

THE GOALS OF COMMUNITY SANCTIONS

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FOREWORD

Community correctional sanctions--programs and penalties for offenders that do not involve total confinement--have been changing dramatically in recent years. Although probation remains the most common community sanction, there has been tremendous growth in the use of such measures as restitution, community service orders, home detention, and intensive supervision. Various penalties are being used not only as sentencing options, but also for probation or parole violations, in early release programs, and at other steps throughout the criminal justice process. There are many positive aspects to the changes occurring in community sanctioning. However, the pace and scope of change have contributed to a number of common problems.

This publication is designed to assist correctional policymakers, administrators, and program managers as they assess existing community sanctions and consider new programs, policies, and procedures. It focuses on issues related to goals and philosophy, with the aim of minimizing the difficulties encountered when questions about underlying goals and values have not been confronted. The monograph does not attempt to prescribe how the issues it raises should be resolved. Rather, it is intended to serve as a tool in the dialogue within each jurisdiction that is an integral part of sound planning for the future.

Raymond C. Brown
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PREFACE AND ACKNOWLEDGEMENTS

This monograph grew out of work done for seminars offered by NIC's National Academy of Corrections (NAC). The Program Plan for 1984 announced a two part NAC Seminar on Community Sanctions. Since this was a new program area, several planning sessions were held to develop the program and I was involved as a resource person. Both NIC staff and the other resource people involved believed that the seminar should place strong emphasis on clarifying goals and philosophy and their significance for policy and practice. Yet we saw it as a significant challenge to try to find ways of dealing with these issues that would leave the policymakers and practitioners involved with a clear sense of having gained insights and information that they could apply back home in their working environments.

After lengthy discussions about what we would like to achieve, I agreed to accept primary responsibility for developing and facilitating those sections of the program to be devoted to exploring sanctioning philosophies and assessing sanctioning options. Billy Wayson, another consultant for the program, worked with me in developing a more detailed set of objectives and an outline for the sessions. I also drew on materials that the Chair of the Department of Criminal Justice at Temple University, Dr. Alan Harland, had developed to help students understand the major philosophies of punishment.

The lesson plans and exercises that emerged were first used in the Seminar on Community Sanctions, Week II, held in July of 1985. Based on that experience, Kermit Humphries of the NIC staff suggested that I develop this monograph to make the information covered more widely available. The draft I prepared was utilized for seminars on Managing Community Sanctions and Jail and Prison Crowding: A Policy Group Approach, held in early 1986. On each occasion, both seminar participants and program faculty were extremely generous and constructive in helping to refine the material, NIC staff members Julie Fagen, Carol Engel, and Kermit

Humphries were especially supportive in arranging for the completion of this publication and to them and each of the participants who worked with me, I express my appreciation.

I also owe an obvious debt to the philosophers, scholars, and practitioners whose writings and debates gave me the background to describe the philosophies and implications presented here. If this manuscript were appearing in an academic journal, that debt would be reflected in a substantial set of footnotes and references. In view of the intended audience and uses of this report, however, NIC staff urged me to adopt the more conclusory, summary style utilized here. The National Institute of Corrections Information Center is prepared to offer assistance to readers who may wish to be guided to either historical or recent references for additional reading.

M. Kay Harris

THE GOALS OF COMMUNITY SANCTIONS

INTRODUCTION

Suppose that as a probation supervisor, a community corrections administrator, or a correctional policymaker, you are called upon to carry out one of the following responsibilities:

- o to establish criteria for selecting work sites for offenders ordered to perform community service;
- o to design an intensive supervision program;
- o to devise a means of reducing crowding in a local jail; or
- o to propose a set of sentencing guidelines for the use of community sanctions.

Your response to any of these tasks would be influenced heavily by the views that you and other key actors hold about the goals of community sanctions. Consider some of the questions you would need to answer. Should community service work placements be tailored to enhance offender rehabilitation or to be punitive and unpleasant? Should intensive supervision be designed to control high risk offenders otherwise likely to be sent to prison or to provide a stronger deterrent to regular probationers? Would judges be more likely to use a halfway house or an electronic monitoring device as an alternative to a jail term? Should sentencing policy try to incorporate all of the various purposes for which community penalties might be employed or be centered around one aim?

This monograph is designed to assist policymakers, administrators, and program managers as they seek to resolve such questions. It stresses the value of clarifying underlying goals and philosophy when assessing current community sanctions or considering new programs and policies. More specifically, the monograph is intended to promote the following purposes:

- o to highlight the importance of using 1 common language;

- o to clarify distinctions among major sanctioning philosophies;
- o to explore the implications of various philosophies for Community sanctions;
- o to illustrate how a given sanction can be put to various purposes; and
- o to surface the importance of value questions.

