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Residential Community Corrections: Developing an Integrated Corrections Policy

Dale Parent

In a 1986 survey conducted for the National Institute of Corrections by the National Institute for Sentencing Alternatives, corrections administrators, legislators, and residential community corrections (RCC) operators identified uncertainty about the role of RCC programs in sentencing and corrections as a major obstacle to their expanded use. That lack of clarity reflects 15 years of changes in the universe in which RCC programs operate, including shifts in sentencing purposes, rising prison populations, and increasing fiscal constraints.

The 1986 survey suggests that explicit definition of the links between sentencing purposes and the services provided by residential programs is a key to winning policymakers' support for further development of RCC programs. RCC providers and criminal justice policymakers must examine the purposes that

drive sentencing and corrections, decide how RCC programs can best further those purposes, and modify applicable policies and procedures to ensure that RCC programs remain responsive to those purposes. The resulting integration of residential community corrections into each jurisdiction's sentencing and corrections policy will pave the way for increased support of RCC programming.

The process of collaboration between RCC providers and policymakers will differ from state to state, as will the sentencing purposes stressed, the RCC usages developed, and the policy and procedural changes made. But the broad issues and themes that inform those varied dialogues will be similar. This policy brief examines those issues and themes in the context of current conditions.

From the Director

Residential community corrections programs have become an integral part of the criminal justice system over recent years. No single description can characterize the variety of residential programs currently in operation, as they serve diverse purposes for different components of the criminal justice system. To date, little has been written about policies and practices associated with residential programming or about how programs can be integrated effectively within the range of sanctions and controls administered by state and local governments.

To respond to these issues, the National Institute of Corrections (NIC) is pleased to introduce the series *Issues in Residential Community Corrections Policy and Practice*. The papers presented in this series were developed to enhance the management and operations of community-based residential corrections programs. They were created as part of

a cooperative agreement between NIC and Brandeis University's National Institute for Sentencing Alternatives, which also provided technical assistance and training for residential community corrections policymakers and practitioners.

In this first paper of the series, Dale Parent sets forth a conceptual structure by which the role of community-based residential programs can be considered in the context of a jurisdiction's prevailing corrections philosophy. We hope that policymakers responsible for integrating residential community corrections into a jurisdiction's range of available sanctions will find this paper useful.

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National Institute of Corrections
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The Changing Milieu of Residential Community Corrections

The past 15 years have brought unparalleled change in sentencing and corrections. Emphasis among sentencing purposes has shifted. Sharply rising prison populations have led to severe overcrowding, which in turn has precipitated massive spending to construct and operate new institutions. At the same time, economic fluctuations and taxpayer revolts have resulted in ever greater constraints on public resources.

CHANGES IN SENTENCING PURPOSES

Sentencing practice always has been and always will be driven by multiple purposes, including most notably rehabilitation, deterrence, punishment, and incapacitation. These sentencing purposes do not exist in mutual isolation. Pursued in a single environment, they interact with one another in practice and inevitably become blurred. Statutes reflect the range of purposes sought by the different interests that build coalitions to enact laws. Multiple purposes always exist, but emphasis among them shifts over time, producing changes in criminal codes, sentencing practices, and corrections spending.

The Decline of Rehabilitation

During the 1960s, when residential community corrections programs enjoyed rapid development, rehabilitation was the dominant expressed sentencing purpose. Since then, its relative importance in the thinking of the public and policymakers has diminished.

The objective of rehabilitation is crime control: reducing the number of new crimes committed by past offenders. The idea of rehabilitation is based on the belief that future crimes can be prevented by solving offenders' problems or correcting conditions that led them to crime in the past. Because those problems or conditions vary from offender to offender, the content, structure, and duration of rehabilitation sentences must also be variable. Indeterminate sentencing laws give judges, corrections officials, and parole boards authority to "individualize" sentences by imposing appropriate treatment conditions and by terminating the sentence when offenders are thought to be rehabilitated.

The Rise of Other Goals

Emphasis on three other sentencing goals has grown during the past 15 years. Like rehabilitation, two of them--deterrence and incapacitation--are aimed at crime control. The third--punishment--is concerned more with making criminal sanctions uniform and fair.

Deterrence: Based on the notion that individuals rationally calculate pleasures and pain, costs and benefits, deterrence theory assumes that people will choose the behaviors likely to maximize pleasures or benefits and minimize pain or costs. Criminal sanctions increase the probable cost of criminal behavior and thus make it less attractive. *General deterrence* punishes criminals who are caught and convicted as an example to encourage lawful conduct in others. *Specific deterrence* punishes convicted offenders to dissuade them from committing more crimes in the future.

