effective date of the increase. The Court further determined that section 3583(h) was never intended by Congress to apply to cases in which the offenses were committed prior to the effective date of the VCCA. Finally, but perhaps most importantly from a practical standpoint, the Court held that the reimposition of supervised release in cases in which the offense was committed prior to the VCCA is authorized by the pre-VCCA provisions of section 3583(e).

This additional authority, of course, raises the possibility of increasing the number of offenders on supervised release. For situations in which additional supervised release may help protect the public and assist offenders to adjust to life out of prison, this development is welcome. In considering their recommendations to the court, however, officers should remember the advice provided by Judge Maryanne Trump Barry, then chair of the Criminal Law Committee, in her July 30, 1996 letter to District Judges and Chief Probation Officers. Judge Barry encouraged courts when imposing supervised release to consider whether supervised release will "result in a more efficient and rational allocation of judicial resources while serving the purposes for which Congress intended supervised release." She also suggested that courts use the authority of early termination provided in 18 U.S.C. § 3583(e)(1) where appropriate.

Pre-VCCA Sentencing–General rule: A court may sentence an offender to a term of imprisonment followed by a term of supervised release that may not exceed the length of the term of supervised release previously imposed, less the length of the term of imprisonment imposed.

The Court in *Johnson* relied on a close reading of section 3583(e) to find authority for a court revoking supervised release to impose imprisonment with supervised release to follow. The operative language permits a court to "revoke a term of supervised release, and require the person to serve in prison all or part of the term of supervised release . . ." This language permits a court to require a person to serve only part of the term of supervised release in prison. The use of the term "revoke" does not mean that the term of supervised release simply disappears; any balance of the term remaining after imprisonment may be required to be served when the incarceration is completed. The Court also noted that this result serves appropriate policy interests since it allows the sentencing court in a revocation proceeding to provide for a transition from imprisonment to freedom.

The Court's discussion makes clear that it considers the starting point for determining the length of supervised release that may be imposed upon revocation to be the term actually imposed by the court at sentencing. The new term of imprisonment is subtracted from the term imposed, without credit for street time. That term of imprisonment may be all or part of the term of supervised release originally imposed. As the Court recognized, that term would be further limited by the "gravity of the original offense."[40] This means, of course, that the sentencing court may not impose a sentence of imprisonment that exceeds the revocation imprisonment caps in section 3583(b).[41] After the term of imprisonment is subtracted, the remainder is the maximum term of supervised release that may be imposed to follow imprisonment.

Suppose, for example, that an offender convicted of a Class B felony is sentenced to three years supervised release. (The maximum term of supervised release for a Class B felony is five years.) After completing two years of supervised release the court finds that the offender has violated supervised release, and sentences him to 18 months imprisonment. (The maximum term of imprisonment for a violation in the case of a Class B felony is 3 years.) Since the term of supervised release imposed was three years, and there is no credit for time spent on supervised release, the court may require the offender to serve the remaining 18 months supervised release upon completion of the term of imprisonment.

But the term of supervised release actually imposed might not operate as a final cap on the revocation penalty. In discussing the length of the prison term that might be imposed upon revocation, the Court suggested that "[i]f less than the maximum has been imposed, a court presumably may, before revoking the term, extend it pursuant to section 3583(e)(2); this would allow the term of imprisonment to equal the term of supervised release authorized for the original offense."[42] If the court may increase the term of supervised release to expand the possible term of imprisonment, it might also do so to expand the possible term of supervised release to follow. This result would bring the pre-VCCA sentences very close to what is allowed under section 3583(h).

As has been the case with so many of the courts of appeals decisions dealing with the reimposition of supervised release, the Supreme Court in *Johnson* did not discuss how its ruling would affect multiple revocations of supervised release. A careful reading of former section 3583(e) suggests, however, that it will be applied slightly differently in cases of multiple revocations than is section 3583(h). Under the Court's reading of section 3583(e), the sentencing court may only impose a term of supervised release that results from subtracting the term of imprisonment from the term of supervised release previously imposed (or extended up to the maximum that could be imposed). Upon the first revocation, the previously imposed term of supervised release is that imposed at the original sentencing. But upon a second revocation, the previously imposed term of supervised release is the term imposed upon the first revocation, which resulted from subtracting the term of imprisonment from the original term of supervised release.

For example, an offender convicted of a Class C felony has received a two year period of supervised release. The maximum supervised release term for a Class C felony is three years and the maximum period of incarceration upon revocation is two years. If supervised release is revoked, and the court imposes a sentence of one year of incarceration, the maximum term of supervised release that could be imposed would be one year—the two year term previously imposed less the one year incarceration. If at a second revocation, the court imposed a term of imprisonment of six months, it would be limited to a term of supervised release of six months—the one year term imposed at the first revocation less the six months incarceration.

As noted above, however, the Court stated that a term of supervised release may be extended under section 3583(e)(2) prior to revocation. Section 3583(e)(2) permits the court to extend the term of supervised release if the maximum had not been imposed pursuant to the "terms and conditions applicable to the initial setting of post release supervision." Accordingly, even at a second or subsequent revocation, it would appear that the court may impose the maximum statutorily authorized term of supervised release less the term of imprisonment if, first, the court extends the term of supervised release to the maximum authorized.

Note also that the above example assumes that periods of incarceration imposed upon revocation are cumulative. As discussed in more detail below, under section 3583(h), all terms of incarceration imposed upon revocation are aggregated when determining the court's revocation sentencing authority. Though the Court did not discuss this issue in *Johnson*, it is my view that this is also the best interpretation of the sentencing court's authority under section 3583(e).

Another issue not discussed in *Johnson* is that, unlike section 3583(h), there appears to be no prohibition on imposing supervised release to follow imprisonment when the maximum term of imprisonment has been imposed. Of course, if the imprisonment terms that may be imposed upon revocation are cumulative, then once the terms equal the maximum imprisonment authorized for the class of offense, imprisonment is no longer available as a sanction for a violation.

There is finally some question regarding the reimposition of supervised release in the case of revocation for possession of controlled substances. Prior to the VCCA, section 3583(g) required the court to "terminate" a term of supervised release upon a finding that the offender was in possession of a controlled substance. In reaching its decision that section 3583(e) authorized reimposition of supervised release, the court relied heavily, though not exclusively, on its reading of the term "revoke." In fact, it contrasted the term "revoke" with the term "terminate," suggesting that the latter implied a complete discharge of the offender from further service of the sentence. In doing so, however, it used the example of the use of the term "terminate" as it appears in section 3583(e)(1), not section 3583(g).[43]

Moreover, the use of the term "terminate" in section 3583(g) was recognized by both Justice Kennedy in his concurring opinion,[44] and Justice Scalia in his dissent,[45] as a mistake by Congress. It was accordingly amended by section 110505 of the VCCA. Despite the use of the term "terminate," Congress provided the same type of sentence upon revocation as that provided in section 3583(e)(3). It required the court to impose a prison sentence of "not less than one-third of the term of supervised release." As in section 3583(e), the term of imprisonment is carved out of the term of supervised release, leaving the balance of the term to be served, if ordered by the court, as supervised release. And, finally, the rehabilitative purpose of supervised release noted by the Court applies with particular force to drug dependant offenders. Although this reading of section 3583(g) is far from the only reading, until there are court decisions on the issue, it is sufficiently reasonable for officers to recommend reimposition of supervised release in appropriate cases under section 3583(g).

The holding in *Johnson*, in that it interprets the meaning of the language of section 3583(e), is retroactive. To the extent it interprets the courts' authority under section 3583(e) as it existed before the VCCA, it is applicable and binding in any case in which the offender committed the offense of conviction prior to September 13, 1994.

Accordingly, officers in the Seventh Circuit should be cautious in applying that circuit's decision in *United States v. Esky*.[46] It appears that *Esky* authorizes, for cases in which the offense was committed prior to the VCCA, a sentence upon revocation that consists of any combination of imprisonment and supervised release that, added together, does not exceed the maximum term of incarceration authorized in section 3583(e). *Johnson*, as discussed above, allows the term of imprisonment and term of supervised release to total no more than the term of supervised release actually imposed.

Post-VCCA Sentencing–General rule: A court may sentence an offender to a term of imprisonment and, so long as that term is less than the maximum permissible, a subsequent term of supervised release that may not exceed the length of the maximum term of supervised release statutorily permissible less the length of the term of imprisonment imposed.

For offenders whose offenses of conviction were committed after September 13, 1994, section 3583(e) continues to provide

the authority for imprisonment, but section 3583(h) controls the reimposition of supervised release to be served. When the court has imposed a sentence upon revocation that is less than the maximum term permitted by section 3583(e)(3), section 3583(h) authorizes the court to impose a term of supervised release that is no greater than the term "authorized by statute for the offense" of conviction less the term of imprisonment imposed at revocation.

