

# PARTNERSHIPS IN CORRECTIONS

## SIX PERSPECTIVES

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Center for Community Corrections

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# PARTNERSHIPS IN CORRECTIONS

## **SIX PERSPECTIVES**

**Center for Community Corrections**

A public-private partnership promoting an effective system of community corrections

June 30, 1999

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# Introduction

It has been more than 25 years since Minnesota passed one of the first laws which established statewide support for community corrections.

Since that time, the Minnesota law and others in at least half of the states have recognized that public safety could be improved and scarce resources used more wisely if all criminals were treated more appropriately. They have aimed to ensure that the punishment being meted out to wrong-doers was clearly in the public interest from safety to efficiency to rehabilitative perspectives. Community corrections laws and programs recognize that violent criminals belong in prison, but that a majority of offenders require more appropriate and less costly sentences.

Most states have developed such community corrections sentences, but they are often underused. Of the 1.8 million behind bars today, approximately one million are serving time for non-violent offenses. One in twelve are serving time for simple possession of an illegal substance. For many of these, community corrections may offer cheaper, more effective punishments than prison. Public support for work, restitution, payment of fines, fees and community service make community corrections an important means of strengthening communities. Despite such support, resources for community corrections are often lacking and key participants encounter obstacles to improving community corrections programs in their communities.

This document targets the six key participants in community corrections: citizens, elected officials, prosecutors, judiciary, the defense bar, and probation and parole supervisors. While the six parts represent a comprehensive view, they are the product of their individual authors and represent varied perspectives.

Founded in 1987 by Ben Baer, then Chairman of the U.S. Parole Commission, the National Committee on Community Corrections, and its sister organization, the Center for Community Corrections, have issued a series of publications to educate and inspire public and private persons interacting at all levels and branches of government. Earlier publications urge adoption of a ladder of punishments, graduated both to fit the crime and to deal with criminals' deficiencies. These publications range from researched analyses to executive summaries and short flyers designed to attract public attention and motivate supportive actions. This follows *Call for Punishments That Make Sense*, a companion piece published by the Center for Community Corrections.

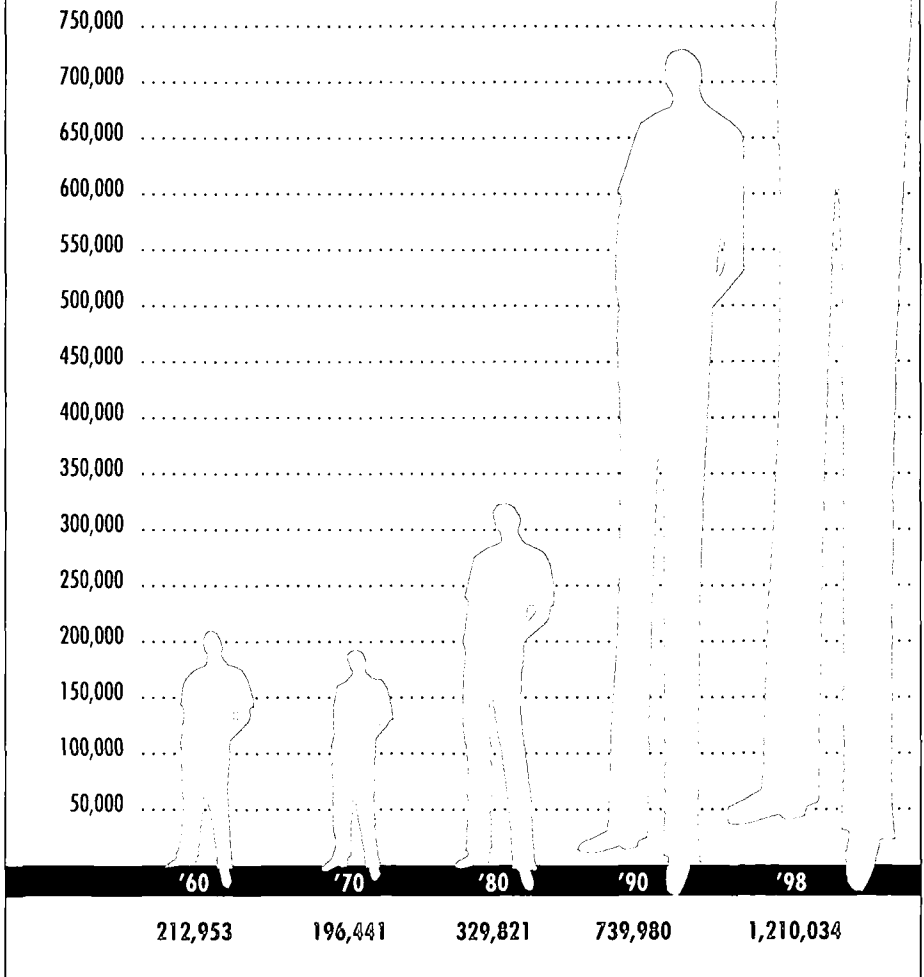
Four members of the Center for Community Corrections, each an expert in his or her field, have contributed their analyses and insights to this book — Margot Lindsay (Community and Elected Officials), Mary Shilton (Defense and Prosecution), Harold Wooten (Probation and Parole Supervisors) and Warren Cikins (the Judiciary). We are grateful to Eric Lotke, formerly at the National Center on Institutions and Alternatives, for his early work in connection with this project and for drafting four concept pieces on the subjects of Defense, Prosecution, Elected Officials, and Probation.

The Committee would like to pay tribute to Donald E. Santarelli, President of the Center for Community Corrections, for his vision and insight that led the Center to embark on this challenging task. He has been unswerving in his leadership and devotion that has enabled us to this point.

We also thank Anthony Trivisono, President of Capitol Corrections Group, Greg Richardson of the Restorative Justice Institute, Barry Holman of the National Center on Institutions and Alternatives, James Polley of the National District Attorneys Association, and Kenneth Goldsmith of the American Bar Association for their assistance.

We are grateful to Jill Murphy for assembling all the parts and for editing. Kristen Mosbaek has assisted in design and layout. And as always, we are particularly grateful to Nancy Gist and the Bureau of Justice Assistance, Office of Justice Programs, Department of Justice, for their continuous support of the work of the Center.

## United States Prison Population 1930-1998







# Corrections and Community Partnership

**Margot C. Lindsay**

*n Friday nights Boston clergy walk the streets of high crime areas, urging probationers to meet their curfews and gang members to stop their violence. Every month, a retired schoolteacher joins her fellow members on the Project Care panel in Newark, New Jersey, to create and recommend punishments for juveniles referred by the local judge. The owner of a dry-cleaners in Birmingham, Alabama, gives to the local drug program the unclaimed clothes in his shop, so that probationers and parolees can go to job interviews appropriately dressed.*

Across the country, in countless different ways, individuals outside the corrections system are joining hands with those within, to create safer neighborhoods and programs more effective than simple supervision alone.

Some of this is not new. Individual citizens have been involved with corrections for a long time. John Augustus, considered the father of probation, was a citizen volunteer when he first began helping alcoholics to stay out of prison back in 1843! For over fifty years New Jersey's courts have used volunteer Juvenile Conference Committees to deal with offending youth. The Japanese have been using so many volunteers in probation for so long that today volunteers outnumber paid probation officers in that country. And Judge Leenhouts in Royal Oaks, Michigan, promoted volunteers as mentors to offenders as far back as the early '60s.

What is new is today's evolving mindset: a realization by members of both community and the justice system of their interdependence, of their mutual need to work together. Corrections alone cannot provide for safety, victim support, and offender rehabilitation — all expectations of the public. And the community is increasingly aware of what

and how, working closely with the justice system, its members can contribute to these goals.

## Community Corrections Acts recognize the partnership.

Community Corrections Acts, which began to be passed in the early '70s, were the first to recognize this interdependence, and to establish a formal link between community and corrections. Through state to county funding, these acts are designed to develop intermediate sanctions - punishments less severe than prison, more severe than probation. Many of the Acts require each participating county to create a board consisting of representatives of each segment of the local criminal justice system *and* members of the public. These boards in turn created two new important procedures:

- 1) members of the public were included in deliberations about corrections programs within their communities, and
- 2) the different parts of the criminal justice system came together for the first time to share interests and concerns, and to learn the impact the actions of each was having upon the work of the others.

At first both members of the public and criminal justice officials were often confused about just why public members had been included in the community corrections boards. Officials feared the citizens would second-guess their work, and citizens felt they lacked the knowledge of the system needed to participate. But soon what the public brought to the table became clear: information about and access to an area's resources, knowledge of local mores and local tolerances, and links to important constituencies.

The power of this new mix of community and criminal justice system, and of the individual segments of the system with each other, cannot be overestimated. Time, tact, patience and an understanding of the demanding new relationships were required for the boards to become truly comfortable forums within which to conduct business. But once established, these boards have made significant contributions:

- Broader ranges of sanctions have been made available to judges.
- Offenders have been made to address their deficiencies and their victims.
- New community resources have been added to the system.
- The public has gained an appreciation of the difficulties and issues surrounding the delivery of justice.
- Citizens, knowledgeable through participation in the planning, have urged county commissioners, governors and legislators to provide the funds needed to assure effective programs.

Community corrections really encompass all forms of supervision outside of prison walls. Probation, intensive probation, parole — these are all facets of “community corrections” for purposes of this paper, even though the term is most often applied only to intermediate sanctions. And community corrections advisory boards are not the only way to form the community/corrections partnership. Each element of community corrections has opportunities for corrections/community collaboration.

## The purpose of this paper

The purpose of this paper is to consider what makes up community involvement in corrections, its benefits and its parameters: to set out some elements central to all community involvement, to describe some models which have demonstrated their effectiveness, and to offer some suggestions to encourage a successful partnership.

For a long time communities were viewed by many corrections people as an obstacle to be overcome. And communities viewed correctional programs as something to keep out of their neighborhoods. In contrast, today “community” has become the term du jour. It is being coupled with almost every part of the criminal justice system.

As we have seen, community corrections, spawned from Community Corrections Acts, came first. Next appeared community policing, when law enforcement officers walk a beat again, and get to know a neighborhood. More recently community courts and community prosecution have emerged in places as far apart as Oregon and New York. Community justice is the latest manifestation. In all these

areas, community has been recognized as a major player, one able to help or hinder the success of corrections as much as any element of the criminal justice system itself.

But the role of “community” in these various areas is not yet firmly established. A clear picture of how the resources of the justice system and those of the community can best be meshed has yet to emerge.

Which is not surprising. Community involvement, the meshing of community members and resources with those of a justice system, takes time to establish as an integral part of criminal justice processes. And the exact shape of the mix will vary from place to place. But mutually acceptable operating principles need to be established for any joint undertaking, whatever its form.

## Why bother?

One question but that, for corrections practitioners, it’s easier, cleaner and quicker to tackle their work by themselves. Community involvement takes time, can be messy, and usually produces a fair share of unexpected questions which must be answered. Community involvement goes to the effectiveness, not the efficiency, of corrections programs. So why bother to involve the community?

To succeed, community corrections needs a supportive public that understands their purposes and limitations. But corrections officials alone can’t produce that understanding. They need a core group outside the system, and therefore credible to the public, to explain programs and reassure friends, colleagues, and elected officials that the interests of each are being protected. An educated core within the public is critical to a criminal justice system that wants community corrections to play an ever expanding role. Community involvement, if it does nothing else, produces that educated core.

Members of the public know relatively little about the criminal justice system. They don’t know that there is safety without walls, that offenders can be controlled through electronic monitoring, drug testing and heightened supervision. Because of this lack of knowledge, political candidates have been able to prey on the public’s natural fears, and, once elected, have passed legislation often inimical to community corrections.

The best path to creating an educated core is through a ringside seat on the process, through involvement that is able to view first hand the issues and possibilities within the system and affect their outcomes.

That involvement may be slight or intense. But it is always instructive to the participants. The used furniture dealer who donates a chair and desk to the new day reporting center learns about the center's programs and purposes. The businessman who sits on the local community corrections advisory board learns about the county's corrections programs and helps make them responsive to the public's concerns. Both the furniture dealer and the businessman share their newfound knowledge, and the knowledge is absorbed by their friends because it comes from "one of them."

And citizens who come to understand community corrections almost always become strong supporters. Just two examples:

A judge in Montgomery, Alabama, wanted more sentencing options. To that end a retired investment banker from Montgomery, Alabama, working with the local Voluntary Action Center and the probation department, enlisted a group of fellow retirees from business and the armed forces to screen probationers and parolees for private sector jobs and community service sites. Judges were thus able to order restitution in more cases, and probation officers were able to refer clients to the group for possible placement. In the course of their work, the retirees discovered a group of people of whose existence they had really never been aware: lives without structure, many addicted and illiterate. With corrections and probation staff, the retirees then worked with state legislators to fund a recently enacted Community Corrections Act requiring programs to address offenders' deficiencies.

A suburbanite volunteer involved in organizing Republican campaigns and in conducting weekly radio interviews, was asked to spend a day talking with inmates in a medium security prison. She had never before thought about the effectiveness of the criminal justice system, was taken aback by this first encounter, and became convinced of the need for change. For the next five years she used her political know-how to lead a network of pub-

lic and private organizations and groups as diverse as the police union and the garden clubs to bring about a more graduated system of punishment.

But there are other reasons for creating a partnership of community and corrections beyond just the need for an educated core.

### *The public climate demands it.*

The wise sociologist Daniel Yankelovich has identified some trends which are putting the public “in a foul mood”: the growing gap between rich and poor, the weakening of America’s core values, and the growing disconnect between the citizenry and their leaders.

Criminal justice compounds these frustrations. How many times have corrections professionals been nagged by citizens looking for more certainty about their safety? How many times have judges wished the constraints imposed on them by mandatories were better understood, or better still, removed? And how many times have citizens wished for a chance to voice their frustrations about how poorly they feel the criminal justice system is dealing with crime and punishment?

Yankelovich worries most about the third of these trends, the disconnect between citizens and their leaders. He points out that, unlike the other two, the “nation’s leadership holds the power in their own hands to reverse it.”

“What drives people wild with frustration is the lack of responsiveness, a feeling of being ignored, misunderstood, exploited, and played upon like a pack of fools....

“The disconnect between leaders and the public is so deeply embedded in our modernist culture that as recently as a decade ago we were not even aware of its strength. It will be the most difficult to reverse, because this will require changing the culture. As a society we are not as comfortable tackling cultural problems as economic, political, and ethical ones.”

His prescription for addressing the discontent: community involvement and dialogue!

“Sooner or later, the leaders of our...institutions, even government, will learn how to change culture in the interest of broader participation in decision making. They will come to understand that when people are asked to sacrifice they will not do so unless they have a say in the decisions that affect their lives, and that this involves genuine dialogue.”

### *Overburdened community corrections officials require it.*

Caseloads have grown for probation and parole officers without a commensurate growth in funding. Day reporting, drug, and intensive supervision programs have sprung up in communities with need of, but without access to local resources. Residential programs appear in neighborhoods where the residents living on either side might resent their presence yet, given some say in the programs' numbers and outside appearance, could become advocates for the clients.

As the number of offenders kept in the community increase, the criminal justice system, including law enforcement, is no longer able, nor should it be expected to carry the full responsibility without local help and support.

### *Critical constituencies benefit from it.*

The creation of genuine, ongoing collaboration between corrections and community brings benefits to three key groups:

#### **To the public:**

- An opportunity to see for itself that its safety is being protected
- Recognition of the community as a major stakeholder whose interests need to be accommodated
- A voice in the development of corrections programs which affect the community's quality of life
- A chance to understand the workings of the criminal justice system, to support its efforts, and to fine tune programs to fit local surroundings.

#### **To elected officials:**

- Constituents with whom to share political risk



- Knowledgeable, dispassionate citizens outside the system to whom they can turn for objective information
- A credible voice to speak to neighbors and colleagues about programs and incidents
- Advocates to speak to funding sources on behalf of community corrections needs

To criminal justice professionals:

- Access to local resources such as schools and colleges, community work sites, skills training, job opportunities and volunteers
- An outside, and therefore more credible voice to speak to the public and funding sources about needs, incidents, and how the system works
- A channel of communication through which to test ideas, understand local mores, create local ownership and commitment

## The public's opinion

Members of the public support the concept of community corrections. Surveyed through numerous polls and focus groups, members of the public react positively to these punishments for non-violent and many first-time offenders. They like requiring drug treatment, work, and restitution of criminals, while carefully restricting their movements and monitoring their compliance. They also appreciate knowing that there are consequences when offenders do not comply with the conditions of their sentences.

## "Community" growing throughout the justice system

"Community" is a word which today appears across the entire justice system. As mentioned earlier, "community" first appeared in the justice system coupled with "corrections" through Community Corrections Acts. Next came "community policing", which brought law enforcement officers back to walk the neighborhood beat.

“Community courts” began in mid-town Manhattan in the early ‘90s. The purpose, according to a recent NIJ study, “was to design a community-based courthouse that would provide effective and accessible justice for quality-of-life crimes — low-level offenses like prostitution, shoplifting, minor drug possession, disorderly conduct.” A Community Advisory Board keeps the court abreast of neighborhood problems, identifies community service projects, and provides community feedback on court activities.

“Community prosecution” is also underway. District Attorneys have placed satellite offices out in neighborhoods to encourage confidence in their procedures so that victims and residents will be more willing to report crimes, and witnesses more willing to appear.

While “community probation” has yet to appear as a term, probation has been heavily invested in community relations and relationships for a long time. Probation advisory boards are fairly common, some at the state level, more at the local office level. And community resources are often tapped: a local college creates a video of probation procedures for newly sentenced offenders; a credit card company’s managers check, at the behest of probation officers, on low-level offenders’ compliance with the terms of their probation; a county bar association contributes a computer and copier to the local probation office.

Aside from Community Corrections advisory boards, however, these community links depend on the good will of administrators and officials. They are not required, nor are they automatically created. The time hopefully is coming when the partnership will be institutionalized in some form throughout the criminal justice system.

## Terms of the Partnership

When the partnership is concerned with matters involving the courts or corrections, the partnership cannot be a partnership of absolute equals. The final authority must rest with the public entity held accountable under law for appropriate procedures and outcome. No matter how close the collaboration, it is the public entity which has the final say. Since the system is held accountable, the system must retain the necessary authority.

In Vermont there are two kinds of community panels: diversion boards and reparative boards. The diversion boards are sent cases which the District Attorney has deemed suitable for diversion. The reparative boards are sent cases by the court which have already been adjudicated. The reparative boards are asked to develop appropriate sentences tailored to the crime and, after the judge approves, oversee their implementation.

With both boards, the governmental entities, the District Attorney and the court, are held accountable for the disposition of the cases. The panels may choose not to accept cases, but they can only deal with those referred to them by the DA and the court.

Similarly, community corrections advisory boards develop plans for dealing with offenders kept in the county, but it is the county commissioners who sign off on the plan.

Which doesn't mean the public is powerless. When dealing with the criminal justice system, theirs is the power of persuasion, and it works. Neighborhood associations have succeeded in changing police patrol routes and secured more and better lighting from municipal officials. Others have worked with zoning boards and boards of public health to close crack houses. Organized groups of citizens have leaned on legislators to pass victims' bills of rights and longer sentences for violent offenders. And it is public support that allows community corrections to continue.