Most people agree that crime would increase if wrong-doing went unpunished. But policymakers usually don't face simple punishment/no punishment choices. Instead, they select from among various levels of certainty, swiftness, and severity to define sanctions sufficiently unattractive to deter crime.

If corrections policies seek to deter crime by increasing the certainty or severity of imprisonment, states must provide enough prison and jail space to implement the threat. Such deterrence policies are therefore expensive. Because the number of convicted criminals far exceeds prison and jail capacity, states typically apply deterrence policies selectively, by targeting certain offenders (e.g., those using firearms in their crimes) for increased certainty (via mandatory sentences) or severity (via minimum terms) of punishment.

Incapacitation: The idea of incapacitation arises from the obvious fact that criminals cannot victimize the public so long as they are confined. To increase control of crime, incapacitation policies require increasing the imprisonment rate or lengthening overall terms of imprisonment. In the pretrial process, the recent growth of preventive detention laws underscores a growing emphasis on incapacitation.

Despite occasional escapes, prisons and jails are very effective at preventing offenders from victimizing the free public. Like deterrence, however, incapacitation is costly. States cannot afford to build enough prisons to confine all convicted offenders or pre-trial detainees.

By definition, incapacitation works only so long as offenders are held behind bars. But eventually almost all offenders are released, and many criminologists argue that extended imprisonment reduces inmates' long-term prospects for lawful living. Thus, while incapacitation clearly reduces crime in the near term, it may well increase criminal activity over the long haul. Sweeping incapacitation policies also are inefficient, because they confine offenders extremely unlikely to commit future crimes along with those prone to ongoing crime.

Therefore, incapacitation often is pursued *selectively* by reserving confinement (or increasing its duration) for persons thought to pose particularly high risks of committing new

crimes if free in the community. Selective incapacitation, using actuarial instruments that predict probability of recidivism, became common during the 1970s and early 1980s.

Punishment: According to the "just deserts" theory, convicted offenders are punished because they deserve it and because society has an obligation to rectify a moral imbalance caused by their commission of crime. Proponents argue that punishment should be meted out in proportion to the seriousness of the crime and the offender's culpability, i.e., the more serious the offense or the more culpable the offender, the more severe the punishment. Proponents also stress uniformity--giving similar offenders similar sanctions--and fairness--subjecting officials' sentencing discretion to limits and procedural safeguards. The success of punishment-based sentencing is measured by whether the punishments imposed are both proportional and uniform, not by whether crime rates change in the future. Many determinate sentencing and sentencing guidelines laws ostensibly are based on a punishment purpose.

CHANGES IN SENTENCING LAWS

In 1960 all states had indeterminate sentencing laws. In the early 1970s rehabilitation came under attack on three counts. Some scholars decided on the basis of evaluation studies that treatment programs had little effect on recidivism rates, prompting the popular press to conclude that "nothing works." Crime rates rose sharply, leading to public demands for "tougher" and more effective sentencing. Finally, some reformers decried the disparity, i.e., unwarranted variations in punishments given to similar offenders, caused by indeterminate sentencing.

As a result, sentencing laws were altered. The biggest change (occurring in 48 states) was the introduction of mandatory sentencing or the expansion of existing mandatory sentencing laws. These laws limited or removed judges' discretion to grant probation and parole boards' discretion to release specific categories of offenders. Most states now have a modified indeterminate sentencing structure which designates some offender categories for imprisonment and some categories of imprisoned offenders for minimum terms before they are eligible for release. Mandatory sentencing policies reflect both deterrence and incapacitation purposes.

Thirteen states went further, abolishing indeterminacy altogether and substituting either determinate or presumptive sentencing schemes. Under determinate sentencing, the legislature itself sets prison terms for categories of offenders and, ideally, gives judges a small range of discretion to increase or decrease--with explicit justification--a specified prison term.

Under presumptive sentencing, the legislature creates a sentencing commission to promulgate guidelines defining appropriate sentences for individual offenders within the range

of punishments permitted by law. The guidelines go into effect after legislative review and approval. Because a guideline sentence is presumed appropriate for an individual offender, judges must find exceptional circumstances to increase or decrease it. In most cases, punishment is the primary sentencing purpose of presumptive or determinate sentencing.

The emphasis among sentencing purposes continues to shift, and it is risky to try to predict their relative importance in future sentencing laws. Sentencing purposes are more balanced today than at any other time in this century, but we may just be witnessing the mid-point in the proverbial pendulum swing.