Following the definition of community sanctions, the rest of this monograph is divided into two major sections and a conclusion. The first major section revisits the four traditional philosophies of sanctioning, describing their distinctive principles and key features. That section also illustrates how underlying philosophy is translated into practice by exploring how the major features of a sanctioning system--its basis and structure, its key actors, its dispositional criteria, and its characteristic sanctions--might vary depending on the philosophy used to develop it. The first section also notes the existence of other goals and values that need to be addressed in developing and assessing community sanctions.

The second major section moves to a more practical plane, offering examples of ways in which program design and operations can be influenced by the relative weight given to different goals. It also highlights the importance of assumptions made about how the components of a particular program contribute to attaining desired outcomes and suggests that these assumptions should be tested. The concluding section describes some of the ways that the material in this monograph might be utilized by those working to advance the state of the art in community sanctioning.

DEFINITION OF COMMUNITY SANCTIONS

The term "community sanctions" is used here to refer to what often are called community penalties, punishment in the community, alternatives to incarceration, field services, dispositional options and programs, and a variety of other names. "Sanctions" are the official

responses levied or imposed by the criminal justice system on persons convicted of crimes. This term is broader than "sentences," encompassing such programs as parole or work release that constitute part of the official reactions to unlawful behavior but that are not generally thought of as "sentences." The term "sanctions" also is more neutral than the term "punishments" in that it does not imply what these official responses should be designed to achieve. Sanctions may be assigned for the purposes of punishment, treatment, public protection, deterrence, or a variety of other aims.

It is not always easy to agree on what constitutes a community sanction. In the correctional context, the term "community" may be used to refer to nonsecure environments, provision of services by noncorrectional personnel, the amount and types of offender movement allowed, the extent of citizen involvement, or other program features. Some people consider placement in a local jail a community sanction while others would include only programs that operate outside of institutional walls. For purposes of this monograph, the term "community" will be left intentionally broad, excluding only total confinement in state or federal institutions.

THE TRADITIONAL PURPOSES OF PUNISHMENT

Many volumes have been written on the major philosophies of punishment. Virtually all discussions about sanctioning include reference to at least the four traditional purposes of punishment: just deserts (or retribution), deterrence, rehabilitation, and incapacitation. Each of the major sanctioning philosophies offers a justification for punishment, proposing reasons why we should punish offenders, and each philosophy carries implications for the nature of penalties that should be used and how they should be administered.

There are important differences among the major philosophies and a major distinction exists between utilitarian and desert perspectives. Deterrence, rehabili-

tation, and incapacitation are all utilitarian philosophies. Each looks forward to some good believed to follow from criminal sanctions: discouraging potential lawbreakers, helping offenders learn to avoid criminal behavior, or restraining those thought likely to commit future crimes. Each hopes CO achieve reduction of crime.

Desert theory, on the other hand, is not future-oriented. Rather, it focuses on the harm done in the past by the offender's criminal act and holds simply that people who commit crimes deserve to be punished for them. This is so whether or not some future good can be expected to result from the punishment. The justification for punishment rests on moral grounds; punishment of offenders as they deserve is a moral imperative.

The relative merits of the utilitarian and just deserts perspectives have received renewed attention in recent years. Supporters of just deserts criticize utilitarian sanctioning goals as being difficult to achieve, likely to result in unfairness to individual offenders, and objectionable because they involve using persons as means to an end. Advocates of utilitarian aims object to the emphasis that just deserts philosophy places on the past and on the offense, arguing that society has a legitimate interest in seeking good consequences for the future when sanctions are imposed and that this requires considering a wider range of information. Many people find some appeal in each of the traditional philosophies, but also recognize that it is not easy to imagine a sanctioning system in which all are given equal weight. This section summarizes major characteristics of the four traditional sanctioning philosophies and suggests ways in which various philosophies may imply differing practices.

Key Features of the Major Philosophies

Just Desserts. This theory also is referred to as retribution, a "justice model," or simply as punishment. If a just deserts theorist is asked, "Why do we pun-

ish?", the answer will be simply, "Because it is deserved." Just deserts theory emphasizes equity and proportionality of punishment, stressing that similar offenses should be punished similarly and that the penalty should be in balance, or commensurate, with the seriousness of the crime.

Because the focus is on the offense for which a person stands convicted as the basis for determining the punishment, desert philosophy holds that the amount of punishment should not be influenced by such factors as the offender's presumed need for treatment or predictions about what the offender or others might do in the future. Thus, under desert theory, the sanction imposed in a given case should be based on past proven acts, be similar to that imposed on others guilty of the same offense, and reflect in its severity the relative seriousness of the crime.

General Deterrence. This theory sometimes is referred to as general prevention, especially in Europe. It is a utilitarian, future-oriented theory. Specifically, general deterrence seeks to reduce crime by so punishing convicted offenders as to reduce the likelihood that other people will choose to commit crimes because of fear of the punishment. It is focused on mental processes in the sense that how a particular offender is punished does nothing to alter the ability of other people to commit crimes; the intent is to affect their inclinations to engage in crime.