There are, of course, areas outside of the legal process for which communities can be entirely responsible and accountable. A neighborhood turns an empty, trash-strewn lot where gangs congregate into a community garden. A congregate meal site provides volunteer escorts for its clients through a rough area. But even here, a close relationship with the public sector, with the police, probation officers, or local government officials, will pay dividends.

So the public is not without muscle. Far from it. But when legal or public funding processes are involved, the final decision rests with the public officials so that accountability can be maintained.

## Critical Elements

Eight elements have been identified as basic to citizen participation, regardless of the mechanism used to accommodate it:

- 1) A clearly defined mechanism or process which allows for continuing communication back and forth between community and the government agency
- 2) Commitment to the mechanism or process by all parties directly concerned
- 3) Representation of all appropriate segments of the community
- 4) A clear definition of the role each party will play with relation to the others
- 5) Direct access by citizen participants to the decision-making process or body.
- 6) Adequate preparation and briefing available for citizen participants
- 7) Well-defined procedures as to whom and how citizen participants are accountable
- 8) Procedures for reporting back disposition of citizen recommendations.

## Some different models

Volunteers are time-honored and indispensable. They bring strength, enhancement, and skills to programs, and advocacy for individual clients or resources. They are being used in countless ways: as mentors, tutors, teachers of job preparation classes, monitors of compliance with conditions of probation, supervisors of community work to name a few. That they are not included here is because the focus of this paper is on broader community/corrections arrangements rather than those of individuals, not because volunteers are not valued.

Trust is the single most important ingredient in any partnership. The most effective models within which the partnership of community and corrections can be sustained are those that are ongoing over a peri-

od of time, long enough certainly to develop the trust needed between the two sides to achieve their objectives. Some examples:

### *Citizen members of justice system councils*

Whether it be county community corrections boards or judicial councils, most systems have groups which do, or could, include members of the public. Hawaii has long had citizen members on its judicial councils. Judicial nominating committees and boards of bar overseers often include members of the public.

Because citizen participation in its present form grew out of the demands of the '60s, a residue of uneasiness remains that if you involve the public, you invite confrontation. This may have been so in the beginning, but is certainly no longer true today.

Citizens in a group of justice officials bring a fresh eye to procedures, a willingness to ask the questions officials often hesitate to ask each other, a sounding board on which to test political acceptance of contemplated changes, and ideas from other disciplines which could be applied to the justice system. In exchange, citizens learn about the system, its constraints and needs, and become outside, and therefore more credible advocates to neighbors, colleagues, and funding sources.

### *Criminal justice officials as members of civic organizations*

The inclusion of local corrections officials in civic groups ensures the dialogue which is so critical to public confidence and understanding. Neighborhood associations are particularly important in this regard.

In Arizona's Maricopa County, members of the probation department assigned to geographical areas join local neighborhood associations and civic organizations to find out how best to respond to community concerns, and to inform the residents of what they can, and cannot do for and with them.

It was through a neighborhood association meeting that the Probation Department learned the deteriorating Coronado Community Center in Phoenix was becoming a safety issue. Located in a high crime area, the roof needed fixing, the building needed painting, and gang members were using its seedy driveway as a hangout at night. Probationers on community service, working alongside neighborhood residents, rehabilitated the building. The Center, in gratitude,

gave the probation department an office in the Center, where today probationers, police and community alike stop by to share information and solidify the connections.

(And at the risk of turning Maricopa County into Teacher's Pet, we must also note that for years the Probation Department has had an advisory committee to the Commissioner and has also added advisory committees to day reporting centers as the centers were developed.)

### Advisory boards

As Maricopa and countless other counties have discovered, advisory boards can be configured around virtually all community corrections programs. They may vary, but they all serve three basic purposes:

- To link public officials to local resources
- To keep those officials in touch with political realities;
- To provide a forum for critical dialogue

We have dealt already with the statutory community corrections advisory boards mandated by Community Corrections Acts. Other boards can have different mixes. Some have representatives from both the general public and from the criminal justice system. Other boards have only members from the general public.

The boards can have different mandates. Many have statutory functions built into criminal justice procedures, such as planning local programs or reviewing private provider contracts. Others are used to help improve the system: "To involve the community in the corrections process" or "To explore innovative administrative and programmatic ideas."

Courts, too, have used advisory boards to their advantage. In New Jersey volunteer boards manage volunteer programs in the individual jurisdictions. In California jury procedures have been reviewed by former juror groups. In New York State, advisory boards have reviewed not only jury procedures, but court amenities and signage, while keeping judges abreast of local resources and concerns.

The natural inclination of officials forming such boards is to include as citizen members people with a proven interest in criminal justice: human service providers, or professors of criminal justice. While

these individuals are undoubtedly useful, members do not need to be knowledgeable about the system to be contributive. In fact, to bring the fresh eye and ask the basic questions, some should be coming to the system for the first time. But above all, what they bring is particular knowledge the system otherwise would not have, whether that be particular talents, or, more often, knowledge of the community and its resources.

When a former Commissioner of Probation developed an advisory board, he included a top official from an insurance company to help redesign the department's information system, and someone from the League of Women Voters to help develop a public education strategy. "Developing that advisory board was the smartest thing I ever did," said the former Commissioner.

Advisory board members of Idaho's community corrections work centers meet monthly to help inmates gain access to local resources.

In Lowell, Massachusetts, an advisory group works with the Crime & Justice Foundation, a private provider of justice programs, to oversee "Safety First," a program aimed at reducing violence in the city. The group consists of public officials, members of the business community and neighborhood associations, and representatives of social service agencies. Foundation staff identify types of frequently committed crimes and neighborhoods in which they are most apt to occur. Together, the city residents and the Foundation professionals pick the neighborhood and the crimes they want to address, and devise strategies with the goal of "making Lowell the safest city in the country."

These boards can be particularly helpful in day reporting centers and local parole and probation offices to bring volunteers and services within reach, and to help offenders make the often difficult transition back to the community.

## Community justice programs

Community justice is the latest manifestation of the corrections/community partnership. Community justice represents a real shift in approach. Community justice believes that a crime tears the fabric of a community, and once that happens, the fabric must be repaired. Rather than a single focus on the offender, therefore, as happens in the present criminal justice system, community justice has a three-fold focus: on the offender, on the victim, and on the community. Its goals are two-fold: to prevent crime from occurring in the first place, and, if it occurs, to sanction in ways that restores the community's fabric as much as possible to its previous, or to a better, status. Thus, community justice:

- requires communities to help ensure the public's safety by identifying and dealing with factors that lead to crime;
- recognizes and tries to rectify the harm done the victims;
- holds offenders accountable for their crimes by making them confront the harm they have caused, through restitution to victims, community service, and attention to the causes of their own criminal behavior, such as addiction or illiteracy.

As such, community justice broadens the responsibility for dealing with crime and punishment beyond the bounds of the criminal justice system, to include the broader public. Community justice asks of communities:

- an openness to new ideas and new ways of conducting business;
- a capacity for local problem solving;
- access to local resources to create new approaches.

Particularly in the juvenile area, programs reflecting community justice goals have been in operation for a while although without the name. New Jersey's longstanding Juvenile Conference Committees and Project Care are examples. For adults, Virginia and Colorado have long had citizen panels who, on behalf of their communities, consider whether certain offenders should be given an intermediate sanction near home rather than prison. But by and large, community justice programs in the adult system are relatively new.



A growing number of states, however, are moving in this direction.

The Department of Corrections Services in Iowa's Sixth Judicial District has created a Community Justice Task Force. The Task Force has drafted the following mission statement:

Community justice seeks to enhance community safety and well-being using a model of personal responsibility. Community justice creates an environment where:

- victims are acknowledged and included;
- offenders are held accountable, and given the opportunity and encouragement to change; and
- the community is actively involved in the process.

Two of the action areas the task force has identified:

- Community education, to develop awareness of community and restorative justice
- Victim Sensitive Practices, to create community and system(s) understanding of victim issues for better support and response

In Deschutes County, Oregon, the Department of Probation renamed itself the Department of Community Justice. It has enlisted local merchants to serve on a Merchant Accountability Board, to which law enforcement officers, at the DA's request, refer the cases of shoplifters for disposition. This program holds offenders more directly accountable to their victims and the community, affords merchants input regarding sanctions, and saves tax dollars for use in other public safety areas.

### *Other programs*

While these ongoing mechanisms hold the partnership together, other community endeavors are not directly linked but nonetheless work closely and productively with the justice system:

In Boston, following a harrowing attack during a church funeral, the African American clergy, mentioned at the beginning of this paper, banded together to address youth violence. The clergy, now known as the 10 Point Coalition, meet often with the probation and police officers who jointly patrol the area at night. They themselves walk the streets of high crime areas every Friday from 10 p.m. on, to meet and talk with kids who, suspicious at first, are coming to trust them. "As we came to know more young men involved in gangs, sort of inevitably you'd get into a situation where guys' cases are coming up and they'd ask you to speak on their behalf," says a founder of the Coalition. And the judges have warmly welcomed the ministers into the courtroom.

In Lancaster, Pennsylvania, a 10-10-10 project matches ten parolees to ten businesses and ten churches. Church volunteers, businessmen, and parole officers work closely together to help the parolee make a successful transition back to the community.

## A few suggestions

Partnerships are not always easy to establish, particularly when groups are not used to working with each other. As mentioned before, time, patience and tact are needed to develop the trust which will make the partnership effective. Here are some suggestions to ease the way:

### A clearly stated purpose

The public's frustrations with the criminal justice system stem in no small measure from unfulfilled expectations. Unreasonable expectations, according to some equally frustrated system officials. But absent a dialogue there is, of course, no way in which the public can truly know what expectations are valid.

At the beginning, concrete projects which can be undertaken together, such as the cleanup of Phoenix's Coronado Community

Center, will be clear in their intent, and visible in their success. Along the way conversations will naturally evolve, and shared satisfaction over a completed project will pave the way to longer-term undertakings.

But whatever the undertaking, whether it be an advisory board, a citizen sentencing panel or a one-shot project, the purpose and parameters need to be understood in the same way by all participants.

### Orientation for all involved

Orientation is absolutely critical for dealing with the issue of expectations of what can be accomplished by the criminal justice system, and the limits that must be put on the public's involvement.

The courts need not fear their independence will be jeopardized by involving the community. Nor need community corrections professionals fear their management prerogatives will be abrogated. That's not what the public is after. Members of the public want:

- a voice in processes that affect their lives,
- an indication that their concerns have been heard by those in control, and, for some,
- an opportunity to be a part of the action.

The public therefore needs some sense of the limitations of the criminal justice system, what its members can and cannot expect of it, and where their own involvement can play a critical role. It also needs to know what activities are appropriate for its involvement with the system.

Criminal justice players, too, need orientation to understand the perspective of those with whom it is about to forge a partnership: the myths the public may believe, the frustrations the public feels, the priorities it wants, and the values it holds dear. These will vary from place to place, even from neighborhood to neighborhood, and can never be assumed.

Orientation can be conducted in any number of ways. One proven method is for a small group from "each side" to first meet to decide the essential points to be made in an orientation. Such a group can identify the critical elements about the system and about the community which should be known by everyone involved. The members can then

plan a broader meeting in which the information will be shared. Like the purpose, common operating assumptions will help minimize misunderstandings.

If the joint undertaking is going to be as integral to the system as Vermont's reparative boards, New York's court advisory committees, or Oregon's Merchant Boards, more extensive training for the citizen members is needed. And again, as in the orientation, joint planning will assure that key points are made, and in ways that will be understood.

### A trial period

For those on both sides new to the process, a gradual easing into the partnership will remove the ambivalence about its success. "Let's try, and see how it works." This will allow both sides to evaluate in a climate of maximum objectivity, and to continue forward, disband, or make changes, depending on the results.

Since trust takes time to develop, and trust is the sine qua non of the corrections/community relationship, at least six months should be allowed for the trial period.

### Maintaining the relationship

People are apt to respond to a new idea or to a one-shot project. To find people willing to commit to an ongoing process is more difficult. Yet the partnership, to be maintained, requires involvement of at least a core group of local residents.

This might be a civic group that assumes responsibility for maintaining the contact, or a public official's office, a church, or, one of our preferred solutions, ongoing advisory committees to the various elements of the criminal justice system. Advisory committee members can help shoulder responsibility for nurturing the partnership and staying in touch with community concerns which should be addressed.

Community corrections advisory boards are about the best of all formats. They bring the community voice into corrections deliberations conducted by representatives of the entire justice system, where everyone can understand the work, the interests, and the potential for synergy among all the parties.

## Conclusion

If offenders are to be kept in the community, if community corrections are to succeed, two conditions are necessary:

- 1) The public must support the concept of intermediate sanctions. Members of the public must have confidence that their own safety is being protected, that the punishments are truly punishments, and that non-compliance has consequences.
- 2) The courts and probation must have access to available community resources, such as drug treatment programs, educational and skills training classes, community service sites and volunteers if they are to deal with the difficult task of minimizing recidivism. They cannot be expected to do it all by themselves.

These conditions can only be met by forging a partnership between all the elements of the criminal justice system and the public they are designed to serve.

# A Guide for Elected Officials

**Margot C. Lindsay**

Tommy, unemployed cocaine addict, is convicted of property theft for a second time. His previous conviction had landed him in prison for a year and a half. Within two months of his release he committed a new theft, and is back before the judge for sentencing.

This time the sentence is different: three months in the Salvation Army's drug treatment facility, followed by six months at the Army's intensive outpatient program, followed by a year at weekly meetings of Narcotics Anonymous. During his time in the community, he will receive job counseling at the local community corrections center where he must report daily, and where he will be frequently tested for drugs. He must also pay \$250 to his victim before the end of his sentence. Tommy's sentence reflects the basic premise of community corrections:

- that offenders must be closely supervised,
- that they must make amends to those they have harmed,
- that they must address their deficiencies in order to minimize future criminal conduct.

Unlike prison or straight supervision, community corrections not only deals with the crime committed, but also seeks to prevent future crime by dealing with the characteristics that may have led to crime in the first place, such as addiction or illiteracy.

And the public supports the concept of community corrections. Surveyed through numerous polls and focus groups, members of the public react positively to these punishments for non-violent and many first-time offenders. They like requiring drug treatment, work, and

restitution of criminals, while carefully restricting and monitoring their movements in the community.

The purpose of this paper is to give elected officials a brief overview of community corrections: the purposes they serve, for whom they are intended, the public's view of them, safeguards that can be constructed, and, throughout, the role in their development and oversight that public officials can play. Definitions of community corrections programs are included at the end of the booklet.

## How community corrections came about

Community corrections, also known as intermediate sanctions, when combined with probation and prison, form a ladder of punishments: probation at the bottom, prison at the top, community punishments on the rungs between them. The rungs mount in severity from intensive probation, restitution and community service, through day reporting centers, home detention, electronic monitoring, and half-way houses.

Community corrections began over 25 years ago from the dissatisfaction of judges and elected officials with the following:

- Not enough choices from which judges could sentence,
- The growing numbers in prison and jail and the need for more space,
- The high cost of incarceration, which was jeopardizing other public services,
- The high rate of recidivism.

For a long time probation and prison were the only punishments available. Yet many non-violent criminals, while deserving a punishment more severe than probation, could be kept safely in the community.

Driven by sentences which sent more people to prison and for longer terms, America's prison population grew from 329,821 in 1980 to 1,218,256 in 1997, the jail population from 182,000 to 558,000.

To their frustration, prison wardens have often had to release violent offenders to make room for the less serious ones.

Spending on corrections increased from \$7 billion in 1980 to \$32 billion in 1993 (the last reported year for cost and expenditure data), jeopardizing other critical programs. California built 21 new prisons between 1984 and 1997, but only one public university.

The average cost of building one prison cell is \$50,000. Of operating it: \$22,000 a year.

Prison was not changing criminal behavior. Addicts emerged still addicted, illiterates still lacked job skills — all factors more easily addressed in the community than behind bars.

In the words of James A. Gondles, Executive Director of the American Correctional Association: “It’s a question of solving a problem before it eats us alive.”

## Legislative initiatives on behalf of community corrections

The first comprehensive community corrections systems were created in the '70s by legislatures in Minnesota, Oregon, and Iowa. Many Community Corrections Acts in these states called for state subsidies to counties, and for counties to create community-based sanctions at the direction of a community corrections advisory board to the county commissioners. As a result of the Acts, judges began to have more sentencing choices, offenders were held in the community under closer supervision and remedial mandates, victims received more restitution, and communities more reparation in the form of community service. Today, Alabama, North Carolina, Oklahoma, and 23 other states have passed Community Corrections Acts.

Community corrections can also be created through other means. Connecticut, for instance, has provided legislatively for these punishments through private, non-profit day reporting centers called Alternative Incarcerative Centers.

Yet despite these legislative initiatives, underused, community corrections have yet to reach their full potential.



## Likely candidates for community corrections

Sixty-eight percent of people sentenced to state prison are released in under two years. Most of these have committed non-violent offenses, often related to drug addiction. Many of them could probably be sentenced to a community program, assuring prison space for the 50% of offenders prison wardens believe really need to be there.

- Repeat drug offenders caught with modest amounts of drugs for personal use or small quantities for sale can be sentenced to drug treatment, community service and intensive supervision, and ordered to stay away from certain neighborhoods.
- Shoplifters, auto thieves and some burglars — people who commit crimes against property - can be sentenced to community service and ordered to pay restitution to their victims. If the offense is related to addiction, they can also be ordered into treatment.

Angry people who get into fights at bars or on the street can be ordered to perform community service, pay restitution, and undergo therapy to manage their aggression. If they concurrently abuse drugs or alcohol, treatment can be ordered to deal with their chemical dependency.

## The special importance of drug treatment

The numbers behind bars for drug-related crimes have tripled since 1982, in large measure due to mandatory minimum sentences for drug offenses. Drug violations are responsible for 60% of federal inmates, 22% of those held in state prisons. Almost a third of the 400,000 in prison for drug crimes are in for simply possessing an illegal drug.

Former Attorney General Edwin Meese, III said in a recent interview: "I think mandatory minimum sentences for drug offenders ought to be reviewed. We have to see who has been incarcerated and what has come from it." Should mandatories come to mean mandatory treatment rather than always mandatory prison terms, treatment will become a major component of community corrections.

At least 70% of offenders, in for whatever crime, have drug or alcohol problems. Yet all too often addicted criminals are not provided the treatment they need to prevent them from committing more crimes. Researchers show that treatment can be cost effective. A study by the Rand Corporation estimates that every dollar devoted to treatment will save seven dollars in costs incurred by addicts through hospitalization, lost jobs, and/or imprisonment. And the growing numbers of Drug Courts, where community-based treatment is mandated and closely monitored, bear this out.

Drugs are usually the focus of attention. But equal attention must be placed on alcohol, since alcohol is more apt to cause violent behavior than drugs.

Treatments that require over 100 hours of service over several months, but not more than a year, are most likely to have lasting impact.

Successful rehabilitation is why felony offenders in Brooklyn's Drug Treatment Alternatives to Prison Program had an 8% recidivism rate six months after treatment, compared to a 40% recidivism rate for drug offenders who were incarcerated and given no treatment.