CHANGES IN CORRECTIONS

Two other factors have changed the face of residential community corrections in the past 15 years--prison crowding and public fiscal cutbacks. RCC programs were caught in a fiscal trap arising from both conditions. Together, they have undermined the original RCC focus on rehabilitation and thus the clarity of RCC purpose.

Rising Prison Populations

U.S. imprisonment rates nearly doubled between 1974 and 1984, rising from about 103 per 100,000 to 188 per 100,000. During the same period prison populations soared from 218,466 to 445,381. Prison and jail crowding reached crisis proportions despite an unprecedented expansion of capacity, principally from new construction. Prison construction and operating costs consumed an increasing share of corrections appropriations, creating more intense competition for resources among community and institutional corrections. In most cases, institutional corrections won out.

Prison crowding has also affected the relative demand for various kinds of RCC programming. As prison populations have increased, so have prison releases, including--in addition to offenders who have reached their normal parole dates--those released early in order to keep a facility or system within statutory or court-imposed population limits. Under these conditions, corrections officials are apt to use RCC programs for transition rather than for treatment. They tend to contract for short-term programs that emphasize re-entry services such as job-seeking and social living skills training, job placement, and group counseling focused on reintegration problems. The net effect is to drive RCC programs oriented to long-term treatment out of business.

Fiscal Constraints

The competition for resources has been compounded by economic downturns and taxpayer revolts. Recessions in the early 1980s caused revenues in many states to drop far below projected levels. Massive shortfalls led to drastic spending cuts in all but essential services. Typically, prisons (being essential) were spared those cuts, but many states slashed spending for community corrections, including RCC programs.

Taxpayer revolts precipitated additional spending cuts. Perhaps more important, they ushered in an era of increased accountability in spending. Policymakers focused more critically on the link between services provided and public purposes being pursued. Changes in the legislative process--including full-time legislators, annual sessions, sunset laws, and expanded staffing--increased legislators' ability to determine the relative impact, cost, and effectiveness of various programs.

THE EFFECTS OF CHANGE ON RESIDENTIAL COMMUNITY CORRECTIONS

Having begun as a means of continuing rehabilitation services after an offender was released from incarceration, RCC programs were considered important vehicles for meeting key public policy goals as long as rehabilitation was accepted as the primary sentencing purpose. When other purposes gained in relative importance, programs aimed at treatment lost their "mainstream" appeal. Policymakers' current uncertainty about the role of RCC programs reflects the comparable importance accorded various sentencing purposes in most jurisdictions.

Without a consensus on the primary mission of RCC programs, different states responded very differently to the twin pressures of rising prison costs and fiscal cutbacks. A few systems expanded RCC use as alternatives to prison for selected offenders or as early release mechanisms for imprisoned offenders. Others slashed RCC spending and increased funding for prisons and jails.

On balance, it appears that the number of adult residential community programs has declined since the late 1970s. Small residential programs, those contracting with one agency for placements, and those providing specialized services for small pools of offenders proved most vulnerable.

Surviving programs created economies of scale by contracting with multiple agencies for placements and, where possible, by expanding their capacity. The trend was toward large private for-profit and not-for-profit corporations that operated a variety of residential programs, often in several states.

Growing and more effective neighborhood resistance to new RCC facilities spurred this move toward larger residential programs. Cities and counties amended zoning laws to shut out new RCC facilities. Proposed programs that did win zoning approval often faced protracted lawsuits launched by angry citizens or civic groups. In many cases the cost of threatened lawsuits was sufficient to deter RCC developers.

As a consequence, relatively few new RCC programs have been opened in some metropolitan areas (and even some states) since the late 1970s. In one instructive case, a large eastern state's department of corrections requested proposals for establishing new residential programs for persons leaving prison. Several private contractors surveyed the strength of neighborhood resistance in the communities targeted for new facilities. When none elected to submit a bid, the corrections department withdrew the solicitation and returned the \$2.5 million appropriation.

Community response to existing RCC programs has been varied. Some have enjoyed relatively good relations with their neighbors, ranging from tolerance to positive support. In other instances, local politicians and community leaders have led aggressive fights to shut down RCC facilities, particularly those located in neighborhoods where group residential programs of various kinds are concentrated. And although some RCC programs have been able to expand their capacity, an action that usually requires approval by zoning agencies, others have been stymied in their expansion efforts.

Today's RCC programs tend to be a bit larger, serve more diverse offender populations, and offer more "generic" programs than their predecessors. Many agencies have used RCC programming as core activity around which new revenue-producing services--e.g., day reporting centers, community service programs, or electronic monitoring--can be developed. Increasingly, private providers have established and marketed residential programs in response to opportunities created by changing fiscal conditions and corrections policies. In that sense, the market forces that have driven RCC programs to alter their distinctive treatment focus have contributed to their reduced clarity of purpose.