Because it is concerned with how the punishment meted out to a known offender might affect the future behavior of other potential offenders, general deterrence theory requires the making of predictions. Because it involves prediction, the impact of policies and practices based on general deterrence theory can be assessed empirically. The extent to which the predicted results were achieved can be measured.

Incapacitation. This theory of punishment also is called preventive restraint, isolation, and risk control. Like general deterrence, it is a utilitarian,

future-oriented perspective with a crime reduction aim. However, incapacitation focuses on the individual offender rather than on potential offenders and seeks to affect opportunities rather than inclinations. Thus, incapacitative sanctions seek to reduce the offender's opportunity to commit additional crimes.

Incapacitation also involves the making of predictions. It requires predicting which offenders are likely to commit future crimes and the types of measures that might effectively restrict their opportunities to reoffend. There also may be a need to predict when restraints imposed safely could be reduced or eliminated. Although many people seem to equate incapacitation with incarceration, a variety of types and degrees of restraint are in common use. Execution results in complete and permanent incapacitation. Such practices as revoking drivers' licences and providing intensive probation supervision yield partial, and generally temporary, incapacitation.

Rehabilitation. Also called treatment, the third major utilitarian philosophy is aimed at reducing the inclination of individual offenders to commit crimes in the future. This theory is most commonly associated with efforts to meet the needs of offenders for education, vocational training, counseling, or other services. However, it sometimes is defined to include anything done to, with, or for the offender for the purpose of reducing the probability that he or she will choose to engage in criminal behavior. Thus, some people would put specific or individual deterrence--that theory of punishment aimed at reducing the individual offender's inclination to commit crimes through fear of the punishment--in the same category as rehabilitation.

Like the other utilitarian theories, rehabilitation involves making predictions. It requires predicting both whether or not a particular offender is likely to reoffend and how best to intervene in the lives of those believed to require treatment to alter their criminal proclivities. The focus is on what the offen-

der is believed to need to keep him or her from choosing to commit crimes.

Major characteristics of the four traditional sanctioning philosophies are summarized in Chart 1.

Implications of Different Philosophies for Practice

What would a co-unity sanctioning system look like if any one of the major philosophies were to be used as the sole basis for designing it? Although it is unlikely that any jurisdiction would establish a system based exclusively on one sanctioning philosophy, the process of trying to specify what such a system might look like can help clarify central principles and what they imply for decisionmaking and program design.

In designing a community sanctioning system, the following major issues would need to be addressed:

- What should be the basis for determining the sanction?
- What information should be used to determine the sanction?
- Who are the key actors that should play a role in determining the nature of the sanction?
- When (at what point(s)) should the sanction be established?
- What would be the distinguishing features of appropriate sanctions?
- What sanctioning options would be appropriate under this philosophy?

Just Deserts. In a pure just deserts sanctioning system, the basis for determining the sanction would be primarily, if not exclusively, the seriousness of the conviction offense. Offenses would be ranked on the basis of seriousness and sanctions would be ranked according to severity. Then the intent would be to link the resulting scales so that sanctions would be prescribed that were proportionate to the various offenses.

Chart 1: Characteristics of Sanctioning Philosophies

Sanctioning Philosophy				
	Just Deserts	General Deterrence	Incapacitation	Rehabilitation
Other Names for This Philosophy	Retribution; Punishment; Justice Model	General Prevention	Risk Control; Preventive Restraint	Treatment; Reformation
Justification	Moral Imperative	Crime Prevention	Crime Prevention	Crime Prevention
Type of Theory	Non-Utilitarian	Utilitarian	Utilitarian	Utilitarian
Crime Prevention Strategy	None	Reduce <u>Inclination</u> of <u>Potential</u> <u>Offenders</u> to Commit Crimes	Reduce <u>Opportunity</u> of <u>Convicted Offender</u> to Commit Crimes	Reduce <u>Inclination</u> of <u>Convicted Offender</u> to Commit Crimes
Time Orientation	Past	Future	Future	Future
Focus of Theory	Offense	Potential Offenders	Convicted Offender	Convicted Offender
Basis for Validity of Theory	Persuasiveness of Moral Argument	Accuracy of Prediction	Accuracy of Prediction	Accuracy of Prediction

If matching the seriousness of the crime with a penalty of commensurate severity were the major concern, the legislature, which defines crimes and punishments, clearly would play a major role. Under a pure just deserts philosophy, all sentences could well be fixed by law. If it seemed impractical for the legislature to prescribe the precise penalty to be assigned to each offense, a sentencing guidelines commission or similar body could be given the role of establishing policies to govern the imposition of sanctions in individual cases.

Once clear policies were developed; the task of the sentencing judge would be relatively straightforward. Given the focus back toward the offense, virtually all pertinent information would be known by the point of conviction. If provided in all, presentence reports would be limited to such issues as assessing the offender's blameworthiness or the harm done by the crimes as provided in governing guidelines. It would not be appropriate to include other information about offender risks, needs, social history, or other characteristics.