Under this provision, supervised release may be revoked more than once and a term of imprisonment imposed with supervised release to follow, so long as the aggregated terms of imprisonment do not exceed the maximum that may be imposed on revocation.[47] But with each revocation, the term of supervised release available is the maximum period authorized less the aggregated terms of imprisonment. The Eighth Circuit's decision in *United States v. Brings Plenty*, [48] illustrate the way the provision works. In that case, the defendant, convicted of a Class C felony, had originally been sentenced to a three year term of supervised release. When his supervised release was revoked, he was sentenced to six months imprisonment and a further term of supervised release. A second violation occurred and the defendant was sentenced to twelve months in prison and an additional term of supervised release of two years. The court noted that under section 3583(h), the authorized term of supervised release was the maximum term of supervised release authorized for the offense less "any term of imprisonment." It held that the phrase, "any term of imprisonment" includes any and all terms of imprisonment served under any prior revocation. Thus at the second revocation, the defendant's aggregate revocation prison sentence was eighteen months, and the maximum term of supervised release was three years less eighteen months, or eighteen months. Note that, each time the court revokes, under the provisions of section 3583(h), it begins with the full term of supervised release authorized by statute for the offense of conviction.

It should be noted that the Eighth Circuit has read section 3583(h) to authorize reimposition of supervised release no greater than the term *originally imposed,* less the term of imprisonment imposed on revocation. *United States v. St. John.*[49] This reading seems at odds with the plain language of the statute. But at this time, the issue appears to be unsettled in the Eighth Circuit and officers should probably not change their current procedures until there is more concrete precedent.

Chapter 7 Policy Statements–General rule: The Chapter 7 policy statements are not binding for supervised release revocation sentences, but are advisory.

The courts of appeals have uniformly held that for supervised release revocation, the chapter 7 policy statements are advisory rather than binding, but must be considered by the court in imposing sentence.[50] As with probation revocation, a sentence outside the applicable policy statement range is not a departure and requires no pre-hearing notice for such sentence.[51]

Consideration of Rehabilitative Needs in Revocation Sentencing–General rule: A court may consider the rehabilitative and medical needs of an offender in determining a sentence for revocation of supervised release.

Arguments have been made that the court may not consider an offender's rehabilitative or medical needs in imposing a sentence of imprisonment upon revocation. The argument is based on the provisions of 18 U.S.C. § 3582(a), which provide that a sentence of imprisonment is not appropriate to promote correction and rehabilitation. All of the courts to consider the issue have determined that this limitation applies only to the initial sentencing decision and is inapplicable at revocation. Because a term of imprisonment upon revocation is imposed with reference to the term of supervsed release under section 3583(e), and because the court may consider rehabilitative and medical needs in imposing supervised release, the court may consider such factors in determining the imposition and the length of a term of imprisonment.[52]

Concurrent Sentences on Revocation–General rule: Upon revoking multiple terms of supervised release, the court may impose concurrent or consecutive terms of imprisonment.

There is no restriction on the court's authority to impose consecutive terms of imprisonment after revoking multiple terms of supervised release. Courts have rejected arguments that 18 U.S.C. § 3624(e), which refers to the running of multiple terms of supervised release, precludes the court from imposing consecutive terms of imprisonment. These courts likewise found no support for such a limitation in the sentencing caps in section 3583(e).

Instead, they have relied on section 3584(a), which provides that sentences of imprisonment may run concurrently or consecutively, to authorize the court to make the decision as to how the revocation sentences should run.[53]

Conclusion

There will undoubtedly be other issues that arise in connection with revocation sentencing under current statutes. And, of course, it is not at all unlikely that as soon as issues are resolved, the relevant statutes will be amended. Finally, as always, officers must be guided by their court's decisions in these areas. But it is hoped that this column will give officers guidance about the most recent decisions on the narrow question of the court's authority to sentence upon revocation.

Endnotes

[1] For a good discussion of the legal issues involved in the imposition, tolling, and revocation of probation and supervised release, generally, *see* Goodwin, "Looking at the Law," 61 *Federal Probation* 76 (December 1997).

[2] *See, e.g.,United States v. Williams*, 961 F.2d 1185, 1187 (5th Cir. 1992); *United States v. Boyd*, 961 F.2d 434, 437-39 (3rd Cir. 1992); *United States v. Alli*, 929 F.2d 995, 997 (4th Cir. 1991); *United States v. White*, 925 F.2d 284, 286-87 (9th Cir. 1991); *United States v. Von Washington*, 915 F.2d 390, 391-92 (8th Cir. 1990)*; United States v. Smith*, 907 F.2d 133, 135 (11th Cir. 1990).

[3] *United States v. Schaefer*, 120 F.3d 505, 508-09 (4th Cir. 1997). *See* discussion, *infra*, at note 27.

[4] 139 Cong. Rec. S2090-02 (daily ed. Feb. 25, 1993) (statement of Sen. Thurmond). The purpose was more specifically explained in a letter to Senator Thurmond from then Chairman of the Sentencing Commission, Judge William W. Wilkins:

> To the extent this view of the law is sustained, it will impede the Commission's plans to implement a system of policy statements for revocation decisions, preparatory to issuing guidelines for revocation at a future date. Toward this end, the Commission has just approved a set of policy statements to guide courts in making decisions regarding the revocation of probation and supervised release and plans to distribute them in the next several weeks. The Eleventh Circuit decision in *Smith* would appear, however, effectively to block courts in that circuit from using these policy statements for probation revocation decisions. The attached legislative change modifies the statutory language

upon which the Eleventh Circuit rested its decision to promote an interpretation consistent with Congressional intent under the Sentencing Reform Act. It specifically references the guidelines or policy statements issued by the Commission under 28 U.S.C. § 994(a)(3) to remove any doubt that these pronouncements–not those applicable to initial sentencing decisions–are the appropriate reference for revocation purposes.

136 Cong. Rec. S14895 (daily ed. Oct. 10, 1990).

[5] 90 F.3d 1340 (8th Cir. 1996).

[6] 90 F.3d at 1345, n. 6.

[7] *See United States v. Pena*, 125 F.3d 285, 287 (5th Cir. 1997), in which the Fifth Circuit specifically rejected the implications of these references.

[8] 94 F.3d 517 (9th Cir. 1996).

[9] 184 F.3d 1119, 1122 (9th Cir. 1999).

[10] 19 F.2d 483, 484 (9th Cir. 1994).

[11] *See also United States v. Musa*, 220 F.3d 1096, 1100-01, 2000 WL 1010066 (9th Cir. 2000).

[12] 160 F.3d 1237 (9th Cir. 1998).

[13] 160 F.3d at 1238, quoting H.R. Rep No. 102-242(I), p.189 (1991).

[14] U. S. Const. Art. I, § 9, cl. 3.

[15] 116 F.3d 770, 772-73 (5th Cir.), *cert. denied*, 522 U.S. 940 (1997).

[16] U.S. , 120 S.Ct. 1795 (2000). *See* the full discussion of this case in the text at notes 39 through 46.

[17] *United States v. Hooker*, 993 F.2d 898, 900-01 (D.C. Cir. 1993); *United States v. Corpuz*, 953 F.2d 526, 530 (9th Cir. 1992).

[18] *See, e.g., United States v. West*, 59 F.3d 32 (6th Cir.), *cert. denied*, 516 U.S. 980 (1995).

[19] *See United States v. Shaw*, 180 F.3d 920 (8th Cir. 1999); *United States v. Mathena*, 23 F.3d 87, 94 n. 13 (5th Cir. 1994).

[20] *United States v. Blackston*, 940 F.2d 877, 893 (3rd Cir.), *cert. denied*, 502 U.S. 992 (1991), cited with approval in *United States v. Jones*, 973 F.2d 605, 608 (8th Cir. 1992).

[21] *See* cases cited at note 19.

[22] *United States v. Levi*, 2 F.3d 842, 845 (8th Cir. 1993).

[23] *United States v. Hudson*, 207 F.3d 852 (6th Cir. 200); *United States v. Schwegel*, 126 F.3d 551 (3rd Cir. 1997); *United States v. Pena*, 125 F.3d 285 (5th Cir. 1997), *cert. denied*, 523 U.S. 1079 (1998); *United States v. Hofeirka*, 83 F.3d 357, 361 (11th Cir.), *modified on other grounds*, 92 F.3d 1108 (11th Cir. 1996), *cert. denied*, 519 U.S. 1071 (1997); *United States v. Escamilla*, 70 F.3d 835 (5th Cir. 1995), *cert. denied*, 517 U.S. 1127 (1996).

[24] Anti-Drug Abuse Act of 1988 (Pub. Law No. 100-690, § 7303, 102 Stat. 4181, 4464 (Nov. 18, 1988)).

[25] 511 U.S. 39 (1994).

[26] In a case in which probation was imposed as a result of a departure, a case that the opinion mistakenly speculated would be rare, the Supreme Court in *Granderson* suggested that the sentence should be at least one-third of the probation term or one-third of the maximum range that would permit a sentence of probation, which under the provisions of U.S.S.G. § 5B1.1(a)(2), is the 6 to 12 month range. 511 U.S. at 57 n. 15.