Integrating Residential Community Corrections into a Comprehensive Corrections Policy

The RCC programs operating today reflect different primary sentencing purposes, including rehabilitation, incapacitation, punishment, and deterrence. Those uses have emerged in response to opportunities, fiscal pressures, and changes in public attitudes and tolerances, but without policy deliberation and conscious choice. RCC programs have arrived at their current variety by drift, not by design.

The mix of purposes being served by current RCC programs does not imply that rehabilitation has been or will be abandoned; it will remain an important sentencing purpose. But today's variety of sentencing purposes gives RCC providers a unique opportunity to broaden the rationale for their programs and to justify their expansion within the context of coherent corrections policies.

For residential community corrections to be integrated into a jurisdiction's corrections policy, public officials and RCC operators must reach agreement on the purposes that will drive sentencing and corrections, the nature of RCC programs that will advance those purposes, and the policies and procedures that will best ensure appropriate use of RCC programs.

Forging such agreements will require technical and substantive discussions, a capacity to describe accurately existing sentencing and RCC usage patterns, and an ability to identify and recruit groups of offenders suitable for RCC placement. It also will require sufficient political skill to assure that appropriate officials are involved in the discussions and to manage the conflicts that will inevitably arise over interests, jurisdiction, and funding.

CLARIFICATION OF SENTENCING PURPOSES

The conceptual touchstone around which future RCC uses must be structured is a clear statement of the relative weight of sentencing purposes within a jurisdiction. In preparing such a statement, policymakers and RCC operators should examine both formal purposes embodied in law and those implied or subsumed in existing practices of criminal justice officials.

In some states, identifying formal purposes may be relatively easy, particularly if the legislature recently has enacted a new sentencing code that defines and orders purposes. In others, ongoing political debates about how sentencing laws should be overhauled may make this task next to impossible.

If a jurisdiction's formal sentencing purposes are not undergoing substantial short-term change, and if they involve multiple and unranked purposes, officials have substantial flexibility to select purposes for emphasis around which political support

can be built. In their dialogue on sentencing purposes, it is important that officials and RCC providers recognize the range of possibilities suggested by current RCC usages around the country.

Residential Community Corrections and Rehabilitation

The historical relation between RCC programs and rehabilitation is strong, and programs designed to treat specific problems linked to criminal behavior continue to operate. Although their capacity is insufficient to meet existing needs, a substantial number of RCC programs focus on the problems unique to--variously--drug abusers, mentally ill or developmentally disabled offenders, sex offenders, child and spouse abusers, and women.

Others programs aim to help the broader population of offenders function more effectively in society. They provide, or broker delivery of, a range of services tailored to individual offenders' problems.

RCC programs are also used to provide systematic re-entry services to offenders leaving prison. After extended confinement, these programs provide a period of decompression during which external controls can be gradually withdrawn as offenders demonstrate their ability to handle freedom. Such programs also provide food and shelter while offenders seek jobs, settle into work routines, arrange for long-term housing, and deal with problems impairing their adjustment to community living.

The United States Parole Commission requires residential placements for most persons leaving Federal prisons in a network of over four hundred community treatment centers, most of them operated by private contractors. Some states, including New Hampshire and Colorado, also routinely place persons leaving prison in residential programs. Minnesota and other states use such facilities in a more limited and selective way, principally for offenders with histories of severe drug abuse.

Residential Community Corrections and Punishment

Offenders are punished when their liberty is infringed. The extent of infringement can be increased or decreased according to the gravity of the crime or the offender's blameworthiness. Those who commit serious crimes, or who are highly blameworthy, can be punished with total confinement. Those who commit low-seriousness crimes can be appropriately punished

with a variety of nonconfinement sentences, such as fines, community service, or standard probation. For those who commit offenses in a mid-range of seriousness, more stringent limits on their liberty (short of total confinement) may be appropriate punishment.

RCC programs inflict punishment by infringing offenders' liberty. RCC placement is a more extensive infringement of liberty than standard probation, but less extensive than total confinement. RCC sentences require offenders to reside at the facility for a specified duration and to be within the facility during certain hours. Most programs specify where offenders may go and what they may do during the hours they are permitted to be outside the facility. They limit offenders' freedom to choose where they will live and how they will spend their time.

