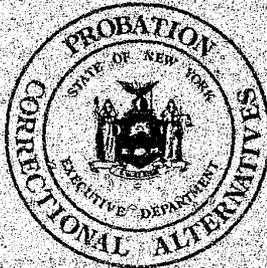


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**PROCEEDINGS**  
of the  
**FIRST ANNUAL CONFERENCE**  
on  
**PROBATION**  
and  
**CORRECTIONAL ALTERNATIVES**

Summary of Institutes and Forums  
Governor's Address



Albany, New York  
1985

NEW YORK STATE  
PROBATION AND CORRECTIONAL ALTERNATIVES  
and the  
NEW YORK STATE PROBATION COMMISSION

**U.S. Department of Justice  
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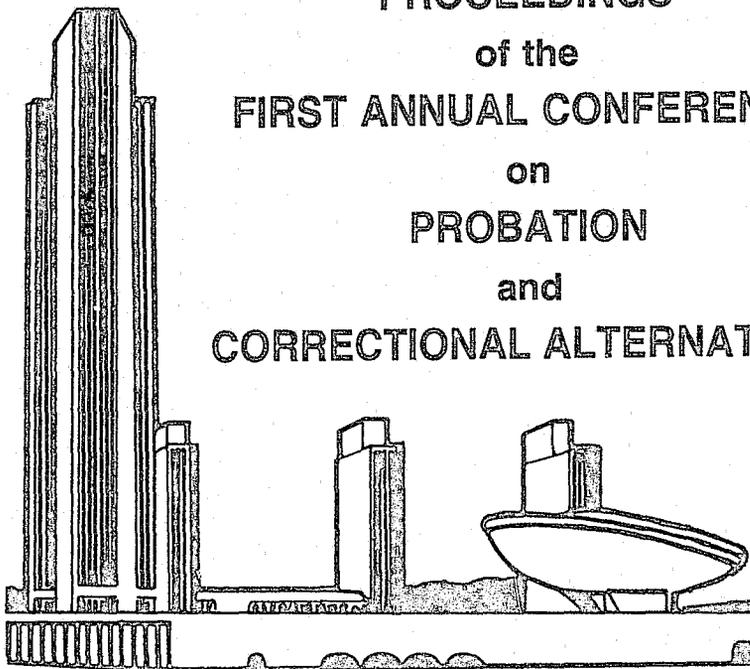
New York State Division of Probation &  
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PROCEEDINGS  
of the  
FIRST ANNUAL CONFERENCE  
on  
PROBATION  
and  
CORRECTIONAL ALTERNATIVES



September 8-11, 1985  
Albany, New York

PROBATION AND CORRECTIONAL ALTERNATIVES  
IN TRANSITION: RESPONDING TO THE CHALLENGES  
OF A CHANGING JUSTICE SYSTEM

EDMUND B. WUTZER  
*State Director*

FRANCIS N. SMITH  
*Conference General Chairperson*

NEW YORK STATE  
DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES  
60 South Pearl Street  
Albany, New York 12207

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FRANCIS N. SMITH  
*Editor*

BARBARA FLANIGAN  
*Copy Editor*

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The New York State Division of Probation and Correctional Alternatives, established under Chapter 134 of the Laws of 1985, is a regulatory and standard setting agency within the Executive Department. The agency exercises general supervision over the operation of local probation agencies and in the use of correctional alternative programs throughout the State. The Division also administers a program of state aid for approved local probation services and to selected municipalities which have approved alternative to incarceration service plans that enable localities to reclassify inmates in local correctional facilities.

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Editor's Note

The contents contained in the summaries of institutes and forums do not necessarily represent the position or the views of the NYS Division of Probation and Correctional Alternatives unless specifically stated.

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# FOREWORD

Interaction . . . interchange of ideas . . . debate . . . consensus . . . relationship building . . . partnership . . . camaraderie . . . excitement . . . enthusiasm . . . and new beginnings describe the atmosphere of the Division's First Annual Conference on Probation and Correctional Alternatives in Albany.

Under the auspices of the new Division and the State Probation Commission, this conference brought together, for the first time, practitioners in the probation and parole systems and alternatives to incarceration programs within the State of New York. Together, we discussed a wide range of contemporary but critical issues confronting our community corrections system today.

The contents of the Proceedings of the First Annual Conference on Probation and Correctional Alternatives reflect some of the issues of the day, as well as our individual and collective response in taking on the challenges they present.

These Proceedings contain brief summaries of twenty-one institutes and four forums that were convened during the three day conference, and include the text of one of Governor Cuomo's major criminal justice addresses, which was delivered at the conference luncheon.

The Proceedings also contain several conference resolutions, drafted by our Resolutions Committee, which focus on the issues of family violence, alcohol abuse, the use of community service, and the role of women and minorities in future conference programs. These resolutions were unanimously adopted by the Executive Committee of the Division of Probation and Correctional Alternatives.

It is in the spirit of our new beginning, and in our endeavor to chart a new direction for community corrections in New York State, that these Proceedings are presented.

FRANCIS N. SMITH  
*Editor*



*Message from Edmund B. Wutzer  
State Director  
NYS Division of Probation and  
Correctional Alternatives*

I am indeed pleased to share with you the Proceedings of the First Annual Conference on Probation and Correctional Alternatives.

As we in community corrections move forward into a new era, I am mindful of the great challenges before us. We now have, within our grasp, a real opportunity to shape the future and the destiny of a large segment of community corrections in New York State, with the consolidation of probation and correctional alternatives at the state level. The task at hand is to ensure that the integration of the full range of community-based offender services that is within our scope of responsibility, is carefully planned, coordinated and implemented. Some of the immediate issues that emerge as we prepare to undertake this task include the future direction of pretrial services, reform of our local assistance program, the coordination of our management information, increased need to measure program effectiveness, the implementation of the "mandatory" PINS Adjustment Services Act, and increased attention to the public safety issue of designing a better offender selection process for alternative to incarceration programs. These issues are not meant to be all inclusive, but only represent a share of the work that is before ALL OF US.

I emphasize ALL OF US to draw attention to the fact that we need to plan and to carry-out these tasks in a coordinated fashion, between local probation, community alternative programs and the State Division. Maintaining a level of open communication among all of us is a necessary prerequisite. We need to involve local operations in planning for the future and, together, demonstrate that we are effective agents of social control. We cannot do this alone. We must listen to one another and work together to achieve a common goal.

I believe that the conference in September highlighted the reality of our interdependence, which is also reflected in the summaries of the institutes and forums contained in these Proceedings.

We must face the challenges together, in partnership, and move toward a more equitable and fairer system of criminal justice in New York State.

PROCLAMATION



The creation of the Division of Probation and Correctional Alternatives during this year represents a significant change in our criminal justice system in New York State. It will pave the way to a more comprehensive and coordinated system of alternative sanctions for communities in this State.

Since the earliest years of this century, the probation community in New York State has provided dedicated service to each individual county. Probation has been diligent in responding to the changing conditions of each community and responsive to the needs of each person supervised. As I have said in the past, it is clear that not every offender need be imprisoned. It is equally clear that vigilant community supervision must be provided to ensure the greatest degree of public safety.

It is essential that the numerous statewide alternative service programs be recognized for their contribution to the State of New York. The people involved in these activities provide the coordination and programs necessary to rehabilitate the offender and to protect the safety and welfare of the general public. For certain individuals, alternatives to incarceration represent fair and suitable sanctions that are consistent with the ends of justice.

It is with a great sense of gratitude and heartfelt pride that the people of the State of New York pay tribute to the people who carry out these services.

NOW, THEREFORE, I, Mario M. Cuomo, Governor of the State of New York, do hereby proclaim September 8-16, 1985, as

PROBATION AND CORRECTIONAL ALTERNATIVES WEEK

in New York State.

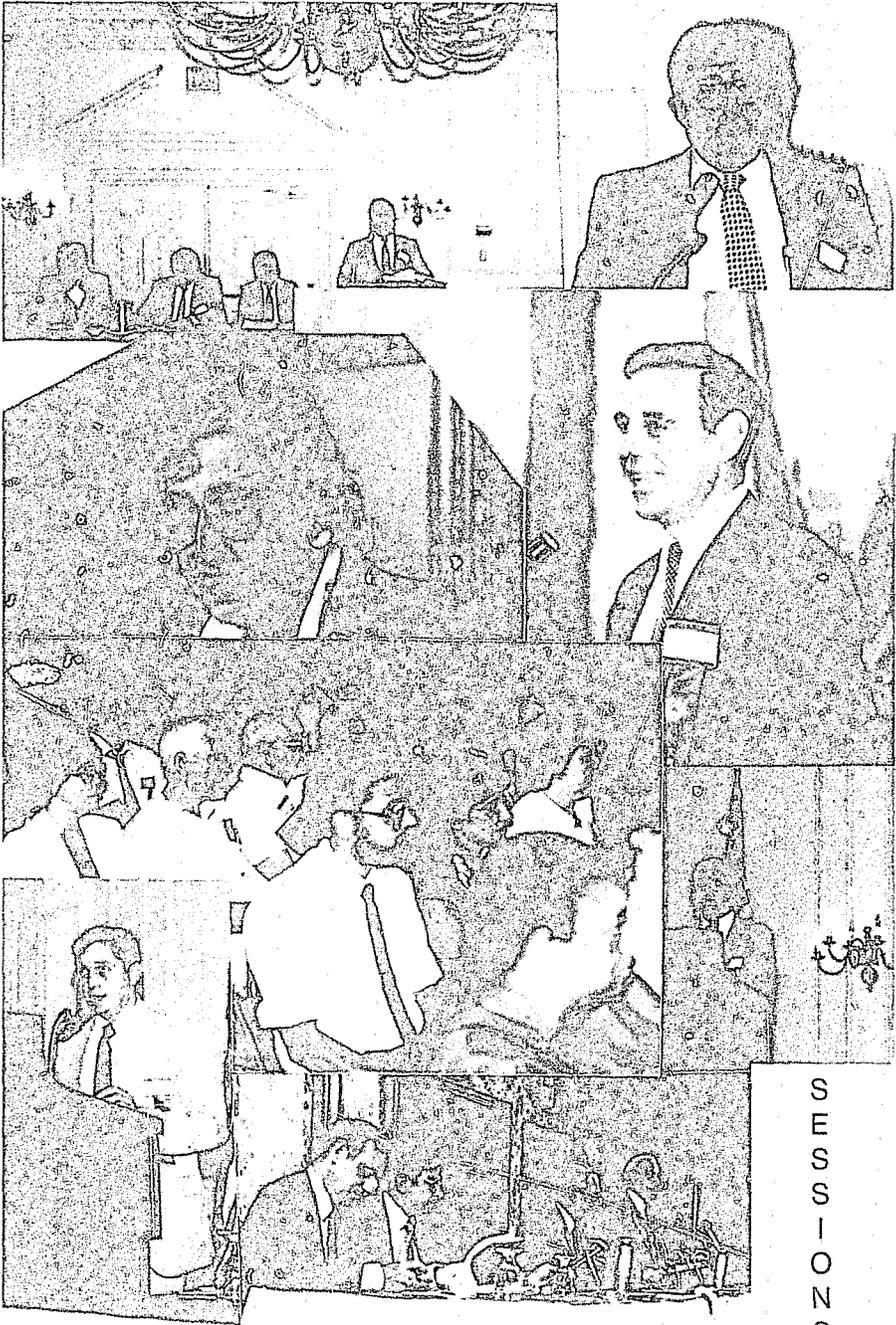


G I V E N under my hand and the  
Privy Seal of the State at the  
Capitol in the City of Albany  
this fifteenth day of July in  
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hundred and eighty-five.

BY THE GOVERNOR:

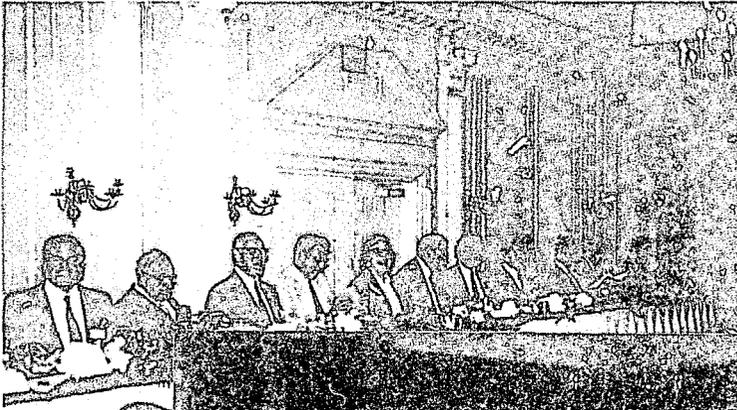
*Mario M. Cuomo*

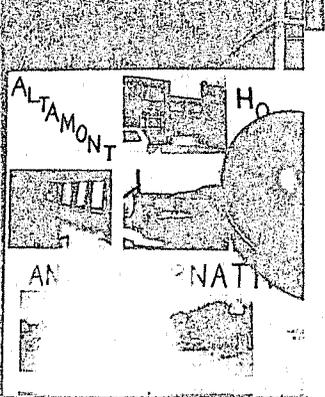
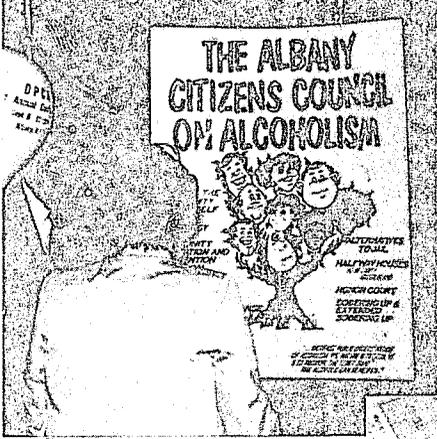
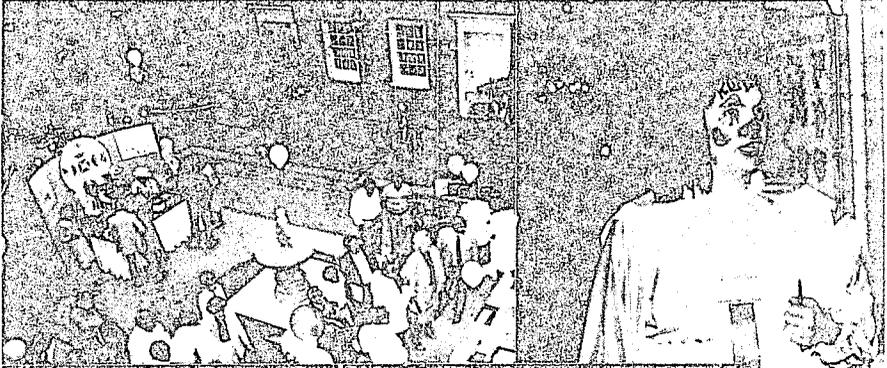
*Michael J. Del Grande*  
Secretary to the Governor



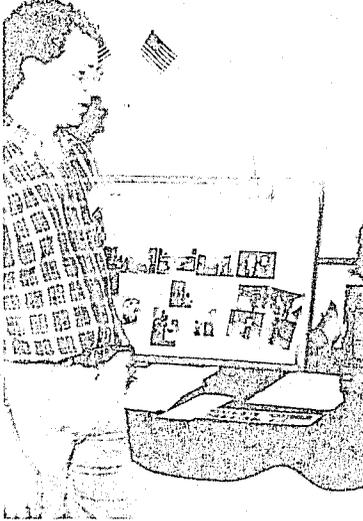
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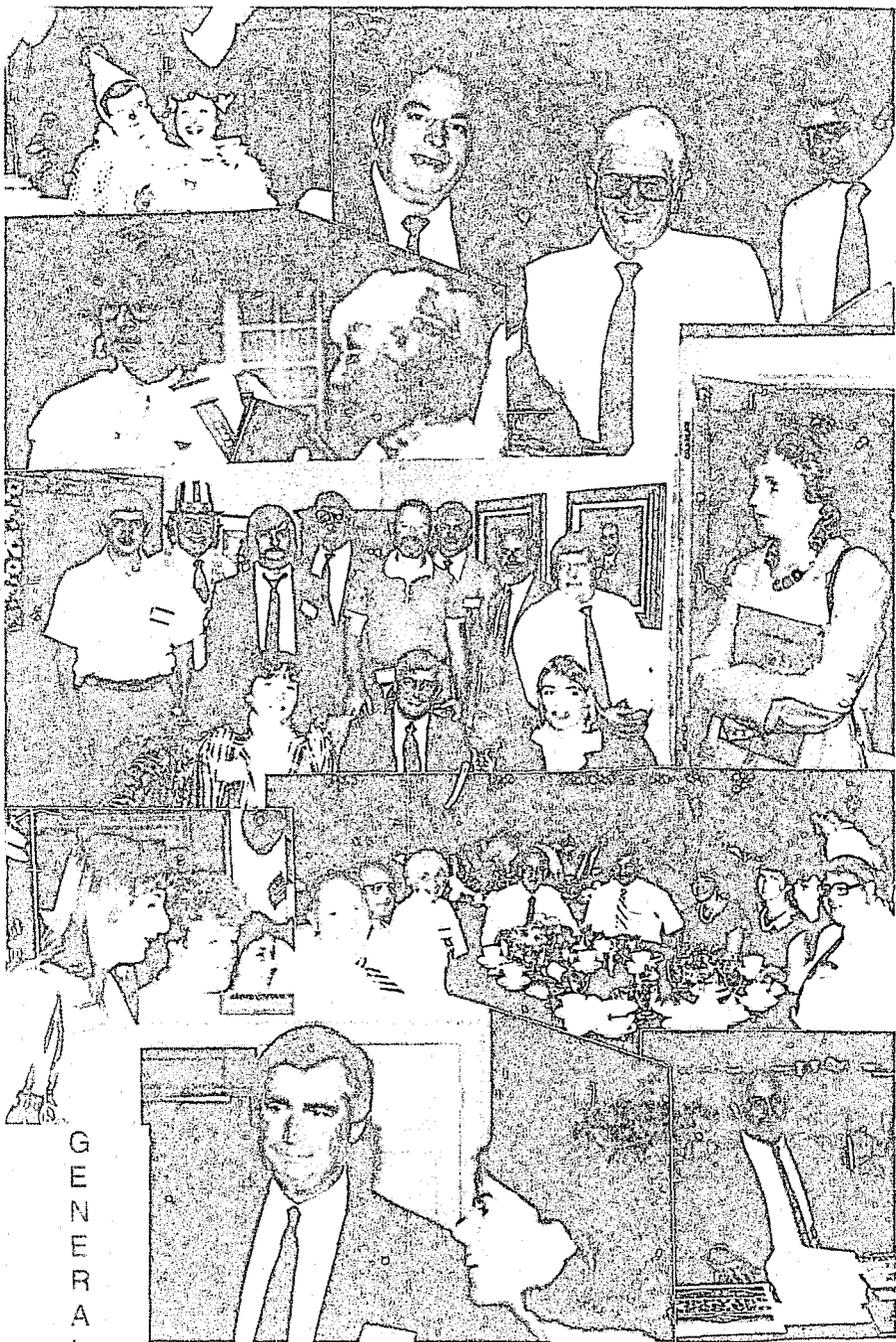
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GENERAL



*Text of Governor Cuomo's speech  
presented at the First Annual  
Conference on Probation and  
Correctional Alternatives*

*September 9, 1985*

Distinguished guests, ladies and gentlemen . . .