[27] 120 F.3d 505, 508-09 (4th Cir. 1997).

[28] *United States v. Wesley*, 81 F.3d 482, 483-84 (4th Cir. 1996); *United States v. McCullough*, 46 F.3d 400, 402 (5th Cir.), *cert. denied*, 515 U.S. 1151 (1995); *United States v. Hobbs*, 981 F.2d 1198 (11th Cir.), *cert. denied*, 510 U.S. 832 (1993).

[29] *Cf. United States v. Sealed Applicant*, 123 F.3d 232 (5th Cir. 1997).

[30] *United States v. A Female Juvenile*, 103 F.3d 14, 16 (5th Cir. 1996), *cert. denied*, 522 U.S. 824 (1997).

[31] *United States v. G.C.A.*, 83 F.Supp.2d 253 (D.P.R. 2000).

[32] 503 U.S. 291 (1992).

[33] *See United States v. A.J.*, 190 F.3d 873, 875 (8th Cir, 1999).

[34] As originally enacted by the Sentencing Reform Act of 1984, supervised release did not provide for revocation at all. That sanction was added by the Anti-Drug Abuse Act of 1986 (Pub. Law. No. 99-57, section 1006, 100 Stat. 3207, 3207-6 (Oct. 27, 1986)). In 1988, consistent with the amendments to the probation revocation provisions, mandatory penalties were added for drug possession. The VCCA not only added authority for reimposition of supervised release by adding section 3583(h), but changed the maximum prison sentences for violations based on the classification of the offense of conviction (section 110505), and enhanced the courts' ability to provide treatment instead of revocation when an offender tested positive for drug use (section 20414).

[35] *United States v. Malesic*, 18 F.3d 205 (3rd Cir. 1994); *United States v. Truss*, 4 F.3d 437 (6th Cir. 1993); *United States v. Tatum*, 998 F.2d 893 (11th Cir. 1993); *United States v. Rockwell*, 984 F.2d 1112 (10th Cir. 1993); *United States v. McGee*, 981 F.2d 271 (7th Cir. 1992) (the effect of *McGee* was subsequently limited; *see United States v. Esky*, 189 F.3d 536 (7th cir. 1999)); *United States v. Koehler*, 973 F.2d 132 (2nd Cir. 1992); *United States v. Cooper*, 962 F.2d 339 (4th Cir. 1992); *United States v. Holmes*, 954 F.2d 270 (5th Cir. 1992); *United States v. Behnezhad*, 907 F.2d 896 (9th Cir. 1990).

[36] *United States v. O'Neil*, 11 F.3d 292 (1st Cir. 1993); *United States v. Schrader*, 973 F.2d 623 (8th Cir. 1992).

[37] *United States v. Esky*, 189 F.3d at 539; *United States v. Lominac*, 144 F.3d 308, 312 (4th Cir. 1998); *United States v. Dozier*, 119 F.3d 239, 241 (3rd Cir. 1997); *United States v. Collins*, 118 F.3d 1394, 1397 (9th Cir. 1997); *United States v. Meeks*, 25 F.3d 1117, 1124 (2nd cir. 1994).

[38] *United States v. Page*,131 F.3d 1173 (6th Cir. 1997), *cert. denied*, 525 U.S. 828 (1998); *United States v. Reese*, 71 F.3d 582 (6th Cir.), *cert. denied*, 518 U.S. 1007 (1995).

[39] U.S. , 120 S.Ct. 1795 (2000).

[40] 120 S.Ct. at 1807.

[41] There were no caps on revocation imprisonment sentences for Class A felonies prior to the VCCA.

[42] 120 S.Ct. at 1807. Note, however, that Justice Kennedy in his concurring opinion stated that he did not agree that the sentencing court can increase the supervised release term immediately prior to revocation, since the options in section 3583(e) are stated in the disjunctive. 120 S.Ct. at 1807.

[43] 120 S.Ct. at 1802-03.

[44] 120 S.Ct. at 1807.

[45] 120 S.Ct. at 1809 n. 2.

[46] 189 F.3d 536 (7th Cir. 1999).

[47] *United States v. Stiefel*, 207 F.3d 256, 260 (5th Cir. 2000).

[48] 188 F.3d 1051, 1054 (8th Cir. 1999), quoting 137 Cong. Rec. S7769-72 (daily ed. June 13, 1991).

[49] 92 F.3d 761 (8th Cir. 1996).

[50] *United States v. Schwegel*, 126 F.3d 551 (3rd Cir. 1997); *United States v. Cohen*, 99 F.3d 69, 71 (2nd Cir. 1996), *cert. denied*, 520 U.S. 1213 (1997); *United States v. West*, 59 F.3d 32, 35-36 (6th Cir.), *cert. denied*, 516 U.S. 980 (1995); *United States v. Davis*, 53 F.3d 638, 640-41 (4th Cir. 1995); *United States v. O'Neil*, 11 F.3d 292, 302 n. 11 (1st Cir. 1993); *United States v. Hooker*, 993 F.2d 898 (D.C.Cir. 1993); *United States v. Headrick*, 963 F.2d 777, 781-82 (5th Cir. 1992).

[51] *See United States v. Anderson*, 15 F.3d 278, 284 (2nd Cir. 1994).

[52] *United States v. Jackson*, 70 F.3d 874, 879-80 (6th Cir. 1995); *United States v. Giddings*, 37 F.3d 1091, 1095 (5th Cir. 1994); *United States v. Anderson*, 15 F.3d at 280-83; *United States v. Harris*, 990 F.2d 594, 596 (11th Cir. 1993).

[53] *United States v. Jackson*, 176 F.3d 1175 (9th Cir. 1999); *United States v. Johnson*, 138 F.3d 115 (4th Cir. 1998); *United States v. Quinones*, 136 F.3d 1293 (11th Cir. 1998); *United States v. Cotroneo*, 89 F.3d 510 (8th Cir.), *cert. denied*, 519 U.S. 1018 (1996).

JUVENILE FOCUS

By Alvin W. Cohn, D.Crim.
President, Administration of Justice Services, Inc.

Alcoholism and Children

About one in four U.S. children is exposed to family alcoholism or alcohol abuse while growing up, according to the National Institutes of Health. In addition to the increased risk of their developing alcohol problems themselves, these youths often have conduct disorders, some have emotional disturbances, and many do badly in school. The findings stem from a new analysis of a 1992 federal survey of 42,800 Americans. The study concludes that about 10 million children were exposed to familial alcohol problems in 1992 alone and that more than 28 million children lived with adults who at some point in their lives had abused or been dependent on alcohol.

Juvenile Detention Directory

The American Correctional Association (ACA) announces the publication of the *2000–2002 Edition of the National Juvenile Detention Directory*. It includes an update of all facility and state information regarding juvenile detention facilities previously listed in its 1997-1999 counterpart. This edition also includes extensive information about thousands of juvenile detention facilities in the U.S., including lists of phone and fax numbers, names and titles of presiding administrators, operating budgets, average stay, per capita costs, operating budgets, breakdowns of personnel and population, and programs and administering agencies.

Orders can be placed by calling ACA's customer service department at (800) 222-5646, ext. 1860 and ask for item #714-F1. The title is $55 for nonmembers and $44 for ACA members, plus $7.25 for shipping and handling.

Children As Victims

Although the U.S. violent crime rate has decreased since 1994, homicide remains the leading cause of death for young people. In 1997, the latest date for which data are available, an average of six juveniles were murdered every day. Between 1980 and 1997, three of those murdered each day age 12 or older were killed with a firearm. Juveniles were twice as likely as adults to be victims of serious violent crime and three times as likely to be victims of assault. Law enforcement data indicate that one in 18 victims of violent crime is under age 12. In one-third of the sexual assaults reported, the victim is under age 12. In most cases involving serious violent crime, juvenile victims know the perpetrator, who is not the stereotypical "stranger," but a family member or acquaintance.

In 1996, child protective services received reports on more than three million maltreated children. In 80 percent of these cases, the alleged perpetrator was the child's parent. More than 1,000 children died as a result of maltreatment in 1996. Three in four of these victims were children under age four.

Among all persons murdered in 1997, 11 percent were under the age of 18 and of these 2,100 juvenile murder victims:

- 33 percent were under age six and 50 percent were ages 15 through 17
- 30 percent were female
- 47 percent were black
- 56 percent were killed with a firearm
- 40 percent (among those whose murderers were identified) were killed by family members, 45 percent by acquaintances, and 15 percent by strangers

National Night Out

National Night Out (NNO) was established in 1984 with funding from the Bureau of Justice Assistance (BJA). The program is administered by the National Association of Town Watch, a nationwide organization dedicated to the development, maintenance, and protection of community-based, law enforcement-affiliated crime prevention activities. NNO was developed as a crime prevention program that emphasizes building a partnership between the police and the community. Community involvement is generated through a multitude of local events, such as block parties, cookouts, parades, contests, youth activities, and seminars.