### *What elected officials can do*

In order to make community corrections viable, sentencing legislation must allow their use. The problem is especially acute with sentencing guidelines. Sentencing guideline grids seldom authorize community options. And the sentence lengths are often based on data collected before community options become available. The result is that sentencing guidelines inadvertently exclude widespread adoption of community corrections.

North Carolina's 1993 Structured Sentencing Act built community corrections right into the grid. Sentencing judges were directed towards community sanctions for most thieves, just as they were directed toward long prison terms for rapists and murderers. The effect has been a fairer, more rational and more effective sentencing system.

## Other purposes served by community corrections

Community corrections can also deal with two other groups in the criminal justice system:

- 1) Probation and parole violators. Well structured community corrections allow flexibility to the probation officer and the judge in dealing with probation violations. Violations at one level can lead to a step up the ladder to greater supervision and control. Good behavior at one level can likewise lead to a step down the ladder to lesser supervision and control.
- 2) Those on pre-trial status. Community corrections can be used for pretrial purposes. Jails today are imposing enormous financial burdens on county commissioners. Half of the people in local jails are usually simply awaiting trial. Carefully structured pre-trial release programs can relieve jail crowding while protecting the community and ensuring the defendant's appearance at trial.

North Carolina's Structured Sentencing Act again provides an example. It doubles the length of time that violent and career criminals spend in prison while expanding options in the community for less serious offenders. As a result, North Carolina prison terms have grown but the percentage of offenders going to prison has declined. The state provided \$12 million in grants to its counties to develop 38 day reporting centers, 14 pretrial release programs, 12 satellite substance abuse treatment programs, and three community work and vocational programs. North Carolina judges also rely on fines, victim restitution and community service work as part of a community corrections sentence.

## Do community corrections work?

Community corrections have existed long enough to allow certain conclusions to be drawn about their effectiveness. Chief among these conclusions:

- Supervision, no matter how strict, can only prevent recidivism if it is coupled with treatment, job readiness, or employment.
- The amount of punishment is less important than that punishment be swift and sure, and that violations result in consequences.
- People released from prison have recidivism rates of 50 — 75%. People sentenced to community corrections have recidivism rates *at least as good* as people sentenced to prison, some far better.

In 1990 Connecticut developed a program to divert large numbers of people who previously went to prison. Delivered through Alternative Incarceration Centers (AICs), the program includes community service, intensive supervision, job training and drug treatment. The average cost is about \$5,000 per case annually. Researchers found that offenders in this program posed less risk to public safety as measured by new arrests than a comparable group who had been incarcerated. The program proved particularly effective for people convicted of drug crimes.

Success can also be measured by community service performed and amount of fines and restitution collected.

The Community Corrections Center in Mobile, Alabama, in its first six years of operation, collected more than \$750,000 in fines and restitution.

Connecticut maintains all its state parks with offenders on community service.

In just one year, between July '95 and July '96, the offenders in New York City's CASES community service program worked 87,120 hours, and more than 70% completed the program successfully.

## Relative costs

Prisons are the most expensive correctional option. The average cost of building one prison cell is \$50,000, typically financed by bond issues. Interest on the bond usually doubles or triples the initial outlay.

Once the cell is built, there are operating costs. The national average cost of confining one prisoner for one year is \$22,000, almost as much as an average family's after-tax income. Indeed, in most states, the full tax burden of several families is needed to confine a single prisoner.

Average costs per offender per year	
Residential drug treatment	\$15,000 to \$17,000
Intensive probation supervision	\$6,500
Halfway houses	\$6,000
Electronic monitoring	\$4,000 to \$6,000
Out-patient drug treatment	\$3,500
Unsupervised probation	\$1,000

Average costs per offender per year of community corrections are lower, some much lower, once the programs are up and running.

### Start-up funding

Although community corrections are ultimately less expensive than prison, developing a new system costs money. During the start-up and transition, jurisdictions may need to carry the costs of both prison and new community corrections. Financial savings are not realized until enough people are sentenced to community corrections to shut down an entire prison or an entire prison wing.

Generous moneys up front will ensure that qualified professionals develop quality programs. Without the funding, only those with cash reserves will be able to develop programs, and while some may be very good, the most qualified may not be able to participate.

Legislatures considering financing new prisons can look closely at their prison populations to see if developing or expanding a community-based system for the non-violent would eliminate the need for more cells.

In 1995, 25 states added or renovated a total of 103 prisons at a cost of \$281,057,854.

### County costs — a disincentive

Prisons are paid for by the state, whereas the cost of community corrections is typically borne by counties and cities. That means it costs the county money to send an offender to drug treatment, but it costs nothing to send that person to state prison. The \$12,000 tab for drug treat-

ment may be cheaper and more effective than the \$22,000 tab for prison, but not to the county that must foot the bill.

The solution, which many jurisdictions have tried in one form or another, is to link the payment paths. For instance, the county may receive a state subsidy for every offender sentenced to a county option rather than to state prison. The subsidy is usually a fraction of what the state would have paid for a prison term. Under Community Corrections Acts, state funds go to participating counties to subsidize part, if not all community corrections programs.

Programs may be voluntary with counties such as in North Carolina, or compulsory, such as in Iowa. In either case, incentive funding is provided by the state to encourage program development and intergovernmental cooperation.

In Oregon, the state provides funds to counties for structured community sanctions for offenders, drug and alcohol programs for offenders at risk, re-entry programs for those who have been in prison, programs to supervise those not yet adjudicated, and other programs used in lieu of prison.

In Iowa, the state funds judicial districts which oversee services delivered by public and private agencies within the district. The programs funded in Iowa range from presentence investigation, to parole supervision, work release, residential facilities for DWI offenders and other targeted probation services.

## The public's opinion

In a poll after poll over the past ten years, the public has shown its willingness to consider community corrections for the non-violent offender. In particular, the public likes the fact that community sanctions can:

- Provide restitution to the victim,
- Order work in reparation to the community,
- Hold offenders accountable by making them confront their own deficiencies and the harm they have caused.

(These, incidentally, are the basic tenets of community justice, a concept gaining widespread prominence.)

Members of the public, when they think of crime and punishment, think of violent criminals and prison. They rarely think of the petty thief or the passer of bad checks, and they know surprisingly little about punishments other than probation and prison.

Yet, having learned of intermediate sanctions, focus groups have chosen community options over prison for non-violent offenders when given hypothetical cases to sentence. A survey by the American Correctional Association found that 75% of Americans believed that “a balanced approach of prevention, punishment and treatment is better at controlling and reducing crime than imprisonment alone.”

Such analysis of public opinion led Michael Castle, then Governor of Delaware, to massively expand community corrections. His advice: “Make the public understand that dangerous criminals will still be put in prison; that intermediate sanctions are necessary to reintegrate offenders so they have a better chance of becoming successful citizens and not continuing lives of crime.”

This lack of knowledge about, yet willingness to use community corrections, highlights the importance of educating the public about them. In particular, the public needs to understand :

- 1) that these punishments, by also dealing with an offender’s deficiencies, are aimed at preventing future crimes as much as they are punishments for present offenses;
- 2) that offenders can be controlled outside of prison walls, by such means as electronic monitoring, daily reporting and drug testing; and
- 3) that yes, these are punishments. Offenders, when presented a choice between jail and community supervision with the requirements of job and treatment, often opt for the jail term. The restrictions and demands of intermediate sanctions can be truly onerous.

## The importance of citizen involvement

- broadly-based core group of constituents is needed to stand with public officials:
- to reassure the public that its own interests are served by these intermediate sanctions,
- to speak with credibility to friends, colleagues, neighbors about how the sanctions are carried out and for whom they are intended,
- to work with funding sources to determine the necessary level of appropriations.

The best avenue for creating such a core group is through involvement of the public in developing and monitoring the sanctions themselves. This can be done in a number of ways. For instance:

- In many of the 26 states with Community Corrections Acts, citizens sit with representatives of all facets of the county criminal justice system to plan and oversee the sanctions within the jurisdiction.
- In Virginia, New Jersey, and Vermont, judges ask citizen panels to suggest possible community sentences for certain offenders from their area.
- In Colorado, advisory boards screen offenders for retention in their communities.

Once involved, virtually without exception these citizens become committed proponents of community corrections. They discover the causes of offenders' criminal behavior and the remedial programs that could turn them around.

A retired investment banker in Montgomery, Alabama, put together a cadre of fellow retirees to screen probationers for potential jobs. Stunned by what they saw — illiterate individuals leading chaotic, addicted lives — the retirees worked with legislators to fund the recently passed Community Corrections Act so that remedial programs, as well as punishments, could be mandated for these offenders.



## The indispensable partnership

The criminal justice system alone should no longer be asked to shoulder the entire responsibility for the success of its operations. Nor should elected officials be expected to advocate new initiatives without supporters to help explain them to the broader public. And communities must be asked to contribute their share to public safety and reintegration of criminals.

The power of elected officials, corrections administrators, and members of the public all working together on behalf of community corrections can be formidable. The partnership not only creates policies which allow sentences such as Tommy's, but results in actual systems improvements.

### What elected officials can do

State legislators and county commissioners play a pivotal role in assuring that citizen involvement can take place to assure the core constituency.

- If passing a Community Corrections Act, they can require the county planning committee to include three or four citizens along with criminal justice players.
- They can mandate community committees when they appropriate funds to individual programs.
- They can provide statutorily for citizen advisory boards in public agencies responsible for correctional policy, procedures and institutions.

And history has shown that when the public is invited to participate, it is only too happy to respond.

- Business has allowed employees, working closely with local probation offices, to monitor from their desks compliance of low-level offenders with the terms of their sentences, thus freeing probation officers to focus on more serious offenders.
- Banks and insurance companies have helped departments of probation and corrections improve their management information systems through access to and assistance with their high-tech technologies.
- Citizen advisory committees have driven interagency cooperation, dissipating turf and coordinating services.

## Safeguards for elected officials

There is never a guarantee that any program will be 100% risk-free. However, there are safeguards on which elected officials can insist:

- Adopting professional standards to provide some insulation against the inevitable failures. When policy makers are criticized for the occasional incident, they can respond with assurances that the program operated according to industry standards and that the success rate was exemplary.
- Supporting community corrections with adequate funding to allow the programs to be well run. Particularly important will be the upfront money to permit programs to be established by truly professional and competent people.
- Requiring, through statute, that community advisory committees and other mechanisms be established to represent the public's interest. In states with Community Corrections Acts the public is represented on the county advisory boards. In states without such acts, community advisory committees to day reporting centers and other programs can be mandated. Citizen members of such committees can attest to the public about the safety precautions exercised by the programs, and can help deal with the media should incidents occur.

## Conclusion

Community corrections have been tested and, for non-violent and certain drug dependent offenders, found to be:

- acceptable to the public,
- beneficial to victims and communities,
- at least as effective, and in many cases more effective than prison,
- less expensive than prison, once up and running.

# Prosecutors' Participation

**Mary K. Shilton**

Over the past two decades, the work of prosecutors has changed considerably. Throughout the country, prosecutors are working more closely with their communities, law enforcement, probation, courts, victims and the defense bar. They develop coordinated community prosecution, courts and correctional programs. The number of full time prosecutors has grown rapidly. Offices in urban and suburban areas often include an array of professional staff who are involved in investigating cases, bringing them to trial and seeking punishments that are appropriate, effective and fair.

District attorneys are more efficient in prosecuting their cases than they were in 1980. Defendants convicted in 1992 for larceny were 100% more likely to go to prison than in 1980.<sup>1</sup> A range of technical tools has strengthened prosecutions—bringing witnesses forward to testify and respond to the needs of victims. Many of these tools involve computerized data, sophisticated forensics, and mapping of criminal activity to detect larger trends and patterns. Vertical case prosecution, cross-designation of law enforcement agencies to work on complex investigations, and multi-jurisdictional databases, have helped prosecutors become more efficient and accurate in their work.

Some have dismissed a variety of innovations as “social work for prosecutors” and say these strategies drift too far from traditional prosecution. Others see positive results from such strategies that use a broader array of tools and resources to prevent crime, engage victims, and focus community resources. They believe that prosecutors must respond to the growing apathy and alienation of victims, witnesses, communities and other public agencies.

Community prosecution is a grassroots effort to bring the powers of prosecution to bear on specific neighborhoods, crimes and problems. Community prosecution is compatible with a number of other community justice developments: community courts; community corrections; community policing; and client specific sentencing planning. This arti-

### Examples of innovations

Additionally, a variety of innovations have changed the way some prosecutors do business. The following are but three examples:

#### Drugs and crime

Jackson County Missouri's prosecutors, police and citizens have closed drug houses quickly by citing housing code, fire and other violations rather than more lengthy procedures. Some of the abandoned dilapidated houses have been renovated by offenders who are learning construction skills. The money earned from resale of renovated properties has been used for the Community Development Corporation.

#### Domestic violence

In Multnomah County, Oregon, domestic violence victims meet with prosecutors, law enforcement and community corrections representatives to increase criminal and civil remedies to send the message that domestic violence is unacceptable. Deferred sentencing programs for batterers include treatment, intensive supervision and jail time if the batterer is noncompliant. This substantially cuts rearrests for those who complete the program.

#### Juvenile crime

In Pulaski County, Arkansas, prosecutors select nonviolent misdemeanor and certain felony charged juveniles to report to peer judgement panels. Panel imposed punishment includes restitution, education and respect for the law. Prosecutors worked with courts and community agencies to develop this pre-charging juvenile diversion program to handle the growing caseload and discourage juvenile crime. Most youth complete the program and are successful in not recidivating.

cle discusses what is gained by establishing prosecutorial linkages to each of these with emphasis on community corrections.

- Community courts involve a range of activities to make courts accessible, responsive and fair in the administration of justice.
- Community corrections include a range of government and private agency activities focused on communities that involve punishment and management of adult offenders in controlled environments within the jurisdictions where they live.
- Community policing focuses law enforcement efforts on solving problems within neighborhoods, working within geographic boundaries to prevent problems and abate chronic nuisances.
- Client specific sentencing involves the defense bar in planning sentences that will address offender risk and needs as well as victim and community expectations for restitution.

Such developments present unique opportunities for prosecutors to improve the quality of justice in their jurisdictions as well as challenges to change the nature and role of the prosecutor toward prevention and community prosecution models. Such models link public safety, crime and cost decisions to a variety of pretrial diversion and post sentencing options. They are driven by the realization that both community and the justice system are interdependent. There is a mutual need to work together; and prosecutors and their communities are increasingly aware of what and how to contribute to these goals.

## The purpose of this article

Recent innovations in community prosecution throughout the nation raise questions about how prosecutors can be more involved in prevention of crime and supporting community-based sanctions. Corrections alone cannot provide for safety, victim support and offender rehabilitation—all expectations of the public. The purpose of this piece is to consider the prosecutor's role in community cor-

rections, to set out common elements central to all community corrections involvement, describe some models, consider issues which arise, and offer suggestions to encourage a successful partnership with other criminal justice agencies and the public.

## Why should prosecutors become involved?

Prosecutorial involvement in community corrections is intended to yield improved results in offender case management. Other justice agency outcomes are strengthened through use of information, better problem solving and matching of resources to cases. Such involvement may change the adversarial role of the prosecution with respect to certain cases or justice procedures. However, it is easy for prosecutors to avoid getting involved with community corrections. Jurisdictional boundaries, turf issues and the press of daily caseloads provide a number of impediments. Prosecutorial involvement takes time, raises unanticipated questions about the justice system and requires scarce resources. However, the community and other parts of the justice system need the support of prosecutors.

### *More effective sanctions*

Prosecutors are involved in community corrections to gain more effective, not necessarily more efficient justice processes. Individual and statewide community corrections programs have been studied and evaluated since the 1980s—revealing that they are safe and have an impact on reducing crime, paying restitution, child support and taxes and saving taxpayers dollars on health and social service costs. Statewide studies in Kansas, Minnesota, and Virginia concluded that community corrections programs were beneficial.<sup>2</sup>

Defendants often have problems that are associated with criminal behaviors. For example, they may need a place to live, job skills, education or chemical dependency assistance. When they return to their communities, they are more likely to be motivated and compliant if they participate in programs to address these underlying problems. Specific program components of community corrections such as drug treatment and employment readiness and placement have been studied

and found beneficial. For example, for every dollar spent of treatment in California, \$7 in outlays were averted for health care and treatment.<sup>3</sup>

Community corrections sentences can meet all the purposes of sentencing: rehabilitation, deterrence, punishment, incapacitation and restoration to the community. To accomplish this, prosecutors can help determine who should be eligible for community corrections programs. They can work closely with probation to assure that classification of offenders for risk is based on sound information, and they can review methods of sanctioning offenders who are noncompliant to prevent future criminal behaviors. In order to do this, there must be systematic sharing of information and coordination between prosecutors, law enforcement and corrections.

### Controlling costs

Lower crime, reduced recidivism and controlled correctional costs are beneficial outcomes of support for community corrections. We have reached the limit of our ability to incapacitate prisoners by relying on incarceration. Excessive sentences can be counterproductive. The rate of imprisonment increased from 139 per 100,000 persons to 332 per 100,000. By mid-year 1997, according to the U.S. Department of Justice, the combined jail, state and prison incarceration rate was 645 per 100,000.<sup>4</sup> A study by the Advisory Commission on Intergovernmental Relations analyzed statistical data showing that as much as 60% of federal prison case increases were due to changes in federal prosecution and sentencing.

The incarceration of nonviolent offenders continues to increase, particularly at the federal level. Such growth in prisons has led jurisdictions to crippling financial burdens and limited their ability to pay for schools, parks, and crime prevention. In 1994 we spent \$23 billion on corrections. Texas documented that it spent \$2.24 billion in 1994 as compared with \$311 million in 1982—a 619% increase. Many other states have documented similar cost growth while noting that education increase rates have been a fourth of corrections growth rates. Correctional spending grew 251% from 1981 to 1991 according to the U.S. Department of Commerce. However, the percentage for community corrections, parole and probation declined when compared to the spending on institutions for that period.



## The public is interested.

Community corrections as a proven method of controlling crime and costs has been overlooked by the public and underutilized in many places. Citizens who consider sentencing options support community corrections and this has been well established by surveys in Alabama, California, Delaware and several other states. Despite citizen support, the community's perceived concern about crime has pushed prosecutors to incarcerate more offenders for longer terms.

How can prosecutors who are elected or appointed to protect public safety ensure that they are fulfilling their responsibilities and meeting public demands? Prosecutors know their communities, offenders, families and victims and can learn what they expect for punishment. Prosecutors are an important link to community resources, and values. They know that restitution, rehabilitation and prevention of crime are important but difficult tasks to accomplish in sentencing offenders.

The public is aware that managing offenders always involves risk. However, some offenders are more prone to commit crimes after they were incarcerated than if they received community supervision sentences linked to treatment for crime prone behaviors. District attorneys who seek nonincarcerative sentences are vulnerable to allegations that they have failed to enforce the law. When a prosecutor recommends probation, a risk is taken because no decision involving an offender is without risk. In some instances, a citizen will be victimized by someone on probation, and it is the prosecutor who must explain to the victim's family why a probationary sentence was believed to be sufficient. Therefore, prosecutors are understandably reluctant to become advocates for nonincarcerative sentences.