Thank you for that very warm reception. I want to thank Ed Wutzer for inviting me to speak with you today, on an occasion, and at an event, that I consider very significant to our continued efforts to develop an effective, rational and compassionate criminal justice system.

Probation in the State of New York has had a very rich history of accomplishment in providing a diverse range of services for our juvenile and criminal justice system. Under my administration, the alternatives to incarceration has provided an additional broad community network of services and options which provide comprehensive and realistic approaches to the serious issue of local jail overcrowding. As we look to a joining together of probation and our correctional alternative initiative, it might be most appropriate to view the conference as a combination baptism, bar mitzvah and marriage all rolled into one. This is like a baptism because the conference is formal acknowledgement of the spiritual birth of an important New York State Division. It is like a Bar Mitzvah because it reflects the

coming of age of community corrections in this State, a maturing of our efforts to find effective ways to deal with those who break the law without having to place them behind bars. And it is like a marriage because this new Division is the result of the union between the former Division of Probation and the Alternatives to Incarceration Unit of the Division of Criminal Justice Services. It is a union that some will claim was made in criminal justice heaven. Others, however, might think that it is more like a shotgun marriage.

Seriously, I am most pleased to be here because I want to personally bring to you this administration's commitment to the important work you perform and to a vision of a new and innovative approach to the supervision, punishment and treatment of offenders in the community. Creation of the Division of Probation and Correctional Alternatives was undertaken only after very careful consideration. Could we improve our efforts to manage offenders in the community? Could we develop new program models, alternative punishments, and improved decision making techniques to reduce our reliance on incarceration? Could we deliver better technical assistance to localities through merging our resources? Could we reduce inequities in the handling of those charged with and convicted of crimes through better coordination and planning? Obviously, we answered those questions affirmatively. We have established this new Division to facilitate the development of a more coordinated, intensive and comprehensive approach to community corrections. It is towards this end that we will work over the next few years, to make that vision a reality.

As a practicing attorney, I learned that there was much we did not know about human behavior, about organizational behavior, about how we, as a society, can effectively protect ourselves against those who would violate our rules without sacrificing our commitment to the dignity and worthiness of each and every individual.

Upon taking office as Governor, the first crisis I faced was a prison riot at Sing Sing Correctional Facility. Though we were able to resolve that situation safely, the events of those January days sobered me considerably and forced those of us shaping the new administration to take stock of our situation. We knew, of course, that crime was a major issue in our State and that it was a major

responsibility of government to assure the safety and well-being of its citizens. We know that an effective criminal justice system had to be clear in its purposes and had to deliver swift, sure intervention and punishment for those who break the law. We also knew that, despite our best intentions, there was no way around the fact that incarceration is necessary when dealing with dangerous criminals. That understanding, especially when considered in the light of the Sing Sing riot, also made it clear that a responsible administration would have to expand our prison capacity. And so we embarked on a major construction effort. Many have criticized us for adding 8,000 new cells over the past three years. Being proponents of community-based sentencing, I know that many of you have been critical of this effort. But we should all pause for a moment to think about what our current correctional system would be like had we not taken this step. Prison conditions would be utterly intolerable today had we not built these new cells. And the safety and well-being of guards and inmates alike would have been jeopardized as a result.

I am not happy that we have had to build so extensively. I do not like what it says about conditions in our State. But I would be far less happy were I to appear before you today with inmates double-bunked and unconstitutional conditions condemning our efforts to minimize the harmful effects of incarceration.

But we have never believed that prison construction alone could be the panacea for our overcrowded institutions, or for the problems of criminal justice in general. We knew that much more was needed, that we had to look at the whole system of justice and how it operates. In particular, we have sought to improve the overall integration of the components of the criminal justice system so that they will function more efficiently and more effectively. And we have sought innovation to expand our approaches to criminal justice in ways consistent with our vision of government.

I am a devotee of efficient management, of doing more with less, of maximizing government's use of scarce resources. The establishment of the Division of Probation and Correctional Alternatives is a major step in our attempt to better organize our criminal justice system, to eliminate both fiscal and organizational inefficiencies and to reduce the human and social costs of such inefficiencies. To what

inefficiencies do I refer and what are their attendant costs? Here's perhaps an obvious example:

We know that the majority of inmates in our local correctional facilities are pretrial detainees, individuals charged with, but not convicted of, any crime. Many of these defendants are imprisoned simply for want of fairly modest amounts of cash bail, and most of them will, in fact, be released by the system within a short period of time. During their detention, however, valuable resources are being used up. Why then, we ask, can we not use proven models of release to reduce this inefficient use of limited local jail space and to minimize inappropriate and unjustifiable incarceration of those who are detained simply because they are poor? I see this new Division providing leadership in the development of pretrial release services and similar programmatic initiatives.

I am also committed to a model of government that is compassionate, that in criminal and juvenile justice matters, is firm but fair, that seeks reconciliation and not just retribution. I have recently signed legislation that provides for the diversion of PINS with an array of community based preventive and treatment services that will support the retention of our children in the community. We know that there are many individuals who are incarcerated simply because of a lack of effective options. Yes, there are people in our jails and prisons, especially those who have committed non-violent offenses, who could be safely managed in the community and who, as we are learning now, can also be held accountable and punished appropriately for their offenses. Some would have us believe that the public wants only blood when dealing with offenders. I happen to believe that our citizens are neither so vindictive nor so short-sighted as to want to lock up each and every offender. What people want, what I want, is a system that makes sure that victims are compensated for their losses, that the community is paid back for the violation of its standards, that a clear message is sent to those who might break the law that we neither condone nor tolerate such transgressions; a system where offenders are held accountable, punished, and if necessary, given treatment and opportunities so that the likelihood of repeating their unlawful behavior is reduced to an absolute minimum.

These perspectives and understandings have guided the

evolution of our criminal justice policy and, in particular, our support for community corrections. During my first year in office, we made a major commitment to expand resources available for community-based programming. To this end, we also established an alternatives to incarceration task force, which was chaired by the Director of Criminal Justice, Lawrence Kurlander. In many ways, that task force planted the seeds for this new agency. It was composed of state officials and representatives of the private sector. It sought to answer questions of practice and to identify areas of need. It committed itself to the best possible services, rather than concerning itself solely with who the service provider might be. And it laid the groundwork for cooperation and coordination among those disparate and often separate organizations and agencies involved in the emerging field of community corrections.

The Alternatives Task Force did still more. In particular, it recommended a 400% increase in funding for community-based programming, a recommendation which was incorporated into the Executive Budget submission and agreed to by the Legislature. Funding for the Intensive Supervision/Alternative Sentencing Program operated in local probation departments was increased so that now 38 counties have the advantage of specialized, reduced caseloads to supervise the most high risk offenders. Funding for new program models, for alternative programming outside the existing framework, was increased dramatically. We now have some 28 demonstration projects around the state—residential programs for alcohol abusing offenders, community service sentencing projects, employment and counseling programs for youthful offenders, just to name a few, developing a body of experience about better ways to sanction and supervise. We have recently completed a major statewide planning process for alternatives to incarceration, which many of you participated in, and we will see implementation of 63 new programs in 43 separate jurisdictions this fall as a result. I hasten to point out that the substantial county participation rate in this alternatives planning process belies the notion that our citizens or local governments do not recognize the need for new, effective ways to handle offenders in the community.

This year, we have also increased substantially the resources available at the back end of our criminal justice system by

dramatically increasing the number of parole officers. We did this not simply to provide more intensive supervision, which we will surely do, but also to ensure that those released from prison are given the best opportunity possible to make it in the community.

And now we have created the Division of Probation and Correctional Alternatives. Our purpose is to maximize the use of community-based approaches to handling offenders and to minimize our reliance on incarceration. The new Division can accomplish these goals through more effective and systematic program development, better regulation and monitoring, increased technical assistance services, comprehensive planning, increased cooperation among service providers, and expanded research and evaluation concerning what works and what does not.

The vision which guides these organizational changes is really quite simple. We seek to create a continuum of sanctions, methods of supervision and approaches to treatment that, when used individually or in combination, can hold offenders accountable, make restitution to victims and community, and reduce the likelihood of future criminal behavior. In the past, there has been a range of sentencing options, but it has been limited and, frankly, often held inadequate. Our new continuum will be much broader and more creative. We are adding many options essential to reducing reliance on incarceration: restitution, community service, residential placement, drug and alcohol treatment, intensive supervision, domicile restriction. These are just some of the models we are supporting. And we are learning how to combine these and other innovative approaches in ways specific to the individual offender and the individual offense. If we can expand our vision of how to supervise, sanction and treat offenders outside the prison walls, we can reduce the number of people placed within those walls.

How extensive will our use of alternative punishments and community corrections become? The answer to that question lies largely with all of you who are the practitioners, the ones who implement these ideas and supervise these sentences. This administration is prepared to invest in innovation and to support proven approaches. We have already devoted considerable resources to these efforts; and we will not hesitate to support other

efforts aimed at reducing incarceration which are consistent with the goals of offender accountability and maintenance of public safety.

The challenge to you is two-fold. First, you must stretch your creativity and focus your resources to develop models and methods which hold promise as meaningful ways of handling offenders in the community. Second, you must demonstrate the viability of your ideas through practice. If community corrections is to succeed in New York, the community must have confidence in your work.

You are at the front lines of important break-throughs in criminal justice, the builders of our emerging system of community corrections. Your contributions will lay the foundation for years to come. I hope that through the establishment of this new Division, and through events such as this conference, state government can assist you in the accomplishment of your lofty objectives.

I thank you for your attention and wish you the best of luck as you face this challenging future.

# MANAGING FAMILY VIOLENCE

*A presentation on the dynamics of family violence,  
the appropriate role for adult probation intake, and  
the value of spouse abuse workshops as dispositions.*

## **MODERATOR**

MARGERY FIELDS, Esq., Co-Chairperson  
NYS Governor's Commission on Domestic Violence

## **PANELISTS**

PHYLLIS FRANK, Director of Program Development,  
Volunteer Counseling Service, New City, New York

ROBERT E. GOLDEN, Director, Orleans County  
Probation Department

MARY ELLEN LUDVIGSON, Family Violence Program,  
New York City Department of Probation

## **RECORDER**

JOHN BONGIOVANNI, Probation Program Administrator,  
Bureau of Field Operations, NYS Division of  
Probation and Correctional Alternatives

## 1<sup>st</sup> ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

Mr. Robert Golden, Orleans County Probation Director, addressed domestic violence as it relates to "social", "criminal" and "human rights" problems. He highlighted the traumatic and deleterious effects that domestic violence has on children, adults and on the overall quality of life. Emphasis was placed on the need for law enforcement and human service agencies to give priority attention to domestic violence cases.

Domestic violence was described as a "crime problem" in that it is the "single greatest cause of police injury/deaths in the line of duty". It is the major cause of homicides in the United States.

Domestic violence is a "human rights problem" in that male dominance of women has been culturally perpetuated; and, when seeking assistance, some victims of domestic violence have encountered resistance from criminal justice and human service agencies. Emphasis was placed on the need for prompt response from law enforcement and human service agencies when dealing with domestic violence matters.

In Orleans County, probation officers provide immediate assistance to domestic violence victims. The victim is made aware of the various options available and is supported in his/her efforts in obtaining the necessary help.

Ms. Mary Ellen Ludvigson, Family Violence Program, New York City Department of Probation, indicated that, for the past 1 1/2 years, the Queens County Family Violence Program has been rendering services to children and adults caught up in the "violence cycle". Services to these clients, who are generally court referrals, begin immediately after their court appearance. Among the services provided are marital counselling, group counselling, referrals, telephonic intervention, separation and divorce counselling and custody and visitation mediation. Volunteers are utilized quite extensively and direct counselling services are generally rendered to those clients who cannot be referred elsewhere for assistance. Both clients and judges have been very supportive of this program.

Based on their experience, the following suggestions were made for family violence cases:

## MANAGING FAMILY VIOLENCE

- (1) "Probation" should be considered as the court disposition of choice.
- (2) Provide "concentrated" mediation and educational services for disputed custody/visitation cases at the intake level.
- (3) Commit more resources to effectively cope with this serious family and societal problem.

Ms. Phyllis Frank, Director of Program Development, Volunteer Counseling Services, addressed the group from the perspective of an agency that works with probation departments. She underscored the importance of working with domestic violence victims in a caring, listening and supportive manner.

Experience has shown that more than half of their clients do not want to terminate their marriage; thus, this is the probable reason for much of the vacillation among abused wives, who file charges against their husbands and subsequently withdraw them.

Most of the husbands who attend the Spouse Abuse Educational Program in Rockland County are generally under a court mandate.

The program lasts six weeks and during this period husbands are made aware of the various causes of violence. They are given the opportunity to understand that violence is a learned behavior and, as such, it can be unlearned. Emphasis is placed upon the need for ongoing support counselling in order to stop the violence toward their spouses.

# COMMUNITY CORRECTIONS RESPONSE TO DWI

*A discussion of the impact of DWI legislation on existing probation and jail resources, and an overview of DWI programming, including screening, specialized probation supervision and alternatives to jail.*

## MODERATOR

STEPHEN J. POWERS, Probation Program Administrator,  
Alcohol Program Unit, NYS Division of Probation  
and Correctional Alternatives

## PANELISTS

STEVE HATOS, Program Analyst, National Highway Traffic  
Safety Administration, Washington, D.C.

BURKE SAMSON, Alcohol Coordinator,  
Suffolk County Probation Department

RICHARD D. SMITH, Manager, Alcohol Bureau,  
Office of Traffic Safety Program Planning & Development,  
NYS Department of Motor Vehicles

JOHN SWEENEY, STOP DWI Coordinator, Rensselaer County

## RECORDER

JOHN PHILLIPS, Supervisor of Probation Accounts,  
NYS Division of Probation and Correctional Alternatives

## COMMUNITY CORRECTIONS RESPONSE TO DWI

Mr. Stephen Powers DPCA's Alcohol Program Administrator, indicated that DWI is now the crime producing 25% of Probation's sentenced caseload; that referrals have skyrocketed.

Of those sentenced to Probation, 50% have been arrested for other crimes; we are dealing with multiple offenders and repeated, general criminal behavior. It has become necessary to reach beyond the criminal justice system to STOP-DWI issues. For the sake of the community, effective programs are needed.

Despite imperfections, New York State is the nation's leader in addressing the DWI issue in probation.

Mr. Steve Haos, Program Analyst with the National Highway Traffic Safety Administration, commented that his agency is a support and funding agency for programs operated by the States. NHTSA's expertise has led to a series of volumes for use by any State (or other governmental bodies) for program planning and implementation:

- o "The Drunk Driver and the Jail Problem"
- o "Alternatives to Jail"
- o "Options for Expanding Residential Facilities"
- o "Step by Step to a Comprehensive DWI Corrections Program"
- o "The 5 A's of Community Service"

Clearly, the NHTSA believes that jail *is* appropriate for some of these offenders. In Washington, D.C., overcrowding of jails is an issue, too. Alternatives, however, are critical. Some examples are driver licensing sanctions and community service in conjunction with Probation.

An example of the judiciary's response comes from Hennepin County, Minnesota. Its policy is to sentence offenders to a certain term and consistently apply this guideline. Another example of a response to the problem comes from Prince Georges County. Offenders are consistently screened and provided with rehabilitation programs and follow-up. California has a League of Alternative Programs which is very complete. In Glens Falls, New York, the entire community is addressing the whole scope of the DWI problem.

Mr. Hatos and the NHTSA urge all to let them know what is happening in the field so they may review and disseminate information throughout the country.

Mr. Richard Smith, of the Office of Traffic Safety Program Planning and Development, New York State Department of Motor Vehicles, stated that New York's STOP-DWI program is successful and compares to few similar programs throughout the country.

The Drinking Driver Program (DDP) stresses these elements:

- ⊙ Highway Safety
- ⊙ Impairment Factors
- ⊙ Alcohol Abuse/Problem Drinking
- ⊙ Evaluation of Client's Drinking
- ⊙ Treatment

The DDP is an example of *Specific Deterrence*. It is successful and dynamic. It provides education, rehabilitation and licensing. So, there is much that can be done with the convicted drinking driver.

*But*, all this may not impact the unapprehended drinking drivers. For these, a broader approach is needed, an approach of *General Deterrence*. Thus, STOP-DWI. This is a powerful program. It has worked through providing a philosophy, as well as resources. Mandatory fines are now substantial (not \$12 - \$17 as before the laws began to change). These funds are returned to the counties to fund their specific needs as detailed in their application and plan.

STOP-DWI is *Local* planning, under *State* guidelines; and *Local* implementation, with *State* evaluation.

According to a specific county's needs, emphasis can be applied as needed among the following:

- ⊙ Enforcement
- ⊙ Prosecution
- ⊙ Adjudication
- ⊙ Probation

## COMMUNITY CORRECTIONS RESPONSE TO DWI

- Rehabilitation
- Public Information/Education
- Evaluation

Probation is increasingly supported by STOP-DWI. In 1982, \$7.2 million was available and 12 probation departments were involved. In 1985, approximately 44 departments will be involved. Other results from STOP-DWI include the reduction in alcohol related traffic safety losses; continued reduction in New York State, despite a national tendency (noted in 1984) to "regress to the mean"; and a noted synergy—the effect of the different parts seem to produce more than the sum of those parts.

Mr. Hatos' final consideration was the need to continue grappling with competition for available funds and to insure solid coordination of efforts.

Mr. John Sweeney, STOP-DWI Coordinator for Rensselaer County, indicated that his county began STOP-DWI involvement in 1982. The plan in 1982 was, understandably, enforcement oriented. They found that 35% of their arrests were re-arrests; and they began to address some fragmentation and hesitation by the justice system, which did not know what to do with drinking drivers. The program used the team approach modeled after Suffolk County (Alcohol Treatment and Program). Mr. Sweeney added that the public perception of STOP-DWI is positive. People feel it is a good way to ensure punishment. In 1983, the Rensselaer County Probation Department added staff with STOP-DWI funds. They currently need one more position in the program.

Of all the clients in the program, 125 have 3 DWI's or more. Rensselaer County Probation now has \$80 million of the \$225 million available for all STOP-DWI activities in the county. Currently, Rensselaer County is looking for new ways to effectively deal with 3-4 time repeaters.

There are other issues that need attention. Example: the differences in approach between Probation and Alcohol Treatment agencies.