With continued funding by BJA, participation in NNO has increased from 2.5 million people in 400 communities in 1984 to more than 32 million people in 9,530 communities in 1999. Project 365, which helps communities target specific problems over the course of the year, was also developed through BJA funding.

NNO's objectives include refining the nationwide crime prevention campaign, documenting successful crime prevention strategies, expanding Project 365, disseminating information about successful community-based strategies, providing technical assistance on crime prevention development, and developing the NNO Web site.

For more information, contact:
National Association of Town Watch, Inc.
PO Box 303
Wynnewood, PA 19096
(610) 649-7055
http://www.nationaltownwatch.org/nno.html

Child Farm Workers

As many as 800,000 children in the U.S. work on farms, often under hazardous conditions that expose them to pesticide poisoning, heat illness, injuries, and lifelong disability, according to a report by Human Rights Watch (HRW). Despite the difficult and often dangerous working conditions, federal law allows children to take jobs on farms at a younger age and for longer hours than children in other lines of work. Many federal labor and environmental laws specifically exempt agricultural workers and, consequently, there is no federal requirement that even child farm workers receive such benefits as overtime pay, unemployment insurance, or worker's compensation.

The Federal Fair Labor Standards Act, passed in 1938, allows children as young as 12 to work on farms; while in other types of employment, children must be at least 14 and are limited to no more than three hours of work per day while school is in session. About 85 percent of the U.S. farm workers are racial minorities, the vast majority of whom are Latino. About one-half are thought to be U.S. citizens while 60 percent of the remainder are legal U.S. residents.

Child Support

The newest policy brief from the Urban Institute's Assessing the New Federalism project, *Child Support Offers Some Protection Against Poverty*, finds that child support reduces the number of poor children by 500,000. An important source of income for those who receive it, child support provided 16 percent of family income for children who had nonresident parents and whose families received child support in 1996. Among other findings:

- Children with a child support order are nearly twice as likely to receive financial support from their nonresident parent as children without an order.
- Parents who spend time with their children are more likely to pay child support.
- Child support receipt varies across states. Of the 13 states studied, WI and MN were the only states that had significantly higher percentages of children receiving the full amount of child support (30 and 29 percent respectively) than in the nation as a whole.

In FY 1999, a record of nearly $16 billion in child support was collected, which is double the amount collected in 1992. The number of paternities established or acknowledged reached a record 1.5 million, almost tripling the 1992 figure. Of these, over 614,000 paternities were established through in-hospital acknowledgment programs.

For more information, contact The Urban Institute at (202) 261-5410.

Illicit Drug Use

Among male youth entering the juvenile justice system in 13 cities in the U.S., between 40.3 percent and 68.7 percent tested positive for illicit drugs at arrest or booking, according to the 1998 report of the Drug Abuse Monitoring Program, sponsored by the NIJ. Male juveniles with drug offenses have the highest rates of positive urinalysis for illegal drugs, but property and violent offenses are also linked to drug use. There was a sharp increase (145 percent) in drug offense cases in juvenile court between 1991 and 1995.

In the Monitoring the Future study, 12th graders reported use of psychoactive substances throughout their lives, and the most frequently reported substances used were:

- Alcohol (81.7 percent)
- Cigarettes (65.4 percent)
- Marijuana/Hashish (49.6 percent)
- Smokeless tobacco (25.3 percent)
- Stimulants (16.5 percent)
- Inhalants (16.1 percent)
- Hallucinogens (15.1 percent)

Mental Health and Substance Abuse

According to the Office of Juvenile Justice and Delinquency Prevention (OJJDP), although the prevalence of mental health and substance abuse disorders among youth in the juvenile justice system is largely unknown, research suggests that these problems are significantly greater for juvenile delinquents than other youth. Applying the prevalence rates for youth in the general population to the approximately 848,100 youth annually involved in the juvenile court system, the following are estimates:

- 14 to 20 percent, or 118,700 to 186,500 youth, have at least one mental disorder
- 32 percent, or 271,400 youth, have an alcohol abuse or dependence disorder
- 11 percent, or 93,300 youth, have a substance abuse or dependence disorder

Building a Substance Abuse Testing Program

According to OJJDP, the following are steps for the development of a substance-abuse testing program:

- Involve key stakeholders
- Determine program purpose
- Investigate legal issues
- Identify youth to be tested
- Select methodology
- Decide how to use results and arrange for adequate and appropriate treatment
- Develop written policies and procedures
- Obtain funding
- Develop staff
- Evaluate the program

Substance Abuse Publications

The Center for Substance Abuse Treatment publishes numerous protocols and technical assistance materials on substance abuse treatment. All are free of charge and available from:

National Clearinghouse for Alcohol and Drug Information (NCADI)
P.O. Box 2345
Rockville, MD 20857-2345
(800) 729-6686

College Grad Rates

The U.S. has lost the distinction of having a college graduation rate higher than those of other industrialized countries, an international survey shows. At the beginning of the 1990s, 30 percent of the U.S. population graduated from college. As of 1998, it was 33 percent, but Norway (37 percent), the United Kingdom (35 percent), and The Netherlands (34.6 percent) had pulled ahead.

On average, nearly a quarter of young people in the Organization for Economic Cooperation and Development (OECD) countries now complete university-level education. Enrollment grew by more than 20 percent between 1990 and 1997 in all but five countries: Canada, Germany, The Netherlands, Switzerland, and the U.S. Enrollment grew by more than 50 percent in the Czech Republic, Ireland, Korea, Turkey, and the United Kingdom. In the U.S., 74 percent of high school students obtain a diploma, a rate that is lower only in Canada, Luxembourg, Mexico, Portugal, Spain, and Turkey.

Juvenile Death Penalty

In the first month of the year 2000, three youths who committed crimes before they were 18 years of age were executed: two in Virginia and one in Texas. In allowing the executions of these young men, the U.S. joins the only other five nations that permit the death penalty for crimes committed by youths under the age of 18: Iran, Nigeria, Pakistan, Saudi Arabia, and Yemen.

The American Bar Association (ABA) has released a report called *A gathering Momentum: The Continuing Impact of the American Bar Association Call for a Moratorium on Executions*, which follows the ABA 1997 call for states to put an end to executions until all states have adopted policies to guarantee due process and fairness to defendants accused of committing capital crimes and to minimize the risk that innocent people would receive death sentences.

The U.S. is one of the few countries in the world to have failed to ratify an international treaty, the Convention on the Rights of the Child, which forbids executions of offenders who committed their crimes as juveniles.

Student Debt

Four years after receiving their college diplomas, only 16 percent of student borrowers were debt-free, a study of 1993 graduates has found. The Department of Education study began with 11,000 students nationwide who completed bachelor's degrees in 1992-93. About one-half of the students surveyed, 51 percent, incurred debts averaging $10,000. Four years later, 39 percent were still paying off student loans or had deferred payments while pursuing advanced degrees. Those who took loans and finished master's programs by 1997 carried an average debt of $17,200; those who completed professional degrees by 1997 averaged $66,200 in loans. According to a government report, defaults on federal loans to students were at the lowest in more than a decade: down 8.8 percent in 1997 and down 9.6 percent the year before.

The Education Department's Office of Student Financial Assistance suggests that students who have borrowed from various lenders consolidate the loans into one and save money on interest payments, especially since interest rates have been rising. The agency reports that loan consolidations have risen recently to an average of 4,500, up from the usual 3,500.

U.S. Correctional Population

The number of adult men and women under the supervision of federal, state, and local correctional authorities rose to a record 6.3 million in 1999, announced the Bureau of Justice Statistics (BJS). This number, which represents 3.1 percent of all adult residents in the U.S., or one in every 32 adults, includes persons incarcerated in jails and prisons and those under community supervision on probation or parole. During 1999, the correctional population increased by 164,400 (2.7 percent). At mid-year, there were approximately 1,254,600 adults in federal or state prisons and 596,500 adults in local jails. The 1990-1999 increase averaged 4.2 percent annually and was a 44.6 percent gain for the nine-year period. There were 1.9 million more under correctional supervision in 1999 than in 1990.

At the end of 1999, there were approximately 3,773,600 adults on probation and 712,700 on parole. More than one million of the nation's probationers and parolees – slightly less than one-quarter of the total – were in Texas (556,410) and California (446,460). From 1990 through 1999, the percentage of the total correctional population under community supervision declined from 74 percent to 71 percent.

More than 1.9 million probationers and 400,000 parolees were discharged from supervision in 1999. More than 60 percent of those exiting probation (1,053,700) and more than 40 percent of those exiting parole (177,300) had successfully met the terms and conditions of their supervision.