What is needed is a level of confidence that public representatives, particularly elected officials, understand community corrections and are committed to managing the risk through a broad-based system. When prosecutors work with citizens who represent community concerns and interests toward developing safe programs, then they have the necessary support to choose a middle path. In spite of pressure to incarcerate, a growing majority of prosecutors are choosing community corrections, which balances punishment with work, education and treatment for less serious offenders.

## Corrections cannot do all the work

Community corrections involvement recognizes that prosecutors have primary responsibility for advocating for criminal sanctions in individual cases; but they also can work with other law enforcement agencies to prevent crime and analyze crime patterns which occur in their communities. Given limited resources and a wide range of demands on their time, prosecutors understand that a balanced approach toward criminal punishments is important and that corrections is overburdened. Caseloads have grown for probation and parole officers without additional increases in budgets to support more officers. Day reporting, drug treatment and other programs are operating in their communities without adequate resources too for the number of persons they supervise. Delays and waiting lists for programs are long in many places.

With a focus on the prosecutor's role in the community and a command of the enforcement and policy issues involved, district attorneys:

- ensure more appropriate pretrial disposition and post-trial results that reduce crime;
- involve victims and communities in sentencing plans;
- bring public and private resources to bear on tough problems such as the need for substance abuse treatment, and prevention of crime.

District attorneys who are involved in building more effective community corrections report that their experiences are both rewarding and difficult. However, they recognize that their efforts provide substantial contributions to improving the efficiency and effectiveness of criminal justice operations. This piece contains examples to provide prosecutors with strategies for implementing policies that strengthen community-based corrections.

## "Community," prosecutors, and corrections

Prosecutors, police, courts and corrections are all exploring how "community" justice concepts fit with their roles. In a recent review of a dozen or more community prosecution programs, three factors distinguished community prosecution from traditional prosecution.<sup>5</sup>

- 1) Community prosecution focuses on gathering community input within specific geographic areas.
- 2) Prosecutor involvement is linked to collaboration with citizens and other agencies.
- 3) Prosecutorial responses are beyond traditional enforcement responses such as arrest and prosecution.

Similarly, community corrections is linked to prosecution through geography, collaboration and new responses. Community corrections offers means of punishing, supervising and treating offenders in controlled environments within the jurisdictions where they live. Community corrections utilize locally available services, private and public agencies, volunteers and neighborhoods. They aim to prevent new crime, provide education, intervention and treatment for offenders, monitor offender compliance, and secure compensation or fines for the harm that has resulted from the crime that has occurred. Such programs are intended for nonviolent offenders. This increases the capacity for detention space for violent offenders.

## The existing community dimension for prosecutors

The final authority for administering sanctions must rest with the statutorily designated public agency—be it corrections or the court—held accountable under law for the appropriate procedures and outcomes. Although community correctional programs are most often associated with probation, frequently, prosecutors are involved directly in case management decisions, as well as in oversight of community corrections through participating in criminal justice coordinating councils, and community corrections advisory boards. In many places, prosecutors screen and recommend pretrial and post-sentence dispositions that involve community-based punishments.

As advocates, district attorneys influence the following: 1) the type of supervised release available in the community; 2) the process of selecting various sentencing options; and 3) the demand for high quality correctional options. For example, prosecutors have input into pretrial release decisions supporting community supervision. Prosecutors provide information, research and recommendations about presentencing

reports. These include community-based punishment options, incarceration or split sentences. They participate in monitoring the availability and quality of community-based correctional options. Additionally, prosecutors are involved in post-sentencing proceedings determining eligibility for parole, early release to work furlough or halfway house placement. For prosecutors to be effective in these activities, they must have adequate resources, committed leadership and methods of collaborating with communities, victims, and other justice system players.

## Focusing on credible cases for referral

requently, prosecutors have the first access to screening and assessment of defendants who will go to community corrections programs. Those who are referred are generally persons who have not committed crimes of violence such as murder, rape, robbery, aggravated assault, burglary in a dwelling, or kidnapping. Community corrections cases most often involve property offenses, traffic, and low to moderate level drug offenses. In a few jurisdictions, community boards actually determine whether a sentenced individual is eligible to be under supervision within the jurisdiction.

Nonviolent offenders can be released under community sentences provided that there is a process for determining who can be safely supervised in the community. This is most often accomplished through classification of offenders concerning the risk they pose of reoffending and their needs for treatment or services. In Oklahoma's Payne and Logan counties, prosecutors helped start the Alternative Training and Treatment Program. They participate in screening offenders, removing them from jail and placing them in a progressively less restrictive series of programs. This program has been reported to cost less than jail and has reduced recidivism by at least one third.<sup>6</sup>

District attorneys interact at several stages ranging from arraignment to postconviction hearings.

**At or before arraignment:** prosecutors work with pretrial programs to screen for defendants who may be released pretrial. Release is generally with special conditions such as drug testing, electronic monitoring, day reporting or home confinement.

**Post arraignment or plea:** Prosecutors work with structured supervision options and investigate the possibility of release to home confinement, day reporting, electronic monitoring or drug testing and treatment.

**Diversion programs:** Prosecutors appear in drug court or other specialized case processing or TASC programs.

**Sentenced probation:** Sentenced probationers may be required to complete treatment for substance abuse, mental illness or other problems related to the offense. Cases are managed by probation or agency staff and compliance information is communicated to the court.

**Restorative justice:** Prosecutors can advocate sentences that include sentencing circles, community oversight boards, mediation, restitution, community service mentoring and family counseling.

**Economic sanctions:** Prosecutors see that sentences include payments to offset costs for case processing and compensate victims or the community.

**Intermediate sanctions:** Offenders who violate conditions of release can have new hearings with additional sanctions imposed such as increased contacts with caseworkers or more frequent substance abuse testing.

## Overcoming geographic boundaries and coordination problems

### Local agencies and boundaries

In 1994, there were nearly 4 million adults on probation and parole. Approximately three fourths of these offenders were on probation and one fourth were on parole. Roughly one in six of these persons were under federal supervision and the rest were supervised by states or localities.

Prosecutors who participate in community corrections note that jurisdictional boundaries are deliberately blurred through interagency and interjurisdictional cooperation. Just as prosecutors have learned to

develop cooperative relationships in prosecuting complex crimes involving offenses involving many jurisdictions and multiple levels of government, so community corrections has learned to address multi-agency and jurisdictional issues. Interagency agreements and authorizing legislation have smoothed the way for states to transfer powers to local correctional boards or agencies.

At the federal level, the Federal Bureau of Prisons works with local agencies and states to develop transfers of federal prisoners to community corrections programs. Prosecutors at all levels have an interest in assuring that these collaborations are in place.

District attorneys at the local level have the greatest potential impact on community corrections because they have the most direct contact with the pool of eligible offenders—those who are nonviolent and whose crimes do not necessarily warrant incarceration. Local prosecutors at the county and municipal levels have jurisdiction for enforcement—but similar jurisdictional boundaries may not exist for community corrections agencies, law enforcement, substance abuse and mental health agencies and other critical government players. Elected county supervisors and others may have appropriation authority. A network is formed of organizations at the local level who are critical to improved corrections.

Community corrections focuses new resources on the nonviolent offender who may become a repeat defendant without intervention. Prosecutors make recommendations and judges make choices about who will be served by local community corrections programs. Such programs may be private or publicly operated but are overseen by local or statewide agencies. Juvenile services and juvenile courts may work with prosecutors, victims' services and public/private agencies to provide community-based activities for juveniles.

Victims' services operate in conjunction with community prosecution units, courts or independent agencies to manage community service sentences, restitution, payment of fees, and victim offender reconciliation. Substance abuse, mental health services and private agencies become involved in services because of the dearth of resources to address offenders with these problems.

## Statewide Agencies

At the state level, corrections departments and court systems may manage probation, parole and other key agencies. The source of support for community corrections often is from state revenues. The mixing of state funding for local programs makes community corrections involvement complicated for local agencies who must meet their own requirements as well as the state's.

Community corrections is authorized and funded by legislation in at least 26 states. Another four states have probation subsidy statutes. These provisions provide the structure and resources for operating community-based programs. States with community corrections acts have shifted responsibility for managing moderate to low risk offenders to the local level while providing state prison beds for the most serious offenders. Most state statutes involve state Departments of Corrections and courts. In others, authorization occurs through judicial and executive branch policies.

Where there is statewide legislation, local advisory boards work with prosecutors and sheriffs to plan, develop and operate such programs. In several states like Virginia and Oklahoma, prosecutors sit on state or local advisory boards which manage community corrections. Some local boards even screen candidates for local placements and provide input on sentencing plans. Prosecutors may receive funding to support community corrections staffing, victim assistance or other functions related to community corrections pursuant to a statewide system. Community corrections act funding may even provide a vehicle for prosecutors to develop community prosecution programs linked to corrections.

## Federal

At the federal level, many United States Attorney Offices, working with pretrial services, examine options to divert pretrial defendants. Although there are also options to sentence defendants for drug treatment and probation, many of these options are not widely used at the federal level. Some argue that the impact of the United States Sentencing Guidelines has inhibited use of federal community corrections options.

The Federal Bureau of Prisons provides placement in halfway houses and sanctions centers for offenders who are under community supervision or are being transitioned from prison during the last six months of their sentences. There are now more than 250 facilities that contract with the Federal Bureau of Prisons. Most federal community corrections placements are contracted with private agencies according to strict contractual standards governed by a “Statement of Work.” The Federal Bureau of Prisons monitors placement of the offenders, and conducts periodic training and inspections.

## Courts, Probation and Parole

Community corrections are managed by courts, probation and parole, and include public and private services that provide local, adult, and in some places, juvenile supervision, treatment, and sanctions. Such treatment and sanctions can be initiated through prosecutorial diversion programs, pretrial services, drug courts, probation, parole or departments of corrections under legal authority. Treatment and sanctions can be imposed instead of detention or as part of a split sentence. Additionally, prosecutors can recommend sanctions of gradually more severe community punishments for noncompliant probationers or parolees in lieu of jail.

## Innovative solutions developed from community efforts

Input from prosecutors and defenders is critical for rethinking community-based sentences. Those who are involved in victims’ services or community prosecution know that the public expects sanctions that fit the crime.

**Proportionate sentences:** Community corrections programs can make room for victim input, conciliation and restitution in the sentencing process. Sentences can be tailored to fit not only the crime but community expectation for fairness. In Vermont, those who are placed as nonviolent misdemeanants must appear before community reparation



boards. These boards focus on the harm that must be repaired by the victim and overseeing completion of the sentence.

**Family support:** In Montgomery County, Maryland, the Pre-release Center gets offenders employed and supporting their families while encouraging strengthened family ties. Offenders get education and encouragement to become better parents through work, parent training and conflict management. Programs provide support for the families of offenders who are also at risk or have abuse problems. This breaks the intergenerational cycle of abuse, neglect and violence among family members who are involved in crime.

**Rehabilitation services:** Prosecutors are often crucial in securing community rehabilitation services that are unavailable in many jails and prisons. These services build skills and a track record for engaging in healthy and productive living. In Connecticut, the Office of Alternative Sanctions supervises over 4,000 offenders who perform community service and develop new job skills. Rearrest rates are lower than for similar offenders who do not get these skills.

**Crime prevention:** Community corrections does more to detect and prevent crime than traditional “social work” approaches to treatment. Community corrections treatments are based on research, data and testing of management techniques that reduce crime and recidivism. They are geared toward retaining offenders in treatment longer, increasing abstinence and using sanctions and coercion to gain compliance. In Ohio and Colorado a number of private and public agencies has introduced cognitive skills and learning programs to identify and treat criminal behaviors, attitudes and habits. The results have been promising.

**Prison crowding impact:** Although prison is the first form of punishment that comes to mind when one thinks of punishment, prisons are not the most effective technique for discouraging new crimes. In North Carolina, the legislature decided that it was most important to send violent offenders to prison for much longer and to develop more community-based programs for the majority of nonviolent offenders. North

Carolina changed both its sentencing laws and its method of funding community corrections programs under the North Carolina State-County Criminal Justice Partnership and Structured Sentencing Act.

**Correctional cost control:** Prosecutors help control correctional costs by supporting less costly community corrections for those who are non-violent. Community corrections programs spend about 10% of criminal justice dollars on about three out of four of all persons under correctional supervision. Community corrections costs averaged about \$3.64 per offender in 1995. Approximately 3.7 million persons were under community corrections supervision at that time.

If prosecutors had to spend half of all criminal justice dollars, would they recommend that more be spent on community corrections? What would they get for their money?

- Community prisons cost about \$48 to \$100 per day for each case; jails cost \$24 to \$70.
- Other community residential facilities such as halfway houses, work release and detention can have similar average costs to jails.
- Community intermittent confinement has been reported to cost between \$20 and \$60.
- Community electronic monitoring, drug testing and ignition interlock technologies run between \$4 and \$20 per day per case.
- Community economic sanctions, restitution, community service and fines are reported to also be low in case costs. Job and employment training may cost as little as \$2 a day per offender.

**Drug treatment:** Prosecutors have recognized the importance of increased access to drug treatment by cooperating in the operation of over 340 drug courts in the nation. Drug treatment is estimated to save \$7 in medical and criminal justice case processing costs for every \$1 spent on treatment. Surveys of existing drug courts indicate that most reported efficiencies in the prosecution, defense and judicial processes. Savings also occurred in police overtime, prosecution and recidivism cost reduction. However, drug courts do require additional treatment facilities or access to existing slots in community programs.

**Assessment and classification:** Prosecutors become familiar with and collect information pertaining to classification and assessment of risk. Community corrections uses the tools of assessment and classification to determine risk of reoffending. Prosecutors contribute to the assessment and classification process by providing information concerning the case, criminal history, and any mitigating or aggravating circumstances.

Assessment information is collected at the time of pretrial screening and again during the pretrial investigation, as part of the sentencing process and throughout transfers of custody. Assessment and classification information is used to develop an individualized treatment plan and to determine what programs will be needed to assure compliance with conditions of release.

**Intervention, education and treatment:** Prosecutors often recommend intervention, education and treatment conditions that can be required for community release. Among them are home confinement, day reporting, electronic monitoring, drug testing and a wide variety of restorative, economic or intermediate sanctions. Such interventions or conditions of community supervision should be tailored to each case. Working with community corrections experts, they engage in dialogue about the necessity of various conditions, and their potential impact on offender behavior. Prosecutors can be important advocates to expand services in jurisdictions that do not have a wide variety of services.

**Intermediate punishments for noncompliance:** Sometimes sentences require more of the offender than unsupervised probation. Intermediate punishments are intended to provide positive reinforcement as well as to punish the offender. However, intermediate punishments are not as strict as incarceration. Traditionally, they have been imposed as special conditions of a sentence. They may also be applied to manage noncompliance at other stages of case processing.

**Restrictions:** Halfway houses, residential treatment programs and day treatment facilities restrict movement and help offenders meet their obligations. Programs that provide structure can be used to increase accountability for those who are noncompliant. They can also help transition offenders from detention to the community. In Ohio, the

state provides funding to private agencies to provide halfway houses for a variety of offenders. Courts and prosecutors work closely with probation to oversee who is placed in these facilities.

### Critical Elements

Eight elements have been identified as basic to criminal justice agency and citizen participation in improved community focused programs. Prosecutors can attend to issues of geography, inter-agency cooperation, civic and problem solving concerns when their efforts include the following:

1. A clearly defined mechanism or process which allows for continuing communication back and forth between community, prosecutors and other government agencies.
2. Commitment to the community corrections mechanism by prosecutors and all directly concerned parties.
3. Representation of all appropriate segments of the community.
4. A clear definition of the role that prosecutors and other parties will play.
5. Direct access by citizen participants to the decision-making process and feedback from prosecutors to other agencies.
6. Adequate preparation and briefing available for participants which includes law enforcement, prosecution, courts, citizens, corrections and other agency participants.
7. Procedures defining to whom agency and citizen participants are accountable.
8. Procedures for reporting back disposition of citizen and agency recommendations.

**Structured sentencing:** States such as Minnesota, Oregon and North Carolina have developed sentencing that encourages community-based sentences for certain offenses. Structured sentencing does not allow judges wide discretion in determining type of sentence. In these states, prosecutorial charges are very important because the charge, if proven, can eliminate the possibility of a community sentence. Most experts agree that the use of structured and mandatory sentences has strengthened the prosecutor's role in determining eligibility for community corrections because of the importance of the charging decision. Prosecutors in such jurisdictions must look carefully at sentencing options and the likely outcome of their cases in order to assure that justice will prevail.

## Some examples

Prosecutors have employed a range of coordinated strategies that strengthen community corrections options. The following are examples for consideration.

**C**ommunity policing involvement: Community policing has provided the stimulus for prosecutors and correctional agencies to share information and work collaboratively on cases.

*Example:* The Marion County Prosecutor's Office in Indianapolis, Indiana developed a joint effort with community policing to fight drug addiction in the North District. This resulted in developing a school prevention program, information network between criminal justice agencies and improved access to drug treatment. Close work was done with police in the neighborhood in investigation of cases, processing arrests, warrants and training.

**Diversion programs:** Prosecutors have long been diverting cases from the justice system on an informal or formal basis. Diversion programs suspend or remove a case from further action in the justice system provided that the defendant engage in activities specified according to a plan. Criteria for diversion have been developed based on the law, experience, and available options for post-release supervision.

*Example:* Since the 1970s, prosecutors in Iowa have been involved in pretrial diversion of nonviolent offenders for supervision. In Iowa, prosecutors work with pretrial services to screen defendants and supervise them when they are released pretrial. Program funding is allocated to eight districts in the state by the legislature. This allocation is then provided to private contract service providers who are overseen by probation offices. Prosecutors in Iowa work closely with oversight agencies and service providers to target defendants to be diverted. Similar diversion systems are in place in many other states.

*Example:* In Travis County, Texas, the District Attorney's community justice project has developed a Council which includes law enforcement, the citizens, adult and juvenile probation to coordinate problem solving efforts and to work to stem crime. The Gang Civil Injunction Program enjoins gang members from harmful activities and provides assessments and intervention for juveniles at risk in the community.<sup>7</sup>

**Community probation and parole with local leadership:** Prosecutors and law enforcement officials who work closely with community probation and parole, find that they can share information, use authority and increase law abiding behavior through their coordinated efforts. District Attorneys are more likely to form working relationships with probation supervisors located in their area.

*Example:* In Oregon, the legislature gave each participating county options for localized probation offices that would coincide with county prosecutors. The state developed probation and parole field services that oversee programs that reduce the number of class C felons committed to the state prison system. Local county community corrections advisory boards which include prosecutors' input, develop for spending money provided by the state on programs to supervise offenders. Evaluations showed that this plan was effective in reducing class C felons to prison.

*Example:* In Multnomah County, Oregon, the Neighborhood District Attorney program is a problem solving approach which places attorneys within a neighborhood to solve public disorder and quality of life problems. The district attorneys collaborate with business, civic and community corrections providers to partner to abate public disorder crimes. The neighborhood works on reducing crime patterns through work with probation, neighbors and families. Legal actions such as restraining orders, abatement, enforcement of trespass laws are emphasized.<sup>8</sup>

**Specialized Courts:** Prosecutors have participated in drug courts since their beginning in Miami in 1989. Drug courts are a way of dealing with a population which needs specialized treatment. The prosecutor and defense modify their traditional roles in most drug courts and agree to minimize the adversarial nature of the legal process in an effort to encourage offenders to enter treatment and remain sober. Prosecutors have been able to avoid long hearings, expedite procedures and develop protocols that meet defense requirements and legal protections.