Georgia, Florida, South Carolina, Texas, and other states have established networks of restitution residential centers that combine restitution and residential center placement as a punitive sentence. Offenders must pay restitution to their victims as punishment for their crimes. To do that, they must find and hold down jobs. Residential center placement stabilizes their lives, so that work and restitution take top priority. The centers help residents get jobs and provide or refer them to support services which address problems that may impair their ability to work and thus to pay restitution. The objective of providing such services is not treatment; rather, it is to see that restitution is paid and the prescribed punishment inflicted.

The length of residency in such programs is not necessarily tied to the amount of restitution. Once offenders have demonstrated sufficient motivation and self-control to maintain employment, they may be transferred to regular probation supervision until restitution payments are completed.

Residential Community Corrections and Deterrence

RCC placement has limited deterrence applications. Deterrence assumes both that offenders adjust their behavior in response to rewards and penalties and that certainty of punishment significantly deters undesired behavior. In the past, authorities used the threat of imprisonment to deter offenders from violating conditions of probation and parole. When prisons are overcrowded, however, officials may be more reluctant to revoke probation or parole for technical violations; the certainty of punishment may thus decline.

The behavior of some offenders on community supervision constitutes criminal activity as well as technical violation of their probation or parole conditions. In many cases, however, technical parole violators have not committed new crimes. Instead, they have disobeyed (perhaps repeatedly) conditions of supervision by missing appointments, ignoring curfews,

getting drunk, failing to pay restitution, or verbally abusing their probation or parole officers. Officials who have exhausted the range of non-revocation responses--counseling, amended and more onerous conditions of supervision, etc.--without avail cannot overlook continuing violations without destroying the supervisory relationship. On the other hand, imprisonment may be too extreme a response, especially if prisons are crowded and need to be reserved for those who commit serious crimes.

In most states, probation and parole violators make up from 20 to 40 percent of all prison admissions. As drug testing of probationers and parolees becomes more common, and as intensive supervision programs expand, "technical" violation rates probably will increase and the proportion of violators among prison admissions is likely to rise.

Several states use halfway house placements as penalties for probationers and parolees who commit technical violations. The Massachusetts Parole Board contracts with a private vendor to operate a "halfway back" house where technical parole violators serve three- to four-week placements. The Georgia Department of Corrections is establishing "halfway-in" residential facilities for probation violators, patterned after probation detention centers in San Diego, California. After an intensified parolee drug testing program produced a rapid increase in parole revocation rates, California parole officials substantially expanded residential centers to house parole violators.

This concept, which has utility in any state where prisons are crowded and technical probation or parole violators make up a substantial portion of prison admissions, reduces or eliminates the need for new prison construction outlays. While per diem costs of RCC programs are comparable to those of prisons, RCC placements may be for shorter durations. And RCC per diem costs shrink substantially in states which permit parole or probation violators to be charged room and board fees during their residential placement.

Residential Community Corrections and Incapacitation

While the term "incapacitation" may conjure images of prison, in a broader sense it means controlling offenders in order to reduce the number of new crimes they commit. For some high-risk offenders, incapacitation can be achieved only in a high-security prison. Others can be incapacitated in low-security prisons. For many lower-risk offenders, incapacitation can be achieved through community supervision, with the levels and intensity of supervision being pegged to the risk of recidivism posed by different categories of offenders.

RCC programs incapacitate not with hardware and physical restraints, but rather by setting and enforcing rules that govern residents' movement and behavior. They require offenders to

be inside the facility for prescribed periods of time and monitor (with varying degrees of rigor) offenders' whereabouts and movements while they are outside the facility.

If incapacitation is to be reliably achieved, offenders must be screened for RCC placement according to their perceived risk to the public. Generally, the higher-risk cases among those deemed suitable for community supervision might be considered for placement in an RCC program. Within a residential program, incapacitation effects can be varied by altering the length of an offender's stay, the number of hours per day he or she must remain inside the facility, the stringency of controls on his or her location and movement outside the facility, and the rigor with which those requirements are monitored. As residents demonstrate responsible behavior (and presumably pose less risk to public safety), the level of controls can be diminished.

RCC programs also can serve as a component of a more encompassing form of community-based incapacitation--intensive supervision. Under intensive supervision, probation or parole officers structure and allocate a large portion of each offender's day so that free time left for the possible commission of new crimes is minimal. An offender may be required to work eight hours and then to perform four hours of community service, thus accounting for half his or her day. A residential curfew may be used to restrict offenders' movements during a substantial part of the remaining hours.

In most cases, compliance with curfew can be adequately ensured by home detention, which is monitored by random visits to the offender's residence, telephone calls, or electronic surveillance. However, it may be appropriate for some offenders on intensive supervision to reside in an RCC facility, where staff can monitor curfew. Such arrangements are particularly useful for offenders who also have treatment needs that the RCC program can address and those whose community supervision is contingent on a rigorously enforced curfew during nonworking hours.