A pure just deserts orientation also would carry significant implications for the types of sanctions to be employed. Whatever their nature, sanctions would need to be unpleasant, with the amount or duration of punishment reflecting the reprehensibility of the crime. To assure that similar offenses would be punished similarly, sanctions used should be relatively easy to standardize and they should not be subject to significant variations or individualization. The nature and duration of sanctions should be definite; allowing modification after sentencing would undermine equity and proportionality. Thus, there would be no role for parole as a method of early release from prison or for other mechanisms that allow for modifying the original sentence imposed.

Examples of what might be deemed appropriate sanctions under a just deserts model would be financial penalties (geared to seriousness of offense), community service work, specified periods of loss of leisure time

or loss of liberty, or other punitive conditions or requirements.

Incapacitation. A sanctioning system based on a pure incapacitation model would yield quite different answers to each of the questions posed above. Sanctions would be determined on the basis of predictions about an individual's likelihood of committing crimes in the future and what it would take to effectively restrain or control that person. Thus, considerable information would be needed about the offender (and/or this type of offender) relevant to making such predictions, such as social and criminal history, drug use, age, and psychological state.

Decisionmaking under a pure incapacitation model would need to be ongoing; it would be difficult to determine once and for all what a given offender required by way of controls. It would be preferable to give personnel involved with offenders on a day to day basis considerable leeway to vary the sanction as risk or need levels were deemed to have changed. The legislature, working in the abstract, would be ill-suited to playing a major role. Rather, persons able to focus on the individual offender, such as probation officers, guards, caseworkers, psychologists, psychiatrists, and parole board members would be key.

In determining the types of sanctions most compatible with an incapacitation orientation, the critical dimension would be effectiveness in controlling an individual's behavior. An array of physical, environmental, psychological, and social restrictions and controls should be available, to be assigned on the basis of the individual offender's proclivities. Appropriate sanctions under an incapacitation model might include revocation of drivers' or occupational licenses, intensive supervision, curfews, home detention, electronic monitoring, and confinement.

General Deterrence and Rehabilitation. Just as there are significant differences between the two models discussed above, selection of any other philosophy as the

sole basis for a sanctioning system would be apt to yield different characteristics.

The implications of adopting a general deterrence orientation would be similar in some respects to those consistent with a just deserts philosophy. To best frighten potential offenders, the legislature should make the dread consequences of various crimes vividly clear in advance by establishing mandatory, definite sentences. Unlike a desert perspective, however, a general deterrence thrust would exhibit more concern for the likely impact of penalties prescribed than for the seriousness of the conviction offense. If the community had been exhibiting great concern about prostitution or any other particular type of offense, it might be deemed appropriate to establish far more severe penalties for that crime than a just deserts model would allow.

Adoption of a pure rehabilitation emphasis would have many of the same implications for practice as adoption of an incapacitation model. In both models, the focus would be on individual offenders and how best to influence those deemed likely to reoffend. A great deal of information would be needed on an ongoing basis and considerable discretion should be given to personnel involved with offenders over the course of their correctional experience. However, the types of sanctions appropriate to these two models would be quite different. A rehabilitation focus would place greater emphasis on programs designed to meet offender needs and influence their future choices than on the restrictions and controls characteristic of an incapacitative orientation.

Chart 2 summarizes some of the similarities and differences that would be associated with adopting one or another of the four traditional sanctioning philosophies as the basis for developing a sanctioning system.

Chart 2: Implications of Sanctioning Philosophies

Sanctioning Philosophy		
	Just Deserts	General Deterrence
Basis for the Sanction	Seriousness of Offense	Predictions About How to Discourage Potential Offenders
Information Needed to Determine the Sanction	Offense Seriousness Ranking and Proportionate Penalty Ranking	Data About Calculations People Make in Deciding to Commit Crimes
Key Actors	Legislature; Sentencing Commission	Legislature; Judges; Researchers
Best Time to Determine the Sanction	Upon Conviction	Upon Conviction
Characteristics of Appropriate Sanctions	Unpleasant; Easy to Standardize; Definite; Proportionate to Offense	Uniform; Frightening; Definite
Examples of Appropriate Sanctions	Financial Penalties; Loss of Leisure Time or Liberty; Community Service	Mandatory Prison Terms; Stiff Fines; Shaming

Chart 2: Implications of Sanctioning Philosophies (continued)