*Example:* Kansas City's prosecutor's office has administered the drug court program in Jackson County. The program developed testing, treatment, incentives and sanctions for selected defendants. The program has worked effectively with the community, defense and court system as well as correctional agencies to develop a large and effective program which has reduced court caseloads, costs and recidivism.

*Example:* New York City's Midtown Community Court was developed in 1993 to address low level offenses through a system that would be geared to improve quality of life in the neighborhoods. The Court was planned to work closely with community policing, drug treatment and other service providers. The Midtown Community Court relies on community service sentences and provides punishment with help. This program relies on the pragmatic value of social services in controlling crime. It also provides access to education, job training, victim services and mediation. Neighborhood grievances are addressed through mediation and chronic nuisances are abated.

Defendants' progress with compliance is updated continually and provided electronically to courts, defense attorneys, social services and prosecutors.

**Intermediate sanctions processes:** Prosecutors can exercise the discretion to invoke graduated penalties which are available if an offender in a diversion program is not successful in meeting requirements. Intermediate sanctions are also a range of punishments used in lieu of prison or jail that restrict movement, require the offender to undertake certain actions, or pay money to victims or community agencies. Prosecutors who oversee drug court programs are likely to use intermediate sanctions as a method of addressing relapse symptoms. In some instances, prosecutors have protocols which govern the use of intermediate sanctions. In most cases, however, imposition of sanctions is determined by the court or by probation or parole agencies.

*Experience:* The Middlesex District Attorney's Community Based Justice Program (CBJ) has entered into a joint effort to prevent youth violence by working with schools, law enforcement, probation and social services. The program develops specific sanctions that are geared to prevent crime and delinquency. It also relies on intermediate graduated sanctions to increase an individual's accountability to the justice system.

The District Attorney's Office works through task forces that meet each week to share information and plan joint efforts. Police, prosecutors, probation and other service providers talk about their work on cases in progress. The District Attorney's Office does not necessarily seek the maximum punishment in each case. Instead, it works with task force members to develop sentencing options that will deter and prevent the individual from engaging in new criminal conduct. If the offender persists in criminal behavior, the project will seek progressively more severe sanctions to address the behavior.<sup>9</sup>



Prosecutors are taking the lead in dialogue with other criminal justice agencies to resolve obstacles.

**Balancing the adversarial role:** At the heart of the dialogue are concerns about the adversarial nature of the criminal justice system. In many instances, both prosecutors and defenders are reluctant to lay aside their traditional adversarial roles. The criminal justice system doesn't provide for a process of building solutions to chronic justice problems. The adversarial system does not permit defense and prosecution to share much information about their clients, associates or families. Furthermore, it often excludes victim information about the problem. The adjudication process omits information from the community or victim suggesting ways to repay them or their views of a fitting punishment.

Learning more about community corrections opens innovative options.

Prosecutors frequently note that they need more information about community corrections in their regions. To get such information, contact local or state facilities and make arrangements for a visit. Serving on community corrections advisory boards is another way to learn more details. Prosecutors can also consult probation offices or departments of corrections for details about state programs. Often community corrections services are provided by private agencies and human services.

Collaboration with law enforcement and corrections is challenged by jurisdictional and geographic differences.

Prosecutors express concern that defendant's who are in community corrections treatment programs can commit new crimes while under supervision because social service providers have different approaches to supervision than law enforcers. Demands of the law for zero tolerance of substance abuse are often contrary to social science and medical treatment protocols that view relapse as a frequent aberration in a treatment process which emphasizes long term sobriety.

This concern has been handled effectively by many drug courts working with treatment and prosecutors to resolve the conflict. The res-

olution, most often, relies on a protocol where offenders submit to frequent, random drug testing. If an offender shows signs of recurring drug use, then certain and swift sanctions are imposed. These sanctions, at first are intended to build sobriety, but if the offender fails to improve, they can include jail time, residential treatment or even reinstatement of a sentence.

### Community corrections must be organized in a way to fit with a prosecutor's district and key jurisdictions

Prosecutors involved in community-based corrections should have input into targeting the clients to be served. Although the tendency may be to target low level offenders who would spend time in jail but not prison, community corrections has the most beneficial impact on those who are prison bound but are nonviolent offenders. In making targeting decisions, data should be collected to support the selection process.

Prosecutors can work with courts, corrections, law enforcement and other agencies to re-think how referrals are made and how violations are processed. Law enforcement teams can work with prosecutors to share information about compliance and reduce violations of community corrections compliance.

When prosecutors work with community corrections service providers, they can geographically target services to get at the most difficult groups. This allows them to extend their ability to intervene in problem neighborhoods and prevent crime. They can work with families to stabilize offenders and keep them working.

## Conclusion

Three fourths of all persons who are under supervision serve community corrections sentences. Advantages to the public, prosecution and offender include crime prevention, reduced costs, improved safety and investing in community assets. Community corrections cannot be improved unless all law enforcement leaders join in countering the mistaken emphasis on zero risk in corrections.

A growing number of public interest and governmental organizations have recognized the advantages of community corrections. The American Correctional Association, the American Bar Association, and the National Association of Counties all have endorsed the expanded use of community corrections.

Most prosecutors realize that the path to community safety involves more than mere punishment. Prevention, treatment, creative sanctions, and prison terms are all needed to keep security. Nearly every person sentenced to prison is likely to be back on the street in a few years. While he's in prison someone else will probably replace the offender in committing crimes he would have done. Understanding that a broader approach is needed, prosecutors are looking for solutions outside of prison walls.

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<sup>1</sup>U.S. Department of Justice, Office of Justice Programs, "Prisoners in 1994" Bulletin NCJ-151654, Washington, D.C.: DOJ, August 1995.

<sup>2</sup>Kansas Department of Corrections, 1987. Kansas Department of Corrections Annual Report, July; Minnesota Department of Corrections, January, 1981. Minnesota Community Corrections Act Evaluation, St. Paul, Minn.; Governor's Task Force on Corrections Planning, 1988. A Strategic Corrections Plan for Oregon: Restoring the Balance; Joint Legislative Audit Review Commission, 1985. The Community Diversion Incentive Program of the Virginia Department of Corrections, Richmond, Va.

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<sup>5</sup>Granckow, H.P. and Mims, R. "Community Prosecution" American Prosecutors Research Institute, 1997 p. 3.

<sup>6</sup>Anderson, P. Alternative Training, Treatment and Correction in Drug Court Program in Innovative State and Local Programs, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, Washington, D.C. 1995, pp. 99-97.

<sup>7</sup>R. Earle, and D. Gay, Community Justice Planning Manager, Community Justice Program Description, Austin, TX, 1997.

<sup>8</sup>Michael D. Schunk, The Neighborhood D.A. Program Description, Portland, OR, no date.

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# The Role of the Judiciary

**Warren I. Cikins**

## Background

The opportunity for the judiciary to utilize community corrections at all levels of government has been seriously constrained by developments in the 1980's and the 1990's, especially at the federal level. In the early 1980's, there was great evidence of a growth of public fear of crime. This was accompanied by a loss of confidence in supporting judicial discretion in imposing sentences that included community corrections, parole, and probation. The public was unaware that those options had never been given a full opportunity to succeed, being starved for adequate personnel and funding and not being completely implemented in a rational manner. Such problems were compounded by a confused criminal justice structure. Thus the drive for utilizing determinate sentences, sentencing commissions, sentencing guidelines and ultimately mandatory minimums gained great momentum. While much of the momentum has some merit, the drive was accelerated by emotional appeals to be "tough on crime." This development was reflected by the rapid growth of prison populations. At the federal level, for example, prison population which had leveled at from 20,000 to 25,000 inmates for a number of years until 1980 took off to over 100,000 by the year 1998.

One fascinating phenomenon that took place from the mid-1980's to the present was the change in the attitudes of many judges about the reduction in their discretion. When sentencing guidelines and commissions were growing in support in all levels of government, most judges expressed strong resistance and objections to the limits in their

ability to actually “judge” defendants rather than sometimes serve simply as arithmetic manipulators of punishment charts. In the past year, in the preparation of this paper, the author found that most judges seem to have accommodated themselves to the guidelines. They have made the work of judging easier, have removed judges from risk of being criticized for being “soft-on-crime,” and have served to provide punishments that average on the “high side” and crowd prisons and jails. In order to encourage judges to utilize the options of community corrections (including some newer innovative ones) that are still available at all levels of government will require that judges are convinced that using intermediate sanctions will be considered in the public interest and will be supported by the general public.

## Introduction

There is now sufficient information available on “what works” to feel confident that community sanctions show more constructive results than prison for many non-violent and low-level offenders. Yet as sentencing options, community corrections are underused. Despite the restrictions of guidelines, mandatorics, and determinate sentences, community sanctions are more available and permitted than judges may think.

The creation of the U.S. Sentencing Commission by the 1984 Criminal Justice Act reflected the disillusionment of the country with indeterminate sentencing, which had led to significant discrepancies in sentences meted out for similar crimes. The effort to remedy the situation through the creation of sentencing commissions and sentencing guidelines began to gain momentum in the late seventies, often as an attempt to reduce the growing rate of incarceration and prison overcrowding.

Minnesota was the leading role model of that time and its example gradually led to the creation of other models in various states. This experience ultimately led the federal government to provide for a sentencing commission in 1984 and the gradual phasing out of the parole option. It was considered that parole was the handmaiden of sentencing discrepancies, and the movement to determinate sentencing (ultimately leading to the corollary phenomenon of mandatory minimums) soon became the widely accepted practice.

Contrary to expectations, determinate sentencing has been a significant contributor to the rapid increase in prison populations in the '80s and '90s. While crime has been decreasing significantly over the past several years, the growing rate of incarceration has barely decreased at all.

The range of options available to judges at all levels of government has gradually diminished substantially. Nevertheless, community sanctions, though underused, are available even under determinate sentencing.

And the public supports the concept. Surveyed through numerous polls and focus groups, members of the public react positively to these punishments for non-violent and many first-time offenders. They like requiring drug treatment, work, and restitution of criminals, while carefully restricting and monitoring their movements in the community.

## Limitations on Federal Judges

Outreach to the U.S. Sentencing Commission has revealed that under certain specific conditions the options of community corrections can be used. In the *Guidelines Manual* — the guidelines for probation, imprisonment, and supervised release — there are provisions that directly govern the availability of community corrections as an authorized, “within-guideline” sanction. There is also an additional mechanism for imposing a community corrections alternative sentence via a “departure” from a guideline range that does not directly offer that option.

When the U.S. Sentencing Commission was created, many, if not most, federal judges were very concerned over the impact on their use of discretion in sentencing wrongdoers. Knowledgeable watchers of the federal courts now say that most federal judges are reconciled to sentencing guidelines and often are quite satisfied with them. If anything, the trend is for most federal judges to just do the appropriate arithmetic and issue the “appropriate” sentence. Only a small percentage try to avoid even hearing cases where they know the constraints of the law might tug at their consciences. It is to the mainstream of federal judges that this portion of the report is addressed.

## Actions in support of broadening sanctions

Since 1991, actions at the federal level have tried to promote a greater use of community sanctions.

A Preliminary Report to the Commission: Staff Working Group on Alternatives, dated October 23, 1991, was prepared to respond to two sets of recommendations for expanding sentencing options, one from then Commissioner Carrothers and the other from the Judicial Conference.

1. An effort was made by Carrothers to consider an expansion of an array of sentencing options and to increase the numbers of offenders eligible for these expanded sentencing options.
2. The Judicial Conference recommendations sought to increase the “flexibility” available to sentencing judges at the lower guideline ranges, particularly with regard to non-imprisonment options for less serious first offenders.

A full review was made of a number of new options, ranging from a new split sentence; to intermittent confinement; to community confinement; to home detention, residential incarceration, and day reporting centers, public service work and bootcamps; intensive supervision, and, finally, exclusionary criteria. Coupled with these options was a range of recommendations dealing with increasing the eligibility pool. An examination of the 1997 Sentencing Table indicates impositions of probation that include intermittent confinement, community confinement and home detention.

A U.S. Sentencing Commission Staff Discussion Paper, Sentencing Options Under the Guidelines, prepared in 1997 for discussion purposes only, also examined opportunities for community sanctions. The paper indicates that the guidelines drafted under the Sentencing Reform Act (SRA) include “a determination whether to impose a sentence to probation, a fine, or a term of imprisonment.” It is later stated that “the Commission, in promulgating guidelines...shall take into account the nature and capacity of the penal, correctional, and other facilities and sources available.”

The document goes on to comment that “some have suggested that the Commission has not focused sufficiently on its mandate to control prison crowding by regulating the flow of offenders into the prison system.” The SRA also directs that “the guidelines reflect the general appropriateness of imposing a sentence other than imprisonment in cases where the defendant is a first offender who has not been convicted of a crime of violence or an otherwise serious offense.”

This approach is vitiated by the harsh guideline interpretation of “otherwise serious offense,” but still provides some room for maneuver.

- In Zone A of sentencing options, with sentencing ranges of 0 to 6 months and zone B with minimum terms of 1 to 6 months, probation with confinement conditions such as intermittent confinement, community confinement, or home detention, is permissible under the sentencing guidelines law.
- Not only at this front end of the punishment spectrum can community confinement be employed but at the rear end, community confinement centers (CCCs) and home confinement are sanctions conceived by judges and the Bureau of Prisons (BOP) as a form of imprisonment.
- While CCCs are conceived under the guidelines as alternatives to imprisonment, BOP may designate a CCC as a place of service for an offender’s entire sentence, according to the Staff Discussion Paper.
- The paper goes on to report that “judges may recommend that an offender serve the entire prison term in a CCC, which BOP generally honors.”

As the paper observes, “the effect of these statutes, policies and practices is that community confinement is technically available as a sentencing option in a broader number of cases than the guidelines recognize.” Data shows that, in Zone A and Zone B matters, judges often do not impose alternative sentences although they are available under the guidelines. The Report says “Judges exercise their discretion by sending to prison some offenders who qualify for simple probation or probation with confinement.”



## A Good Time to Move

The recent Department of Justice reports indicate a substantial drop in crime in most categories. This might well be the appropriate time for federal judges to move closer to the outer limit of their discretion in using community corrections alternatives.

Why aren't judges using these available alternatives?  
Among the answers discussed by the Staff Paper were:

1. the impact of the offender's criminal history;
2. whether the offenders were non-citizens (who might be deported or otherwise not be suitable for such options); or
3. the offenders were unemployed.

The studies conducted on behalf of the Sentencing Commission in the 1990's do indicate that many judges favor an expanded availability of alternatives to incarceration to first-time non-violent offenders. They often indicate their support for the use of community service, boot-camps and intensive supervision to a greater extent than has been the case. Job training and effective drug treatment have proven their ability to reduce recidivism.

With the uncertainty in the membership of the U.S. Sentencing Commission (as this report is written in early 1999), this might also be an appropriate time for the Congress to authorize the expansion of the use of community corrections further into Zone C and across higher criminal history categories.

### Major shifts in the criminal justice system

A measure of the Congressional determination to utilize the maximum determinate sentence is the fact that more and more mandatory minimums are added over time and none are repealed. A corollary development is the creation of the "three strikes and you're out" concept that has been utilized both at the federal and the state level. These growing phenomena have led to major shifts in the criminal justice sys-

### A View From The State Courts

While many states and localities also have sentencing guideline laws and/or sentencing commissions, most states and local governments permit judges far greater flexibility than their federal counterparts in sentencing wrongdoers.

The origin of opposition to indeterminate sentences was in the states and often in the more progressive states, where the motive was providing a more balanced system of punishment. The concern was that sentencing discrepancies might have gone too far, accentuated by parole commissions which implemented their mandate in a somewhat unstructured and uneven way in many cases. As a number of states moved toward determinate sentencing and followed the lead of the federal government in phasing out parole, the development did not lead to as tightly controlled a situation as the national one became. Fear of being considered "soft-on-crime" seems to have been more all-encompassing to members of Congress than to state legislators, as the wildfire growth of federal mandatory minimums seems to reflect.

tem. A drug offender, for example, has become subject to widely divergent punishments depending on whether he is tried in federal or state courts, whether the prosecutor determines what charge will be brought and whether the varied statutes provide a wide range of possible punishments depending on how they are interpreted.

State and local judges to their credit confronted with this new circumstance, are providing many creative new approaches to punishment. We will review in a sampling fashion state and local judicial innovations to demonstrate how intermediate sanctions and/or community corrections are becoming more acceptable. They reflect the ability to ensure public safety in a more rational manner. Especially in non-violent crimes, judges are re-examining sound community corrections alternatives.

Because of the availability of programs, judges and district attorneys face the need to resist adding too many conditions. The greater the number of conditions, the greater the likelihood of probation viola-

tions. For example, in 1989 the state of California discovered that 47 percent of its new entries into prison were technical violations of the conditions of community supervision — i.e., no new criminal conduct. The primary reason for these technical violations is substance abuse, hence the overarching importance of drug treatment.

## A Video Classroom For Judges

In 1997, supported by the National Institute of Corrections and sponsored by the State Justice Institute, the Center for Effective Public Policy produced four videotapes to encourage judicial development and use of intermediate sanctions.

Honorable Roger K. Warren, former Judge of the Superior Court of California in Sacramento and presently Director of the National Center for State Courts, reported that these films were being made not only because the judges' exercise of judgment and discretion were severely limited, but also because of the paucity of sentencing alternatives available.

Four judges were interviewed on the video who accepted participation on the policy teams.

Judge Thomas Ross of the Greensboro, North Carolina, 18th Judicial District, emphasized how important it was for him to work with his community.

Judge Ronald Reinstein of Maricopa County, Arizona, noted how the interaction with both prosecutors and defense helped him recognize what everybody's problems were.

Judge Marie Milks of the 1st Circuit of Honolulu, Hawaii observed how pivotal the court was in providing team leadership by ensuring an atmosphere of trust.

Judge David Box of the 12th District, Claremore, Oklahoma said it was crucial to involve members of the public in order to give the local community a sense of ownership of the process.

There was a need for more options between the usual minimally supervised probation and the long-term incarceration in state penal institutions.

As he put it, “Judges are forced to choose between inadequate alternatives and do not have the necessary tools to carry out their sentencing objectives.” He went on to note that “although judges have a responsibility for, and interest in, the development of intermediate sanctions programs that met their own sentencing goals, the judiciary lacks the authority to create such programs.”

It is clear that an array of programs is needed, since not all intermediate offenders are alike. But meaningful optional correctional punishments require the power to appropriate funds and to operate effective programs. The core concept promoted in the videos is that the development of such programs requires the establishment of interagency policymaking teams that include representatives of all three branches of government. These programs must enjoy the support of the ranges of law enforcement entities, the defense bar, the involved citizenry, and the media. All the players must agree on the correctional objectives and the appropriate target offenders to be saved by the program.