SYSTEM GOALS AND RESIDENTIAL COMMUNITY CORRECTIONS

The overall priorities of a jurisdiction's corrections system may in part determine the appropriate uses of residential community corrections. RCC programs have particular relevance to two priorities now high on the agendas of many jurisdictions: controlling prison crowding and enhancing probation and parole supervision.

Controlling Prison Crowding

During the period of greatest RCC development, U.S. criminal justice systems were not overloaded. Despite unprecedented expenditures to expand capacity, however, prison and jail crowding is now a serious problem in almost every state. Many

states' policymakers have concluded that they cannot build their way out of crowding and are developing policies to allocate scarce corrections resources more rationally.

RCC facilities help limit prison populations both by diverting offenders who might otherwise have received prison sentences and by providing re-entry programs that enable inmates to be released sooner.

Reducing Prison Admissions: A diversion program must recruit a high proportion of truly prison-bound offenders in order to effectively reduce total prison admissions. Where indeterminate sentencing prevails, however, the lack of policies governing who should be confined and who should not makes it difficult to ascertain whether an individual offender is likely to be imprisoned.

In indeterminate sentencing states, officials have tried two approaches to diversion with residential programs. Some have added residential programs to the range of sentencing options and asked judges to decide, on a case by case basis, whether the offender sentenced to the program would have been imprisoned had the RCC option not been available. Unfortunately, this approach provides no clear standard for future sentencing decisions. It could, in fact, be used to justify any future RCC placement.

Other states have studied past sentencing to identify offenders who are both likely to be imprisoned and potentially suited to RCC placement. Some have developed diversion criteria by examining data only on past prison admissions, an inadequate approach that virtually assures "net widening"--recruitment of persons more likely to have gotten probation sentences.

There is a basic problem with trying to develop empirically based diversion criteria from past sentencing data. Sentencing variation is extreme, and our best research methods explain relatively little of it. Thus, for the types of offenders for whom RCC placement is politically acceptable, research-derived criteria are inadequate to differentiate between those who really would have been confined in the past and those who would have gotten probation. And since the pool of probation cases is so much larger than the pool of prison admissions, even the best empirically derived diversion criteria inevitably capture many more probation-bound than prison-bound cases.

True diversion is more easily achieved when sentencing is more structured. In states with presumptive sentencing guidelines, officials can target for RCC placement some offender categories formerly designated for prison under the guidelines. The RCC placement could be justified as a *departure* from the applicable guideline. This kind of diversion can also be achieved under administratively devised guidelines, such as those developed in Colorado's Fourth Judicial District (Colorado Springs), that give nonpresumptive guidance to judges regarding which offenders should and should not be imprisoned.

Some states are rethinking the concept of diversion--that is, giving community sentences to offenders who formerly would have been imprisoned. That is not an "easy sell" to either the residents or the political representatives of communities with RCC program facilities. Sentencing data from several states suggests two more productive and more politically attractive approaches to using RCC programs to limit prison admissions. As described above, the first expands RCC use for probation and parole technical violators.

The second is based on increasing sentencing uniformity for categories of offenders typically sentenced to probation in the past. Studies show that in many states about half of those now sentenced to prison would--on the basis of their prior record and current offense--have been sentenced to probation in the past. Judges have sentenced some of the current crop of such offenders to prison because of real and legitimate individual case factors, which constitutes justifiable sentencing variation. But many of these offenders ended up in prison for no apparent reason, which constitutes "unwarranted" sentencing variation or disparity.

Assuming that other factors affecting prison admissions remain relatively constant, reducing unwarranted variation and thus rendering sentencing more uniform can produce significant overall reductions in prison admissions. That is essentially what happened during the initial periods of sentencing guideline implementation in both Minnesota and Washington State: Prison admission rates declined as sentencing became more uniform.

In jurisdictions where sentencing guidelines are not feasible or have been rejected, administrative standards for determining which sentencing options should be used for individual offenders may be developed. These standards could be drafted so that their total effect, if followed by judges with a reasonable degree of regularity, would be to increase uniformity in the granting of probation and decrease prison admissions.

This approach is based on granting probation to the kinds of offenders most likely to have gotten probation in the past, but doing so more uniformly. It is easier to build support for that notion than for the diversion to RCC programs of offenders who would have been imprisoned in the past.

Promoting Early Release: Officials also have tried to control prison crowding by using RCC programs to permit early release of prison inmates. Most state departments of corrections have administrative authority to place selected inmates in RCC programs upon pre-release status in the final months before parole eligibility. Where parole boards have releasing discretion, RCC placement can be a condition of parole, permitting some offenders to be paroled at earliest eligibility.