Batterer Treatment

According to a study by R.C. Davis et al., a batterer treatment program has a significant effect on suppressing violent behavior while batterers are under court supervision, but may not produce long-term change in behavior. Court-mandated batterers were randomly assigned to treatment programs for eight or 26 weeks or to a control group assigned to 40 hours of community service irrelevant to the battering problem. Based on reports, only the 26-week treatment group participants showed significantly lower recidivism at six and 12-month review periods than the control group. Treatment completion rates were higher for batterers assigned to the eight-week than to the 26-week program. The groups showed no significant difference in terms of new incidents reported by victims six or 12 months after sentencing. More information can be found at: http://www.ncjrs.org/rr/vol1_2/01.html.

Three Strikes Research

Researchers J. Austin et al. conclude that the projected effects of the "Three Strikes and You're Out" legislation have not been realized. They report there has been minimal impact on the courts, local jails, or state prisons, with the exception of California. There does not appear to have been an impact on crime rates. The researchers suggest this minimal impact may result from local criminal justice systems having found ways to interpret the law for local political and organizational interests. As a major exception, California has sentenced 40,000 offenders to its prisons as of 1998 under two- or three-strikes provisions. More information can be found at: http://www.ncjrs.org//rr/vol1_2/19.html.

Crimes Against Juveniles

The FBI's National Incident-Based Reporting System (NIBRS) is designed to become the national statistical database of crimes coming to the attention of law enforcement agencies, collecting more detailed information about perpetrators, victims, and individual crimes than is available from the Uniform Crime Reports (UCR). With regard to crimes against juveniles, 1997 NIBRS data from 12 states reveal some key findings:

- Juveniles make up 12 percent of all crime victims known to police, including 71 percent of all sex crime victims and 38 percent of all kidnapping victims.
- Simple assault is the most commonly reported crime against juveniles, constituting 41 percent of all juvenile victimizations reported to the police. Sexual offenses make up 12 percent, aggravated assaults 11 percent, and kidnappings one percent.
- Girls predominate as victims of sex offenses and kidnapping, but boys predominate as victims of all other crimes.
- Children under age 12 make up approximately one-quarter of all juvenile victims known to the police and at least one-half of the juvenile victims of kidnapping and forcible sex offenses.
- Adult offenders are responsible for 55 percent of juvenile victimizations, most disproportionately for kidnapping, sex offenses, and the victimization of children younger than six and older than 15.

- Family perpetrators make up 20 percent of the offenders against children, but they make up the majority of offenders against children under age four and are disproportionately represented among kidnappers and sex offenders.

Criminal Justice Disparities

African Americans and Hispanics are treated more harshly than similarly situated whites at every level of the criminal justice system, from investigation to sentencing, according to a report prepared by the Leadership Conference on Civil Rights. The study asserts that blacks and Hispanics are disproportionately targeted by police, unfairly victimized by "racially skewed" charging and plea bargaining decisions by prosecutors, given harsher sentences by judges, and deeply impacted by "get tough" crime policies enacted by lawmakers.

The authors do not blame overt racial bias for the disparities. Instead, they say that a "self-fulfilling" set of assumptions about the criminality of blacks and Hispanics influences decisions of justice officials in ways that account for the gap. The result of those assumptions is that nearly 70 percent of the two million Americans in prisons and jails are black or Hispanic. This report follows one prepared by the National Council on Crime and Delinquency (NCCD) which reports that black and Hispanic youth are more likely than whites to be arrested, prosecuted, held in jail without bail, and sentenced to long prison terms.

Teachers and Computers

Nearly all full-time regular public school teachers say they now have access to computers or the Internet in their schools, and about two-thirds say they are using the technology for classroom instruction. However, about two-thirds also say they are not well-prepared for the task. The National Center for Education Statistics reports that teachers with more than 32 hours of professional development are twice as likely to use computers as are teachers with no such training. In addition, teachers with nine or fewer years of experience are more likely to use computers than are teachers with 10 or more years in the classroom. Teachers in high-poverty schools say they have less access to computer technology than teachers serving primarily more affluent students.

According to the U.S. Education Department, most classrooms still do not have telephones, but 63 percent are hooked up to the Internet, more than 20 times as many as were wired in 1994. Schools now have computers for every six students and nearly four out of five teachers have been trained to use technology.

Student Drug/Sex Activities

Cocaine, marijuana, and cigarette use among high school students increased during the 1990s, according to a study by the Centers for Disease Control and Prevention. The report also says that fewer teenagers are having sex and those who do are more likely to use condoms. The study also reveals that students tend to use seat belts more often and fewer are carrying weapons or contemplating suicide. In 1991, 14.7 percent said they used marijuana, which rose to 26.7 percent in 1999. In 1991, 1.7 percent of the surveyed students used cocaine at least once in the prior month, which rose to four percent in 1999. While alcohol use has remained steady since 1991, teenagers are smoking more: 27.5 percent in 1991and 34.8 percent in 1999. With regard to sex, 49.9 percent said they had had sex in 1999 versus 54.1 percent in 1991. The number of sexually active youths has remained at 36 percent, but 58 percent admit to using condoms.

YOUR BOOKSHELF ON REVIEW

Castor Oil for the Criminal Justice Profession

Actual Innocence: Five Days to Execution and Other Dispatches from the Wrongfully Convicted. By Jim Dwyer, Peter Neufeld, and Barry Scheck. New York, NY: Doubleday, 2000. 298 pp. $25.00.

Reviewed by Robert R. Wiggins
Cedarvillle, Ohio

Some of us when we were young were required to take castor oil for a physical ailment. The medicine tasted bad, but it often cured the problem. The book *Actual Innocence* is like castor oil for our profession because its message is not a pleasant one to ingest, but we can hope a reading of the book may inspire us to raise our standards. The overriding theme of the book is that there are weaknesses in the arrest, prosecution, and defense practices in American criminal justice that result in the conviction of innocent persons. Such practices must be acknowledged, and corrected, and those responsible must be punished.

The mix of authors makes this book very readable for both the general public and the professional. Jim Dwyer is a Pulitzer Prize winning columnist. The other two writers, Peter Neufeld and Barry Scheck, are defense attorneys who are associated with the Innocence Project. Scheck is also a law professor at the Cardoza School of Law, a division of Yeshiva University, and was one of the lead attorneys in the O. J. Simpson trial. Much of the contents of the book evolved out of the authors' involvement with the Innocence Project at the Cardoza School of Law. The goal of the Innocence Project is to investigate competently cases where wrongful conviction is suspected and, if such is the case, to litigate a solution. The authors clearly express their desire to expand the project to law schools throughout the country.

Actual Innocence is organized into 13 chapters that mix a detailed review of 10 specific cases in which innocent persons were convicted (some resulting in the death penalty) with a very readable review of the evolution of scientific technology currently available to those involved in the prosecution and defense process. Additional cases are mentioned in the text to support specific points. The expanded capabilities of DNA technology play a major role in the review of wrongful convictions. The chapters also contain a strong review of studies and cases pointing to the unreliability of eye-witness testimony. The book ends with two useful appendices: "A Short List of Reforms to Protect the Innocent," and "DNA Exonerations at a Glance," which provides 10 tables that summarize much of the research behind the book.

So, why or how are innocent persons convicted? The authors, in making their case, recognize that the vast majority of professionals involved in the arrest, investigation, prosecution, and trial process behave with character and integrity. But, when even a small percentage of those in the system lack these attributes, wrongful convictions occur. The seven most significant reasons for wrongful convictions mentioned by the authors, in order of prominence, are:

1. erroneous eye-witness testimony
2. improper police officer conduct
3. prosecutorial misconduct
4. incompetent defense lawyers
5. shaded or lazy forensic science
6. racism and/or bigotry
7. inadequate funding of defense activities

To support these findings, the authors review cases that lead the reader to recognize that well-intentioned eye witnesses can provide erroneous identifications. For example, in one dramatic case, a pregnant wife was brutally beaten, raped, and left for dead. The unborn baby did not survive the trauma. The wife recovered after a long coma, at which time she identified her husband as the atttacker, notwithstanding his claim that he was out getting some fast food for them. The police closed the investigation despite the fact that the circumstances of the attack were similar to the activities of a serial killer who was active in the area. The husband was convicted and received a fifteen-years-to-life sentence for second-degree murder for the death of the unborn child. After service of 16 years, as a result of police reviewing unsolved cases, DNA collaboration, and the confession of the actual serial murderer, the husband was exonerated. Everyone involved in the prosecution process (wife, police, prosecutor) sincerely believed they had the guilty party. But, they were wrong!

The authors provide examples of police officers prematurely closing cases (noted above) or designing identification procedures in such a way as to prejudice decisions of witnesses. In other cases prosecutors fail to provide defense attorneys with crucial information or resist the implications of scientific evidence gained after trial that could lead to the reversal of a conviction. The authors also describe convictions resulting from biased or incompetent forensic science. In the area of defense attorneys the authors provide examples to support their claim that a percentage of defense attorneys are underfunded, overworked, or lazy. Such attorneys miss facts, do not investigate thoroughly, and often are hampered by limited resources.