Sanctioning Philosophy		
	Incapacitation	Rehabilitation
Basis for the Sanction	Predictions of Offender Risk and How to Control Offender Behavior	Predictions of Offender Risk and How to Influence Offender Choices
Information Needed to Determine the Sanction	Offender Characteristics Related to Risk	Offender Characteristics Related to Treatment
Key Actors	Risk Assessment Specialists; Offender Supervisors; Parole Boards	Needs Assessment Specialists; Treatment Personnel
Best Time to Determine the Sanction	After Presentence Investigation; Ongoing	After Presentence Investigation; Ongoing
Characteristics of Appropriate Sanctions	Efficient in Monitoring and Controlling Behavior; Variable	Effective in Meeting Offender Needs; Variable
Examples of Appropriate Sanctions	License Revocation; Blood and Urine Testing; Intense Surveillance; Curfews; Confinement	Education; Training; Psychological Services; Individual Treatment Plan

Other Goals and Values

Although this discussion has focused on the four traditional philosophical goals of sanctioning, it is important to acknowledge that other types of goals are important. People involved in developing and administering community sanctions are concerned with a variety of more pragmatic interests. Among the other goals that may provide an impetus for developing or using a particular community sanction are the following: cost minimization, reduction of prison and jail crowding, helping crime victims, and increasing public satisfaction with the criminal justice system.

On another level, a number of personal and organizational goals can affect how community sanctions are conceptualized and administered. Personnel can be expected to have an interest in avoiding loss of power, influence, or discretion and disruptions of established routines and patterns of interaction. Concern for how a particular program will be perceived by the media, elected officials, and a variety of interest groups also may shape the way in which sanctions evolve.

Many important questions relevant to community sanctioning cannot be resolved by assessing effectiveness in achieving underlying goals or consistency with a particular philosophical orientation or practical constraints. Consider, for example, the debate occurring around electronic monitoring or surveillance. Many of the issues center around costs and effectiveness, but a variety of ethical and legal issues also need to be addressed. Some people are troubled by the Orwellian implications (à la 1984) associated with advancements in technological detection and control capabilities. Other people regard such advancements as the benchmarks of a brighter and safer future. The fact that different people view tradeoffs between privacy and crime control differently reflects differences in values.

A number of important value questions related to community sanctioning practices need to be confronted.

Some issues concern the types of non-incarcerative sanctions communities will be willing to use. Besides electronic monitoring, other controversial sanctions proposed or in limited use include chemical or surgical castration, administration of electric shocks, and use of chemicals or drugs to influence behavior. Do such sanctions represent undue intrusions on bodily integrity and autonomy or reasonable alternatives to confinement? Are they sufficiently humane to comport with the evolving standards of decency that mark a civilized society? Would they be upheld by the courts?

Other issues involve what may be more subtle, but perhaps no less important, value questions. Consider, for example, concern for equity, an issue that has received considerable attention in discussions regarding such reforms as determinate sentencing, but one that has not been given much attention when community sanctions are being discussed.

Community sanctions have come to involve rather wide variations in terms of relative intrusiveness, intensity, and duration. There is quite a difference between non-reporting probation and a community sanction involving a residential commitment, community service obligations, restitution, payment of court and supervision fees, participation in group counselling, drug testing, and high level surveillance. Yet there has been limited debate about the grounds on which such differences in treatment justifiably can be made and the acceptable limits of variation.

Are decisionmakers comfortable with allowing sanctions to be tailored on the basis of differing offender needs when the result is that the neediest receive the most punishment? To what extent is it appropriate to vary sanctions according to perceived risks of recidivism? What if an offender guilty of a minor offense is believed to present a higher risk than an offender guilty of a serious offense? Is it justifiable to impose a more onerous sanction on the lesser offender? Is it acceptable to include in decisionmaking criteria offender characteristics associated with risk, such as

unemployment or criminal history, when such Variables also art highly correlated with race?

These art just a sample of the significant value questions surrounding community sanctions and criminal justice practices in general. Although normative issues art admittedly difficult to resolve, they can not be avoided. Failure to confront them directly means that they will be decided by default, a result that those committed to developing responsible programs and policies obviously want to avoid.

THE INFLUENCE OF GOALS ON PROGRAMS

The preceding section described the basic characteristics and central principles of the four traditional philosophies of punishment. To illustrate the significant differences among those philosophical orientations and how those differences might influence the structure, operation, and programs within a sanctioning system, that section also explored the implications of utilizing one or another of the philosophies as the sole basis for dealing with convicted offenders. In reality, of course, decisions about program design features, dispositional policies, and other aspects of a sanctioning system rarely proceed from such a theoretical, "blank slate" position.

New programs often art initiated by someone who has heard about a restitution center or a community service work program in another jurisdiction. The response to the suggestion that "we ought to have one of those here" sometimes is to jump headlong into operational and implementation questions before consensus has bean reached as to why such a program is needed or what it can be expected to achieve. Discussion of philosophical goals and "pure" models might stem far removed from the everyday world of criminal justice decisionmaking. The truth is, however, that chose everyday decisions art linked to, and reflect, philosophical orientations and goals, whether or not those connections art stated explicitly.