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The STOP-DWI Coordinator's Association is quite sensitive to probation's needs and views probation as the best "First Step" (or the Best Alternative).

Mr. Burke Samson, Alcohol Coordinator, Suffolk County Probation Department, related the history in Suffolk County, including many years of effort, arguments and soul searching to convince legislators and others to recognize the DWI problem, and do something about it. In 1974, there were 239 DWI's sentenced to probation. Currently, 2,400 DWI's have received probation terms. Suffolk County received Federal monies, through the Division of Probation, in 1979. Now, funding comes from STOP-DWI, the County, and DPCA's Alternatives to Incarceration Program.

Caseloads in Suffolk County usually consists of 3 drinking driving convictions or more, with BAC's of .20 - .25 (even these people are full of denial regarding a "drinking problem").

Since 1982, all investigations include the Mortimer-Filkins questionnaire. This helps the probation officer to ask the right questions . . . to probe effectively. Some clients are still eligible for the Drinking Driver Program. The department has and uses some 30 alka-sensors. In some cases, the court and probation differ. Probation has to show evidence that there is a problem. Differences in philosophy crop up; e.g., is the first timer really that or a repeating drinking driver finally ensnared? There are various treatment and referral programs, including EAP, private programs and industrial programs.

Mr. Samson cited other efforts and deterrents:

- (1) Tough DMV re-licensing practices;
- (2) Proposals to judiciary for ROF, with a requirement for an evaluation regarding possible problem drinking;
- (3) Police instituting a "non-release" policy;
- (4) Housing facility especially for this population; and
- (5) Involvement of the family to help cut through denial.

# LOCAL PLANNING FOR ALTERNATIVES TO INCARCERATION— RECENT LESSONS

*A statewide overview of the recently completed county planning for alternatives to incarceration, summarizing the quality of plans and the nature of programs to be implemented.*

## MODERATOR

BART LUBOW, Deputy Director, Bureau of Alternatives to Incarceration, NYS Division of Probation and Correctional Alternatives

## PANELISTS

RICHARD F. McDONALD, Criminal Justice Program Representative, Bureau of Alternatives to Incarceration, NYS Division of Probation and Correctional Alternatives

HONORABLE JOHN PARKER, County Court Judge, Lewis County

DAVID SIRIANNI, Director, Allegany County Probation Department

## RECORDER

PAMELA V. DERRICK, Program Research Specialist, Research and Evaluation Unit, NYS Division of Probation and Correctional Alternatives

## 1<sup>st</sup> ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

Mr. Bart Lubow, Deputy Director, Bureau of Alternatives to Incarceration, DPCA, presented an overview and summary of results of recent legislation whose intended purpose is to reduce the jail population through alternatives to incarceration programs. A synopsis of the coordination effort from the State perspective was followed by testimony of experiences from two upstate jurisdictions - Lewis and Allegany Counties. The provisions of this legislation included:

- (1) The establishment of local advisory boards.
- (2) Review of the jail population to address overcrowding issues.
- (3) The preparation of proposals for use of state dollars to initiate or expand ATI programs.

Mr. Richard McDonald, Criminal Justice Program Representative, DPCA, provided an overview of the State perspective. Few generalizations can be made about program plans currently being funded by the Alternatives to Incarceration initiative. Sixty-eight individual projects have been identified within 43 jurisdictions in New York State including:

- 23 Pretrial Release Programs
- 23 Community Service Sentencing Programs
- 8 Jail Information Programs
- 2 Offender Rehabilitation Programs
- 2 Misdemeanor - Alternative Sentencing Programs
- 10 Miscellaneous Programs

The first step in the planning process requires a valid and reliable information base to describe the jail population and to identify program needs. The key actors in the planning process are comprised of local corrections decision-makers who join together as an advisory board. A needs assessment process is followed by problem identification and problem resolution strategies. Three themes have emerged from this planning process:

- (1) "That Really Sounds Nice But We're A Very Conservative Community"

## LOCAL PLANNING FOR ALTERNATIVES TO INCARCERATION

The issue of being conservative - resistant to change or unwilling to take risks is common among jurisdictions. Consequently, there is a need to change strategies based on risk sharing.

(2) "We Know About That Alternative; We're Already Doing It"

While most county administrators believe they have addressed the problem, many alternatives programs do not target the jail population. A re-education process is needed to minimize the problem of "widening the net".

(3) "We're Putting *Those* People In Our Jails?"

A concrete description of the jail population often renders this response. Local personnel are often not truly informed of the inmate profile. By gathering demographic information, questions like: Who is in jail?, Why are they there? and for how long?, may be answered.

Mr. Lubow added that a reduced jail classification system and state dollars activated local planning processes, but did not have the intended consequence of turning the created advisory boards into change agents. Allegany County exemplifies this dilemma.

Mr. Sirianni related that the establishment of a jail population profile gave birth to two new program plans in Allegany County - a community service program and a release under supervision program. To expedite the pretrial release practice, over 100 community service sites were identified which could provide employment benefits to jail-bound individuals. Under this plan, a projected savings of \$50,000 could be anticipated from a reduction in the need to board out inmates. The County Legislature, however, was required to commit \$10,000. Why was the proposal rejected?

(1) Concerns with public safety—The County Legislature simply cannot get past the idea of opening up jail cells. They have a kind of tunnel vision.

(2) Timing—The Advisory Board did not anticipate the time needed to sell the program, nor the lobbying effort that was needed.

(3) County treasurer's report preceded the presentation of the

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program proposal. Given discussions around fiscal constraints, the legislators were hesitant to make the commitment to expend money for the appointment of a coordinator to the program.

Note: A second effort of approval will be attempted since filing extension to December 1, 1985 has been granted.

Honorable John Parker, Lewis County Court Judge, discussed ATI issues for rural counties. Lewis County typifies an upstate rural county - 25,000 people, extremely conservative in their perspective, with a public that believes nobody in their county goes to jail. First, data collection was needed to justify the program proposal. The Advisory Board did not understand the legislation, nor did it care to decipher it. State representatives were asked to simplify the planning process for the Board. Lewis County is unique in that it chose to accept only minimal amounts of state funding (\$3,000) to implement a pretrial release program.

Judge Parker offered the following suggestions for enhancing the planning process:

- (1) Strategic planning must be part of the process.
- (2) Identify the public's reaction to the proposal *before* going to the County Legislature.
- (3) Find out what the vote will be before the eleventh hour and lobby for the program.

Currently, the program in Lewis County is showing a 33% reduction in the jail population.

# RECENT LEGISLATION AND THE FUTURE OF INSTITUTIONAL AND COMMUNITY CORRECTIONS

*A presentation of the impact of recent legislation  
on the key programs and the direction of three major  
correctional agencies in New York State.*

## MODERATOR

JEAN M. ANGELL, Executive Deputy Director,  
NYS Division of Probation and Correctional Alternatives

## PANELISTS

THOMAS A. COUGHLIN III, Commissioner,  
NYS Department of Correctional Services

LEONARD DUNSTON, Director, NYS Division for Youth

RAMON RODRIGUEZ, Chairman, NYS Board of Parole

## RECORDER

MARK CONNORS, Probation Program Consultant,  
Alcohol Program Unit, NYS Division of  
Probation and Correctional Alternatives

## 1<sup>st</sup> ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

The three panelists in this institute presented their views of how recent legislation has impacted on their respective areas of responsibility, and then fielded questions from attendees.

Commissioner Coughlin related how the mandatory sentencing laws passed by the State Legislature in the mid 1970's are still impacting on the Department of Correctional Services, with an ever increasing inmate population. Alternatives to Incarceration legislation was endorsed by Commissioner Coughlin, citing as an example, a state correctional facility as being an appropriate sanction for violent felons, as opposed to repeat car thieves or check forgers.

Division for Youth Director, Leonard Dunston, cited the recently enacted PINS Diversion Legislation as providing DFY with new challenges. As a result of this legislation, DFY will be involved in funding community-based programs to deal with troubled families, in addition to the local Youth Service Bureaus providing additional services. Homeless Youth Initiatives, Juvenile Offender Legislation and Job Development Initiatives, were other areas Director Dunston cited as challenges DFY faces both now and in the future. The theme of cooperation between DPCA and DFY was stressed in his closing remarks.

Chairman Ramon Rodriguez noted how limited resources available to the NYS Division of Parole have resulted in Parole's commitment to quality as a top priority. Chairman Rodriguez focused on improved management operations and the addition of paraprofessionals to assist parole officers in the performance of their duties as current developments in Parole. The establishment of a differential supervision process was also cited as a new initiative in Parole, to provide better and more efficient supervision of parolees.

In the future, Parole is envisioned as being a multi-service agency, with professionals from other agencies assigned to local field offices so that services can be initiated and provided immediately, rather than piece-meal, as currently exists.

Several questions were raised and directed toward specific panelists.

Commissioner Coughlin was asked about the development of half-way houses for drug and/or alcohol abusers preparing to return

to the community. He indicated that a program addressing this need existed for a brief period of time in the past, and that new efforts were being expended toward re-establishing this program.

Director Dunston was asked about what types of rehabilitation programs DFY operates. He responded that DFY expends significant effort in delinquency prevention through funding residence, employment, and recreation programs for youth in the community, and structured programming for court-placed youth. He noted that DFY is working in many instances to *habilitate* youth, not to rehabilitate them.

Chairman Rodriguez was asked if he thought Probation and Parole may merge on the State level in the future. He responded that he did not anticipate that occurring in the near future, although he would encourage parole officers to reach out to local probation departments to understand and appreciate the work of probation officers.

Commissioner Coughlin was asked his opinion about a Probation/Parole merger and he responded that such an arrangement would probably not be manageable, as it would be too large, despite the theoretical perception of the benefits of unified management.

In closing, each panelist stressed the need for communication and cooperation among all components of the criminal justice system.

# NON-TRADITIONAL APPROACHES TO PROBATION AND PAROLE

*A presentation of a variety of approaches which may be used to augment traditional methods of treating the criminal offender, including the application of electronic/computer technology to the supervision function, house arrest as an alternative to jail confinement, and developing employment skills and loyalty in the young adult.*

## MODERATOR

THOMAS JACOBS, Commissioner, NYC Department of Probation

## PANELISTS

ALBERT ABNEY, Eveready Carburetor and Auto  
Electric Co., Inc., New York City

W. DOUGLAS CALL, Sheriff, Genesee County

JEROME McELROY, Associate Director, The Vera  
Institute of Justice, New York City

GLEN ROTHBART, Director of Programs, PRIDE, INC., and  
Director, Corrections Services, Inc., West Palm Beach, Florida

## RECORDER

ELIZABETH ALEXANDER, Criminal Justice Program  
Representative, Bureau of Alternatives to Incarceration,  
NYS Division of Probation and Correctional Alternatives

## NON-TRADITIONAL APPROACHES TO PROBATION AND PAROLE

In his introduction, Commissioner Jacobs, NYC Department of Probation, discussed the "changing aspects of probation". We are now in a new environment and have to respond, if we are to survive.

The public perception of probation is that it is a "slap on the wrist". The main questions about it are, "How safe am I with probation?" and "Is it really a punishment?".

We have to educate the general public. We should be clear and honest. There is a need for more dialogue between ourselves.

Each of the panelists discussed their personal experiences with non-traditional methods of treating criminal offenders.

Mr. Jerome McElroy, Associate Director, described the community service sentencing programs at the Vera Institute of Justice in New York City. The first pilot project was opened in the Bronx in 1979. The project later expanded to the boroughs of Brooklyn and Manhattan and, recently, to Queens. The specific objectives of Vera, when they initiated the program, were two-fold:

- (1) to create a sentence which did not then exist; and
- (2) to use this sentence as an alternative to incarceration, specifically to cut into the population which would have been jailed for up to three months and sometimes more.

To make itself creditable to the District Attorneys, Vera made a special point of stressing public safety from the very beginning. Staff followup on anyone not completing their work and ensure, wherever possible, that these individuals are returned to court.

Vera is unique among community service sentencing programs in that the staff supervise their clients. Clients work in teams of 6-8, each under its own Vera supervisor. Each client is sentenced to 70 hours of work for a public agency. This sentence is imposed as a Conditional Release.

No one is considered for the program unless they have at least one prior adult conviction. Most have more. Ninety percent of the clients complete their 70 hours of service. Two-thirds of those who do not complete their sentence are brought back into court by Vera staff.

Mr. Glen Rothbart, Director of Programs, PRIDE, Inc., discussed his programs in Palm Beach County, Florida, and the electronic/computer technology used in his supervisory functions. Mr. Rothbart has responsibility for probation: misdemeanants and for those sentenced under criminal traffic and DWI laws.

Mr. Rothbart's company, PRIDE, Inc., is a non-profit organization, a "user-fee organization" reporting directly to the judges. Its budget for Palm Beach County is \$2 million a year, totally supported by client fees. "We have a philosophy in Florida. The defendant pays for everything."

PRIDE charges \$30 a month for DWI offenders and \$20 a month for all others for supervision. For those offenders sentenced to jail, who voluntarily elect "In-house Arrest" in place of incarceration, there is a charge of \$7 a day to be in the program. "If you were going to do 20 days in jail, you would do 60-80 days on In-house Arrest." PRIDE supervises everybody on "In-house Arrest" through the use of an electronic device cuffed to the offender's ankle and monitored on a computer in a central office. The transmitter is checked during a face-to-face visit once a week.

The "In-house Arrest" program is designed for minor offenders. It allows the offender to go to work, to attend AA meetings or DWI school, but also ascertains that he is present at home in the evenings and on weekends.

Mr. Rothbart reported that community service is used extensively in Florida. His company administers these sentences. "Everyone gets community service in Florida. We do not use it as an alternative to incarceration."

W. Douglas Call, Sheriff, Genesee County, initiated his presentation with a criticism of the title of the institute, saying he believed that instead of "non-traditional approaches to probation and parole", we should be thinking of today's topic as "probation and parole becoming what they really can be in terms of our criminal justice system".

He went on to discuss the operation of the community service sentencing program in Genesee County, New York. The overriding philosophy behind this program is, "Let's make offenders responsible

## NON-TRADITIONAL APPROACHES TO PROBATION AND PAROLE

in a constructive way to the victim, the community and to themselves”.

His community service program has provided over 60,000 hours of work to public and not-for-profit agencies during the last few years. At present, they use 118 agencies as work sites.

Sheriff Call believes that you *must* involve the public, and an important facet of their work is victim - offender reconciliation. They also have an intensive victim assistance program which goes into operation at the very beginning, right after the crime is committed. In Genesee County, victims are allowed to meet with the D.A., who assists all along the way. The overwhelming majority of victims want to be constructive. A victim impact statement is an important part of the sentence negotiations.

Although there was resistance from some of the judges at the beginning of the program, they have now “all come on board”. The program receives much positive feedback from these judges, as well as from the agencies serviced.

Sheriff Call commented that, last year, Genesee County had wanted to purchase an electronic tracking device similar to that used by Rothbart in Florida, but was unable to come up with the money.

Commissioner Jacobs described Mr. Albert Abney as a “citizen businessman who defended probation in New York City”. More than 50% of the employees at his carburetor and auto electric company are New York City probationers. This arrangement has been going on for two years, and there is satisfaction on both sides.

Mr. Abney discussed the Federal Benefit Programs which are designed to help small businesses interested in doing as he has done. They offer subsidies to small businesses willing to hire probationers. He reported that, despite the fact that on their initial interviews these probationers exhibit a defensive attitude and do not test well, they are on the whole very excellent workers. It seems to free them up psychologically when they know they do not have to hide their criminal records.

Mr. Abney also indicated that he has a “pretty decent factory”, and he imposes strict rules. All of his people work five days a week,

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starting at 8:30 am. He allows “no drinking, no smoking and no reefers”.

Mr. Abney has a direct relationship with the probation officers. They have lost only one probationer in the last two years. There have been no rearrests, and the only people leaving the job have been those going on to a better position.

Mr. Abney stresses that innovative probation departments around New York State can do what is being done in New York City. There will be some businesses in every city which would be willing to cooperate, if they knew about the Federal Benefit Programs and were approached in the right manner.

Commissioner Jacobs concluded the institute by saying everyone in probation should be looking at whether or not probationers are being given an opportunity to change their lives. We must “take some risks, but intelligent risks”.

# INNOVATIVE APPROACHES TO PROBATION/PAROLE VIOLATIONS AND REVOCAATION PROCEEDINGS

*An introduction to the core ingredients of  
specialized programs for locating, apprehending  
and prosecuting probation and parole absconders.*

## **MODERATOR**

HOWARD YAGERMAN, General Counsel, New York City  
Department of Probation

## **PANELISTS**

WHITNEY BOOTH, Probation Absconder Unit,  
Suffolk County Probation Department

DAN FORO, Law Enforcement Coordinator, Systems Improvement  
for the Enhancement of Community Safety, Albany

JOHN CARWAY, Probation Warrant Unit,  
Nassau County Probation Department

## **RECORDER**

JAMES E. CREIGHTON, Probation Program Analyst,  
Management Information Systems Unit, NYS Division  
of Probation and Correctional Alternatives

Mr. Howard Yagerman, General Counsel for the NYC Department of Probation, explained that the New York City Probation Department has developed uniform procedures for probation officers to follow in filing technical and new conviction probation violations. As a result of the uniform implementation of these procedures, eight of every ten probation violations are successfully defended in court.

Mr. Whitney Booth, Probation Absconder Unit, focused on the warrant enforcement efforts of the Suffolk County Probation Department. If a probation officer is unable to locate a probation violator after efforts are made for fifteen (15) days, the case is given to a special warrant enforcement unit. The unit works closely with the Suffolk County Police Fugitive Squad in seeking to locate the probationer. Warrant data is given to local police, the Division of Criminal Justice Services (DCJS), and sometimes to the National Crime Information Center. Some of the tools used by the unit include a secure automobile, police radios (with an emergency channel), bullet proof vests, a spare car, pagers, an answering service, a computer terminal, and computer printout of outstanding cases.

Mr. John Carway, Assistant Deputy Director, Probation Warrant Unit, provided information about the warrant enforcement unit of Nassau County Probation Department. The unit was formed to help reduce the four to five hundred warrants that were outstanding in 1980. He explained that this effort was considered important in that approximately 500 warrants are issued each year. There are currently about 400 outstanding warrants.

Mr. Carway indicated that, although all probation officers are given peace officer training, many don't want to make arrests.

New probation violation warrants are kept at the Nassau County Police Department. Data regarding warrants is also maintained on the county computer and the DCJS computer.

About seventy-five percent of all arrests are made in the office, usually voluntarily. The equipment that is used is similar to that employed by the Suffolk County Probation Department.