The effectiveness of such RCC usage in controlling prison populations depends, of course, on the extent to which the resulting terms of confinement are shorter than those which

would have been served otherwise. While laws creating minimum periods of parole eligibility typically increase prison populations by lengthening overall time served, they also provide a clear benchmark against which the impact of pre-release programs can be measured. For example, if an offender ineligible for parole until he has served 18 months is placed in a pre-release residential center after 15 months and is paroled at 18 months, he clearly has spent 3 fewer months in prison.

In some states parole boards use guidelines to set tentative release dates for inmates early in their term of imprisonment. Like minimum parole eligibility dates, these dates can serve as benchmarks for RCC placement.

Inmates who would be denied parole and serve to expiration of their sentences may nonetheless be suitable for placement in residential structured re-entry programs. Identifying such offenders requires careful collaboration between department of corrections and paroling authorities. Together, they must identify inmates likely to serve until expiration, ascertain why they are deemed ill-suited for parole, and determine--on a case by case basis--whether a residential program that addresses the specific reason for parole denial exists or can be developed.

In many states, the proportion of inmates who are not being released from prison until the expiration of their sentence is growing. Many of these offenders are high-risk or high-visibility cases. Nonetheless, prudent corrections policy suggests that providing a period of tightly structured supervision and decompression (perhaps involving residential placement) during the last months of their sentences is preferable to releasing them abruptly at expiration without reintegration support or control.

Cooperation and communication between the paroling authority and the department of corrections are critical to sound RCC placement practices. If a corrections department transfers an offender to a pre-release program three months before parole eligibility but the parole board then denies him or her parole, a scarce resource has been wasted. Parole and corrections officials should jointly establish policy and procedures for using RCC placement to reduce the average length of time spent in prison.

Probation Enhancement

Decreased public confidence in community supervision as a means of either rehabilitating offenders or protecting public safety has given rise to increased demand for confinement sentencing. In response, legislators have tended to give institutional corrections ever-larger slices of the corrections resource "pie." As overall caseloads have grown, community supervision officials have been forced to do more with less. In many jurisdictions, growing workloads have precipitated cuts in the quantity or quality of probation or parole services, thus reinforcing the public's skepticism.

Corrections officials in many states have set out to rebuild public confidence in community supervision by enhancing its capacity to control offenders, thereby promising to provide greater public safety. Because their total resources have not grown, however, probation departments have had to decrease the number and intensity of contacts for some offenders in order to increase the levels of control for others. Thus, probation enhancement requires a rational way to re-allocate existing probation resources, so that more can be concentrated on higher-risk offenders.

Probation enhancement also requires an expansion of sentencing options so that judges (and probation administrators) no longer have just two choices: probation or prison. Instead, officials may establish six or eight community sanctions ranging from fines or administrative supervision on the low end to house arrest or intensive supervision on the high end.

A vital role of RCC placement in enhancing probation stems from its being the most intensive form of supervision available short of total confinement. In addition to sleeping in an RCC facility, which accounts for eight hours a day, an offender may be required to participate in in-house programs, which occupies another block of time. If he or she is also required to work, yet another eight hours are structured.

Because enhanced probation increases surveillance, it may deter some violations but will almost certainly detect more of those that are committed. If revocation and imprisonment are the immediate response to increased detection rates, enhanced probation will inevitably increase prison admissions, thus aggravating prison crowding. Therefore, enhanced probation requires a range of options that can be used in response to violations. As previously discussed, placement in an RCC program can be one such graduated response.

Limited Risk Control: A Framework for an Integrated Residential Community Corrections Policy

As noted earlier, policymakers, corrections officials, and RCC providers must cooperatively define the purposes of community corrections and specify the role of residential programs in fulfilling those purposes in order to build political support for RCC programming. To be productive, their dialogue must be informed by a conceptual framework that links, in a clear and rational way, the public's demands and expectations with corrections' capacity to perform.

THE DYNAMICS OF SENTENCING PURPOSES WITHIN THE LIMITED RISK CONTROL MODEL

Todd Clear and Vincent O'Leary describe one such conceptual framework--which they term "limited risk control"--in their 1983 book *Controlling Offenders in the Community*. It is a model that, having been embraced by corrections practitioners, has significantly influenced the development of such probation reforms as intensive supervision.

Clear and O'Leary argue that the goal of punishment should be the main consideration in deciding which *categories* of offenders generally should be confined and which should be sanctioned in the community. Within those limits, offenders for whom community supervision is deemed sufficiently punitive must be adequately incapacitated.