Two of the major issues are time and resources. The team needs to know where to look for resources and how to manage time. In many cases, the community can provide the resources itself through such entities as non-profit organizations, school organizations, drug and alcohol organizations, etc.

All involved need to recognize that the process moves slowly and all players must be educated as to their roles. When the team gets started, they need to talk about basic issues, how to get a better job done, how to build trust and faith, and how to understand each other’s perspectives. For the team to succeed, it must meet four standards: (1) a clear understanding of what intermediate sanctions are; (2) the availability of a sound plan to proceed; (3) a recognition of how the policy team was put together; and (4) an awareness of how to use the policy team.

### *The judges’ role in creating sanctions*

Judge Warren sees four roles for judges in participating in interagency policymaking teams designed to achieve society’s appropriate sentencing goals, as follows:

1. assisting in the development of intermediate sanctions programs;
2. assuring themselves of the proper correctional objectives and offenders to be served by the programs;
3. helping obtain consensus in the criminal justice system on the sentencing goals and offenders selected; and
4. ensuring that the programs are designed, implemented, and operated in a cost-effective manner.

Thus state and local judges are crucial participants in interagency policy teams made up of the judges, police, prosecutors, defense, probation, juvenile, victims, and citizen groups. In this context judges can assist or support prosecutors when they see the use of intermediate sanctions as better than probation, and when there can be a greater use of prisons for the violent offenders.

## The Courts And The Community

A corollary study to the work of the State Justice Institute was a *Guide to Court and Community Collaboration* prepared by David Rottman of the National Center for State Courts et al, funded by the Bureau of Justice Assistance of the Department of Justice. The Guide is the result of several court/community initiatives of the Center, each undertaken with an advisory committee composed of judges, court administrators, and citizens. As the guide states, "Court and community collaboration contributes to the creation of a justice system genuinely rooted in communities."

These collaborations are typically used to address specific parts of a trial court's subject matter jurisdiction: domestic violence, drug use, drunk driving, handgun violence, juvenile delinquency, and public nuisance crime. The focus, underlying philosophy, and modus operandi of such collaborations vary from place to place, with the court that is involved being either an individual judge, an entire trial court, or even a state system of trial courts. A distinction is made between programmatic and systemic collaborations, programmatic meaning a blueprint for establishing court programs or special courts or for dedicating a judge and courtroom to a particular set of cases, and systemic offering an orientation on the administration of justice, ensuring that the justice system is open and effective for all.

The study emphasized that “a community-focused court works in partnership with the community it serves to identify problems and to develop and implement strategies to address those problems.” Collaborations mean:

1. working with community organizations and the public to identify critical community problems and implement problem-solving strategies (sometimes actually working with the courts in the dispute resolution process by recommending sentences in juvenile and criminal cases);
2. collaborative problem-solving at the community and the individual case level, focusing both on participating in programs designed to reduce the frequency of domestic violence, drug use, or juvenile delinquency, and seeking sentence alternatives in individual cases that will result in positive outcomes for the individual and the community; and
3. the court engaging with a cross-section of the community via an ongoing, two-way dialogue, with the courts learning what the community wants and the public learning what the courts do, enabling the courts to build a constituency.

The Court and Community Collaborations Guide recognizes that in recent years trial courts have inherited new challenges involving intractable social problems. They have gotten jurisdiction, as courts so often do, because such problems as substance abuse and domestic violence have overwhelmed the capabilities of both government and private institutions to resolve. This development has led to acute pressures on the courts, which require innovative responses. The courts cannot simply be passive recipients of society’s problems. They must become proactive.

One response has been the creation of coordinating task forces and committees. The work of such committees has often led to the creation of specialized courts: drug courts, domestic violence courts, commercial courts and community courts.

The guide points out the following strengths of community and court collaborations:

- they are durable;
- judicial support is critical to both short-term and long-term success and the institutionalizing of a community focus on the overall business of the court;
- the nature of the community establishes the tenor of the collaboration;
- collaborations must consistently arise in courts with jurisdiction over juvenile and family cases, although examples can be found in most areas of criminal justice, including felony-firearm-related offenses and substance abuse;
- civil justice matters have yet to be involved here to a considerable extent; most programs are established within existing courthouses and court processes, with the uniqueness being the public being treated as partners; and
- the programs can successfully incorporate the requirements of judicial independence in their formal structures and day-to-day operations.

The Guide cites eight examples of court and community collaborations as follows:

1. Peacemaking Division of the Navajo Nation of Arizona and New Mexico — a peacemaking component added to adversarial courts;
2. First Impressions Project, Los Angeles, California — an effort by the L.A. Municipal Court to reach out to underprivileged fourth and fifth graders to have them better understand courthouse procedures and the rule of law;
3. Franklin County Futures Lab, Greenfield, Massachusetts — a series of “town meetings” conducted throughout the county by a 38-Member Task Force (representing a cross-section of the community) that provided the public with an opportunity to voice concerns about the justice system and to make recommendations on how it might be improved;
4. Detroit Handgun Intervention Program, Michigan — a weekly program held on Saturday mornings in a courtroom, required for bail

release for adults with felony firearm offenses and juvenile defendants, during which probation officers, policy officers, and a judge present a focused, fine-tuned message aimed at raising the awareness of young people about the dangers and consequences of gun violence;

5. Oakland County Youth Assistance Program, Michigan — a collaboration with the Oakland County Probate Court “to provide an alternative to the traditional system of referring troubled youth to the centralized county probate court” by developing a program to assist these youths within some 26 communities throughout the county;
6. Juvenile Conference Committees, Hudson County, New Jersey — a program created by the Hudson County Family Court through which one-third of its minor, first-offense cases are disposed; 6 to 9 community volunteers staff the committees and hear cases that do not warrant court action but some expression of societal and judicial disapproval;
7. The Midtown Community Court, New York — a court begun as a public/private partnership “to tackle a wide array of social problems manifest as low-level, quality-of-life offenses in neighborhoods in the Times Square area;” and
8. Norfolk Juvenile and Domestic Relations Court, Citizen Advisory Council, Virginia — a council mandated by court order to: (a) consult with the court about the development of court service programs; (b) make recommendations about legislation affecting children and domestic relations; and (c) conduct annual visits to local facilities receiving children under court orders and report on conditions.

To get additional information about each of these programs, judges can consult the Guide or contact the courts involved.

### *The New York Midtown Community Court*

Since the National Institute of Justice and the State Justice Institute supported a special study of the New York City Midtown Community Court



issued in May 1997, however, a closer look at that undertaking, will be provided at this time.

As the study points out, “the decision to establish the Midtown Community Court grew out of a belief that the traditional court response to low-level offenses was neither constructive nor meaningful to victims, defendants, or the community.” Getting underway in October, 1993, this new Court was the product of public/private cooperation and joint planning by the New York State Unified Court System (UCS), the City of New York and the Fund for the City of New York (FCNY), a private non-profit organization. “The purpose was to design a community-based courthouse that would provide effective and accessible justice for quality-of-life crimes - low-level offenses like prostitution, shoplifting, minor drug possession, turnstile jumping, and disorderly conduct.” The idea was not to replicate area-wide routine case processing in a community setting, but to establish problem-solving machinery unique to the specific area and problems involved.

#### Community Court Concerns

- a. high concentration of quality-of-life crimes;
- b. broad community dissatisfaction with court outcomes;
- c. visible signs of disorder, and
- d. clusters of persistent high-rate offenders with serious problems, including addiction and homelessness.

The entities involved recognized this new approach required new information, new tools, and new partnerships. The courts had to have information about defendants at its fingertips - about substance abuse, homelessness, and prior compliance with court sanctions - to craft individualized sentences. The other players had to be ready to play their roles. The community and the court had to be ready and willing to work together every day. This meant the creation of many instruments related to utilization of intermediate sanctions, such as:

- a coordinating team, working in partnership with court administrators, to foster collaboration with the community and other criminal justice agencies, oversee the planning, development and operations of court-based programs; and develop ideas for new court-based programs;
- an assessment team, operating between arrest and arraignment, to determine whether a defendant has a substance abuse problem, a place to sleep, a history of mental illness, etc.;
- a resource coordinator to match defendants with drug treatment, community service and other sanctions;
- innovative technology, to provide immediate access to information needed to inform judicial decision-making;
- space for court-based social service providers to address underlying problems of defendants that can contribute to continuing criminal involvement;
- community service projects specifically designed to “pay back” the community harmed by crime;
- a Community Advisory Board to keep the court abreast of quality-of-life problems in the community, identify new community service projects to address these problems, help plan new projects and provide feedback about the Court;
- court-based mediation to address community-level conflicts, rather than individual disputes; and
- a court-based research unit, to feed back information on case processing and case outcomes, defendant compliance with court conditions, the quality of life in the community and to suggest adjustments to experiment as it proceeds.

The approach was designed to build confidence in the criminal justice system since many players were currently disillusioned - the police felt that the “courts don’t back them up” and the community blamed the courts for the “revolving door.” The aims are for swifter justice, justice more visible to the community, encouragement to the police enforcement efforts on low-level offenses, the court marshalling the energy of local residents and businesses, and the court understanding that communities are victims, too.

## One Example of Modern Approaches

n considering the options available to state and local judges, we have focused primarily on such conventional intermediate sanctions as halfway houses, electronic monitoring, victim restitution, community service, intensive supervision, bootcamps, and community detention. In an effort to develop additional techniques for effective community corrections, the United States followed the lead of Great Britain in the 1980's by utilizing the day reporting center (DRC). A study of DRC's was prepared by the National Institute of Justice (NIJ) in 1995, to encourage an intermediate sanction "that blends high levels of control with intensive delivery of services needed by offenders."

In many circumstances the DRC concept can offer a judge an approach that might contribute significantly to reducing recidivism, with DRC's available in about half the states. Since the primary goal is to provide offenders with access to treatment services and with drug offenders often the most prevalent offenders, this intermediate punishment needs full exploration. A secondary benefit is reducing jail or prison crowding.

NIJ examined several DRC's, including the Connecticut Judicial Department Office of Alternative Sanctions and the Superior Court in Maricopa County, Arizona. When Connecticut moved to fixed sentences without discretionary parole release in the '80s, prison populations increased rapidly. The legislature moved to create an Office of Alternative Sanctions (OAS) within the judicial department and to develop a range of nonconfinement sentencing options including alternative incarceration centers (AIC's). These AIC's now enforce a highly strict level of surveillance, requiring offenders to report 5 times a week if unemployed or 3 times a week if employed full-time or attending school. Offenders must undergo substance abuse testing and counseling. Other conditions are set as required by the court. High priority is given to community service requirements.

The AIC's are being evaluated to determine if pre-trial AIC diversion goals can be met. The offenders have a lower recidivism rate and a lower incarceration rate at sentencing than non-AIC cases. It is clear nonetheless that this is not a complete success, with competition from probation and others about limited funds diversion and skepticism about AIC results, but the approach clearly has some merit.

With regard to Maricopa County, they have a Daily Reporting Center (DRC) system for nonviolent offenders with identifiable treatment needs. (In 1995, it had three neighborhood offices.) A most valuable aspect of the program is the wide range of private non-profit treatment providers that have been brought together at each DRC. They provide job placement, literacy training, self-help/support groups (Alcoholics Anonymous and Narcotics Anonymous), intensive counseling for chemical/alcohol dependency, community service programs, and other counseling programs. Very early evaluations reported 86% of the 780 offenders who went through the program were not recidivating. Substantial financial savings were also achieved.

The DRC's have the following characteristics in their general application:

1. they go through different phases, from higher to lower controls of offenders based on treatment and compliance progress;
2. there are intense levels of surveillance, but they range from face-to-face contact, to telephone contact, to behavior monitoring;
3. there are a wide array of on-site and off-site treatments and services provided;
4. older DRC's tend to be private, with newer ones public, *with most public DRC's administered by judicial agencies*;
5. the average daily cost per offender is \$35.04 (in 1995 dollars);
6. there are a wide range of participants in a DRC, from 85 to 1,750, with the average per year being 85;
7. DRC's accept offenders from many referral services, from both the rear and front ends of the criminal justice system;
8. DRC's do not generally exclude serious offenders, but usually are non-serious drug- and alcohol- using offenders who do not require residential treatment;
9. negative termination rates range from 14% to 86%, with a 50% average; and
10. evaluations are very incomplete about the ultimate value of the program. With all of these uncertainties, the effort is still worth trying.

## Other Outreaches

In March of 1996 the National Institute of Corrections (NIC) of the Department of Justice issued a report on the growing interest in *Community Justice: Striving for Safe, Secure, and Just Communities*. What is envisioned is a community criminal justice system which offers a larger role for the community and greater sentencing options for judges. Much of this development has built on the lessons that community policing teaches, that a seamless criminal justice system is crucial to achieving safe and secure communities.

As has already been noted, one possible ingredient of this system is neighborhood courts. As the NIC report notes, "such efforts represent a watershed because they allow the community an opportunity to hold public institutions and their representatives directly accountable."

The related ingredient of "restorative justice" has also gained in public attention and support. NIC reports that "proponents argue that the contrasting goals of "rehabilitation" and "retribution" are both wanting. Daniel Van Ness notes that both are too focused on the offender and not enough on the crime or on the harm caused by the criminal act. "Our current system discourages contact between victims and offenders, leaving the major responsibilities to surrogate professionals. No wonder the public is dissatisfied: the process lacks humanity and denies any substantial role to the parties who are most concerned and have the most to gain or lose."

The State of Vermont has built on its historical legal principle of reparation of injuries to victims and to the community as part of its criminal justice system. The State embarked on the restorative justice undertaking in 1994 and 1995 in the belief that prisons were being relied on too heavily and community involvement overlooked. Instead of the adversarial process, the Vermont model is based on recognition that most crimes are violations of one person or entity by another. In a problem-solving mode, the focus is on "dialogue," bringing together the offender and the victim to negotiate a healing or "restorative" resolution. As the NIC report emphasizes, "Sentencing Options is Vermont's chosen aggregate name for the programs offered within its new organizational structure. These options can be visualized as a three dimensional matrix of sanctions, service tracks and programs, as defined by Vermont's new sentencing options manual. Within this man-

ual, Vermont courts are given a variety of new sentencing choices consisting of programs and associated services. These choices are organized within two service tracks (the risk management track and the reparative track) and involve four possible legal sanctions: probation, supervised community sentence, pre-approved furlough and incarceration.”

In conclusion, the community justice model and its restorative justice component are proactive and emphasize crime prevention and collaboration. The judiciary, the public agencies, and the general public are enabled to work together to develop appropriate responses to crime, with each element of the comprehensive criminal justice system holding a piece of the solutions.

Justice Fellowship, an outgrowth of Chuck Colson’s Prison Fellowship, has been active in more than thirty states (as well as the federal government) since its founding in 1983. The Fellowship promotes the use of community corrections, and works “to equip concerned citizens to promote improvements in criminal justice that hold offenders responsible for their acts, protect the public, help restore victims’ losses, and include communities in the criminal justice process.”

Major studies of how these objectives should be accomplished have been prepared for several states, such as South Carolina in 1996 and Pennsylvania also in 1996. The Pennsylvania study emphasizes that judges have lost faith in such community corrections instrumentalities as the probation system, fearing that offenders sentenced to probation would not be supervised and/or receive vital support programming. The report calls for the development of a credible probation/parole system that would more effectively manage offenders in the community, ensure that restitution is paid to victims, and provide quality intervention programs for offenders. This improvement would encourage judges to view community corrections more favorably.

Justice Fellowship attempts outreach to the judiciary on a four-point program:

1. granting all victims a formal role in the criminal justice system;
2. sentencing low-risk offenders to strictly supervised and cost-efficient non-prison punishments (such as restitution and community service);
3. establishing viable work programs in every prison; and
4. guaranteeing religious liberty for inmates.

This organization has worked to change legislation in many states to enable these points to become part of the criminal justice system and judicial discretion.

## Conclusion

In reviewing the message of ways judges at all levels can utilize community corrections effectively in the public interest, and with public support and acceptance, the conclusion is reached that judges must be willing to become more proactive than has been traditional. The results from such initiatives will in most cases be greater public safety, less recidivism, more public understanding and support of the courts, and, most likely, considerable cost savings. While this report has not attempted to review all the options available, there are many and they show great promise. A basic look at the options indicates the following:

1. There is much excitement about “restorative justice,” an approach that enables the community to feel that those who have been victims of wrongdoing are getting greater recognition and making greater input.
2. Community justice outreach reflects the national movement to get all players in the community involved in the criminal justice system.
3. While many innovations such as day reporting have not yet demonstrated complete viability, they are worth pursuing to contribute to the effort to convince the public that the criminal justice system is flexible and constructive.
4. In that same vein the judges need to convince the public that they are prepared to play a flexible and constructive role.
5. All the players in the criminal justice system must commit to working together, to welcoming judges in their midst, while recognizing that the judiciary still needs to maintain its independence.
6. In the process of such cooperation, the players must always be sensitive to the need to achieve public support and public willingness to “share ownership” in some of the innovative outreach.
7. In reviewing the criminal justice process, judges should recognize that some of the more traditional instrumentalities, such as probation and parole, may well have a significant role to play in commu-

nity corrections, as they are reexamined and retooled to fit current circumstances (see CCC Report on this topic).

8. Judges should recognize that community corrections provides a valuable opportunity to look for ways to build bridges between those attempting inmate rehabilitation such as Prison Fellowship and those more recently coming to the corrections table, representatives of victims' rights.
9. Judges at all levels must work more closely with each other to ensure an appropriate division of labor with regard to community corrections, so that discrepancies in treatment of offenses such as drug abuse are minimized.
10. To the extent possible, community corrections can be used to find middle ground between the approaches of determinate sentencing and indeterminate sentencing.

## Acknowledgments

While I have had the privilege of working with a number of federal judges (including Chief Justice Warren Burger) and meeting with many state judges over the almost twenty years I was senior staffer at The Brookings Institution, my work dealt with administration of justice in general and criminal justice in particular, not community corrections as such. I have occasionally written about community corrections in my general consideration of criminal justice matters, but have felt the need for professional assistance in dealing with the judicial role in community corrections.

In that regard, I contacted and discussed my needs with many relevant persons with whom I have interacted over the years, including Russell Wheeler of the Federal Judicial Center, Jim Duff of the Office of the Chief Justice of the United States, Noel Augustyn of the Administrative Office of the Courts, John Steer of the U.S. Sentencing Commission, Joe Trotter of the American University, Tom Henderson of the National Center for State Courts, Larry Solomon and George Keiser of the National Institute of Corrections, and David Tevelin of the State Justice Institute. They also steered me to Colleen Davos of the National Center for State Courts, Peggy Burke of the Center for Effective Public Policy, Larry Linke and David Shellner of the National



Institute of Corrections, and Barry Nilson of the New Hampshire Justice Fellowship and others from the Pennsylvania and South Carolina Justice Fellowships. These latter persons provided me with more relevant material than I could possibly digest. I want to thank them and the others who assisted me and express my gratitude to them, but I want to accept full responsibility for what appears here.