This reviewer's impression is that *Actual Innocence* will have a major impact on public criminal justice policies during the next decade because of its compelling and skillfully written message. As mentioned above, Appendix 1 contains a listing of reform efforts suggested by the authors. We can expect leg-

islators to act on many of these suggestions. From this reviewer's perspective the most significant thought that remains after reading the book is that there are serious problems in the criminal justice system ranging from investigation to conviction that must be addressed if the system is to have credibility with the general public. Here is where the castor oil mentioned in the first paragraph of this review comes into play. Recognizing that we have a system that has serious flaws leaves a bad taste, but it is the first step toward a cure. A lingering concern expressed by the authors is that most of those they reviewed were exonerated as a result of emerging DNA technology. There was biological evidence that could be used to prove a wrongful conviction. But, what about the tens of thousands of cases where biological evidence is not a factor? The same system was active in investigating, prosecuting, and convicting.

As an academic, this reviewer must recognize that some scholars will criticize this book because of problems in research methodology. The authors make strong findings that there are significant systematic flaws in the American criminal justice system that result in innocent persons being convicted. However, because of their sampling methodology, or lack of a solid research design, they are unable to quantify the extent of the problem or scientifically generalize their findings. The cases they cite came to their attention through a self-selection process or media recognition. The authors deal with this limitation by stressing that any evidence of wrongful convictions should be of concern to those interested in justice.

Actual Innocence is a must read for criminal justice professionals. It is skillfully written, and the concepts are clearly presented. What must be recognized is that the book will be read by governors, legislators, the media, and the general public. Even as this review is being written, the frequency of media mention of the issues highlighted in the book is intensifying. At least one state governor has put a moratorium on the death sentence. The issue for the criminal justice professional, wherever placed in the system, is what is going to be done to avoid wrongful convictions. We cannot be comfortable with statements like: "Only a small percentage of convictions are wrongful." We will be watched.

The History of Policing

The Role of Police in American Society: A Documentary History. Edited by Bryan Vila and Cynthia Morris. Westport, Conn.: Greenwood Press, 1999. 318 pp. $49.95.

Reviewed by David D. Noce
St. Louis, Missouri

History is a potent teacher. By describing past experiences, it arms us with forethought to meet recurring challenges. Probation officers, pretrial services officers, prosecutors, defense attorneys, judges, and students of criminal justice will have a greater appreciation of policing after reading *The Role of Police in American Society.* This book offers instructive, influential, and entertaining excerpts of documents that chronicle American law enforcement. It is the ninth documentary history in the Greenwood Press series "Primary Documents in American History and Contemporary Issues."

Editors Bryan Vila and Cynthia Morris have assembled selections from 95 documents that embody and describe how policing in America has evolved from 1631 (the Boston Night Watch) to 1997 (A Time to Remember). They organized the documents by historical period and important developmental topic. Each part first places the documents in their historical context. Each document then is similarly introduced and illuminated. Frequent cross-referencing shows the interplay of the forces and factors that drive the development of policing.

Of the 95 documents presented, some 75 either caused or contemporaneously described important events or developments in policing. These include quotations from the Bill of Rights, Supreme Court opinions, statutes, reports of commissions, theses, and speeches. Other documents provide articulate and provocative commentaries on policing. The documents are well edited to pique the readers' interest in deeper research or in just continuing to read the book.

In their preface, the editors confess that there is more to policing than any limited number of documents could cover adequately. As a result, they supplement their materials with a seven-page list of significant dates and events; a page of citations to the U. S. Supreme Court opinions excerpted in the work and to relevant opinions not selected; two pages of addresses (postal and email) of national groups related to police work; and a 13-page bibliography for further research. An index makes documents on specific topics reasonably accessible.

Part I describes American experiences with law enforcement during the 17th and 18th centuries. During this period, the duties of policing civilians passed from the military to a citizen night watch, consisting of constables who walked their rounds watching out for internal criminal activity and external threats and fires, and announced the time and weather. The editors take the reader through the historical experiences that begat the slave patrols, vigilantes, Texas Rangers, United States Marshals, Pinkerton detectives, and modern city police forces.

Early concerns recur throughout the history of policing. For example, limitations on the authority to arrest without warrant, established in English legal tradition, were expressed in the Duke of York's Laws in 1665. The duke's Laws further provided that each constable be equipped with a badge of office and a six-foot staff and, in certain circumstances, had authority to take "bayle" for those arrested.

The editors selected portions of ten Supreme Court opinions that demonstrate the rule of law's limitations on the police. The book also directs the reader to the reports of various commissions that investigated the causes of civil unrest.

This history of policing is rich with colorful characters and historical figures. In 1737, at age 31, Benjamin Franklin criticized the inability of the Philadelphia night watch to adequately safeguard the burgeoning city. His comments later caused the creation of a more modern police force. In the 1860s, Allan Pinkerton dispatched privately employed detectives whose methods would be adopted by municipal police forces. In 1895, one of Teddy Roosevelt's early civic duties was to rid the New York City police force of Tammany Hall's corrupting influence. Roosevelt's spirit of progressive reform rooted out the police protection racket's extortion and blackmail, and introduced pistol practice for officers, the Bertillon identification system, and the police bicycle squad. In 1924, at age 29, J. Edgar Hoover became director of the federal Bureau of Investigation to cleanse it of its role in the Teapot Dome scandal. Hoover's innovative accomplishments became models for other police organizations.

Perhaps the most entertaining documents depict the enthusiasm generated by successive generations of "modern technology" adopted to keep pace with progress. In 1886,

horse-drawn paddy wagons were praised for reducing the need of officers to encourage their arrested charges to hurry as they hustled them on foot through the city streets to the calaboose. In 1896 it was firearms training; in 1909 police automobiles and street corner telephone call boxes were innovative; and in 1929 police car radios were on the cutting edge. This reviewer will let readers discover for themselves the even- then hard to believe requirement that "Government radio authorities" placed on police broadcasts (described at page 121).

Part I appropriately closes with quotations from the Bill of Rights which laid the constitutional foundation for the proper governance of policing in America.

In Part II, the editors depict the 19th century as a time when westward national expansion and urban industrialization demanded different policing strategies. England's Metropolitan Police Act in 1829 presaged a quantum leap in organizational development of urban police forces in America. The English Act defined standards for quality policing. A contemporaneous newspaper article pointed out the importance of accurate police reporting and the need for the officers to curb their exercise of authority without cause and to keep control of their tempers. At this time Home Secretary Robert Peel's London bobbies replaced the night watch. The idea of preventing crime, as well as reacting to it, soon crossed the Atlantic.

Nineteenth century New York police were distinguished from their London counterparts in large part by their initial reluctance to wear uniforms and their dominance by political forces. Uniforms soon became *de rigueur* but the influence of politics remained a hallmark of American policing.

In 1871, the first national convention of what later became the International Association of Chiefs of Police (IACP) was held in St. Louis. Reforms first discussed there were later adopted: a police detective system, state and municipal control of police forces, and the classification of prisons. Twenty-two years later, at the next such convention, in Chicago, the police administrators discussed organized cross-jurisdictional mutual aid, especially for apprehending fugitives. Later conventions argued for promotion based on performance, not politics.

Part III covers the substantial developments in policing that occurred between 1900 and 1929. Electoral reforms, the rise of labor unions, and a surge of national isolationism caused rapid changes in the philosophy, economic factors, demography, and technology of policing. In 1909, in his doctoral thesis, *Police Administration*, Felix Fuld argued for attracting quality officers by offering them opportunities for higher education.

1929 saw Howard McLellan question the value of increasing the size of police departments. He wondered why crime rates remained high when police department budgets, especially in New York City, increased dramatically. These criticisms were met by Bruce Smith's recognition that policemen worked in a constantly changing environment. The job of the police had once been confined to detecting crime and pursuing outlaws. By 1929, however, while remaining the creatures of legislative imaginations and dictates, police officers were seen as influencing the lives of many more people than outlaws. In the period from 1930 to 1959, covered in Part IV, the editors discern "a growing emphasis on police training, professionalism, efficiency, and ethics." During these years America experienced the depression, two wars, great urbanization, and a booming birth rate. In this milieu, national uniform crime reporting was seen as a check on those who would inflate the dangers of crime. As never before, police lawlessness and excesses were institutionally reported and outlawed by commissions. One response was greater police professionalism and training, most notably invigorated by the F.B.I.'s National Police Academy, established by J. Edgar Hoover during the 1930s.

The 1940s saw more unsuccessful attempts to unionize the police. The IACP opposed unionization and the public thought it was entirely unacceptable that officers could strike for benefits and thus imperil the public welfare. Not until the 1960s did officers gain the right to organize. The editors and their historical sources attributed this achievement to the recognition by elected officials that women voters had come to accept the right of officers to unionize.

Part V carries the reader from 1960 to 1978, a period when social change met society's conflicting expectations of policing. Constraining the police to be lawful, the Supreme Court applied the exclusionary rule to the states, prescribed for police an objective protocol of warnings about constitutional rights when arrested persons were interrogated, and expanded and clarified the rights of the police during investigations.