Mr. Dan Foro, Law Enforcement Coordinator for SIFECs, described the goals and efforts of the state funded Systems Improvement for the Enhancement of Community Safety. This project

## INNOVATIVE APPROACHES TO PROBATION/PAROLE VIOLATIONS

is a criminal justice interagency effort to help agencies work together and to share information. Much work has been completed on improved warrant enforcement procedures and record keeping. They have found that some police agencies do not make diligent efforts to locate probation absconders and fail to communicate data on warrants to other police agencies. Also, warrant data is not always taken off computers after the absconder is located. The SIFECs staff has developed procedures to be used in the warrant enforcement effort, and a test of these procedures has led to a four hundred percent improvement in warrant enforcement in Binghamton. The procedures include:

- One person as warrant control person in each department;
- Use of a standardized warrant log;
- Use of a warrant control folder (jacket) on each case;
- Police patrol units assigned to an offender's last known neighborhood are assigned the case for a short time before turning it over to the detective bureau;
- Use of a structured investigative process;  
Thorough documentation of the search;
- Scheduled reassignment of warrant cases; and,
- Scheduled purge/review process to take old cases off the books.

Mr. Foro indicated that future plans include use of a micro-computer to store warrant data, and eventually, a regional automated system. Management reports will be produced from these automated systems.

Finally, plans have been discussed for the development of criminal justice agency access of data to each others files (CRIM NET).

# IMPLEMENTING ALTERNATIVES TO INCARCERATION PROGRAMS: PROBLEMS AND SOLUTIONS

*A discussion of the successful approaches used in overcoming obstacles to new types of community-based programming, including specific issues related to judicial support, overcoming community opposition, ensuring cooperation between agencies, and establishing credibility.*

## MODERATOR

CLAIRE DALTON, Criminal Justice Program Representative,  
Bureau of Alternatives to Incarceration, NYS Division  
of Probation and Correctional Alternatives

## PANELISTS

ROBERT DUNNING, Director, Monroe County  
Probation Department

JOANN PAGE, Deputy Executive Director,  
NYC Court Employment Project

HONORABLE EDWARD SPAIN, Family Court Judge,  
Rensselaer County

DENNIS WITTMAN, Director, Genesee County Community  
Service Program

## RECORDER

LESLIE A. SHELDON, Criminal Justice Program Representative,  
Bureau of Alternatives to Incarceration, NYS Division  
of Probation and Correctional Alternatives

## ALTERNATIVES TO INCARCERATION PROGRAMS

By way of introducing each speaker and setting the tone for this presentation, session moderator, Claire Dalton, outlined four basic concerns that must be addressed when implementing alternatives to incarceration programs in any community: (1) assessing community reaction; (2) developing judicial support; (3) facilitating interagency cooperation; and (4) maintaining program credibility.

Mr. Robert Dunning, Monroe County Probation Director and President of the NYS Council of Probation Administrators (COPA), addressed the issue of developing linkages with private, community-based agencies. Comparing his department's approach to the marketing concept of Proctor and Gamble, Mr. Dunning described two basic tenets—know your territory and know your product.

- ◉ Who are the offenders?
- ◉ What is the community's tolerance for criminal behavior?
- ◉ What alternative programs exist?
- ◉ What are the attitudes and priorities of the justice community?
- ◉ Do you have the support of the District Attorney and the defense bar?
- ◉ What are the program goals and objectives?
- ◉ What does the agency have to offer that is unique?
- ◉ What program offerings are possible if more than two agencies cooperate to serve the community?
- ◉ Where will resources come from?

Accomplishments must be viewed as beneficial to the criminal justice process to be considered viable. The attitudinal changes necessary to set a new, cooperative direction require awareness of and sensitivity to current circumstances, roles and approaches. Mere maintenance of the "status quo" may not adequately respond to the changing needs and challenges facing the agency in its provision of services. To avoid the very real possibility of duplicating existing services in an attempt to meet new challenges, a collaborative

approach among capable agencies must be designed with the larger picture in mind.

Monroe County has applied this method to numerous cooperative efforts, including programs for persons in need of supervision (PINS), community service for non-violent offenders, and intensive probation supervision for more serious offenders. Illustrative of the cooperative process was Mr. Dunning's description of the Pretrial Service Program, in operation for more than fifteen years. Initially developed by the Monroe County Bar Association, it has been funded mainly by county dollars. Although the project received financial support from the county early on, the cooperative spirit between the probation department and the County Bar Association took longer to develop. What began as reluctant, sometimes mistrustful relations, gradually developed into mutually respectful coordination of services between two agencies—one public, the other private—serving the needs of the same community. The county's appointment of a Commissioner of Public Safety and Judicial Services has enhanced the relationship, highlighting the significant strengths of and mutual benefits to each agency. What were once considered competitors are now sincere collaborators, still respectfully and constructively critical of one another in their mutual effort.

"You define yourself as a program by who you accept and who you reject", was the message from Joann Page, Deputy Executive Director of the New York City Court Employment Project (CEP), an offender rehabilitation program offering educational, vocational and counseling services combined with intensive supervision. In describing her program's successes, Ms. Page reported caseloads of 93% felons in 1984-85, with a 65% success rate. Ninety-two percent of cases received no additional jail sentence once they had worked with CEP; they were either sentenced to time served or to probation. These same people were charged with crimes that would likely have resulted in jail terms of from 90 days to 12 years. Even so, the program must continue to ask itself: Are we providing these programs to the appropriate client or are we NET-WIDENING? Are we taking people who would otherwise be incarcerated?

Keys to avoid net-widening include:

- Identifying potential clients - focus on those facing jail or

## ALTERNATIVES TO INCARCERATION PROGRAMS

prison time, those who would *not* get probation otherwise, because they are too imbedded in the system to get less than incarceration.

- ⊙ Identifying persons for whom non-jail sentence is legally possible.
- ⊙ Becoming involved in the plea-bargaining process - follow closely the serious cases being plea bargained, and intervene if a case is pled down to more than 90 days jail time. More serious cases may require repeated attempts to convince judges of the appropriateness of the alternative program. Your best tool is the defense attorney who knows how to use your service.
- ⊙ Rejecting cases from both lawyers and judges when the person is not an appropriate candidate for the program. It is the program operator's responsibility to establish a reputation of appropriateness, thereby building program credibility. Easy cases are safer, less risky, but succumbing to pressure to take easier, inappropriate cases will undermine the program.
- ⊙ Educating the defense bar and justices as to the availability and viability of your program, especially those who feel that they have only two choices - probation or jail - and that the former is not a strong enough response.

"Judges who place a jail-bound defendant with CEP are taking a political and professional risk. The program has to lessen that risk through the intensity of supervision and communication that keeps the court apprised at the *earliest* point at which there are case changes."

Honorable Edward Spain, Family Court Judge, Rensselaer County, stressed the importance of local representation in the planning of alternative programs. Representatives of local businesses, educational institutions, as well as members of the criminal justice community are instrumental in presenting the residents of the locale with descriptive information concerning the need for programs offering alternative sanctions. Judge Spain also recommended that communication with program operators is essential if programs are to continue to meet the changing needs of the community.

Mr. Dennis Wittman, Director of the Genesee County Community Service Program, presented his recommendations for program development via a 14-point guideline. Though some of those recommendations were voiced by preceding speakers, Mr. Wittman did touch on aspects of planning not previously addressed, such as the importance of offering community service agencies something for sharing in the risk of placing clients. He suggested the importance of being a resource and supportive source to the agency, not just acting as a referral source. He recommended co-supervision of certain clients, setting a specific schedule for the agency and the client to follow.

Additionally, Mr. Wittman emphasized the need to keep paperwork to a minimum and the program simple—one goal, one task. This also clarifies the program for the offender, giving the client a goal to aim for and a clear understanding of the consequences of his actions.

To overcome the “soft on crime” criticism likely to arise, Mr. Wittman suggested that one should build program credibility by dedicating long hours and paying close attention to details. Maintain close ties with cooperating agencies, as well as the offender-clients, so that each understands his/her role and the limits of their responsibility.

As with all previous speakers, Mr. Wittman concluded his presentation recommending that one must get to know one's community, as well as the path to follow with criminal justice representatives to ensure program integrity and community acceptance.

# ALTERNATIVES TO INCARCERATION: PROGRAMMATIC/POLITICAL IMPLICATIONS

*A discussion of the statewide Alternatives to Incarceration Plan as a prerequisite to the use of the new jail classification plans in counties.*

## MODERATOR

RICHARD DEHAIS, Assistant to the Director of Criminal Justice,  
Office of the Director of Criminal Justice, Albany

## PANELISTS

PETER T. BOYLE, President, NY Association  
for Alternative Sentencing Programs

ROBERT C. DENSBERGER, County Executive, Chemung County

HENRY W. DWYER, Chief Deputy County Executive,  
Nassau County

BART LUBOW, Deputy Director, Bureau of Alternatives  
to Incarceration, NYS Division of Probation  
and Correctional Alternatives

## RECORDER

WILSON (ED) REED, Criminal Justice Program Representative,  
Bureau of Alternatives to Incarceration,  
NYS Division of Probation and Correctional Alternatives

Mr. Peter Boyle, Director of the Nassau County Community Services Agency, outlined the development of the New York Association for Alternative Sentencing Programs. In his presentation, Mr. Boyle indicated that interaction and communication was/is important in the criminal justice system and that further innovations are needed through development of a managerial network. He indicated that the Association works with individuals/groups to develop a strategy to inform D.A.'s, judges and the public, in general, about community service programs statewide. In addition, Mr. Boyle discussed the importance of improved legislation in the area of community service and liability insurance, and that public relations among community service programs need to be advanced. He also argued for mandated judicial visits to community service programs, and for surveying all community service programs statewide regarding policies and procedures.

Mr. Robert Densberger, Chemung County Executive, discussed the growth and development of the Chemung County Criminal Justice Coordinating Committee, and the work local officials have done to address issues related to jail overcrowding. He basically emphasized the importance of communication in the planning process and suggested that, once they organized the C.J.C.C. (Advisory Board), the network among local decision makers vastly improved. The Chemung County Advisory Board (C.J.C.C.) proposed and advanced a work order program through the county legislators. Presently, the county has a program that Mr. Densberger indicates is working well. The program currently has twenty clients which has resulted in a decline of the jail population in the county.

Mr. Henry Dwyer, Chief Deputy County Executive for Nassau County, discussed problems related to community *resistance* in implementing alternative sentencing programs. According to Mr. Dwyer, several concerns are paramount in discussing community resistance: (1) *Public Perception* - The public should be informed and updated on innovations in alternative sentencing programs; (2) *Cost Effectiveness* - The best approach to explaining ATI programs to citizens is by discussing the cost effectiveness of such programs, and that program officials should indicate who is involved in community service and alternative sentencing programs. Specifically, he outlined how important it is that the public be kept informed of

## ALTERNATIVES TO INCARCERATION

alternative sanctions through modern communication. Mr. Dwyer argued that the public is basically uninformed except for the notorious cases. He believes that cooperation and communication is key among local public officials. Further, the public, Judges and D.A.'s must view alternative punishment as a proper disposition. The public is demanding harsher punishment according to Mr. Dwyer.

Mr. Bart Lubow discussed the "lessons learned" by the DPCA Alternatives staff. He initiated his presentation with a summary of the Alternatives/ Classification legislation. He described the Bill as a hook because of the latter ingredients. The Bill linked classification and local jails with monetary incentive based on a population formula. Mr. Lubow highlighted the following in reference to alternatives to incarceration programs and issues.

- (1) There is a 78% participation rate among counties.
- (2) Data revealed that a majority of individuals are confined as pretrial detainees. These individuals were unable to post bail of \$1,000 or less.
- (3) Among the sentenced group they were, on the average, serving (20-30)+ days. Some of these people could be sentenced to programs in lieu of incarceration.
- (4) The ATI Unit will be working with 43 counties and about 68 programs.
- (5) Two prominent types of programs have been proposed, and are being implemented (pretrial and community service).
- (6) Political lessons learned include the county's suspicion of State ATI. Officials are concerned about the state ready issue.
- (7) The modest financial assistance from ATI may not have been an incentive to participation. However, some local advisory board members were excited by sharing decision-making, and by the lasting implications of participating in the program.

# OFFENDERS WITH DEVELOPMENTAL DISABILITIES AND PHYSICAL IMPAIRMENT: PROBLEMS AND ISSUES

*The identification of problems and issues related  
to offenders with a variety of disabilities.*

## **MODERATOR**

SHIRLEY REYNOLDS, Program Planner, NYS Developmental  
Disabilities Planning Council, Albany

## **PANELISTS**

TOBI BICKWEAT, Rehabilitation Counselor for the Deaf,  
Office of Vocational Rehabilitation, NYS Education Department

JOHN CULKIN, Mental Health Specialist,  
NYS Department of Correctional Services

WILLIAM G. McMAHON, Chairman, NYS Commission  
of Corrections

SUE ROSE, Senior Probation Officer,  
Monroe County Probation Department

## **RECORDER**

JOHN DOWLING, Senior Probation Officer,  
Montgomery District Office, NYS Division of  
Probation and Correctional Alternatives

## DEVELOPMENTAL DISABILITIES AND PHYSICAL IMPAIRMENT

Ms. Tobi Bickweat, Rehabilitation Counselor for the Deaf, Office of Vocational Rehabilitation, NYS Education Department, reported that deafness and language disabilities are important factors of many offenders being incarcerated. She reported that 90% of deaf have little or no communication within the family unit and possess 2nd grade level of intelligence. Many of these offenders plead guilty without understanding the nature or seriousness of the charge against them. Ms. Bickweat pointed out that the emergence of the Miranda Warning, which provides an interpreter, has done much to alleviate this situation. Ms. Bickweat concluded her remarks by encouraging all agencies to use the services of OVR, not as a policy agency, but as a service provider in resolving the problems facing the disabled offenders.

William G. McMahon, Chairman, NYS Commission of Corrections, opened his remarks by stating that incarceration is the most expensive part of the penal system, and that the problems and issues of the disabled offender are not small. He pointed out that although 2-3% of the national population is disabled, 5-35% of the inmate population in correctional facilities have developmental disabilities or physical impairment, and that these offenders can be found everywhere throughout the criminal justice system. Chairman McMahon related that there was a lack of awareness in identifying disabled offenders and how to work with them. The same individual is seen by each agency, the courts, probation, corrections and parole. He added that these clients are the most likely to be caught, convicted, sent to prison, and the least likely to receive probation or parole. These clients have no where to go except the prison environment. Chairman McMahon concluded his remarks by stating that all agencies should work together to identify problems and issues of the disabled offender and stressed the need for additional programs, especially programs that are alternatives to incarceration.

Mr. John Culkin, Mental Health Specialist, NYS Department of Correctional Services, opened his remarks by describing what happens to disabled offenders and the problems they present when sent to prison. He cited that 3-5% of the prison population are classified as mentally retarded. This group of developmentally disabled clients are taken advantage of by other inmates, are

manipulated, and often are victim prone. Once an inmate is classified as mentally retarded in the screening process, he is given additional IQ testing and assessment and sent to a facility (prison) which provides programs for coping skills (life in prison) and sheltered workshops. The main purpose of these programs is to resolve some of the problems pertaining to the disabled offender and to close the gap between pre-incarceration and post-incarceration. Mr. Culkin cited a special unit for the disabled inmate located in the north country where special services are provided. He concluded his remarks by stating the continued need of services or programs for the disabled and physically impaired offender in correctional facilities.

Ms. Sue Rose, Senior Probation Officer, Monroe County Probation Department, commented that the disabled offender is the most under-serviced and the most misunderstood. Ms. Rose stressed the importance of screening the disabled offender. In addition to testing the levels of intelligence, one should also focus one's attention on the disabled offender's pattern of living and activities in conducting assessments. Ms. Rose also described several programs currently in operation in Monroe County, such as the Monroe County Project on Mental Retardation and Developmental Disabilities. This project is a screening and intervention system that identifies and provides appropriate services for developmentally disabled youth in the Monroe County juvenile and criminal justice system. She believes that projects such as this helped both the client and the probation officer to better understand the problems of the disabled offender. Ms. Rose concluded her remarks by stating that future goals should include an interagency evaluation of the client.

During the discussion period, Judge Joseph Harris, Albany County Court Judge, described the problems facing the courts when sentencing a disabled or physically impaired defendant. He cited several incidents when defendants are classified as physically impaired and, when sent to a rehabilitation facility, either run away or are discharged and returned to the streets again.

Chairman McMahon pointed out that different clients have different needs and that better case management might help to alleviate some of these problems. As an example, he cited the learning disabled client (the drop-out), indicating these problems

## DEVELOPMENTAL DISABILITIES AND PHYSICAL IMPAIRMENT

should have been resolved when they surfaced at age eight or nine. Chairman McMahon believes that every effort should be made to identify the gaps in the system, and that interaction among the various agencies would be a step forward in resolving these issues.

# **CULTURAL DIFFERENCES AND AWARENESS: A SOCIOLOGICAL PERSPECTIVE OF THE OFFICER/OFFENDER RELATIONSHIP**

*An examination of the effects of cultural differences  
on the officer, offender and the justice system,  
and the implications of these differences for  
policy, operations and the practitioner.*

## **MODERATOR**

LYNN CANTON, Deputy Director for Program Services  
and Compliance, NYS Division for Youth

## **PANELISTS**

SCOTT CHRISTIANSON, Assistant to the Director of Criminal  
Justice, Office of the Director of Criminal Justice, Albany

ZELMA HENRIQUES, Associate Professor, John Jay College  
of Criminal Justice, New York City

CESERINO NARVAEZ, Professor, Adelphi University, Garden City

HAROLD PIERCE, Ph.D., Psychology Department, Afro-American  
Studies, John Jay College of Criminal Justice, New York City

## **RECORDER**

NICHOLAS MARCHIONNE, Probation Program Consultant,  
Bureau of Field Operations, NYS Division  
of Probation and Correctional Alternatives

## CULTURAL DIFFERENCES AND AWARENESS

Ms. Zelma Henriques, Associate Professor, John Jay College of Criminal Justice, indicated that an officer's attitudes are shaped by the larger "society". If society is seen as biased, prejudiced, indifferent and insensitive, then the probation officer, reflecting these societal attitudes, could behave in a manner which could lead to injustice and abuses toward the offender.

The officer must recognize cultural differences such as language, style of dress, food, and religion and cease the practice of treating all offenders in a common way.

The officer must be sensitized regarding cultural differences. He should receive appropriate training so to be better able to perform his role.

Mr. Ceserino Narvaez, Professor, Adelphi University, cited that 26% of the 36,000+ inmates within the state prison population are Hispanic. If trends continue, the Hispanics will be the "majority" prison population by the year 2000.

The number of Hispanics employed by the state agencies of DCJS, Parole, Probation and Correctional Alternatives are not representative of the high percentage of Hispanic offenders in the system. This represents a lack of sensitivity to the cultural needs of the Hispanic offender population.

The Hispanic inmate sent upstate is generally serviced by non-hispanic corrections officers who are insensitive to the inmate's culture. There are immediate communication problems because of the language barriers. Officers tend to view *all* inmates as the same, when in fact there are significant differences.