This section provides examples of how differing goals and orientations may lead to differences in practice. Victim Offender Reconciliation Programs are used to illustrate how programs of a given type may have distinctly different characteristics because of divergent priorities and goals. That even so practical a question as where an offender ought to be sent to complete a community service work obligation depends on philosophy also is discussed. In addition, the value of carefully thinking through and testing assumptions made about the connection between program components and expected outcomes is illustrated with reference to Intensive Supervision Programs.

The Example of Victim Offender Reconciliation Programs

Programs referred to as Victim Offender Reconciliation Programs (VORPs) have been established in at least 15 American States, with a number of states boasting several such programs. VORPs typically involve efforts to arrange a meeting in a neutral setting between the victim(s) of a crime and the offender(s) who committed it, with a trained mediator present to facilitate a process of discussion aimed at achieving a mutually agreeable way of responding to the situation.

Those involved in operating VORPs generally evidence a high degree of enthusiasm for the concept of facilitating a resolution or reconciliation between victim and offender. They also tend to share a commitment to the goals of humanizing the criminal justice process and seeing to it that offenders make financial restitution to the victims of their crimes. Yet despite a general sense of shared mission and a high degree of consensus on certain goals, significant differences exist among those involved with respect to the priority attached to the goals of providing an alternative to incarceration, promoting reconciliation, and promoting system change.

Some VORP practitioners view reduction in the use of imprisonment as a dominant program aim. They regard VORP as a means of holding the offender accountable for

his or her actions while avoiding the debilitating effects of imprisonment. Other VORP practitioners emphasize the value of the healing process believed to occur through reconciliation activities. Regarding crime as something that creates an injury to the community, they stress that social harmony only can be restored by an interpersonal process of involvement that takes seriously and responds to the attitudes, needs, and feelings of both victims and offenders.

Still other VORP practitioners are motivated by deep dissatisfaction with typical American responses to crime as manifested in standard criminal justice practices. They tend to reject the idea that the best way to respond to crime is for the State to take over the situation by seeking to affix blame and impose punishment. They set in the VORP process and the values on which it rests a framework upon which a fundamentally different, competing model of justice could be constructed.

These brief summaries of different emphases may be clarified by considering the relation between each of these orientations and punishment. Those who emphasize VORP as an alternative to incarceration think of participation in VORP as an alternative punishment. Those who emphasize reconciliation are relatively indifferent to the connection between VORP and punishment, seeing them as essentially separate interests. Those seeking system change or development of a new model of justice look to VORP as a means of promoting alternatives to punishment.

Although people emphasizing each of these orientations may see merit in the other positions, it is not easy to reconcile or combine these varied goals in practice. Consider some of the differing operational consequences likely to flow from having one or another of these perspectives as a dominant interest.

Those working to see that VORP is used as an alternative to incarceration need to identify and reach offenders who would be likely to be incarcerated in the

absence of the VORP option. Thus, they need to be able to avoid selecting persons for program involvement who would be put on probation. This typically requires delaying intervention until offenders have progressed through several stages of the criminal justice process. It also calls for establishing good working relationships with judges, defense attorneys, prosecutors, probation officers, and others within the system.

People who believe that there is something intrinsically "good" or "right" about involving victims and offenders in a reconciliation process are likely to want to reach and involve as many people as possible. Thus, they would not want to target or limit participation to offenders who are jail- or prison-bound. Rather, they would be interested in receiving referrals from all stages of the criminal justice process, ranging from pretrial intervention with those unlikely to be prosecuted formally to convicted offenders already serving prison terms. Their aim would be maximum feasible participation.

Practitioners primarily interested in systems change are likely to have yet another orientation. Because of their interest in empowering people to take personal control over what happens in response to crime, rather than letting control be taken over by the government, they would not want to be closely associated with criminal justice officials. They would be more likely to want citizens to utilize VORP as an alternative to calling the police or otherwise invoking the formal Criminal justice process. Indeed, people with this orientation are likely to set themselves in competition with the criminal justice system, hoping to reduce the system's reach and power by providing an alternative forum for resolving the problems it now takes on.

Thus, while various Victim Offender Reconciliation Programs may involve similar interactions among victims, offenders, and mediators, they also may reflect significant differences in the types of offenders they seek to involve, the way in which referrals are obtained, the timing of intervention, and other features.

Philosophies Guiding Placements in Community Service Order Programs

Programs requiring offenders to perform work without pay as a penalty for their crimes often are promoted as serving multiple purposes. They may be described as advancing offender rehabilitation, making non-incarcerative sanctions more punitive, helping to satisfy community needs for services, enhancing victim satisfaction, or serving other interests. Since all of these objectives may appear to be reasonable, it may be tempting to avoid highlighting one or another as central. However, such an evasion can prove problematic when operational decisions must be made.