# Defender Partnerships

**Mary K. Shilton**

## Introduction

Throughout the country, defense attorneys are involved in alternative sentencing and treatment programs and their advocacy in individual cases and for systematic reform is a critical component of improved community corrections. Often under-funded and isolated from other criminal justice agencies, defenders work with citizens, correctional agencies, courts, prosecutors and social services to develop coordinated programs.<sup>1</sup> Defender community involvement is changing the practice of law in a number of important ways.<sup>2</sup>

This piece describes basic issues addressed by attorney-advocates for community-based sentences and calls for strengthened participation of defenders in shaping community corrections and other community justice initiatives<sup>3</sup> related to sentencing. Community-based corrections provide more humane and effective treatment for nonviolent clients while serving local interests. Community corrections include a range of activities focused on neighborhoods that involve punishment and management of adult offenders in controlled environments within the jurisdictions where they live.

Defense attorneys often spend significant time on sentencing issues related to nonincarcerative options. Client specific planning and other sentencing advocacy programs for public defenders and the private bar provide courts with detailed background and character information for each defendant.<sup>4</sup> Defense-based advocacy provides a range of sentencing alternatives that sanction, control and curb future criminal behavior.

Advocating for community-based sentences presents substantial challenges for defenders because they often lack the funding and linkages to fully participate in a well coordinated criminal justice system.<sup>5</sup> Defenders are faced with a steadily growing caseload in most areas. Over the past two decades, the number of persons under supervision has nearly tripled.<sup>6</sup> The number of full time public defenders has not kept pace with caseloads. Some defender-based services have encountered political and legislative resistance. According to “Improving State and Local Criminal Justice Systems,” in Florida and Arizona, coalitions were formed to advocate for improved justice resources for defenders. In California and Minnesota, public defenders have organized to fight for salary parity. Many defense attorneys who serve indigents are inadequately compensated for their time and encounter limitations on reimbursement.<sup>7</sup>

Technology for defenders has lagged behind other parts of the justice system. Only a few areas such as Dade County have criminal justice information systems which are accessible to defense attorneys. Urban area defenders often have staff who are involved in investigating cases, and seeking sentences that are appropriate, effective and fair. Rural areas seldom have any of these resources.

A shift in sentencing away from judicial discretion to structured sentencing has changed the balance between justice system components. More emphasis placed on structured sentencing has resulted in an increased use of guilty pleas.<sup>8</sup> As prosecutors develop more sophisticated technical tools for proving a case, defenders have been pressed by fewer resources and technologies to match this challenge. Often, insufficient attention is paid to diversion and post-sentencing options. Such trends have caused defenders to reassess their priorities and become strong advocates for appropriate sentences.

## The emerging role of the defense bar

Defenders are a fundamental but under-utilized asset for building improved community-based corrections. Their emerging role is characterized by collaboration with other community resources which support offenders. There is stronger coordination with other criminal justice agencies—developing shared procedures and informa-

tion while protecting client interests. Defenders are activists, mentors, volunteers and community builders.<sup>9</sup>

On the individual case level, defenders use various models for alternatives: pretrial diversion, drug courts, client specific planning, and after-care programs for reintegration. On the city or county level, they participate in mentoring, community advisory boards and oversight of private nonprofit correctional programs. The following are three examples:

- In Dade County, Florida, public defenders screen cases and refer substance abusers to treatment and drug court within days of arrest.
- In Multnomah County, Oregon, defense attorneys sit with citizens, other criminal justice agency representatives and elected officials on a community corrections advisory committee.<sup>10</sup> Members of the committee develop a plan, advocate for funding and oversee services for offenders. Defense bar participation has helped to assure that services are fully integrated for their clients.<sup>11</sup>
- In Fairfax County, Virginia, the Northern Virginia Black Attorneys' Association worked with the Court and the Virginia Department of Corrections Division of Field Operations to select youthful offenders age 18-24 to receive assistance to prevent recidivism.<sup>12</sup> Mentors, integrated services and assistance from local service organizations and Universities have made this program successful.

With a focus on the defendant, as well as procedural and ethical requirements within the legal community, and a knowledge of case processing and sentencing options, the defender can:

- ensure more appropriate pretrial disposition and post-trial results that are likely to reduce crime and serve the offender's best interests;
- work with courts, sentencing advocates and prosecutors to involve victims and communities in sentencing plans; and
- bring public and private resources to bear on tough problems such as the need for substance abuse treatment, and prevention of crime.

Defenders are increasingly involved in every aspect of community corrections sentencing to gain answers about how they can meet their clients' needs while reducing risk of reoffending. Attorneys who build more effective community corrections report that their experiences are

both rewarding and difficult. However, they recognize that their efforts provide substantial contributions to the lives of their clients, their families, and victims while improving the efficiency and effectiveness of criminal justice operations.

## Why become involved?

Defender involvement benefits clients and the entire justice system. However, defense attorneys can avoid contact with community corrections agencies. Jurisdictional boundaries, turf issues and the press of daily cases provide substantial impediments. Partnering takes time, raises unanticipated questions about the justice system and requires additional resources.

**Controlling risk:** Public defenders are concerned that risk control and surveillance measures associated with community options can violate individual rights and are unnecessarily invasive. Community corrections providers argue that this performs a public protection function by screening and monitoring those who are at risk of reoffending. Actions are then taken to make sure that those who are at risk do not pose a threat. Coerced treatment, job training, and a stable living environment increase law abiding behavior.

Defenders and treatment providers are concerned that such compliance measures can increase likelihood of rearrest or trigger a hearing for failure of a condition. However, where defenders, community corrections and courts agree on responses that are graduated and prevent relapse, then, surveillance need not necessarily increase the rate of revocations and imposition of jail time. Therefore, vigilance at each stage of community corrections yields procedures that are appropriate.

*Example:* Defenders in Iowa have been involved with prosecutors in pretrial diversion of nonviolent offenders for supervision. In Iowa, prosecutors work with pretrial services and the defense to screen defendants and to assure there is supervision when they are released pretrial. Program funding is allocated to eight districts in the state by the legislature. This allocation is then provided to private contract service providers who are overseen by probation offices. Prosecutors in Iowa work closely

with oversight agencies and service providers to target defendants to be diverted. Similar diversion systems are in place in many other states .

## Who is involved?

Community corrections programs utilize public and private partnerships. They involve multiple agencies cooperating with various levels of government. They include citizens, volunteers, the academic and religious communities, as well as criminal justice and human services professionals. A wide variety of community organizations, churches, and justice agencies are involved in community corrections. They bring resources for adult education, job placement, victim offender reconciliation, mentoring, housing, family counseling, mental health, substance abuse, and other community support. By linking pro-social services to offenders, law abiding behavior and resiliency is increased.

## What are the opportunities?

Defenders are likely to engage in dialogue about community corrections throughout the duration of the case. The following are examples.

- They investigate and verify information to support the pretrial release decision. They assure that information is objective, and represents the client's interests.
- Defenders assist in monitoring that conditions of pretrial supervision and release are met by working with the defendant, case worker or supervising agency to see that release conditions are realistic and appropriate.
- Defenders provide information, research and evidence supporting presentencing reports recommending community-based punishment options, incarceration or split sentences. There may be concerns about bias in interpreting information, tests or assessments.
- After sentencing, counsel monitors the client's progress in community-based correctional options.

Additionally, defenders are involved in post-sentencing proceedings such as eligibility for parole and early release, work furlough or halfway houses. Defender participation underscores the common elements central to community correctional involvement.

**Client specific planning:** In the last decade, there has been a growing awareness that defense-based sentencing is an important part of the defense function. Part of this recognition is driven by the increase in substance abusing offenders, and those who need special treatment or education. Defense-based sentencing allows advocates to focus on what is best for the client while meeting the demands of obligations to his family, the victim and the community.

Presenting the court plans for alternatives to incarceration is nothing new. In the 1840's, John Augustus, a bootmaker by trade, went before a Boston judge and claimed he could both straighten out young men and protect public safety more effectively than could the normal machinations of the criminal justice system. Probation and parole were born out of this bold proclamation from a humble cobbler.

One hundred years later, in 1980, a Maryland judge would hear a similar argument in the case of Alan Cole. Cole, 19, was the driver of a pickup truck that missed a curve in rural Maryland and crashed into a tree. Ten of Cole's friends died. Cole had been smoking marijuana and drinking beer before taking the wheel. The local community was outraged. Jerome Miller and Herb Hoelter saw this tragedy as an opportunity for the newly founded National Center on Institutions and Alternatives. "Maryland 1" became the model upon which Client Specific Planning is built.

Miller and Hoelter extensively researched the case and presented mitigating evidence that while Cole was not legally drunk at the time of the accident, he was in need of drug and alcohol counseling. They also found that the corner where the accident happened was quite deadly. Over a ten-year period, four fatal crashes occurred at that very corner. They offered Judge Samuel Barrick an alternative to what most thought was a certain lengthy prison sentence of thirty years: drug and alcohol counseling, psychotherapy, three years of volunteer work in a Baltimore hospital emergency room and the lifetime loss of driving privileges. Judge Barrick accepted this alternative punishment stating, "I didn't feel that he or society would have benefitted from his being sent to prison. We had already lost ten lives. We would have been losing the eleventh."

Alan Cole completed the requirements of his sentence. Because of his work in the emergency room he is now a paramedic.

### *More appropriate offender outcomes*

The use of client specific planning in cases like that of Alan Cole is one way for defenders to advocate punishments that fit the crime and benefit society as well. When defenders examine potential outcomes short of acquittal, they review options extending from pretrial diversion to post-incarcerative supervision. A middle path between prison and unsupervised probation, may be more appropriate for approximately half of all cases. This path offers means of sanctioning, supervising and treating offenders in controlled environments within the jurisdictions where they live.

Community corrections utilize locally available services, private and public agencies, volunteers and neighborhoods to prevent new crime, provide education, intervention and treatment for offenders, monitor offender compliance, punish and secure compensation or fines for the harm that has resulted from crime.

Community corrections programs have been studied and evaluated in several states since the early 1980's—and they are effective. They assist to reduce crime, pay restitution, provide child support and pay taxes. In Kansas, Minnesota, Oregon and Virginia studies concluded that the programs were beneficial. In these states funding has been available and defenders have been advocates for improved programs.

Clients with specific problems such as substance abuse are more likely to be motivated and compliant with terms of release into the community, if they address these underlying problems. Specific program elements of community corrections like employment, housing, and drug treatment may save the community money in the long run and better serve the defendant than incarceration. For every dollar spent on drug treatment for those under supervision in California, an estimated \$7 in health care and other governmental costs are averted.

### *Community corrections helps control prison costs.*

**Prison crowding impact:** In 1997, there were an estimated 3.9 million adults on probation and parole. Approximately 3.3 million persons



were on probation and 685,000 were on parole. Roughly one in six of them were under federal supervision and the rest were supervised by states or localities.

Community corrections options can decrease over reliance on the use of prison and jail as a punishment. Prison populations continue to grow at about 6% a year. At this rate, by 2060 there will be more Americans incarcerated than on the streets. The growth has increased prison and jail crowding in most states and fostered building booms in nearly every one. Over 1.8 million Americans are now behind bars.<sup>13</sup> Incarceration is estimated to average \$53 daily (staffing and construction).

**Correctional cost control:** Community corrections helps control correctional costs by using a less costly intervention for those who are non-violent. Prisons are the most expensive correctional option. The average cost of building one prison cell is \$50,000. This outlay is doubled by the time it is financed by bond interest and other planning and construction related costs. The cost of managing a prisoner for one year is estimated to average \$22,000. In most states, the full tax burden of several families is needed to confine a single prisoner for a year.

**Average costs daily per person**

- Residential drug treatment      \$60
- Intensive probation supervision    \$4
- Halfway houses                      \$40
- Electronic monitoring                \$12-20
- Out-patient drug treatment        \$6-20
- Unsupervised probation            \$2.20

Community corrections options are generally less costly than incarceration. Although residential community corrections programs can be as expensive as prison or jail, average costs daily per person are less.

**Citizens are interested and can provide support.**

Public defenders in Los Angeles and Jefferson County, Kentucky have been fortunate to work closely with citizens who are on criminal justice advisory committees.<sup>14</sup> One of the challenges for defenders is to educate the public, courts, and other criminal justice agencies about the importance of managing offender risk. Local Criminal Justice Advisory Boards

help address real public perceptions of crime as well as systems' issues. When thinking of sentencing, the public often overlooks alternative sentencing options. However, citizens who have been polled about sentencing options in various states, repeatedly support community corrections. Surveys in Delaware, Alabama, California and Pennsylvania, indicate that programs that include work, and paying back victims of crime are preferred by the public for nonviolent offenders.

The public's concern about crime has been a consistent factor in setting government policies in the past twenty years. This has been translated into exponential growth rates in prisons. About three out of four defendants in jails are charged with nonviolent offenses, and half of those in state prisons are nonviolent. Yet less than one in three taxpayers polled are willing to pay for new prisons. This public disapproval of increased taxpayer spending on prisons is compatible with the use of alternative sentences.

Defenders know that sentencing offenders to community-based corrections always involves risks. Advocates for community sentences argue for the reasonable use of risk management, specific and individual case assessment, and other tools to screen offenders and prevent new crimes occurring when they are released.

### *Corrections needs partners for this work.*

The defense bar has long been a partner in advocating for safe, humane and balanced sentencing of offenders. Defenders who sit on state criminal justice coordinating boards have worked closely to plan for better services statewide. For example, such committees help allocate federal block grant funding to meet resource needs. Defenders raise concerns when probation and parole officers' caseloads have grown without additional increases in budgets to support more officers. Day reporting, drug treatment and other programs are operating in their communities without adequate resources for the number of persons they supervise.

By including the broader community, correctional systems are stretched beyond their abilities to provide services. Defenders engage courts, prosecutors, police and private agencies to develop projects. Lawyers garner help from housing, education, medical, business, mental health and other community groups. In pro bono work, they sit on

local advisory boards. They use their knowledge of their clients, the community and the law to support the development of more effective correctional programs.

## The defender, the “community” and corrections

The meaning of “community” in justice reforms is often challenged by defenders. There is dialogue with prosecutors, police, courts and corrections concerning how “community justice” concepts fit with their roles. For community policing, there may be disagreement around use of informants, searches without warrants, and privacy issues relating to probationers. For community prosecution, the defense may argue that vigorous enforcement of vagrancy, graffiti and code violations may lead to harassment of clients and false arrests. For community courts, defenders might object that expedited proceedings circumvent procedural safeguards for their clients. For community corrections, dialogue often revolves around zero tolerance for evidence of substance abuse, rearrest for noncompliance and resulting increases in probation and parole revocation rates.

Some complain that the “community” justice movement threatens constitutional protections. Such concerns have kept defenders at a distance from the “community” programs of other justice system components. However, with careful work many of these problems can be overcome by resolving conflicts issue by issue. This takes time and commitment.

The core concepts that apply to many of these “community” innovations do not translate easily to the traditional defense function. For example, community prosecution concepts include: 1) geographically focused activities; 2) involvement of a criminal justice function cooperating with other functions and citizens; and 3) innovative responses to crime.<sup>15</sup> These concepts do not accommodate traditional defenders and their relationships. For example, how do defenders fit with geographically organized activities sponsored by community policing efforts? Defenders are involved, but are they given a formal role? Defenders push for innovative responses that other justice system agencies implement but are they subsequently included in the process?

## The existing community dimension for the defense

The final authority for administering sanctions must rest with the statutorily designated public agency—be it corrections or the court—held accountable under law for the appropriate procedures. Although community correctional programs are most often associated with probation, frequently, defenders work with prosecutors and court personnel to have input into case management decisions. Defenders who sit on community oversight boards or state criminal justice advisory commissions have taken the initiative to examine screening for decisions related to pretrial release, and post-sentence options such as work release, furlough or halfway house placement. Defenders raise questions about classification of offenders, placement in facilities and disciplinary management of them. This is often done through investigative work under a public defender or through client specific planning by private counsel.

## A range of cases

Profiles of typical candidates include:

- **Drug related offenders** involved with drugs for personal use or who have small quantities for sale. They can be sentenced to drug treatment, community service and intensive supervision, and ordered to stay away from certain neighborhoods.
- In one case, a forty five year old was addicted to opiates prescribed for severe migraine headaches. Over the span of one year, the client obtained additional amounts of opiates with fraudulent prescriptions in two jurisdictions. The client pled guilty to obtaining narcotics by forgery or fraud and would have been required to serve at least eighty five percent of her sentence under the Guidelines. Using defense-based advocacy, the client was sentenced to probation and drug counseling in addition to community service with a migraine awareness group.
- In another case, a client pled guilty to possession of a controlled substance with a federal sentencing guideline imprisonment range

of zero to six months. Using client specific planning, the court determined that a sentence of probation would be granted along with home confinement. The client was ordered to perform community service with a local organization that assists those seeking general equivalency diplomas and the client attended an outpatient drug treatment program.

**Property offenses** include shoplifters, auto thieves and some burglars—people who commit crimes against property. They can be sentenced to community service and ordered to pay restitution. If the offense is related to addiction, treatment is ordered.

- In one instance, a fifty year old first time offender was convicted of tax fraud. The federal Guidelines imprisonment range was ten to sixteen months. Because the client's minimum time of imprisonment exceeded six months, the probation was prohibited. However, using an analysis of the client's background to determine to what extent a downward departure should be applied, the defense pointed out substantial assistance to the government and the prospect that many of the client's employees would lose their jobs when his business collapsed after incarceration. The client was placed in probation for three years and required to perform five hundred hours of community service with a managed care facility for HIV Positive children. The client was also ordered to assist a speaker's bureau organized to deter business-related tax evasion.
- In a case involving a guilty plea of embezzlement the client faced a Guideline imprisonment range of twelve to eighteen months. The defense used client specific planning which noted a twenty five year history of substance abuse and client's progress of overcoming addiction after her arrest. The client was allowed to serve a twelve month sentence in a local community corrections center to permit her to continue drug treatment and to maintain her job at an area restaurant. She was also ordered to perform four hundred hours of community service at a local church.

**Public order or abusive or aberrant behavior.** Clients can be ordered to perform community service and pay restitution. Therapy is important

along with coordinated social services to mandate aggression, and engage in substance abuse or other treatments for mental illness.

- The client was a first offender who worked as a computer technician. After a night of drinking with his co-defendant, the client was involved in a fight with the owner of the bar at which they had been drinking. The defense noted that the client had been honorably discharged from the United States Navy and had not previously exhibited violent behavior. The client was sentenced to significant community service placement.
  
- The client was a forty five-year-old first time offender charged with downloading pornographic images of children. He had been a successful businessman with an interest in adult pornography. The defense pointed out that the defendant was unlikely to be a pedophile and was required to fulfill extraordinary family responsibilities. He was ordered to perform five hundred hours of community service and his community confinement was to be split between home detention and a community corrections center.

Although police and prosecution frequently have the first contact with defendants, defenders have opportunities with each stage of client contact. Those who are eligible for referral are generally persons who have not committed crimes of violence such as murder, rape, robbery, aggravated assault, burglary in a dwelling or kidnapping. Community corrections cases most often involve property offenses, traffic, and low to moderate level drug offenses. In a few jurisdictions, community boards actually determine whether a sentenced individual is eligible to be under supervision within the jurisdiction.