Pre-service and in-service training for the officer is essential so that cultural differences can be recognized. The officer must be familiar with the language so that communication is open.

Volatile situations will develop unless there is an effort by the officers to become sensitized to the cultural needs of the Hispanic population.

Dr. Harold Pierce, Psychologist, and Assistant Professor in the Department of African-American Studies, John Jay College of

Criminal Justice, identified six critical issues which operate within and outside the relationships of the officer and offender.

- (1) *Self Perception*—“the criminal justice worker in police or probation certainly require an accurate and workable integration of self ingredients in order to first know thyself and second to “assist and know thy offender”.
- (2) *Majority/Dominant versus Minority/Subordinate Relationships*—“. . . the probation officer is in the business of getting the excluded minority offender into the prevailing way of life, a task made all the more difficult by the perception of the offender minority that the officer is not a solution, but may in fact be part of the majority problem.
- (3) *Historical and Current Immigration Problems*—An economic analysis of income level included the ranking of 13 immigration groups. Ranked 10th through 12th were Mexican, Puerto Rican, and Blacks, respectively. From an officers' anticipation of offender population analysis, the simplest understanding of economics would predict that for some time to come the source of offender will be the lower rung minorities.
- (4) *Ethnicity and Racial Differentiation*—The term racial-ethnic group is defined as an ethnic group that is observably physically different from the dominant group. Thus, African-Americans is an example of a racial-ethnic group, whereas Italian-Americans are not.
- (5) *Arrest Rate Analysis*—The great majority of reported arrests in 1980 were of the youthful population, 0-22 years. Culturally, and by income, the observations made about the new immigrants and the old minorities would predict that those groups would comprise significant numbers in probation work.
- (6) *Projected Trends and Implications for the Officer/Offender Relationships*—Dr. Pierce recommends modelling a course conducted by the New York City Police Department entitled, “Comparative Analysis of the Diverse Cultures in the NYC Community”, which can be tailored to the specific popula-

## CULTURAL DIFFERENCES AND AWARENESS

tions that the various county probation departments are likely to service.

Scott Christianson, Assistant to the Director of Criminal Justice, indicated that, because of the overcrowded prison situation, there is a tremendous need to utilize community corrections to a greater degree.

Seventy-eight (78) percent of the inmate population of 35,565 are minority. This percentage is way out of line with the general population, and unless we do some major things there will be even greater disproportionate representation. Those offenders that comprise the community corrections population are "younger, more female and whiter population".

Have we created a system to which we consign minorities to prison and whites to community corrections?

Recent studies attempting to project prison population by the year 2000 predict that 90% of the 50,000 inmate population will be Black and Hispanic. What do we do to change this over-representation? Mr. Christianson suggests that criminal justice and corrections workers increase opportunities for education and housing; deal with discrimination; create better channels of communication; and, deal with the family unit, not just the individual offender.

In the area of training and education, Mr. Christianson indicated that the State has a serious lack of statistical knowledge about the Hispanic group. Thus, it has recently given increasing attention to them. The State has established programs to recognize the very special needs of Hispanic inmates. "We are facing pressures to devise training and recruitment programs that take into account the cultural differences between the officer and the Hispanic offender population.

# LIABILITY ISSUES IN PROBATION/PAROLE AND COMMUNITY CORRECTIONS

*A discussion of recent court decisions dealing with the legal liabilities of probation, parole and community corrections personnel, including negligence on duty, immunity defenses, and Section 1983 Civil Rights Suits.*

## **MODERATOR**

LINDA VALENTI, Counsel, New York State  
Division of Probation and Correctional Alternatives

## **PANELISTS**

SUELLEN M. GALISH, Assistant General Counsel,  
New York City Department of Probation

WILLIAM ALTSCHULLER, Senior Counsel,  
New York State Division of Parole

## **RECORDER**

JOHN PAQUIN, Probation Program Consultant,  
Bureau of Field Operations, NYS Division  
of Probation and Correctional Alternatives

A majority of the sixty-five probation and parole personnel who attended this session were extremely concerned with liability issues surrounding their employment activities. In reviewing these issues, the panelists pointed out that, to prevail in a negligent supervision lawsuit, the claimant would have to establish a duty to protect, and to establish a breach of that duty, and the proximate cause of the injury. The duty would arise whenever a "special relationship" has been established. In general, a "special relationship" does not exist with the public at-large. However, the courts have held that a "special relationship" does exist between a probationer, the supervising probation department, and an injured third party. In addition, such a relationship exists with respect to parolees, parole authorities, and an injured third party.

A duty to protect may be inferred from the foreseeability of risk to a particular individual or narrow class. A duty to warn would arise when, based on a client's criminal background and past conduct, a supervising officer can "reasonably foresee" a prospect of harm to a specific third party. When a probation or parole officer is aware that a client may pose a threat of some kind to a particular individual or class, a duty arises not only to supervise in general, but to protect the at-risk individual or class by way of a warning or disclosure of information. While there may be a duty to protect, and there is a breach of the duty, the breach must be proven to be the proximate cause of the injuries giving rise to the suit. Liability could be avoided if the supervising authority can prove that more supervision or warning/disclosure would not have prevented the injuries sustained.

The panelists also discussed potential liability arising from civil rights suits brought by those under supervision. Such suits claim deprivation or violation of a civil right. To be successful in a federal (Section 1983) case, four elements must be established:

- The defendant must be a natural person or local government;
- The defendant must have acted under "color or law";
- The violation must be of a constitutional or federally protected right; and,
- The violation must reach constitutional level.

In general, performance of regular duties during office hours would be considered under "color or state law". The intent to deprive need not be established.

The panelists explained that defenses exist in liability actions. A "good faith" defense is the most likely invoked defense. It means that the probation or parole officer acted with honest intentions, under the law and in the absence of fraud, deceit, collusion, or gross negligence. A qualified immunity defense may be invoked in certain instances. Such a defense would be available if the officer's actions were discretionary in nature. Ministerial acts, those involving performance of a duty in which an officer is left with no significant choice of his/her own, are not immune. However, an officer would be exempt from liability if it could be demonstrated that the actions were reasonable, and that they were performed in good faith within the scope of the officer's employment.

# **PINS DIVERSION PROGRAMMING: AN INTERAGENCY APPROACH**

*A presentation on how State agencies plan and deliver services to the PINS population. With the enactment of Chapter 813 of the Laws of 1985, an interagency approach to PINS diversion is most critical to the provision of services.*

## **MODERATOR**

SUZANNE ZAFONTE SENNETT, Coordinator,  
NYS Council on Children and Families

## **PANELISTS**

NEWELL EATON, Youth Services Planner,  
Planning Unit, NYS Division for Youth

JAMES RYAN, Project Director, Division of Family  
and Children's Services-Program Development,  
NYS Department of Social Services

SUZANNE ZAFONTE SENNETT, Coordinator,  
NYS Council on Children and Families

DAVID J. SINGER, Probation Program Administrator,  
Juvenile Justice Unit, NYS Division of  
Probation and Correctional Alternatives

## **RECORDER**

JOHN J. MACERI, Probation Program Administrator,  
Bureau of Field Operations, NYS Division of  
Probation and Correctional Alternatives

Ms. Suzanne Zafonte Sennett, the institute moderator, prefaced the session by identifying the major highlights of the new PINS Adjustment Services Act, which amends Article Seven of the New York State Family Court Act. The intent of the Adjustment Services Act is to effect a comprehensive coordinated system of services to PINS at the local level. It imposes on each participating county a requirement to provide diversion services for all eligible PINS cases. The goal is to preclude a PINS case from penetrating the juvenile justice system any further than necessary. However, this new law does not prevent the alleged PINS from declining services that are available and offered. Nevertheless, the law clearly attempts to encourage the development of a coordinated system in each local community to make available its combined resources to meet the needs of PINS. The framework of the system is expected to be comprised of local youth bureaus, educational systems, the departments of social services, and local departments of mental health. The law prescribes an incentive by providing for implementation and supportive fiscal resources from the State over a four year period.

The panelists, who represent each of the key agencies on the State Interagency Coordinating Team, discussed how this new law will effect changes in each participating state agency and in each counterpart agency at the local level.

Mr. James Ryan, Project Director, Division of Family and Children's Services, NYS Department of Social Services, clearly stated that his agency strongly believes that the needs of PINS cannot be singularly met by one agency, but must have available the resources of multiple agencies. This reinforces the need for a comprehensive, coordinated plan to underscore the objectives of the law. Likewise, Mr. Ryan pointed out that PINS cases are "legal" and, therefore, are eligible to receive services under the SDSS prevention services program. A program relative to PINS cases can be established through the local DSS agency under the category of preventive services. Such an arrangement could result in purchase of services with probation, mental health, etc.

Mr. Newell Eaton, Youth Services Planner, New York State Division for Youth, commented that DFY is committed to see the

## PINS DIVERSION PROGRAMMING

implementation of the new PINS law. Its leadership is very much interested in assisting and enabling each county in developing a comprehensive plan relative to the needs of youth. He proceeded to outline the major DFY responsibilities in relation to PINS. It provides residential and after-care services to about 2700 youth, of whom 300 are PINS. Of these 300 PINS, 50 percent are placed in DFY operated facilities, while 50 percent are placed in local voluntary social service agencies. Mr. Eaton indicated that the average cost per youth in DFY is \$50,000 to \$60,000. To the local county, this averages to about \$25,000 to \$30,000 per year per youth. The average placement period for a PINS case is about one year. Detention services is another program which is funded by DFY for PINS cases. Finally, DFY provides local services programming via assistance to the local county youth bureaus. In this area, DFY assists the youth bureaus in the development of a comprehensive plan to provide services to youth.

Ms. Suzanne Zafonte Sennett, Coordinator, New York State Council on Children and Families, capsulized the Council's role in the four year PINS implementation process as the State's coordinating body. Spearheading the State Interagency Team, consisting of the Office of Mental Health, Division for Youth, Department of Social Services, Division of Substance Abuse Services, Division of Alcoholism and Alcohol Abuse, State Education Department and the Division of Probation and Correctional Alternatives, the Council plans to assist the local communities in developing their respective programs. It will provide the counties with interagency technical assistance by identifying models, and by providing planning guidelines and regulations. The Team will also assist local counties in establishing their own mechanism to implement a comprehensive PINS program.

Mr. David J. Singer, Program Administrator, Juvenile Justice Unit, New York State Division of Probation and Correctional Alternatives, provided information relative to the "fundamentals" that were incorporated into the new law. He expressed a need for probation to respond to a changing system. The new law clearly provides probation agencies with specific responsibility, authority and opportunity to provide a service to PINS cases.

He indicated that new preliminary probation procedures are

being developed and will become effective on January 1, 1987. He emphasized two major characteristics of the new PINS law. The first characteristic is that it is a locally driven initiative. Secondly, it establishes an interagency team at the local level. The focus of the local team will be on the development of an assessment services unit, which will identify and mobilize the needed services for the children involved, as well as use the support services for their parents. Furthermore, the new law closely aligns the probation intake service with the Judiciary in effecting diversion practice. It is also expected that more activity of services will be generated at the probation intake level.

Mr. Singer pointed out that another major provision of this law brings us directly into a county planning activity, which involves the design of adjustment service planning and evaluation procedures. The Division of Probation and Correctional Alternatives will be developing new preliminary probation procedures, assisting in work plans during the first six months of 1986, and participating in the development of guidelines in conjunction with the State Interagency Coordinating Team. Thus, the entire scenario suggests new functions and new relationships with social service agencies at the state and local levels.

Following the presentations, a thirty minute question and answer interchange between panelists and audience occurred.

One issue that was raised concerned the new expanded role of intake services and whether or not this expansion would augment and increase salaries by the New York State Division of Probation and Correctional Alternatives. The panel's response indicated that probation agencies will be assuming a new role, particularly in the planning process. However, the probation agency is not to be viewed as the primary service provider. Therefore, the role is not necessarily expanded but rather redefined to identify services suggested in a particular case. Certainly, the Division is in favor of upgrading the salaries of local probation personnel, but it is not its role to dictate increased salaries to the counties.

Another issue emerged from the audience relative to the Child Welfare Reform Act, and that local departments of social service have not adequately provided preventive services to eligible PINS

## PINS DIVERSION PROGRAMMING

cases, which are normally referred to probation with some expectation that something would be done. The response from the panel was that the new PINS law was created to provide a new balance and a consistent message, via the mandated assessment services unit in each county, that services be provided to such cases. It no longer can place the sole burden on probation, but on the county's cooperative social service system.

A subsequent issue related to the degree of control that SDSS would have over local social service districts in implementing the PINS law. The response offered was that SDSS would be instituting training sessions to local departments of social service to facilitate a smooth implementation of the new provisions of the law.

One significant issue addressed the four year implementation period within which the counties may elect to participate in this new program. The NYS Council on Children and Families has the responsibility to review the implementation of this new law and, by September 1987, to recommend an appropriate date to mandate this new program throughout the State.

The overall consistent message in all of the panel presentations is one of interagency cooperation and collaboration at the state and local levels of government, to include the mutual development of planning guidelines, the creation of assessment service units, and the design of new preliminary probation procedures.

# **INTENSIVE SUPERVISION/INTENSIVE SURVEILLANCE: A CRITICAL ANALYSIS OF ALTERNATIVE MODELS FOR COMMUNITY SUPERVISION OF HIGH RISK OFFENDERS**

*An assessment of the potential of two state funded intensive supervision programs and a state administered house arrest program in reducing prison overcrowding.*

## **MODERATOR**

RICHARD ELY, Probation Research Specialist,  
Research and Evaluation Unit, NYS Division of  
Probation and Correctional Alternatives

## **PANELISTS**

RAY CROWELL, Regional Supervisor of ISP,  
State of New Jersey

LEONARD FLYNN, Director, Probation and Parole  
Programs, Tallahassee, Florida

MARION GOLDBERG, Program Manager, Intensive  
Supervision Program, NYS Division of  
Probation and Correctional Alternatives

## **RECORDER**

HERB COHEN, Probation Program Administrator,  
Bureau of Field Operations, NYS Division  
of Probation and Correctional Alternatives

## INTENSIVE SUPERVISION/INTENSIVE SURVEILLANCE

The panelists presented historical, descriptive and analytical information about their respective programs. The States of New Jersey and Florida shared a common antecedent; namely, prison overcrowding. The genesis of New York State's ISP program was in the declining quality of probation supervision. New Jersey and Florida, in designing their programs to reduce prison overcrowding, focused on maximizing social control elements to assure as close a resemblance to incarceration as possible, without the use of prison cells. New York State, however, found that manageable caseloads and accountable probation services provided a high level of certainty of effective supervision when offenders, who would be destined for prison, were supervised in its Intensive Supervision Program.

The State of Florida does not regard its program as an Intensive Supervision Program. Rather, it is a "Community Control Program" which substitutes the offender's home for the prison as the place of sentence. Implemented in October 1983, it is a statewide program operated by the Department of Correction. Eligible offenders are drawn from presentence investigation information and the application of sentencing guidelines. Although the principal focus is on non-violent, property felons, other more serious offenders, with the exception of capital cases, major assaults, and probation technical violators, are found in the program population.

Sentences to the Community Control Program require that the offenders not leave their residences, other than to work or to attend to other authorized business. Offenders are also required to pay supervision fees and restitution, to maintain employment, and to perform community service.

Monitoring of the Florida program population is performed by community control officers. Caseloads are statutorily limited to twenty (20) cases per officer. At least 28 contacts per month are required with each offender. In some locations, telephone robots are utilized to assure that offenders are at home. Contact with law enforcement agencies is maintained through portable radios tuned to special frequencies.

The New Jersey Program was implemented in 1983 and, while bearing some similarities to the Florida program in its use of

restrictions, is described as an Intensive Supervision Program. Each offender is required to present an activity plan to which he must comply. He is required to either maintain full time employment or attend vocational training. He must perform community service, and he may be required to limit all his mobility to his home. In particular, he is required to restrict his night time activity to his residence.

Supervision of the New Jersey program population is performed by state probation officers. Caseloads are limited to twenty (20) cases per officer. At least twenty (20) contacts per month are required during the first year of supervision. During the first six months, all the contacts must be face- to-face. During the last half of the year, eight contacts each month may be conducted by phone. Electronic devices are also utilized to assure compliance with curfew and home detention restrictions.

Population for the New Jersey program is drawn from the applications of prison inmates. The later must have served at least sixty (60) days time before being admitted to the program. Admission to the program is based on an evaluation of the applicant's plans, presentence investigation information, applicant interview results, and a hearing before a resentencing panel. Excluded from consideration for the program are offenders convicted for homicides, rapes and robberies. Three hundred and fifty (350) participants are targeted for the program initially.

The New York State Intensive Supervision Program, implemented in 1979, is the oldest of the three programs presented. Originally intended to test whether manageable caseloads and accountable practices provided a greater assurance of effective probation supervision, its findings led to the later implementation of an Alternative Sentencing Program component. The target population for ASP are those whose criminal convictions and prior records would assuredly result in prison sentences. Prior examination of the prison population found probation eligible offenders who were no greater threat to public safety than those supervised in ISP, and who could be supervised in the community with equal assurance of compliance.

The New York program, wholly funded and regulated by the State, is administered under contract with local probation departments. Key case management features are required by the State, but

## INTENSIVE SUPERVISION/INTENSIVE SURVEILLANCE

approved local elements provide program variations. One county, for example, requires domicile restriction; another, community service.

In all participating localities, supervision of offenders is provided by local probation officers. Caseloads are limited to twenty-five (25) cases per officer. At least four (4) personal contacts with offenders per month and one (1) home visit per month are required. Emphasis is placed on behavioral objectives, and community contact and services, particularly in the development of skills to cope with the environment in a law abiding way.

Population for the New York program is selected locally from felony convictions, according to State guidelines. Eight characteristics, age (18-28 years), unemployment, prior property convictions, prior incarcerative sentence, and poor prior probation record, among others, are considered for selection to ASP. One thousand offenders have been admitted to the program and the results have replicated those of the parental ISP. Violations are at a much higher rate than regular probation, signifying greater attention to the public safety factor. When new offenses are committed, however, they are likely to be less serious than those of regular probationers. About 60% of the ASP population has served some jail time as part of their sentences, satisfying the concern that the sentence should include punishment.

# **SUPERVISOR CLUSTERS: A COMMUNICATION AND DEVELOPMENT NETWORK**

*An introduction to a probation supervisor development program being designed by the Division of Probation and Correctional Alternatives and local probation departments.*

## **MODERATOR**

**JEROME BUKIEWICZ**, Probation Program Consultant, NYS  
Division of Probation and Correctional Alternatives

## **PANELISTS**

**PATRICIA RESCH**, Probation Supervisor,  
Dutchess County Probation Department

**KATHY ROUSH**, Probation Supervisor, Tioga County  
Probation Department

**SAMUEL SARDINA**, Probation Supervisor,  
Oneida County Probation Department

**JOHN TINELLI**, Probation Supervisor,  
Oneida County Probation Department

## **RECORDER**

**FRANCIS D. HERLIHY**, Probation Program Consultant,  
Bureau of Field Operations, NYS Division  
of Probation and Correctional Alternatives

## SUPERVISOR CLUSTERS

Mr. Jerome Bukiewicz, Program Consultant, DPCA, noted a need for supervisory training that emanated from DPCA, as well as from local probation departments. What developed was a design team or "mother cluster" consisting of Division and local probation staff.