The period from 1979 to 1989, covered in Part VI, shows Americans again reexamining and redefining the role of the police. The police were called on to be community problem solvers and they were expected to always be prepared to act, carrying their weapons even while off-duty. Two authors theorized that smaller police forces would benefit society by requiring citizens to police themselves. In contrast, another writer maintained that more officers would better maintain order.

After the turmoil of Part VI, Part VII presents the 1990s as years of consensus. Three main roles as attributed to the police: maintaining order by peace keeping, fighting crime through law enforcement, and performing community service. The editors, however, also include an excerpt from David Bayley's *Police for the Future*, which challenges the reader with the idea that successful crime prevention and law enforcement require the traditional top-down administration of police to change. Bayley urges a three-tiered system of 1) neighborhood police officers who have the exclusive responsibility for preventing crime; 2) basic police units that would be "full-service command units responsible for delivering police services as needed;" and 3) "police forces" to support and administer the other two components. Part VII includes documents on excessive force, ethics, and women officers, apparently included because the editors correctly feel they are too important to be left out, though they are not entirely germane to the Part VII's theme.

The book suffers from two faults, minor when compared with the quality of its selected documents and introductory materials. First, the excerpted Supreme Court opinions might have included *United States v. Leon* for its justification of officers who act on facially valid warrants, *Warden v. Hayden* for its validation of an officer's warrantless actions in exigent circumstances, and *Horton v. California* for its approval of officers' warrantless seizures of incriminating evidence in plain view. Second, Part VII's selection of two news articles (one authored by editor Vila) and seven sociological pieces weakens the work as a documentary history. Yet, even these materials will stimulate discussion and thoughtful consideration.

The Role of Police in American History fittingly closes with a tribute to, as the editors put it, "the very real sacrifices made by the men and women who every day don uniforms in our thousands of police agencies . . . . [O]nly the police consciously prepare every day to kill or be killed." As Darrell I. Sanders' "A Time to Remember" closes, "It is not how these officers died that made them heroes; it is how they lived."

"Dangerousness" in the United Kingdom

Police, Probation, and Protecting the Public. By Mike Nash. London, England: Blackstone Press Limited, 1999. 228 pp. £16.95. Paper.

Reviewed by Todd Jermstad
Belton, Texas

Mike Nash, a principal lecturer in criminology and criminal justice at the University of Portsmouth (U.K.), has written a book about the use of a "dangerousness" model of offender behavior in formulating criminal justice policies in the United Kingdom. Thus, despite its title, this book is less about police/probation agency collaborative efforts in Great Britain and more about developing British policies during the last two decades to address growing public concern about crime. As such this book may disappoint those interested in learning how police and probation officers actually work together, but not those wishing to understand the governmental response to crime in Britain during the last 20 years.

The book is divided into two parts. The first part examines the political and policy background of "dangerousness," including a revisitation of the dangerousness debate of the 1940s and 1950s and an examination of the way politics has influenced the public protection agenda.The second part discusses protection in action, including the way police and probation agencies have had to change their working practices. Aside from some anecdotal evidence and an occasional personal observation by the author, this book is based on almost no original research. Instead, the author relies heavily on secondary sources for support of his thesis.

Nash's argument is founded on several premises concerning criminal justice policy. First, he rejects the notion that punishment may serve a purpose other than rehabilitation. Instead, Nash believes that no matter the gravity of an offense committed by an offender, the only purpose of punishment is to integrate the offender back into the community as quickly as possible. Second, Nash questions the wisdom of the criminal justice polices implemented by both the Conservative and Labor Governments in the 1980s and 1990s. He views these policies as unduly harsh and driven by media hysteria, political opportunism, and unfounded public fears of crime. Finally, Nash maintains that predicting future dangerousness is so uncertain that it should not be included in police and probation officer collaborative measures.

Nash notes that during the 1980s the fear of crime, especially crimes involving the sexual abuse of children, increased in Great Britain. A Conservative Government, conscious of the expense involved in incarcerating more offenders, developed a policy to differentiate serious offenders, who deserved lengthy prison sentences, from less serious offenders, who could be safely supervised in the community. This policy led to the use of assessments of dangerousness and the identification of "dangerous" offenders. Moreover, realizing that dangerous offenders would someday be released back to the community, British criminal justice policy in the 1990s began to push for greater police and probation department collaboration to better supervise and monitor this dangerous population.

Police and probation agency collaboration consists of identifying offenders who pose a threat to the community and then developing strategies to prevent them from reoffending. Thus, police and probation agencies collaborate, often along with social workers, to ascertain the future dangerousness of the individual and to prescribe necessary treatment programs for these persons. The collaborative efforts also include the sharing of information on offenders and the joint monitoring of the movements and actions of these individuals.

Nash believes that this is a flawed policy. First, since he contends that "dangerousness" is difficult to assess and often is politically determined by how the public feels about certain crimes, Nash believes that too many offenders are unjustly labeled as dangerous and that their civil liberties have been improperly infringed. Second, Nash further argues that the character and mission of probation has been distorted by this policy: Because of the collaborative efforts between police and probation officers, probation has become more law enforcement oriented and less focused on rehabilitating offenders.

Several problems make reading this book largely unsatisfactory. First, the book is not well written, and it is very difficult to follow the argument of the author. Second, while the author makes sweeping conclusionary statements, he provides little factual information to support his contentions. Finally, this book is sometimes self-contradictory. For example, although Nash has a long-standing interest in the topic of dangerousness, he dismisses its consideration in criminal justice practices throughout most of his book. Nevertheless, he includes several statements that support the development of instruments to assess dangerousness.

Moreover, it would have greatly assisted the reader if the author had examined the actual workings of police and probation agency collaborative efforts in a more comprehensive manner. Nash's topic is extremely pertinent in today's political climate. As such there is a vital need for this subject to be widely explored. Unfortunately, this book fails to shed much light on this new development in criminal justice.

Books Received

Organized Crime. Sixth Edition. By Howard Abadinsky. Belmont, CA: Wadsworth/Thomas Learning, 2000, 528 pp.

Corrections: Philosophies, Practices, and Procedures. Second Edition. By Philip L. Reichel. Boston, MA: Allyn and Bacon, 2001, 633 pp.

Women and the Criminal Justice System. By Katherine Stuart van Wormer and Clemens Bartollas. Boston, MA: Allyn and Bacon, 2000, 244 pp.

REVIEWS OF PROFESSIONAL PERIODICALS

Crime and Delinquency

Reviewed by Christine J. Sutton

"Can Electronic Monitoring Make a Difference?: An Evaluation of Three Canadian Programs," by James Bonta, Suzanne Wallace-Capretta, and Jennifer Rooney (July 2000)

What is the relationship between Spiderman and electronic monitoring (EM)? Is EM an alternative to incarceration? Does EM ensure public safety any better than more traditional criminal justice sanctions? These are the questions the study conducted by the authors in Canada, between 1995 and 1997, attempted to answer.

In 1984, Judge Jack Love was inspired by the Spiderman cartoon. Spiderman was known for his unique ability to discharge a web/netting from his wrist. Due to Judge Love's interest in community-based supervision, he saw the applicability of this concept and applied the electronic monitoring technology to enforce house arrest for offenders. Probationers were the initial participants. With the promise of a cost-effective community-based alternative to incarceration, in 1989 EM quickly resulted in "inmates" becoming the major clientele.

The United States is the leader in the number of offenders in EM programs. The European countries–including the United Kingdom, Sweden, and the Netherlands--have also utilized EM. In Canada, four of the provinces operate EM programs; British Columbia (since 1987), Saskatchewan (since 1990), Newfoundland (since 1994) and Ontario (since 1996). Three Canadian provinces were the subject of the authors' study.

After reviewing the research data in prior EM studies, the authors found there was an EM program completion success rate ranging from 70.1 percent to 94.6 percent. The recidivist rate from the same studies ranged from 1.3 percent to 27 percent. These findings were attributed to the stringent participant selection process. The best candidates (low risk offenders) received EM supervision; they had minor, non-violent offenses (DUI and property offenses), limited prior records, residence and employment stability and strong family ties. Programs that accepted high-risk offenders (those usually with lengthy prior criminal convictions) were the exception to the rule. The low-risk offenders were regarded as those who could safely be managed in the community. Thus, the authors questioned if EM was truly an alternative to incarceration for those offenders.

An interesting dimension of this study was how the authors approached recidivism. They asked both the participants and EM staff whether they thought their respective EM programs deterred future criminal behaviors. Depending on the EM programs, the staff were either correctional workers assigned to do community supervision or probation officers. The correctional staff was very pessimistic about the influence of the EM program on criminal behavior while the offenders were in the program and afterwards. Conversely, the probation officers' assessment was much more optimistic. Finally, the offender participants found the correctional staff to be the least helpful and the most reluctant to discuss the offenders' personal problems, whereas the probation officer staff were approachable and assisted the offenders in addressing their personal issues by offering direction and "real help." Although there was no statistical recidivist correlation between EM offenders being supervised by either correctional staff or probation officers, the authors' analysis touched on the possible impact of "staff's success perceptions" to such outcomes.