Consider as an example the issue of the philosophy under which community service work placements should be made. Some programs emphasize that "the punishment should fit the crime," asserting that the placement should be as unpleasant or as punitive as is warranted by the offense, or even that the penalty should "reflect" the offense, as in requiring drunk drivers to tend to victims of drunk drivers in hospital emergency rooms. Other programs operate with a preference for seeing that the placement is tailored so as to provide maximum benefit to the offender. Still other programs believe that community service placements should be made according to community needs and the skills that offenders offer, seeking to maximize benefits to the local community.

Operationally, these varying orientations would result in very different types of placements, ranging from assignment to such duties as shovelling garbage in a landfill under a punitive philosophy, to placement with a youth recreation or education program under a rehabilitation emphasis, to stuffing envelopes or answering the telephone for a non-profit agency under a community needs orientation. Guiding philosophy makes a difference.

The Example of Intensive Supervision Programs

As the name implies, Intensive Supervision Programs (ISPs) involve more frequent Contacts between offenders and their supervising officers and a greater number of restrictions than typically characterize regular probation. In general, ISPs also are intended to serve offenders who pose higher risks or have committed more serious crimes than traditional probationers.

Beyond these common elements, however, ISPs are being operationalized to include a wide range of additional components. They may involve curfews, home detention, restitution requirements, community service obligations, supervision fee payments, development of self-improvement plans, participation in drug or alcohol programs, financial counseling, community sponsors, educational or employment requirements, stringent enforcement provisions, residential placements, regular urinalysis or breathalyzer tests, unannounced searches, and a variety of other conditions. The incorporation of the many elements beyond increased surveillance reflects the fact that ISPs are being asked to serve a wide range of goals.

Stated program goals may include reducing jail or prison crowding, providing better rehabilitative services, promoting public safety, restoring public confidence in probation, avoiding the costs of construction and facility improvement options, collecting more money from offenders, increasing victim satisfaction, facilitating early identification of offenders likely to get into further trouble, and allowing better matching of resources with offender risks and needs. As "intensive supervision" becomes an increasingly broad catch-all term for both activities and goals, it may be worthwhile to reassess the bases on which ISPs were established and the directions in which they have been evolving.

It is important to acknowledge that Intensive Supervision Programs rest more on assumptions than on empirically derived knowledge. ISPs reflect the assumptions

that (1) more contacts between offenders and officers will lead to less unlawful behavior, and (2) more contacts will lead to better detection of unlawful behavior. These assumptions may well prove to be valid, but existing evidence in support of them is scanty.

As to the first assumption, research on New York's ISP, for example, found no significant relationship between the level of offender-officer contacts and probation outcomes. Thus, it may be that intensive supervision is inefficient, yielding no greater return than could be obtained through less monitoring. And even if it is true that "intensive supervision" is more effective than 'standard supervision,' how intensive does it have to be to yield the desired effects? Art 30 contacts a month more effective than 20?

As to the second assumption, earlier research suggested that intensive supervision led to increased revocations on technical violations but also to fewer convictions for new offenses. Unfortunately, the connection between revocation rates and crime reduction is unclear. It is frequently assumed that an offender who fails to abide by all of the technical conditions is more likely to engage in additional crimes than an offender who presents no difficulties. But if this assumption is not valid, institutional populations may be swelled with persons who would not in fact commit new crimes if retained under community supervision.

To complicate matters even more, it is important to consider the numbers and types of conditions that may be associated with various outcomes. It may be that violation of certain conditions is a good indicator of subsequent criminality, but that violation of other conditions is not. Or, there may be a "critical mass" of conditions, within which most people could successfully cope and comply, but beyond which almost anyone would be likely to get into trouble.

The point is that we know very little about the impact of imposing various numbers and types of conditions and it may not be safe to assume that more is

better. For example, many ISPs assign high priority to requiring offenders to make financial restitution to victims, but also impose a number of additional requirements. However, research conducted in Minnesota suggested that adding on other conditions tended to hinder the restitution process.

There is a need for experimentation and research to better inform practitioners and policymakers about the impact of various conditions on various offenders in relation to various goals. This will require care in specifying the goals that are foremost and how various program elements are believed to be connected to attainment of those goals.

CONCLUSION

Whenever goals are discussed, it is likely that at least one person present will say something to the effect of, "Well, that's all very interesting, but when are we going to get down to business?" Especially when the focus is on philosophical, as opposed to pragmatic goals, it is difficult for many people to make a meaningful connection between fundamental principles and day to day operational issues and problems. It is important, therefore, to illustrate some of the ways in which spending time thinking and talking about the goals of community sanctions might have a real "payoff" in practice.

The policymakers, program managers, and practitioners for whom this monograph is designed are apt to be involved with programs, policies, and problems, and in each of these areas, they are likely to be engaged in activities involving communication, design, assessment, and reform. This concluding section describes some of the ways in which knowledge and use of information about goals can be applied to each of these areas and to activities.