The Division staff had been requested to develop a training program for supervisors at the State level, while local supervisors, in various regions of the State, met and discussed a need to share problems and ideas.

Ms. Kathy Roush, Probation Supervisor, Tioga County Probation Department, stated that, with the assistance of her DPCA program consultant, several supervisors initially met. Her need for the cluster meeting was for support. The cluster shared the "how to's" of a supervisory role.

Ms. Roush indicated that her cluster members offered each other emotional support; dealt with current issues, and provided the group with a forum for training and informational exchange via contacts on an informal basis. She also noted that the probation directors of those counties involved in the cluster supported their respective probation supervisors by allowing them time for the meetings.

Ms. Patricia Resch, Probation Supervisor, Dutchess County Probation Department, stated the numerous benefits that were derived from her cluster group. Her group formed in the belief that DPCA was not providing supervisory training support that was needed. Ms. Resch's group consists of supervisors representing seven (7) counties.

The county departments in this cluster often share probationers (intra- state transfers). They established their cluster to deal with the detailed problems that arise between and among contiguous counties. They too have an informal structure that they believe allows them to deal with issues that impact on probation, such as workload. The clusters exchange information and, like Ms. Roush's cluster, are supported by their probation directors.

Mr. John Tinelli, Probation Supervisor, Oneida County Probation Department, stated that a third cluster developed as a direct result of the training provided by DPCA in April of 1985. Mr. Tinelli indicated

that he found the cluster group to be helpful inasmuch as the information that was shared enhanced his role as a supervisor. Ms. Samuel Sardina, Probation Supervisor in Oneida County, agreed with this assessment, noting that he was, at first, skeptical, but now believes the cluster group to be an aid to him in relating to his supervisory role. Their cluster consists of probation supervisors representing five probation departments in their region.

All of the panelists were positive about the concept and applicability of cluster groups. They viewed these groups as an avenue to become more informed about the business of probation, as well as a mechanism through which they could share problems and reach solutions with the input of other supervisors.

In addition, the panelists all agreed that if any supervisor(s) or director(s) wished to attend a cluster meeting, they were invited. The panelists noted that their directors are aware of and informed about the meetings and topics covered.

All three clusters invited other supervisors to attend future meetings, and would be available to other counties wishing to start a cluster group. It was the concensus of the cluster panelists that membership in the cluster groups should not exceed ten (10) supervisors lest they lose the atmosphere of informality and flexibility that currently exists.

# MANAGING STRESS AND CONFLICT IN PROBATION/PAROLE AND COMMUNITY CORRECTIONS

*A discussion of the pressures associated with excessive workloads, diminishing resources and public criticism which affect the lives of many professional probation, parole and corrections personnel.*

## **MODERATOR**

LESTER COHEN, Executive Director, American  
Probation and Parole Association

## **PANELISTS**

ANDERSON CRAIG, Delegate, United Probation  
Officers Association

DOUGLAS SMITH, Parole Officer, NYS Division of Parole

## **RECORDER**

THOMAS MITCHELL, Associate Probation Program Analyst,  
Administrative Analysis Unit, NYS Division  
of Probation and Correctional Alternatives

Mr. Lester Cohen, Executive Director, American Probation and Parole Association, opened the session with a brief introduction to the topic by stating that all of the jobs in the probation and parole system are difficult and stressful; that individuals need to be able to "tune in" to themselves in order to identify the causes and to cope with stress; that processes for sharing experiences often help to relieve stress; and, that professional associations should promote this type of interchange.

Mr. Anderson Craig, Delegate, United Probation Officers Association, presented his viewpoint and made the following observations: Both low pay and low status are aspects of probation work which produce stress, and this can lead to feelings that society is indifferent to the system. The first level of stress includes the "stressors" such as a specific job, home or life experiences; that these produce a second level of stress, such as fatigue and irritability, which in turn lead to a third stress level manifested in illness, turnover, withdrawal and burnout.

Mr. Craig also indicated that some level of stress is always necessary, but that the "stressors" can be prioritized. The greatest potential for reducing stress in the workplace seems to lie in managerial practices, which view the employee as a whole person; that is, someone with more than a worklife.

Mr. Douglas Smith, Parole Officer, NYS Division of Parole, suggested that probation and parole workers are generally dedicated individuals who want to help, and they feel good about what they do; however, the system is continually countering this individual perspective. He stated that clients continually "take" from officers and require frequent confrontation. The confrontational approach becomes a pattern and extends into the officer's homelife creating stress there.

He added that probation and parole officers often feel powerless because managers and supervisors often appear to be more interested in paperwork, documentation, safety and order, than they are in quality work.

The overextension of the political appointment process has not only placed marginally qualified individuals in critical positions, but it

has also eliminated an officer's incentive to excel in order that he or she might one day be promoted. Political considerations have surpassed performance considerations in aspects of career development. Mr. Smith concluded his presentation by commenting that an attentive administration and supportive supervisors are very important for reducing stress on the job.

During the group discussion that followed the presentations, several observations and comments were offered:

- ◉ individuals need to take "real" breaks;
- ◉ a sense of humor about work helps;
- ◉ pride in one's work is important;
- ◉ one should acknowledge good work from others;
- ◉ spouses can be very helpful;
- ◉ job enrichment, rotation and job sharing can reduce burnout;
- ◉ one needs to distance oneself occasionally from one's work;
- ◉ the system holds few rewards, and quotas or mandated "satisfactory" performance ratings counter even the less costly rewards of simple recognition;
- ◉ commuting can be stressful, especially in areas such as New York City;
- ◉ working toward acquiring some level of collective influence can reduce the powerlessness of the profession; and
- ◉ it is important that the administration of an agency not be simplistically viewed as "the enemy" which deliberately mistreats staff; rather administrators often feel as powerless as subordinates, and their positions can be equally stressful.

# PROVING THE CASE FOR PROBATION AND COMMUNITY CORRECTIONS: VALID AND RELIABLE RESEARCH

*A presentation which examines and explores a range of research activities which have been and are being carried out within the area of probation and community corrections.*

## MODERATOR

ROBERT CARNEY, Deputy Commissioner for Planning,  
New York City Department of Probation

## PANELISTS

TIMOTHY FLANAGAN, Ph.d., Professor, School of  
Criminal Justice, State University of New York, Albany

JAMES GOLBIN, Principal Planner,  
Suffolk County Probation Department

JAMES IRISH, Research Analyst,  
Nassau County Probation Department

## RECORDER

JANET ROTHACKER, Program Research Specialist,  
Research and Evaluation Unit, NYS Division  
of Probation and Correctional Alternatives

Mr. Robert Carney, Deputy Commissioner for Planning, New York City Department of Probation, opened the session by stating that researchers in the public sector face two major difficulties:

- (1) When conducting research in an agency setting, you run the risk of becoming involved in the operations aspects of the organization.
- (2) It is difficult to convince audiences that "knowing what's going on is as important as proving".

Mr. James Irish, Research Analyst, Nassau County Probation Department, provided some general comments and observations on the research process. According to Mr. Irish, operating staff within the agency view the researcher with suspicion, whereas researchers outside the agency view the agency researcher as "too close to the forest to see the trees."

He indicated that despite the fact that a 1970 White House memorandum called for a focus on crime research, there has been a general neglect of research in this area.

Mr. Irish added that results of good research are either not implemented, or they are ignored, and that good research can yield bad results. In Probation, a good research design will not necessarily lead to good results if the database is not adequate. The most critical stage of the research process is problem identification, and this stage should not be left entirely up to researchers.

In the Nassau County Probation Department, research activities are directed toward the attainment of more effective and efficient programs. The department's research unit is responsible for the statistical reporting system. Since probation research is not an exact science, there is no luxury of certainty in decision-making. In his general comments on probation, that is supported by research, Mr. Irish believes that the public must understand that it gets what it pays for. He related that probation is the critical link in the public's safety, and it must assume a more positive posture in publicizing its successes. The majority of probationers complete their sentences successfully. For example, a Nassau County study "proved" that probationers stayed "clean" over a six-year follow-up period.

Dr. Timothy Flanagan, Professor, School of Criminal Justice, State University of New York at Albany, indicated that the title of the institute poses some problems, as “proving” the case has never been a role of the researcher.

Research has shown that success depends more on the characteristics of the offender than on probation treatment. Program administrators often use research as a drunk uses a lamp post—more for support than for illumination. He added that negative research results have actually aided probation by giving the field intensive supervision, and improving client classification systems. He said that the ability to predict risk is limited.

The most significant problem facing probation is the danger of “over-selling”. Probation must demonstrate that it provides a level of effectiveness at least as great as prison (for high-risk offenders).

Early evaluations of ISP programs indicate that they will be the new model of probation: probation as intermediate punishment and the primary vehicle to reduce prison overcrowding.

In 1933, Sheldon Gluck offered the following advice to probation, which still has applicability today, according to Dr. Flanagan:

- Don't oversell probation.
- Emphasize qualified personnel, and don't rely on complex paper systems.
- Don't underestimate the importance of the environment.

Mr. James Golbin, Principal Planner, Suffolk County Probation Department, presented selected results of research on Suffolk County's “Probation Alcohol Treatment Project” and the “Improved Correctional Field Services Project”.

In the 1970's, the bandwagon cry was “give us lower caseloads and we will show you something”.

He also commented that the *quality* of contact (e.g., addressing a substance abuse problem) *is* effective in reducing recidivism.

# COUNTY COMPREHENSIVE PLANNING FOR JUVENILE SERVICES

*An overview of local planning for the juvenile justice population, including a discussion of local probation's interaction with youth bureaus in current and future planning for juvenile services.*

## **MODERATOR**

DAVID SINGER, Probation Program Administrator,  
Juvenile Justice Unit, NYS Division of  
Probation and Correctional Alternatives

## **PANELISTS**

THOMAS ARGUST, Deputy Director for Local  
Services, NYS Division for Youth

MARY S. BLOOM, Deputy Director,  
Monroe County Probation Department

MARILYN PINSKY, Executive Director,  
Syracuse/Onondaga County Youth Bureau

## **RECORDER**

RICHARD SPINDLER, Probation Program Consultant,  
Bureau of Field Operations, NYS Division  
of Probation and Correctional Alternatives

This workshop attempted to identify and to characterize the role of the Division for Youth County Comprehensive Planning Process as it applies to the provision of services for the juvenile justice population, and the role that probation departments have in that planning process.

Mr. Thomas Argust, Deputy Director for Local Services, NYS Division for Youth, presented a detailed model of the current Division for Youth Comprehensive Planning Process. He reviewed the details of the procedures which are followed by local youth bureaus in the preparation of County Comprehensive Plans in each county, and highlighted the involvement of service providers to youth, including local probation services.

Ms. Marilyn Pinsky, Executive Director of the Syracuse/Onondaga County Youth Bureau, commented on the conceptual model which had been presented by Mr. Argust, and delivered a presentation which focused on the process through which the counties proceed to conduct their planning activities. She pointed out that there were some differences between the conceptual model and its practical application. She also highlighted, with anecdotal information, the need to involve all relevant juvenile justice providers in those sections of the County Comprehensive Plan which focus on service needs for the juvenile justice population.

Ms. Pinsky also discussed the recently passed legislation, Chapter 813 of the Laws of 1985, which call for the establishment of a PINS Adjustment Services Plan in each county. She expressed her view that, as the state agencies design a planning process which counties will be asked to follow, that this process be integrated as fully as possible into the planning activities of counties. Of particular concern was the point that the current County Comprehensive Plan being created through the Youth Bureau should be closely coordinated with the PINS Adjustment Services Plan.

Ms. Mary S. Bloom, Deputy Director, Monroe County Probation Department, commented on the Monroe County experience in preparing the Youth Bureau's County Comprehensive Plan for youth. She highlighted the extensive role that probation has played in the preparation of the plan for Monroe County, and detailed many of the specific program applications which have flowed from those planning

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exercises. It was her observation that probation should be as actively involved in these processes as possible, inasmuch as the JD and PINS population is in need of services more than most youth in the county.

Ms. Bloom also commented on the recently passed legislation which calls for the development of a PINS Adjustment Services Plan in each county. It was her perception that the procedures that will be detailed for the development of these plans should be closely coordinated through each of the local agencies currently providing services to the PINS population. She expressed an optimistic view that the new planning procedures under the PINS Adjustment Services Act will necessarily include youth bureaus, probation departments, departments of social services, mental health agencies, and education programs in each locality. The observation was made that the mandatory involvement of these local agencies in the planning process would facilitate the design of a more accurate, workable, and realistic plan for services.

One of the major issues that flowed from the discussion with the audience and between members of the panel was the State's essential role to facilitate interagency planning at the county level through whatever means possible. The question was raised: Will State agencies be able to work together to develop a local planning process for PINS, and to further promulgate regulations that will help counties maximize service delivery for this population of difficult children? The observation was repeatedly made that local probation departments must be actively involved in these planning processes.

# TREATING SUBSTANCE ABUSERS: THE USE OF TREXAN IN THE CRIMINAL JUSTICE SYSTEM

*A presentation of the use of TREXAN (Naltrexone)  
as a means of managing heroin addicts on  
probation, parole and community corrections.*

## **MODERATOR**

JOHN W. RUSSELL, JR., Deputy Director for Program  
Development, NYS Division of Substance Abuse Services

## **PANELISTS**

LEONARD BRAHEN, MD, Medical Director, Nassau County  
Department of Drug and Alcohol Addiction, and Clinical  
Associate Professor at Stonybrook Medical School

CHARLES LaPORTE, Deputy Director, Bureau of Chemotherapy  
Services, NYS Division of Substance Abuse Services

ERIC WISH, Ph.D., Assistant Deputy Director for Research,  
NYS Division of Substance Abuse Services

RAYMOND CONDREN, Deputy Director, Nassau County  
Department of Drug and Alcohol Addiction

## **RECORDER**

JAMES STOTHERS, Probation Program Consultant,  
Bureau of Field Operations, NYS Division  
of Probation and Correctional Alternatives

## TREATING SUBSTANCE ABUSERS

Mr. John W. Russell Jr., Deputy Director for Program Development, NYS Division of Substance Abuse Services, indicated in his opening remarks that the panel consists of four experts in the field who will address the use of Trexan from the perspective of community drug abuse treatment, pharmacological/medical, research, and psychiatric treatment.

Trexan programs are coming into usage on a national basis. In Corpus Christi, Texas, Trexan treatment is being used as a condition of probation with a group of offenders. Asbury Park has a 30-patient program established. Harper Hospital, in Michigan, recently established a 45-bed detoxification unit.

The Division of Substance Abuse Services is working to make Trexan available throughout New York State. DSAS views probation departments as key partners in implementing programs.

Mr. Charles LaPorte, Deputy Director, Bureau of Chemotherapy Services, NYS Division of Substance Abuse Services, indicated that in community-based treatment, chemotherapy is one of a number of treatment methods that is pursued. It is by no means a magic bullet. This is so because of the wide range of addicts we encounter, from the newly addicted to those abusing substances over a 35 to 40 year period.

The "average" addict is a failure in many social systems and probably has no more than a 10th grade education. We believe that Trexan would work best with a small segment of the larger addict population, a segment that is somewhat different from the "average". Characteristically,

- they have some marketable skills;
- they do not want to go onto another addictive medication;
- they have not been self-medicating (as a psychological compensation); and,
- their involvement in opiates results from situational reasons, somewhat similar to athletes who become addicted to cocaine.

The Division of Substance Abuse Services recently established an interagency task force to recommend intake policies and procedures that would ferret out the most appropriate patients to meet this profile.

Dr. Leonard Bahen, Medical Director, Nassau County Department of Drug and Alcohol Addiction, discussed the use of Trexan from a medical/pharmacological perspective. While we have no figures for drug abuse (primarily opiate) among New York State probation/parole populations, we do know that 50-65% of the inmate population has, in past surveys, been described as drug involved. This presents a large reservoir of potential patients. Currently, in Nassau County, we are treating patients in an out-patient clinic, and in a jail/work release setting.

According to Dr. Brahen, the Trexan program in Nassau County combines semi-weekly medication with psychotherapy and random periodic urine testing. The medication is administered in tablet form, by nursing staff, to patients who have been free from heroin at least 3 days; from methadone, at least a week. Trexan acts by putting up a shield to block the effects of opiates. It is non-addictive by itself and, therefore, has no street value. If opiates are in the system when used, the patient will precipitate a "profound" withdrawal syndrome. By itself, the medication has no major side effects although some initial gastrointestinal distress and drowsiness (which recedes) has occurred among some patients.

Dr. Brahen related that this modality seems to work best with motivated patients who want to work regularly and/or who have "correctional" pressures on them not to recidivate. Initial dropout rates have been from 25-40% in the first 4 to 6 weeks. Higher positive urine test rates have been returned from the out-patient group than from the work release population, pointing to the effectiveness of criminal justice agency supervision in the treatment strategy.

Dr. Eric Wish, Assistant Deputy Director for Research, NYS Division of Substance Abuse Services, discussed the use of Trexan from the researcher's point of view. He posed two important research questions: "Does it Work?" and "On whom does it work?"

Controlled follow-up studies involving Trexan have yet to be conducted. Because of the strong relationship between drug usage

## TREATING SUBSTANCE ABUSERS

and crime, however, we believe that the drug has a potential for wide treatment usage. A number of studies have associated active drug involvement and high criminality. For instance, the 1984 Manhattan arrestee study showed that 56% of male offenders and 61% of women used drugs at the time of apprehension. Multi-drug users among this group had higher past arrest rates.

Research indicates that the most effective program structure to dispense this type of medication will make use of the following elements: early identification of participants (in lock-ups), massive random (emit type) urine testing, models involving criminal justice constraints (coordination of medical and correctional supervision services), and small caseloads.

Mr. Ray Condren, Deputy Director, Nassau County Department of Drug and Alcohol Addiction, presented some considerations for treatment in using Trexan. He indicated that the biggest potential roadblock to successful implementation of these programs is the "turf question", with potential conflicts between advocates for different treatment modalities, different substance problems, and different authority groups. One successful resolution of this recurring situation has been the PAT model which uses criminal justice and treatment program personnel in co-therapist roles, utilizing a cognitive (rather than insight focused) therapy with group members.

Following the panel presentations, the following questions were posed:

Q Can Trexan be used by poly-abusers?

A Yes. It has been used in combination with antebuse, but it must be medically supervised.

Q How long do you keep someone on this (Trexan)? - When do you get to underlying problems?