The recidivism rates a year after an offender completed an EM program favored the EM participants, as opposed to probationers or parolees without the EM component. However, the authors suggested the need for additional research to conclusively determine whether the lack of recidivism was due to an EM program, the offenders' risk level, or a combination of the two.

Can EM make a difference as an alternative to incarceration while ensuring public safety? The authors' findings suggest the answer to these questions depends on the "desired outcome of the EM program." If it is "program completion," the surveillance aspect of the EM may ensure that offenders complete a period of supervision without incident. The authors found that the length of time the participant was in the program did not have a direct correlation to EM program completion rates, which are for the most part "high." If the EM program's desired outcome is to "reduce recidivism," EM has questionable merit. There is no question that EM programs do allow low-risk offenders, who have employment and family stability, to continue to support themselves and their families. Thus, this "Spiderman factor" has its own merit in societal and financial context. The Spiderman's EM web effects may best be measured in this context.

The Prison Journal

Reviewed by Sam Torres

"Meeting Correctional Offender Needs: An Ethical Response to Cultural Differences," by L.B. Myers (Vol. 80, no. 2, June, 2000)

In the June 2000 issue of *The Prison Journal*, which is devoted to *Ethics in Corrections*, author L. B. Myers evaluates a distinctive approach to cultural awareness training for correctional personnel. Using moral development theory and cognitive learning theory,

the author formulated a human relations approach to cultural awareness training that was given to more than 200 correctional personnel. The results of this study reveal that the human relations approach may help correctional staff achieve new thinking patterns consistent with higher levels of moral development.

The author reasons that one reason correctional personnel experience conflict with offenders may be due to cultural differences. Prior research has demonstrated that probation and parole success may be largely contingent on officer attitudes and behavior. According to the author, cultural differences can lead to miscommunication and distrust, which then impede correctional staff and offenders from achieving their goals. A more ethical response, according to the author, is conflict resolution through improved communication. The author believes that traditional cultural diversity training has been a failure, and that a human relations approach may be more effective and ethical.

The author declares that there appears to be no wider cultural gap than the gap between the correctional worker and the offender. The author's ten years of experience with cultural diversity leads her to conclude that the results of sensitivity training have been generally unsatisfactory. In place of cultural diversity training, she suggests an approach derived from the human relations school of administration, which holds that to understand a person, you must learn about that person and note the group you think he or she belongs to.

The human relations approach is based on Kohlberg's psychological theory that people progress through five levels of moral development (though most people do not move beyond Level 2). Positive movement can be encouraged by exposing people to higher levels of moral development. Cognitive learning theory is integrated with Kohlberg's theory of moral development to teach correctional workers new ways to think about cultural differences. Cognitive theory teaches correctional workers how to replace destructive thoughts with constructive ones that will permit more ethical behaviors. A major goal of this human relations training was to change thinking patterns about diversity and thus change behaviors, which in turn would improve communication between correctional workers and offenders. This approach is intended to help personnel use thinking patterns consistent with higher levels of moral development, where they can move beyond the simple dichotomy of the "bad guy" and "good guy." An ethical response is defined as using human relations skills to enhance communication between individuals to reduce conflict. The contribution of the human relations school is that individuals have needs that must be met if they are to perform as expected. That is, offender needs must be understood if compliance with directives is to occur. Maslow has previously found that if lower needs are not met, then people will not care about satisfying the higher level need of self-actualization and the ability to perform at one's maximum ability and skill level.

In summary, the human relations approach stresses the need for better communication. If needs are to be met, then people must communicate with one another. The ethical response of the human relations approach means that those in authority should learn better ways to interact with offenders.

The author observed correctional workers taking part in cultural awareness training to determine whether they could be trained to provide a more ethical response to offender needs and use the human relations skills of communication. The author's goal was to search for similarities and differences in the participants' current thinking patterns and changes in those thinking patterns throughout the training. The training session took four hours. Three "thinking types" were identified among the participants. The "Cynical Group" possessed negative reactions to prior cultural sensitivity training, while the "Rule Utilitarians" wanted to do the right thing and not get into trouble. The last group, the "Already Converted," expressed a desire to learn skills that would make them better at responding to cultural differences. Because precise measurement of moral development levels was not completed, the researcher could only conclude that the Cynical Group and the Rule Utilitarians were in need of new thinking patterns, whereas the Already Converted had less need for new thinking patterns.

Of the three types of participants, the Already Converted group continued to reinforce the human relations approach by giving numerous examples of using the techniques and discussing how they have worked. The Rule Utilitarians, who came to learn the rules, indicated that they actually had used some of these techniques previously, but had not realized the impact they might have with offenders. The Cynical Group were the hardest to change; however, after the training, only two or three still exhibited a resistance to inclusiveness. The author expresses caution regarding the conclusions about the changes and notes that further exploration must be made as to why the changes took place.

The Human Relations Approach to cultural diversity as presented in this article appears to hold promise as a means to improve communication between correctional workers and offenders. Improved communication may in turn result in a reduced level of misunderstanding, which in turn may contribute to decreased conflict between correctional workers and offenders. Any reduction in conflict can only enhance the safety of the correctional environment for both workers and offenders. However, the author may be overly optimistic to expect that "the knowledge obtained from these interactions can be used to form a trusting relationship in which goals can be accomplished." It is highly unlikely that trust can be developed with a mere four hours of diversity training. Distrust is inherent in the relationship between correctional workers and offenders, especially in the institutional setting, and a great deal has been written about the "convict code." While there is some evidence that the code is not as powerful and influential today as in the past, it nonetheless continues to play a critical role in almost all relationships between correctional workers and offenders. The author indicates that it will be necessary to provide a follow-up analysis to "determine *how* personnel have actually implemented the human relations approach." However, I believe that further analysis should first ask *whether* the participants actually implemented any of the techniques learned in the training. The second question would be *how* these techniques were implemented, and the third–perhaps most importantly–would be whether any *changes* were sustained over time.

Criminology

Reviewed by Ruben A. Morales

"Contagious Nature of Antisocial Behavior," by Marshall B. Jones and Donald R. Jones (February 2000).

The February 2000 edition of *Criminology* carries an article entitled, "Contagious Nature of Antisocial Behavior," which puts forth the hypothesis that antisocial behavior is prevalence-driven and may be contagious, with an epidemiology similar to that of contagious diseases. "Prevalence" refers to the number

of active cases in a given population. The more cases of antisocial behavior that exist, the more contagious antisocial behavior will be in a given population.

The article states that genetic dispositions and early experience control the susceptibility of an individual to negative behavioral patterns. An increase in susceptibility indicates an imbalance of prosocial forces--such as family support and supervision--with antisocial forces--such as siblings or peers engaged in antisocial behavior. The more antisocial behavior that is present in a family or community, the greater the likelihood that an individual will carry out antisocial behavior. If one member of the family or community contracts the "disease" (antisocial behavior in this case), the more likely the disease will spread to others.

This hypothesis differs from three traditional schools of thought regarding delinquency and antisocial behavior: 1) delinquency and antisocial behavior are primarily a function of genetics/heredity (nature); 2) delinquency and antisocial behavior are primarily a function of a person's environment (nurture); and 3) delinquency and antisocial behavior are primarily a function of both heredity and the person's environment (nature and nurture). The contagion hypothesis is derived from developmental theory, which places an emphasis on genetic predispositions in the early stages of life, the effect early life experiences have on an individual's susceptibility to certain behaviors, and the effects these behaviors may have on the individual during lifespan development.

The contagion theory regards criminality as a personality trait. When the prosocial forces are at an imbalance with antisocial forces, antisocial behavior becomes more prevalent in the community. To curtail this trend, interdiction must reduce an individual's susceptibility to the contagion and interrupt transmission of the contagion.

The interdiction strategy used by programs to combat drug abuse, smoking, or drinking, which treats these behaviors as contagious behaviors, is identified by the authors as an effective tool. This interdiction strategy helps reduce critical levels of contagious pressure which may otherwise exceed the forces of social control, spreading antisocial behavior pervasively throughout a given population which has become susceptible.

The methodology used by the researchers is a literature review of research investigating the differences between monozygotic and dizygotic twins, and the differences between same-sex twins and opposite-sex twins, to determine how heredity influences antisocial behavior. Several other studies such as Rodgers and Rowe's (1993) EMOSA (Epidemic Modeling Onset of Social Activities), which describes certain behaviors as epidemics, are referenced to expound the hypothesis and demonstrate its ability to explain phenomena regarding antisocial behavior without making unrealistic suppositions other theories make when explaining antisocial behavior.

The last part of the article discusses the hypothesis as it relates to policy and practice. This is a gem of an article to become aware of the body of research regarding antisocial behavior. For an abstract of the article or to further research this subject area, refer to the National Criminal Justice Reference Service Justice Information Center (http://www. ncjrs.org/).

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