For the purposes of the model, incapacitation means managing the risk posed by individual offenders so that the overall incidence of new crimes committed by convicted offenders is kept within tolerable levels. Risk is the primary factor consid-

ered in deciding what levels and conditions of supervision are required to incapacitate each individual offender eligible for community supervision. Those decisions should be informed by objective risk assessment instruments and structured case management criteria. Moreover, probation and parole resources should be reallocated so that they are used more intensively for the higher-risk cases.

Within the structure of sentences established by categorical punishment and individualized risk management, the model provides for rehabilitation. Offenders' needs and problems, as determined by objective assessment instruments, are matched to available rehabilitation resources. For each offender, structured case planning techniques define specific behavioral objectives against which his or her performance on supervision can be measured and upon which changes in supervision levels or strategies can be based.

The objective of rehabilitation is, as always, crime control. Within this context, Clear and O'Leary argue, a criminal sentence should compel only those treatments directly related to reducing the probability that the offender will commit a new crime. For instance, an offender whose crimes were a function of drug dependency would be sentenced to a drug treatment program. Failure to comply with treatment conditions imposed to reduce the likelihood of recidivism could be grounds for revocation.

Rehabilitative services oriented to improving an offender's social functioning and overall quality of life, rather than to directly decreasing his or her probability of recidivism, are offered to offenders on an optional basis in the limited risk

control model. Participation is not compelled under the force of the criminal sanction, and failure to complete such a program is not grounds for revocation.

Some corrections administrators have observed that the risk-management approach to community supervision actually improves capacity to respond to offender needs and thereby lets probation and parole fulfill their traditional treatment aims more effectively. Both risk assessments and needs assessments determine the levels and conditions of supervision. Controls imposed to manage risk structure offenders' lives so that problem behaviors are held in check, allowing offenders and supervisors to focus on meeting identified needs.

IMPLEMENTING RESIDENTIAL COMMUNITY CORRECTIONS WITHIN THE LIMITED RISK CONTROL MODEL

Adequate incapacitation is clearly essential to the limited risk control model. Incapacitation is costly, however, and a jurisdiction's limited capacity to incapacitate, whether in institutional or community settings, should be allocated rationally. A halfway house will never be as secure as a prison. Some high-risk offenders should be excluded from RCC programs or placed in them only for a brief reintegration period after extended imprisonment. Conversely, some offenders can be incapacitated adequately in the community through less expensive non-residential programs such as home detention and intensive supervision. Thus, agencies need to define policies and procedures for deciding which offenders should be given RCC placements and which should not.

Such policies and procedures should reflect a direct relationship between risk posed by different offender categories and the levels and intensity of intervention. If residential placement is the most restrictive option short of total confinement, it should be reserved for the higher-risk categories among offenders likely to be placed in or deemed suitable for community supervision.

In order to use RCC programming as part of a risk-management strategy, then, jurisdictions need precise tools for measuring the relative risks posed by different categories of offenders at the various criminal justice decision points (pretrial release, sentencing, probation, parole release, etc.) at which an RCC placement is possible. If risk-screening instruments are not currently used, they should be developed, tested,

and implemented. If the risk assessment instruments used in one jurisdiction have been adapted from ones originally developed in another, they should be validated for the target population. If their predictive power is inadequate, they should be replaced by newly developed instruments.

Agencies should also fine-tune procedures governing RCC usage for particular subgroups of offenders. By varying the length of stay in a residential facility and the number of hours that may be spent outside it (for work, recreation, etc.), corrections agencies can adjust incapacitation effects, with higher-risk groups being subjected to more intensive incapacitation than lower-risk groups.

If RCC programs are to provide treatment services within a limited risk control framework, corrections systems officials should gather and analyze data with an eye to answering an array of questions: What offender needs and problems can be best responded to through RCC programs? How many such offenders are there? Where do they live? What RCC capacity will be needed to serve them? This aggregate information on offenders in a jurisdiction is critical to sound RCC program planning and development.

In summary, RCC programs can be used in several ways to enhance a risk-management approach to community supervision: They can incapacitate higher-risk offenders by imposing stringent limits and controls on their movement or behavior during the initial weeks or months of community supervision. They can provide treatment to offenders selected on the basis of objective needs screening. They can deter technical violations of probation or parole or, failing that, provide an alternative to imprisonment for offenders who commit repeated technical violations but present little risk of committing new crimes. RCC roles in a risk-management context are limited only by practitioners' ability to develop residential programs responsive to offenders' needs and policymakers' willingness to provide adequate resources.

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