A Social progress is independent from medication. The question always is, "does it help them lead a productive life!". We see no problem with a lifetime administration of Trexan.

Q Is there a stabilization dosage as with methadone?

A Trexan is different from methadone; it is non-addictive.

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Q Will there be a black market?

A No. The opiate user cannot ingest it as a substitute. It would create a *profound* withdrawal. The patient must be clean before becoming involved. Trexan cannot be used for overdoses (Narcan, a sister drug administered by injection, is used for this purpose).

Q What about other drugs while on Trexan?

A It cannot block non-opiates. This is one reason for frequent urines. Violators are discharged from the program.

Q Is there a liver dysfunction side effect?

A No, but liver damaged patients (history of severe alcohol abuse, hepatitis) are excluded at the present time.

Q What about street-wise patients who try to palm pills?

A Nurses are trained to deal with tricksters. We've found that if you are naive, you'll get burned. You need trained practitioners.

Q Where is the "treatment" in the program?

A Medication is only one element, just the beginning. Counseling (based upon a contingency treatment model), and vocational supports and services are vital to a good program.

# APPLYING COMPUTER TECHNOLOGY TO INFORMATION SYSTEMS

*A discussion of the practical application of management information systems in the field of criminal justice, including problems and pitfalls associated with the application of computer technology to criminal justice.*

## MODERATOR

MICHAEL CRUSKIE, Deputy Commissioner, NYS  
Division of Criminal Justice Services

## PANELISTS

BARBARA BRODERICK, Assistant Director, Research  
and Evaluation Unit, NYS Division of Parole

WARREN CROW, Director of Data Processing, NYS  
Division of Probation and Correctional Alternatives

FRANK TRACY, Director of Planning and Research,  
NYS Department of Correctional Services

## RECORDER

JAMES SEYMOUR, Criminal Justice Program Representative,  
Bureau of Alternatives to Incarceration, NYS Division  
of Probation and Correctional Alternatives

Mr. Michael Cruskie, Deputy Commissioner, NYS Division of Criminal Justice Services, indicated in his opening remarks that, since the termination of federal funding in the 1970's for development of computer technology in criminal justice, we have experienced a resurgence of state involvement in this field. There are three factors responsible for this resurgence:

- (1) New Technologies
- (2) Commitment by Key Players
- (3) Resource Availability

The existence of micro-computers, distributed data systems, tele-communications, and abundant software have made the automation of information systems economically feasible. Additionally, the computer industry has improved the quality of their products.

Mr. Cruskie added that the Liman Commission Report recognized the importance of automating information systems in a coordinated effort to improve criminal justice information systems. Hence, the formation of the DCJS Task Force under the direction of the State Director of Criminal Justice, Lawrence T. Kurlander. There is now in place a five year program called SIFECs. SIFECs will have an \$11 million budget for FY 1985-86 and is key in coordinating the State's budget process on automated technology in criminal justice.

Mr. Frank Tracy, Director of Planning and Research, NYS Department of Correctional Services (DOCS), commented that the basic configuration of the DOCS automated information system is to connect the DOCS central office to their facilities. The system has 800 terminals plus 100 micro-computers in 50 facilities connected to the central office main-frame. There are 35,600 inmates in DOCS facilities on whom security and location data is maintained.

Data computation centered around the indeterminate and multiple sentence parameters of the inmates is one use of the automated information system. Two other uses are an automated Population Transportation/Movement System and an automated Classification System to deal with the volume of data created by the inmate population.

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Data wipe-out, such as missing data that has been chewed up by the machine and disappears, is one of the problems associated with the automated system. Two other examples of problems include incorrect data computations which can cause conflict between counselors and the data people and, of course, "down-time" causes everybody in the automated Classification System to remain unmoved in processing.

In discussing the DOCS automated information systems, Mr. Tracy identified three apparent needs: efficiency, re-programming and resource deployment.

Warren Crow, Director of Data Processing, NYS Division of Probation and Correctional Alternatives, presented numerous concerns that are often overlooked in the process of automating information systems. These concerns include:

- ◉ The Environment: Security/privacy and physical conditions, such as furniture, heat, noise and smoke are environmental factors to consider.
- ◉ The Operation: Who will operate the automated system? Civil Service concerns relative to the operator are real as is overcoming possible opposition to automation by employees.
- ◉ The Alternatives: There are three alternatives for the development of automated information systems: the county EDP center, CAPIS, and private contract.
- ◉ What to Automate: The needs assessment process for developing these automated systems are often report driven. This means deciding what reports are necessary for the operations, and then analyzing the data needed to generate the reports.
- ◉ Purchasing Equipment: One must consider the acquisition of a computer or terminals, printer alternatives, paper and supplies, and furniture.
- ◉ Installation: Consideration must be given to the installation of the physical equipment, hardware, and the placing of system software to reside within the hardware.

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- Maintenance/Support: Maintenance of the system hardware and support of the software should be ensured by those agencies who are automating information systems.
- Training: Training on both system hardware and software should be kept in mind as another consideration when automating.
- Practical Plan for Implementation: It is important that newly acquired hardware and software be utilized as soon as possible, and the most practical and easiest application to initiate is word- processing.
- Startup Time to Usefulness with CAPIS: It is possible for DPCA to download PRS data to a locality utilizing CAPIS as a useful startup application and time saver in data entry.
- Conversion: Each locality must take a hard, long look at exactly which systems require automating, if at all.
- Procedures for Updating Automated Files: Not only will there be the initial entry of data into an automated system, provision must be made for the continued updating of the files.

In conclusion, Mr. Crow stated that the dynamic nature of the criminal justice system is such that no automated system can be static.

Ms. Barbara Broderick, Assistant Director, Research and Evaluation Unit, NYS Division of Parole, stated that applying technology to automating information systems, and its importance, has been documented in the Liman Commission Report, by the DCJS Task Force, and by SIFECs. The Division of Parole reviewed all its information systems and made its recommendations to the Task Force. Ms. Broderick cited three major problems encountered in automating information systems: resistance to change, inadequate knowledge of the industry, and oversell of the technology by the industry itself.

The needs assessment of automating Parole information systems included both line and management functions and constituted the State 1 Report.

## COMPUTER TECHNOLOGY INFORMATION SYSTEMS

She indicated that one aspect that the Division of Parole is looking to initiate is an interface with the NYC On-line Booking System to save time for parole officers seeking information on parolees arrested in New York City. Ms. Broderick noted that the Date Calendar developed by DOCS was completed without user (Parole) input.

She added that there is an interest in developing new applications for assisting maintenance of contracts and for efficiency analysis. Future developments include the acquisition of a mainframe jointly by the Division of Parole and the Department of Correctional Services.

In her concluding remarks, Ms. Broderick maintained that automating information systems is important as timely, accurate information is needed for policy analysis, projections and effective management.

# LEGAL ISSUES RELATIVE TO OFFENDERS' RIGHTS

*A discussion of the implications of litigation  
which challenge the legality of particular probation  
and parole investigation and supervision practices.*

## **MODERATOR**

JAMES YATES, ESQ., Counsel to Assembly Codes Committee

## **PANELISTS**

ROGER BRAZIL, Unit Director, Parole and Revocation  
Defense Unit, The Legal Aid Society, New York City

JONATHAN GRADESS, Executive Director, NYS  
Defenders' Association, Albany

J. MARC HANNIBAL, Counsel, NYS Division of Parole

## **RECORDER**

ELIZABETH ELWIN, Probation Program Consultant,  
Staff and Organizational Development Unit,  
NYS Division of Probation and Correctional Alternatives



Mr. James Yates, Counsel to the Assembly Codes Committee, opened the discussion with the comment that this subject area is an important one for probation and parole. Originally, probation and parole were privileges granted by the State at its discretion, with offenders having no rights. Over the years, this has changed and now offenders have considerable rights which can be enforced through the courts.

Mr. Roger Brazil of the Legal Aid Society in New York City, discussed the issues of search and seizure, home visits and the parole revocation process. He added that this information should be of interest to probation officers inasmuch as their supervision duties are similar to that of parole officers.

He cited the ten year old case of Diaz v. Ward, Eastern District of New York, which is still pending. The case was brought on behalf of the parolee and his family, with whom he was residing. At issue is unannounced home visits and the right to search the premises. The parole officer searched the home while on a routine home visit.

Based on an initial ruling, unannounced home visits can be made for an articulable reason but, without permission, the officer can only enter the common areas of the house or areas under the exclusive control of the parolee. A warrantless search during such a visit must be limited to the officer's visual observations. However, in the absence of the parolee, officer can ask for evidence of his residency.

Mr. Brazil questioned the process of parole revocation. Parolees are entitled to a speedy violation hearing with counsel representation before an Administrative Law Judge. However, that decision must be affirmed by a Parole Commissioner. The process of getting the affirmation may take 4-5 weeks, which is in addition to detention for the hearing, which may have occurred on the 90th day.

In a case where a violation is found, but there is considerable mitigation, the parolee must still be returned to a DOCS facility where he will appear before the next available Board for a release decision. This process can take as long as 3-4 months before the parolee is returned to the community.

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Mr. Brazil recommends that the Administrative Law Judge be given the authority to make a final decision subject to appeal. He believes that the current process adds to prison overcrowding.

Mr. J. Marc Hannibal, Counsel, NYS Division of Parole, indicated that he was somewhat new to Parole, having joined the agency approximately thirteen months ago. In reference to the rights of parolees, he stated his agreement that, on occasion, a parolee may be held in DOCS unnecessarily. However, the agency wants to do the right and fair thing in the parole revocation process.

Mr. Hannibal stated that there is a fine distinction between the parole officer's duty to supervise and to protect the public, while at the same time, protecting the parolee's family from undue invasion of their right to privacy. Parolees have some rights, but these have never been clearly delineated. In regards to unannounced home visits, in accordance with the ruling in *Wiley v. James*, these visits are permissible in the common quarters and in areas under the control of the parolee. However, the Division believes that there is an element of contrivance in announced home visits. Hence, there are some benefits to unannounced visits for which there are no substitutes. How else are we to see the home as it really is? After all, *Morrissey v. Brewer* was not all that bad, as it did stop some unbridled discretion.

The Division of Parole operates its parole revocation process under strict time lines, in accordance with legal mandates. Rulings in the cases of *Diamond* and *Walker* require the Division to:

- serve the parolee with written charges within 3 days of arrest;
- hold a preliminary hearing within 15 days; and,
- hold a final hearing within 90 days following the preliminary hearing.

The parolee is entitled to counsel at the final hearing and may bring witnesses in his behalf.

In regards to the length of the revocation process, the Division of Parole is seeking ways to shorten the amount of time required to complete the violation. However, there are weighty and troublesome issues to be resolved if the Division is to achieve its desire to do justice to all involved. Under the present statute, only a member of

the Board of Parole has the authority to cancel a violation or revoke parole. The Division is looking at ways to shorten the time gap between the Administrative Law Judge's hearing and the affirmation by a member of the Board.

Mr. Jonathan Gradess, Executive Director, NYS Defenders' Association, discussed sentencing as a process, and suggested ways in which probation could impact to improve that process. In discussing the roles of parole and probation, he made the following observations, as a representative of the Defenders' Association, and from a pro-defendants point of view:

- ◉ Probation and Parole involve a surveillance which is unique in form. Under it, parole becomes continuation of prison. As citizens, we have rights and expectations in regards to the privacy of our lives. This does not hold true for parolees whose associations and other activities are prescribed by orders and conditions. Probationers also have limits imposed on their activities.
- ◉ The presentence report should be pro-defendant, and based on what is in the best interest of the offender. No part of the report should be omitted as is allowed in cases where incarceration is mandatory.
- ◉ Since 1973, the right of the offender to be heard at sentencing has been eroded by the increases in mandatory sentences. In 70% of the cases, the sentence is mandated. In Mr. Gradess' opinion, this reduces the role of the presentence report in the sentencing process. It also diminishes the rights of the offender to an alternative, non-incarcerative sentence, which might be better for him and society.
- ◉ The presentence report is a critical document in the post-sentencing life of the offender. The institution develops a classification and treatment program from the report. The institutional parole officers use it as the basis for developing a pre-parole summary for the Board. In effect, the report has a life of its own: "Probation Officer, protect that life". Be

objective, analytical, factual as required by law, but professional in your evaluation and recommendation.

- ⊙ Probation should be viewed as a real alternative to incarceration. The Defenders' Association supports this view. However, probation officers, in preparing their reports, need to present it as such.
- ⊙ Restitution could be an alternative, but should stand alone. It is a reconciling, healing process which should not be piggy-backed.
- ⊙ In regards to revocation, as much as possible the officer should be on the side of the clients. See the failure of the person on probation as also your failure. Whenever possible, be pro-defendant, modify conditions, and recommend the restoration of probation.

Mr. Gradess also expressed his disappointment with defense counsel's limited use of the presentence memorandum in the sentencing process.

# **CONDITIONS OF PROBATION EXPERIMENT (COPE): ASSESSING THE POTENTIAL OF DEFERRED SENTENCING PROGRAMMING IN PROBATION**

*A presentation of the legal and programmatic implications of providing pre-plea reports and interim supervision for defendants at risk of incarceration appearing before superior trial courts, as an enhancement to alternative sentencing programming.*

## **MODERATOR**

MARION GOLDBERG, Program Manager,  
Intensive Supervision Program, NYS Division  
of Probation and Correctional Alternatives

## **PANELISTS**

SOL GREENBERG, District Attorney, Albany County

MARGARET HENDERSON, Probation Supervisor,  
Monroe County Probation Department

RONALD HILL, Director, Special Offenders' Services  
The Legal Aid Society, New York City

WILFRED O'CONNOR, President, NYS Defenders' Association

## **RECORDER**

JAMES E. CREIGHTON, Senior Probation Program Analyst,  
Management Information Systems Unit, NYS Division  
of Probation and Correctional Alternatives

## 1<sup>st</sup> ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

Ms. Marion Goldberg, Program Manager of the Intensive Supervision Program, NYS Division of Probation and Correctional Alternatives, provided a short overview of the COPE concept. She stated that this is a legislative initiative providing funds for probation officer positions to conduct pre-sentence and pre-plea investigations to determine defendant/offender eligibility for "interim" supervision, and to provide "interim" supervision. If the three-month "interim" supervision is completed successfully, the probation department will recommend to the court that the offender be sentenced to probation supervision.

Mr. Ronald Hill of the Legal Aid Society in New York City, defended the concept of COPE, stating that it could be a testing ground for cases that would not ordinarily be considered for probation supervision. He believes that the PSI/pre-plea report should be shared with the defense attorney before the counsel's preparation of the pre-sentence memorandum. He also asked that the proposal clarify whether the defendant/offender will be given credit for jail time served.

Ms. Margaret Henderson, Supervisor, Monroe County Probation Department, stated that she expects the proposed COPE Project will be different in each of the three test sites: New York City, Albany and Monroe Counties. This difference will be due to the different sentencing philosophies and types of cases that come before the court. Training will be needed and the evaluation of both long and short term goals will be necessary.

COPE will permit probation officers to discuss offender problems in the pre-sentence investigation instead of focusing on a "just desserts" court disposition. The PSI report will be more impartial because a plea bargain will not have been written at the time of its submission to the court. She recommended that an attempt be made to limit the criteria used to exclude cases from COPE considerations. Among possible candidates for COPE consideration are:

- Those with felony arrests and indictment.
- Possible second felony conviction cases.
- A co-defendant who was convicted of a serious felony, but was only peripherally involved in the actual crime (mitigating circumstances).

## CONDITIONS OF PROBATION EXPERIMENT (COPE)

- Cases where there is a strong public outcry for incarceration.
- Cases previously incarcerated.
- Cases having long-term criminal records.

Mr. Wilfred O'Connor, President of the NYS Defenders' Association, suggested that the most likely candidates for consideration will be: (1) offenders who are eligible for probation, but have been convicted of a crime which would ordinarily result in confinement, or (2) offenders not eligible for probation unless a plea bargain would reduce the case to probation eligibility status.

The proposal does not include information on whether the offender will be released while the PSI is being prepared. He criticized the proposal for giving the district attorney sufficient authority to control the eligibility process. The district attorney can deny permission at the initial stage of consideration, and also withdraw approval after the "interim" supervision period.

He also stated that the proposal does not include conditions of supervision for the interim period. He believes that the proposed program is similar to ISP, but with less protection for the offender. The offender should be able to challenge a negative PSI report. Also, the offender can't call witnesses, have a hearing on the report, or be eligible as a second felony offender.

Mr. Sol Greenberg, District Attorney, Albany County, stated that the only type of cases he would consider for this program would be those with mitigating circumstances and weak evidence in felony cases. He already screens out other types of cases. He reminded the audience that the public likes tough judges as reflected in the overwhelming popularity of Judge John Clyne, Albany County Court. He questioned Mr. O'Connor's contention that the district attorney will control the eligibility process, stating that the judge will be the final determining factor.

Albany County already has thirty-seven alternatives to incarceration. He commented that the rate of probation violations increases when higher risk cases are sentenced to probation.

During the question and answer period, the following comments and observations were made:

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COPE is similar to the New York County deferred sentencing program which probation officers consider a failure. These are called "free felony" cases because no action is taken to withdraw the deferred sentence until the offender is convicted of another felony crime.

Deferred sentencing is considered a success by the court employment project staff.

COPE will be different from deferred sentencing because there will be conditions of supervision.

Information obtained by the probation officer during the interim supervision period about new criminal activity will not be admissible in court.

A new, more legalistic type of relationship will have to be developed between the probation officer and offender because of the offender's interim legal status.

COPE sounds very similar to supervised ROR.

Don't permit any plea bargaining before the interim supervision period. It will jeopardize the supervision process.

The best part of the proposal is that it gets probation involved early in the criminal justice processing.

There is a need to move away from mandatory confinement legislation. COPE will help this effort.

The COPE concept is not needed as a part of probation violation proceedings because reinstatement is already available.

The court can sentence the offender to COPE without the district attorney's approval, but the district attorney must agree to any plea bargain.

COPE can force poor, detained offenders to agree to an unfair plea bargain to secure release from jail. The offender will, therefore, be denied his day in court.

We must ensure that we are limiting the cases to only those who are prison bound.

# **PUBLIC PERCEPTIONS OF PROBATION/PAROLE**

*The public perception in probation/parole has been a critical issue in the last decade. A panel of journalists share their insight into how the public and, in particular, how the press view probation and parole. They offer specific advice on how to affect a more positive image in the media.*

## **MODERATOR**

JAMES SHINE, Executive Director,  
American Prosecutors' Research Institute,  
Alexandria, Virginia

## **PANELISTS**

CAROLYN COLWELL, Criminal Justice Reporter,  
Long Island Newsday

THOMAS E. SLADE, First Deputy Commissioner,  
New York City Department of Probation

## **RECORDER**

MARION GOLDBERG, Program Manager,  
Intensive Supervision Program, NYS Division  
of Probation and Correctional Alternatives

## 1<sup>st</sup> ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

Mr. James Shine, Executive Director of the American Prosecutors' Research Institute, in Alexandria, Virginia, framed the public perception issues confronting probation from his perspective as the former First Deputy Commissioner of Probation in New York City, and his current position.