How goal clarification can be helpful may be most readily apparent at the program level. Whether think-

ing about developing a new program or assessing an existing one, it is necessary to refer back to basic goals. This fact was illustrated above with reference to victim offender reconciliation, community service, and intensive supervision programs. Program managers can benefit by regularly making the effort to recall what their programs were originally designed to achieve, to review their own goals and expectations, and to reexamine the connections between ongoing activities and those goals.

If the jurisdiction adopted a community service program in order to provide an alternative to confinement, is a screening criterion that excludes felony and repeat offenders likely to be serving that aim? Can local resources, such as university faculty, be identified that could help the program develop selection and screening criteria that would distinguish jail-bound offenders more reliably? If revocation rates are rising because of failure of offenders to complete all of the financial obligations imposed on them, should the agency explore new ways of assisting offenders to satisfy such requirements? Would it be feasible to establish a program in which offenders could "work off" court costs and other fees? Could local businesses be persuaded to sponsor special programs to allow offenders to earn the amounts required?

Communication about goals also can be critical at the program level. A probation department's plan to utilize intensive supervision as a "last ditch" step before incarceration for high risk offenders can be sidetracked if sentencing judges decide to use the more intense surveillance as a means of punishing low risk, white collar defendants. A work release center designed to provide transition assistance to offenders nearing their parole date can be quickly filled if judges use it for sentencing persons convicted of driving under the influence of alcohol. Early efforts to achieve consensus about purpose among those involved or affected by new programs can help minimize such difficulties.

Questions about goals also are key on the policy level. When a system-wide perspective is adopted, it often becomes clear that there is a lack of consensus among key actors throughout the system. The legislature may adopt a new penalty provision in order to frighten potential offenders of a certain type. Faced with a person who has committed such an offense, the sentencing judge may see involvement in a rehabilitation program as the most appropriate sentence. The person who completes the presentence investigation may believe that the offender fits the profile of a high risk offender and requires intensive supervision. Seeing that the offender is placed on probation, the general public may think that the offender has not been punished severely enough. Such divergent orientations often reflect the lack of clear and consistent sentencing policy.

Activities are underway in a number of jurisdictions that are aimed at developing system-wide sanctioning policies to guide the use of community penalties as well as prison terms. A Sentencing Accountability Commission in Delaware, for example, has developed a sanctioning model that incorporates a broader continuum of punishment options and specifies criteria for assigning offenders to one or another of the "accountability levels" established. Impact projections made on the basis of the model suggested a need for more mid-range sanctions between probation and incarceration, illustrating how a system-wide perspective can be of assistance in planning for the allocation of resources as well as in developing more uniform sentencing practices.

A focus on underlying goals also may be extremely useful in shorter-range problem solving. Consider, for example, a situation in which a federal court has ordered that a state's prison population be reduced substantially within a short period of time. All of the policymakers involved may have agreed that the best means of responding to the order is to expedite the release of enough prisoners to meet the cap imposed, and yet disagree about the basis on which such early releases should be made. Some of those involved may

think that the best course of action would be for the legislature to act to cut prison terms across the board. Others may prefer a response involving case by case decisions, such as advancing dates of parole release eligibility. In such a situation, taking the discussion back to the philosophical level may be helpful in clarifying the issues and deciding how to proceed. The first option would be more compatible with a just deserts orientation and the second with a risk control or incapacitation orientation. When contrasted in this way, it may be easier for those involved to determine which approach would be more consistent with the overall policy orientation operative in that jurisdiction.

Many jurisdictions faced with crowding in their local jails have difficulty reaching agreement on the best ways of alleviating the problem. Should they try to develop community service orders, residential treatment programs, intensive supervision, electronic monitoring, bail guidelines, conditional release under supervision, or some other set of programs? In many cases, the difficulty encountered is related to failure to assess adequately the purposes the jail now is being asked to serve, as a basis for exploring alternative ways of meeting those interests. If, for example, what is most needed is a penalty more severe than probation for punishing petty offenders, options such as community service work, reparation fees, and victim restitution might fill the bill. Some of the other options, such as intensive supervision or electronic monitoring might be rated as less appropriate because they would involve greater control, and greater expense, than satisfying the primary interest would require. If the major motivation were to respond more effectively to offenders with drug or alcohol problems, then contracting for residential and non-residential treatment services might represent the best course. It is difficult to make sensible choices among all of the alternatives available unless the major goals are clear.

These examples were offered to highlight the significance of the goals of community sanctions at virtually

every level of practice and to illustrate the value of taking time to clarify the dominant aims when decisions are being made. It is seldom possible in the criminal justice arena to resolve all conflicting interests, achieve full consensus, and link all activities precisely with agreed upon goals. But the process of exploring goals, philosophy, and values often can be of considerable benefit in efforts to communicate more effectively, improve program design and operations, reach satisfactory compromises on how to respond to pressing problems, and develop more clear and consistent policies.