He indicated the existence of a negative perception of probation shared by the general public and criminal justice professionals. This perception is reflected in the continuing resource shortfall despite rising workloads, as well as the apparent support for the abolition of probation and parole supervision. Public attitudes appear to indicate a widely held belief that "all criminals should go to jail". The professional assessment is that community supervision is worthless and accomplishes nothing.

To change these perceptions, appointed and elected officials should adopt a strategy which emphasizes the importance of probation to the criminal justice system. The integral relationship between the work of police, district attorneys, courts and probation need clear articulation. There is no real debate about the importance of probation and the necessity of maintaining this sentencing alternative. Recognition exists of its importance to the plea bargaining process and to the management of court workloads.

Mr. Shine indicated that efforts to address institutional overcrowding have raised another issue: the introduction of the concept of alternatives to incarceration as a possible solution. Probation, the major alternative, appears lost in the shuffle.

Probation's response should include strategies to reduce its workload by eliminating inappropriate cases, as well as stressing a law and order approach to case management. The manner in which violations are managed, including the consequences of revocation and incarceration, should be stressed.

Probation professionals should raise the level of discussion and debate for the purpose of examining the precise nature and quality of probation services.

Commissioner Thomas E. Slade, First Deputy Commissioner of the New York City Department of Probation, contrasted the police emphasis on a clear public image from his experience as a former

## PUBLIC PERCEPTIONS OF PROBATION/PAROLE

member of the New York City Police Department. He noted the levels of confusion which surround probation among other criminal justice agencies, its own "clients", and internally, as reflected in the existing role conflict of probation officer as peace officer and social worker. Probation should recognize that its client is the public, and its mission is public safety. Probation must develop information about failures and successes to document its accomplishments. An aggressive response to violations of probation, as well as treatment services, enhances public safety by interdicting criminal behavior. In addition to personnel, probation needs other resources to carry out these responsibilities, such as cars, radios and some means of protection.

Additional emphasis should also be placed on probation's role as part of the executive branch of government and, as such, is separate from the judicial branch.

In summarizing, Mr. Slade suggested that, to improve and clarify its image, probation needs to be more aggressive and out-spoken about both its successes and its law enforcement capacity. Finally, the present crisis in prison over-crowding may be helpful to probation by creating a climate in which additional resources will be seen as a cost effective response.

Ms. Carolyn Colwell, Criminal Justice Reporter for Long Island Newsday, indicated that probation, from her perspective as a journalist, is the least visible of the criminal justice agencies. The stereotypical public perception includes the following: probation is a sentence for the white, middle class; probation officers are overburdened and underpaid; and probationers "mess up" and very little happens to someone on probation. In addition, whatever limited public discussion occurs often takes on a bureaucratic dimension over topics such as local versus state control.

The lack of public support arises as a result of a lack of understanding. There is also a veil of secrecy which surrounds the criminal justice process. Probation fails to report on several areas, such as judicial disregard of probation recommendations, or the role of probation in relation to the victims of crime. As a result, the media does pay attention to prison problems, but does not examine the other end of the system.

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Ms. Colwell concluded that there is no "perception" of probation at all, and it is the responsibility of the profession to inform the public.

Several members of the audience expressed agreement with the remarks of the panelists regarding the lack of understanding of the role and purpose of community supervision, and the lack of appropriate information describing the services provided, the population served, and the shifting role of probation to a more law enforcement orientation.

There were also several opinions expressed which indicated probation's responsibility to be more articulate and assertive in describing itself. There were also several expressions regarding the difficulty of providing information to the press, who are frequently limited in their interest to the momentary "sensational" story.

Panelists responded with statements regarding the necessity of maintaining a dialogue and of maximizing communication with the media and the general public.

# **IMPACT OF THE NEW JUVENILE DELINQUENCY PROCEDURE CODE (ARTICLE 3) ON PROBATION PRACTICE**

*A presentation on the legal and operational changes in  
probation practice, particularly in family court intake,  
as a result of Article 3 of the Family Court Act.*

## **MODERATOR**

EDWARD JONES, Assistant Probation Director,  
Nassau County Probation Department

## **PANELISTS**

DEBORAH BEALS, Senior Probation Officer,  
Westchester County Probation Department

EDWARD BREEN, Senior Probation Officer,  
Rensselaer County Probation Department

SCOTT OSADCHEY, Counsel, Temporary State Senate  
Committee on the Juvenile Procedure Code

PATRICIA RESCH, Supervisor,  
Dutchess County Probation Department

## **RECORDER**

LESLIE TARCZYNSKI, Probation Program Consultant,  
Bureau of Field Operations, NYS Division  
of Probation and Correctional Alternatives

## 1<sup>st</sup> ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

Mr. Scott Osadchey, Counsel for the Temporary State Senate Committee on the Juvenile Procedure Code, cited that, as a result of several Supreme Court decisions affecting juvenile delinquency proceedings over the years, there was a real need to revise the JD provisions of the Family Court Act. These revisions represented the first major overhaul of juvenile delinquency proceedings of the Act since 1962.

Some of the significant changes that have occurred as the result of the new Code include the use of "appearance tickets"; a more defined role for probation officials when respondents fail to appear; and procedures for referring delinquency allegations to the Presentment Agency.

In addition, Mr. Osadchey indicated that time frames were established to expedite the processing of delinquency cases. The Code requires final court action on cases from ten (10) to thirty (30) days. The Code also delineates violation procedures and the requirement to seal records.

Mr. Edward Breen, Senior Probation Officer, Rensselaer County Probation Department, described how the department proceeded to implement the Code. Subsequent to several meetings with the judges and the police, the probation department assisted police agencies in making appropriate referrals. Mr. Breen indicated that the police discovered that, in implementing the Code, they had to conduct more extensive investigations. According to Mr. Breen, the police appreciated the probation department's assistance in implementing the statute.

Mr. Breen observed several changes which impacted on existing practice and procedure. The Code increased contacts with victims; provided less departmental control with the use of appearance tickets; and provided for greater discipline in handling cases because of the required time frames in processing them.

Mr. Breen added that, as the result of the Code, departmental communication with other agencies has improved; additional services to victims are provided; police are referring more delinquency complaints to the department; individual cases are requiring increased involvement; and the number of respondents failing to

## IMPACT OF ARTICLE 3 ON PROBATION PRACTICE

show for appointments have decreased. In addition, there are fewer detentions at the initial stage. However, Mr. Breen stated that, subsequent to referring a case to the Presentment Agency, it now takes six (6) to eight (8) weeks for a court appearance.

Ms. Patricia Resch, Supervisor, Dutchess County Probation Department, indicated that her department had undergone experiences similar to those described by Mr. Breen in implementing the new Code, but with a greater impact.

Ms. Resch indicated that the new Code requires greater coordination with the police. In addition, full time attorneys were assigned. The Presentment Agency provided guidance and training to all parties involved in delinquency matters. She also cited a major problem of managing the increase in referrals without additional court personnel and community resources.

Ms. Deborah Beals, Senior Probation Officer, Westchester County Probation Department, indicated that the general opinion of the "man on the street" is that juveniles who commit crime should be punished to the fullest extent. She observed that the new Code focuses on individual rights more so than ever before, and that it still supports the concept of the "best interest of the child".

Following the panel presentations, general comments and observations were made by the audience with regard to the Code. One statement was offered that the requirements of the new Code renders the system of managing delinquency cases more adversarial in nature; that it is not as effective as the old statute; and that too much plea bargaining is involved. Other general comments:

- Dispositional hearings have decreased under the Code.
- Release from detention is still a problem. Police are placing juveniles in detention without prior approval.
- There should be provisions to prevent children from being placed in detention.
- The Code forces us to assume the role of a "Perry Mason", which distracts us from focusing on the real problem.

# PROBATION PRE-TRIAL SERVICES STANDARDS

*An assessment of the scope and magnitude of local pre-trial services from an administrative and service delivery perspective and a discussion of the development of statewide pre-trial services standards, from the point of view of leadership, fiscal support and program evaluation.*

## **MODERATOR**

PETER PHELAN, Director, St. Lawrence County  
Probation Department

## **PANELISTS**

JAMES GOLBIN, Principal Planner  
Suffolk County Probation Department

ANDY HALL, Technical Assistance Associate,  
Pre-Trial Services Resource Center, Washington, D.C.

CLAY HILES, Executive Director, NYC Criminal Justice  
Agency, Inc., and President, New York Association  
of Pre-Trial Service Agencies

JEFFERY O. SMITH, Principal Research Analyst,  
Center for Governmental Research, Inc., Rochester

## **RECORDER**

HARVEY M. FRANKEL, Associate Administrative Analyst,  
Administrative Analysis Unit, NYS Division  
of Probation and Correctional Alternatives

## PROBATION PRE-TRIAL SERVICES STANDARDS

Mr. Peter Phelan, Director, St. Lawrence County Probation Department, opened the session with some general remarks on pre-trial service standards, and introduced the panelists.

Mr. Andy Hall, Technical Assistance Associate, Pre-Trial Services Resource Center, Washington, D.C., discussed various pre-trial program options. He described that the mission of pre-trial programs is to provide information and recommendations to the courts on individuals. He delineated some of the critical elements of such programs, such as:

- Early program intervention, ideally at "booking";
- Comprehensive screening and verification of all dependents;
- Development and use of an objective point scale, with some discretion built in;
- Development of release recommendations for court, including conditions, bail options, etc.;
- Systematic follow-up, including detained population;
- Generation of information on jail population and case flow to inform other key system actors. In any system, you can find at least a dozen key decision points, in or out. Efficiency in case handling can be improved;
- Development of additional options in counties where options are limited.

He added that we must determine whether delays accelerate overcrowding. The problems arise from not addressing the above elements. He indicated that the study conducted by the Council on State Government is an excellent resource. It should be the basis for designing pre-trial programs.

Mr. Clay Hiles, Executive Director, New York City Criminal Justice Agency, and President, New York Association of Pretrial Service Agencies, stated that the issue of the question of danger in pre-trial services has a long and mostly dishonorable history; perhaps it would be best if we forgot about the whole thing. Some maintain that, if we keep a few bad guys off the streets, we can release the rest, reducing costs greatly.

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It has been said that the issue of preventive detention takes attention away from important issues. Preventive detention has little to do with community safety. Judges have always had the power to take people off the streets, to hold people forever. When dangerous people hit the streets, it is not because of any weakness in the law. Jurisdictions which get into preventive detention find it a nightmare.

I'm delighted to have Probation in the pre-trial field, but it introduces a schizophrenia. Probation intervention is expected to make the person more productive, but in pre-trial we don't know if the person is guilty or bad.

The one step the State can take is to keep the person around, so the truth can be established. It's a totally different kind of intervention for a probation officer. It's not the best use of the probation officer's time. The probation officer should be developing point systems, etc., to make the streets safer for everybody in the long run.

Mr. Hiles concluded by stating that people are invited to contact the Association of the Pre-Trial Service Agencies for technical assistance, so they can work with you.

Mr. Jeffrey O. Smith, Principal Research Analyst, Center for Governmental Research, Inc., Rochester, focused his remarks on pre-trial screening, using objective point scales. This is based on a 1981-82 study of over half of the upstate counties. The study followed 4,000 defendants through sentencing. Mr. Smith proposed several recommendations and suggestions for pre-trial programs:

- Increase the use of early release options. Defendants should be screened as early as possible, verifying all possible information, and using a point scale.
- Recommendation should be made in all cases.
- There should be follow-up in all cases—not just ROR (e.g. weekly contacts).
- There should be a data base.
- Prior history makes a decision more predictable. There are more failures where release is long; type of release is also significant (i.e., monetary vs. ROR vs. monitored).

## PROBATION PRE-TRIAL SERVICES STANDARDS

\$7,000,000 could be saved through reduced jail time by spending \$3,000,000 in pre-trial services. The scale is to choose the best option. It is not to decide detention vs. release, especially in borderline cases. It should be the primary tool, which subjective considerations can affect. State money would be well-spent on pre-trial services.

Mr. James Golbin, Principal Planner, Suffolk County Probation Department, discussed his county's model for pre-trial services, which span an 18 year period. The model does not expand the net of services. Only those needed are given to the individual. Reports are provided to Legal Aid, by asking only a few more questions, avoiding duplication of work.

The cost per pre-trial investigation is modest. By 1974, Suffolk County was processing 8,000 cases. Since then, various components have been added to the program, including a case expeditor. In addition, monitored release, night arraignment, early alcohol screening, etc. were added. All are in operation seven days a week.

There is also interagency cooperation, which is extensive. The cost is \$25.00 a case.

Mr. Golbin added that monitored release excludes casework functions, only for monetary reasons. There are other agencies in the jail. Less planning is done where it is known that the person will be released anyway in the next 48 hours. This program is not the optimum model, but it serves over 20,000 individuals a year.

Mr. Golbin concluded that state standards must address the earliest possible intervention. Valid and reliable screening mechanisms are needed. They should be as bias-free as possible. The scale cannot eliminate some decision-making. Existing services should be integrated, and follow-up evaluation is essential. In addition, flexible design for various jurisdictions is needed; it must change and not be static.

# PROBLEMS AND ISSUES IN ADMINISTERING RESTITUTION PROGRAMS

*The identification and examination of issues associated with the administration of restitution programs, including the issues of holding offenders accountable, problems with bookkeeping and accounting systems, effective victims compensation, integration of restitution programs into total probation supervision, and the development of standards and guidelines to ensure accountability and effectiveness.*

## MODERATOR

THOMAS SARCHIOTO, Director, Delaware County  
Probation Department

## PANELISTS

WILLIAM BOTWINIK, Director of Research and Staff  
Development, Nassau County Probation Department

PAUL HUDSON, Counsel, Crime Victims Board

## RECORDER

STEPHEN J. POWERS, Probation Program Administrator,  
Probation Alcohol Unit, NYS Division of Probation  
and Correctional Alternatives

## ADMINISTERING RESTITUTION PROGRAMS

Mr. Paul Hudson, Counsel, Crime Victims Board, outlined a history of the use of restitution from the earliest penal codes (that of Hammurabi), to the middle ages where the victim began to be relegated to civil actions (or TORTS) and offenders were punished more by incarceration.

Currently, 80% of offenders are not caught and, of those who are caught, 60-80% are determined to be indigent. The NYS Crime Victims Board currently covers about 10% of the victim situations in New York State. If restitution were to be ordered in all of those cases where it is authorized (P.L. 60.27 - 1980) between 20-30% of the cases could be covered.

The source of information used in the judicial determination of restitution is the Victim's Impact Statement of the presentence investigation. This statement should indicate the victim's loss, and the offender's ability to pay. Only federal legislation includes criteria for determining the amount of restitution, or what plan of restitution will be most effective.

Mr. Hudson also referred to the New York State Forfeiture Statute, which pertains to the recovery of property of an offender (normally used in drug-related cases), and the role of insurance companies in having a claim on the monies collected when the victim has already been compensated by them.

Mr. Bill Botwinik, Director of Research and Development, Nassau County Probation Department, addressed the role of restitution in holding people accountable for their behavior. Probation must have clear guidelines by which to operate the mechanics of a restitution system. Some of the problems encountered have included dealing with insurance companies, deciding how to determine the correct value of a victim's property and communicating that information to the court in time for sentencing, and dealing with plea bargaining.

The need for bookkeeping and accounting systems for probation was emphasized. A suggestion was made that the \$1,500 limited liability for juveniles should be reviewed since many juveniles have created losses far in excess of that amount.

## 1<sup>st</sup> ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

A general discussion followed the formal presentations. Some of the significant remarks made during this discussion included the following:

- The 5% surcharge may be too little to offset the cost of collection and disbursement.
- The law has now changed to include the 5% surcharge on youthful offender offenses.
- Some judges in New York City waive the 5% surcharge and leave restitution amount determination to the probation department.
- Restitution orders are now to be recorded as civil judgments and can be the responsibility of the district attorney far beyond the probation term.
- There is a need for guidelines to determine which victims should be compensated from undisbursed amounts and interest earned on restitution funds.
- In the case of transfers, a general principle seems to be emerging that the jurisdiction which collects the restitution should receive the 5% surcharge.

**RESOLUTIONS**  
**of the**  
**FIRST ANNUAL CONFERENCE ON**  
**PROBATION AND CORRECTIONAL**  
**ALTERNATIVES**

Unanimously Adopted by  
the Executive Committee of the  
New York State Division of Probation  
and Correctional Alternatives

October, 1985  
Albany, New York

## FAMILY VIOLENCE

WHEREAS, family violence is destructive to the social functioning of its immediate victim, the inflictor of the violence, and other members of the household, and

WHEREAS, numerous studies concur in finding that many of our society's most violent criminal offenders were themselves victims of family violence, now therefore,

BE IT RESOLVED, by this conference, that family violence is a destructive phenomenon of such magnitude to require all members of the criminal justice community to maintain a vigilant alertness for indicators of family violence, and to responsibly intervene in all cases where the presence of family violence is determined in accordance with established legal safeguards.

## ALCOHOL ABUSE

WHEREAS, the abuse of alcohol has irrefutably been shown to pose major risks to highway safety and to be a precursor to a major portion of crimes committed, now therefore,

BE IT RESOLVED, by this conference, that all statewide efforts to prevent crime and to restore convicted offenders must provide for the competent identification of the abusive use of alcohol, and

BE IT FURTHER RESOLVED, that whenever alcohol abuse in a criminal offender is discovered by a competent observer, responsible management of that offender's case, regardless of the disposition of the immediate criminal charges, must include a reasonable effort to establish the offender's readiness for treatment and must also assure the offender's awareness of appropriate treatment resources.

## COMMUNITY SERVICE

WHEREAS, Community Service, defined as the disposition of an offender's case by a court which requires the offender's performance of a specified quantity of labor for a public or non-for-profit organization, is and can be an efficient and effective sanction, now therefore,

BE IT RESOLVED, by this conference, that community service should be utilized in those cases where the court sees a need for a sanction and where performance is independent of the offender's economic condition, or where there is a need to restore a balance between the offender and the community, and

BE IT FURTHER RESOLVED, that the quantity of community service labor ordered should be rationally linked to either prevailing fines or jail terms commonly imposed for a given offense, and

BE IT FURTHER RESOLVED, that the disposition of community service should be equally available to all criminal courts in the State of New York.

## WOMEN AND MINORITIES

WHEREAS, those assembled for the First Annual Conference on Probation and Correctional Alternatives are gratified to see quality participation by women and minorities in the conference, now therefore,

BE IT RESOLVED, by this conference, that particular efforts be made to assure substantive participation of women and minorities in subsequent conferences, and

BE IT FURTHER RESOLVED, that specific efforts be made to assure that women and minorities occupy visible positions of leadership in subsequent conferences.