Nonviolent offenders are released under community supervision provided that there is a process for determining who can be safely released and supervised in the community. This is most often accomplished through classification of offenders concerning the risk they pose of reoffending and their needs for treatment or services. In Oklahoma's Payne and Logan counties, prosecutors and defenders helped start the Alternative Training and Treatment Program. They participate in screening offenders, removing them from jail and placing them in a progressively less restrictive series of programs. This costs less

than jail and has reduced recidivism in the counties by at least one third.

Both defense and prosecution interact at several stages ranging from arraignment to post-conviction hearings.

- **At or before arraignment:** In some instances defenders are involved early in working with pretrial programs to screen defendants for pretrial release. Release is generally with special conditions such as drug testing, electronic monitoring, day reporting or home confinement.
- **Post arraignment or plea:** Defenders work with structured supervision options and investigate the possibility of release to home confinement, day reporting, electronic monitoring, drug testing and treatment.
- **Diversion:** Attorneys advocate in court or before other specialized case processing such as Treatment Alternatives to Street Crime (TASC).
- **Sentenced probation:** Counsel keeps in touch with clients and agencies to assure that compliance with special conditions, treatment or other tasks are completed.
- **Restorative justice:** Defenders interview victims, neighbors and community members to find out what sentencing results would be helpful and then advocate for them. Sentencing circles, community oversight boards, mediation, restitution, community services, mentoring and family counseling may be part of this effort.
- **Economic sanctions:** Defenders advocate that fines, fees, costs and other court ordered compensation is commensurate with client's means and ability to pay.
- **Intermediate sanctions:** For those who violate condition of release, defenders may advocate for alternative penalties instead of jail or prison.

## Defenders, coordination and geographic boundaries

Defenders who participate in community corrections must often cross jurisdictional boundaries to work with various agencies and levels of government. Interagency agreements and authorizing legislation have smoothed the way for states to transfer powers to local

correctional oversight agencies or boards. At the federal level, the Federal Bureau of Prisons works with local agencies and states to develop transfers of federal prisoners to community corrections programs, to the extent that they are permitted to do so under federal policies and laws. Participation on coordinating boards and intergovernmental task forces helps defenders bridge jurisdictional boundary problems.

Local defenders have the greatest potential impact, along with local prosecutors, because they have the most direct contact with the largest pool of nonviolent offenders. However, the work of community corrections agencies may not coincide with a county boundary and defenders may have to look statewide for proper sentencing options for a particular client. Defenders who are linked to other components of the justice system have a great opportunity to overcome this problem. Through client specific planning they make recommendations about placement. Judges or correctional agencies may make placement based on a variety of factors. Defenders learn what those factors are and provide background information to support options in the community.

## Local Agencies

Defenders and prosecutors make recommendations and judges determine who will be served by local community corrections programs. They may be overseen by local or statewide probation agencies. Juvenile services and juvenile courts may work with defenders, prosecutors, victims' services and public/private agencies to provide community-based activities for juveniles. Victims' services operate in conjunction with community prosecution units, courts or independent agencies to manage community service sentences, restitution, payment of fees, and victim offender reconciliation.

Defenders report substantial impact on sentencing where they work with low level offenders and local pretrial services, jails or municipal courts. In many states, local sheriffs or municipal courts may have jurisdiction over punishment and diversion of misdemeanants. Most localities devote few resources to misdemeanants or violators. Substance abuse, mental health services and private agencies become involved in services because of the dearth of resources to address offenders with these problems.



Many of these sentencing alternatives involve community correctional programs. They include a range of government and private agency activities focused on communities that involve punishment and management of adult offenders in controlled environments within the jurisdictions where they live.

## Statewide agencies

At the state level, corrections departments and court systems manage probation, parole and corrections. The source of financial support for community corrections is often from state revenues which finance private agency or local community-based options. The mix of state funding with local and private programs make community corrections involvement complicated for defenders to access in a systematic fashion. In some places, advisory boards include defense representatives.

In 26 states, legislation authorizes community corrections programs within a state. In others, authorization occurs through judicial and executive branch policies. Defender offices may receive funding for programs related to community corrections options development or they may compete with other public and private organizations for funding. In states where Community Corrections Acts are in place, a statewide agency is designated to oversee the supervision and funding of such programs. Where there is statewide legislation, local advisory boards work with defenders, prosecutors and sheriffs to plan, develop and operate such programs.

In several states like Virginia and Iowa, defenders sit on local or state advisory boards which manage community corrections. Some local boards even screen candidates for local placements and provide input on sentencing plans. Public defenders may receive funding to support community corrections pursuant to a statewide system.

## Courts, Probation and Parole

Community corrections are managed by courts, probation and parole, and include public and private services that provide local, adult, and juvenile supervision, treatment, and sanctions. Defenders have input into these processes but tend to have few formal ties to the process in the absence of a system that incorporates the defender's input. Funding sources are needed in many areas to help defenders link client specific planning to a range of community corrections programs.

## Federal

At the federal level, the Federal Public Defender works closely with the courts, pretrial services and other agencies to develop a range of community sentencing options. It is argued that the impact of the United States Sentencing Guidelines has inhibited use of federal community corrections options.

However, the Federal Bureau of Prisons provides placement in halfway houses and sanctions centers for offenders who are under community supervision or are transitioned from prison during the last six months of their sentences.<sup>16</sup> There are now more than 250 facilities that contract with the Federal Bureau of Prisons and the states. Most federal community corrections placements are with private agencies according to strict contractual requirements governed by a "Statement of Work." The Bureau of Prisons monitors placement of the offenders, and conducts periodic training and inspections. Federal Defenders continually work for expanded use of administrative mechanisms within the Federal system to use expanded community options.

## Innovative solutions developed from community efforts

Dialogue between defenders and prosecutors is critical for rethinking community-based sanctions that fit the crime. The following provide examples:

**Proportionality:** Sentences can be tailored to fit not only the crime but community expectation for fairness. Community corrections programs can make room for victim input, conciliation and restitution in the sentencing process. The victim point of view often can mediate the harshness of a traditional sentence with focusing on changing behavior and reparation. In Vermont, nonviolent misdemeanants must appear before community reparation boards. These boards focus on the harm that must be repaired by the victim and overseeing completion of the sentence.

**Family support:** In Montgomery County, Maryland, the Pre-release Center sees that offenders become employed. It helps their families by encouraging strengthened family ties. Offenders get education and encouragement to become better parents through work, parent training and conflict management. Programs provide support for the families of offenders who are also at risk or have abuse problems. This breaks the intergenerational cycle of abuse, neglect and violence among family members who are involved in crime.

**Rehabilitation services:** Defenders seek community rehabilitation services that are unavailable in many jails and prisons. These services build skills and a track record for engaging in healthy and productive living. In Connecticut, the Office of Alternative Sanctions supervises over 4,000 offenders who perform community service and develop new job skills. Rearrest rates are lower than for similar offenders who do not get these skills. In Ohio, Oriana House, Talbert House and many other community corrections providers integrate work skills with rehabilitation.

**Crime prevention:** Community corrections does more to detect and prevent crime than traditional “social work” approaches to treatment. Community corrections treatments are based on research, data and testing of management techniques that reduce crime and recidivism. They are geared toward retaining offenders in treatment longer, increasing abstinence and using sanctions and coercion to gain compliance. In Ohio, Oregon and Colorado, a number of private and public agencies have introduced cognitive skills and learning programs to identify and treat criminal behaviors, attitudes and habits. The results have been promising.<sup>17</sup> Defenders who become familiar with cognitive

training techniques and skills can better advocate to courts why their clients should receive such services.

**Prison crowding impact:** Prisons are not the most effective technique for discouraging new crimes for many who are nonviolent. In North Carolina, the legislature decided that it was most important to send violent offenders to prison for much longer and to develop more community-based programs for the majority of nonviolent offenders. North Carolina changed both its sentencing laws and its method of funding community corrections programs under the North Carolina State-County Criminal Justice Partnership and Structured Sentencing Act.<sup>18</sup>

**Correctional cost control:** Supporting less costly alternative, community corrections for those who are nonviolent helps control prison costs. Community corrections programs spend about 10% of criminal justice dollars on about three out of four persons under correctional supervision. Community corrections costs averaged about \$3.64 per offender in 1995. Approximately 3.7 million persons were under community corrections supervision at that time.

**Drug treatment:** Defenders recognize the importance of increased access to drug treatment by cooperating in the operation of over 250 drug courts in the nation.<sup>19</sup> Drug treatment is estimated to save \$7 in medical and criminal justice case processing costs for every \$1 spent on treatment. Surveys of existing drug courts indicate that most reported efficiencies in the prosecution, defense and judicial processes. Savings also occurred in police overtime, prosecution and recidivism cost reduction. However, drug courts do require additional treatment facilities or access to existing slots in community programs.

**Assessment and classification:** Defenders increasingly become familiar with and collect information pertaining to classification and assessment of risk. Community corrections uses the tools of assessment and classification to determine risk of reoffending. Although the assessment and classification process is conducted independently, they can provide information concerning the case, criminal history, and any mitigating circumstances. By reviewing assessment information, defenders are more likely to be able to develop sentencing options that will meet the

concerns of prosecutors, courts and probation. Assessment information is collected at the time of pretrial screening and again during the pretrial investigation, as part of the sentencing process and throughout transfers of custody. Assessment and classification information is used to develop an individualized treatment plan and to determine what programs will be needed to assure compliance with conditions of release.

**Intervention, education and treatment:** Conditions most often required for successful community release are a place to live, education and treatment. Home confinement, day reporting, electronic monitoring, drug testing and a wide variety of restorative, economic or intermediate sanctions meet these needs. Such interventions or conditions of community supervision should be tailored to each case. Working with com-

If defenders were budgeted half of all criminal justice dollars, would they recommend that more be spent on community corrections? What would they get for their money?

- Prisons cost about \$48 to \$100 per day for each case; jails cost \$24 to \$70.
- Other community residential facilities such as halfway houses, work release and detention can have similar average costs to jails.
- Intermittent confinement has been reported to cost between \$20 and \$60.
- Electronic monitoring, drug testing and ignition interlock technologies run between \$2 and \$20 per day per case.
- Economic sanctions, restitution, community service and fines are reported to also be low in case costs.
- Job and employment training may cost as little as \$2 a day per offender.

Defenders influence correctional policies, the type of options available in a region, the existence of sentencing options to address specific client needs or risk, and feedback to judges and decision-makers about the quality of correctional options.

munity corrections experts, attorneys engage in dialogue about the necessity of various conditions, and their potential impact on offender behavior. Both defenders and prosecutors are important advocates to expand services.

**Intermediate punishments for noncompliance:** Sometimes sentences require more of the offender than unsupervised probation. Intermediate punishments are intended to provide positive reinforcement as well as punish the offender. However, intermediate punishments are not as strict as incarceration. Traditionally, they have been imposed as special conditions of a sentence. They may also be applied to manage noncompliance at other stages of case processing.

**Restrictions:** Halfway houses, residential treatment programs and day treatment facilities restrict movement and help offenders meet their obligations. Programs that provide structure can be used to increase accountability for those who are noncompliant. They can also help transition offenders from detention to the community.

## Elements for Defense Consideration

Eight elements are basic to criminal justice agency and citizen participation in improved community focused programs. Defenders can look for these elements in their jurisdictions.

1. Is there a clearly defined mechanism or process which allows for continuing communication back and forth between community, defense, prosecutors and other government agencies?
2. Is there a commitment to the community corrections mechanism by defense and prosecution as well as all directly concerned parties?
3. Do boards and committees provide representation of all appropriate segments of the community?
4. Is there a clear definition of the role that defense, prosecutors and other parties will play with relation to the others?
5. Is there direct access by citizen participants to the decision-making process or body and feedback from prosecutors to other agencies?

6. Is there adequate preparation and briefing available for citizen participants which includes law enforcement, prosecution, defense courts, corrections and other agency participants?
7. Are there well-defined procedures as to whom agency and citizen participants are accountable?
8. What are the procedures for reporting back disposition of citizen and agency recommendations?

## Examples to consider

**Pretrial Services and Diversion programs:** Defenders have always been advocates for diversion of many cases from the justice system on an informal or formal basis. Diversion programs suspend or remove a case from further action in the justice system provided that the defendant engage in activities specified according to a plan. Criteria for diversion have been developed based on the law, experience, and available options for post-release supervision.

*Example:* In Essex County, Massachusetts, the juvenile diversion program provides a range of responses from early intervention to a six month diversion program, District attorneys work with courts and defenders.<sup>21</sup> New diversion procedures are governed by a memorandum of understanding. The program includes mentoring, education, counseling and other resources for youth at risk.

**Community probation and parole with local leadership:** Defenders who work closely with community probation and parole, find that they can share information, use authority and increase law abiding behavior through their coordinated efforts.

*Example:* In Oregon, the legislature gave each participating county options for localized probation offices that would coincide with county boundaries. The state developed probation and parole field services that oversee programs that reduce the number of class C felons committed to the state prison system. County community corrections advisory boards include prosecutors' and defenders' input and budget

plans to supervise offenders. Evaluations found that this was effective in reducing class C felons to prison.

**Specialized Courts:** The defense bar has cooperated with prosecutors in working through drug courts since their beginning in Miami in 1989. Drug courts are a way of dealing with a population which needs specialized treatment. In the drug court forum, prosecution and defense modify their traditional roles in most drug courts and agree to minimize the adversarial nature of the legal process to encourage offenders to enter treatment and remain sober. Defenders have shortened hearings, expedited procedures and developed protocols that meet defense requirements and legal protections.

*Example:* New York City's Midtown Community Court was developed in 1993 to address low level offenses through a system that would be geared to improve quality of life in the neighborhoods. The Court was planned to work closely with community policing, drug treatment and other service providers. The Midtown Community Court relies on community service sentences and provides penalties along with positive reinforcement. This program relies on the pragmatic value of social services in controlling crime. It also provides access to education, job training, victim services and mediation. Neighborhood grievances are addressed through mediation and chronic nuisances are abated. Data on the defendant's progress with compliance is updated continually and provided electronically to courts, defense attorneys, social services and prosecutors.<sup>22</sup>

**Intermediate sanctions processes:** Intermediate sanctions offer the discretion to invoke graduated penalties which are available if an offender in a community program is not successful in meeting requirements. Intermediate sanctions are also a range of punishments used in lieu of prison or jail that restrict movement, require the offender to undertake certain actions, or pay money to victims or community agencies. Drug court programs are likely to use intermediate sanctions as a method of addressing relapse symptoms. In some instances, protocols govern the use of intermediate sanctions. In most cases, however, imposition of sanctions is determined by the court or by probation or parole agencies.



*Experience:* In South Carolina an increase in returns of adult offenders to prison for probation and parole violations caused the creation of a new parole violation system. Internal administrative hearing officers were given the power to use various sanctions other than prison in response to violations. Probation officers were authorized to use citations rather than warrants for arrest. About half of all potential revocation cases are no longer sent to jail and prisons.

## Remaining challenges for defenders

### Advocacy

Defenders play a critical but all too often limited role in the justice system and in implementing community based corrections. As the legal representatives of offenders in legal proceedings, defenders become the protectors of defendants' rights. Individual defenders may serve as a lens for the offender to see his impact on the victim, and the community. The defender learns critical information about the offender's background, circumstances of the crime and mitigating factors.

The defender serves as a bridge for the offender who is unable to understand the circumstances in which he finds himself, is afflicted with a mental disorder, lacks education or is chemically dependent. Defenders remind judges and all other criminal justice officials that the defendant is a human being who is constitutionally protected. Such protections apply throughout the proceeding and while he is under supervision. Defenders know the families and neighbors of offenders and even their victims.

Defenders learn how victims have been impacted and what can be done to redress the harm resulting from the crime. Defenders are also challenged by demands to change the nature and role of the defense function toward engaging victims, responding to communities and dealing with the issue of coerced treatment, education, sobriety and other conditions of community release.

Access to treatment as a sentencing option often involves loss of offender rights. This is common in diversionary programs. For example, in many drug courts, and the District of Columbia Domestic Violence Court, counseling, treatment and community service may be required in

lieu of a jail sentence. To be eligible, defendants must plead guilty at the outset; later if they successfully complete the programming, the guilty plea can be withdrawn. This suspension of the waiver of right to trial has been an impediment for defenders. In some instances, waiver is granted only after defense has time to screen the case and determine its merits.

As officers of the court, defenders represent the best interests of their clients in cases processed in our legal system. Attorneys must also consider public safety, review evidence of wrongdoing, assess the credibility of witnesses, and enforce constitutional imperatives such as the right to trial, to be free from excessive bail and to be secure against unreasonable searches and seizures. If guilt is proven beyond a reasonable doubt, defense attorneys seek to mitigate sentences. Such responsibilities involve careful scrutiny of law enforcement practices, and the exercise of a vigorous defense at each of several stages of criminal cases. The stages range from gathering of evidence by police of a suspected crime to post-sentencing hearings.

### *Integrating client based planning and sentencing in each step*

As central players in the adjudication process, defenders are involved in case processing and management decisions. When defenders are part of pretrial screening and diversion, they can help to construct conditions of release that will minimize an offender's chances of reoffending. At the present time, most defenders are too overwhelmed with work to spend time on these decisions. When defenders spend time working with professional staff on diversion and community sentencing plans, the results can be beneficial for communities as well as offenders.

### *Structured sentencing*

The use of structured and mandatory sentences has affected the balance between the defense role and the prosecution. To restore the balance, defenders, courts and prosecutors should work closely with corrections officials to assure that use of plea bargains and structured sentencing do not preclude the appropriate use of community corrections. States such as Minnesota, Oregon and North Carolina have developed sentencing that encourages community-based sentences for certain offenses. Structured sentencing does not allow judges wide discretion in

determining type of sentence. In these states, prosecutorial charges are very important because the charge, if proven, can eliminate the possibility of a community sentence. Most experts agree that the use of structured and mandatory sentences has strengthened the prosecutor's role and weakened the defense role in determining eligibility for community corrections. Most believe this is because of the importance of the charging decision and wide latitude of discretion lodged in the prosecution in interpreting evidence.

Structured sentencing has made the defense bar more aware of what crimes are eligible for community corrections sentences. Some states have developed sentencing grids that encourage community-based sentences for certain offenses. However, in most structured sentencing situations, prosecutorial charges are very important because the charge, if proved, can eliminate the possibility of a community sentence.

#### *Collaboration with other criminal justice stakeholders is a problem.*

The adversarial nature of the defense makes it difficult for the defense bar to participate in community and criminal justice forums. Defense attorneys are reluctant to give up procedural rights on a routine basis for promises that their clients will receive more appropriate treatment. Often, community punishments are rigorous and defendants would rather choose jail.

In places where the defense and prosecution have cooperated, they have examined a particular type of problem such as domestic violence or vandalism. They then form working groups to establish new investigation, prosecution and hearing procedures. Diversion, treatment and follow-up resources are also identified. When dialogue occurs around specific reoccurring crimes, then collaboration is possible.

#### *Adequate subsidies for local or state programs*

The issue of adequacy of indigent defense is a persistent problem. An indigent defense subsidy should be routinely available to assist in full participation in client specific planning. The complexity of cases, varia-

tions in court rules and systems, and the difficulty in securing witnesses is a constant problem. Defenders who explore diversion, sentencing and post-sentencing issues often are going beyond what is required and just “doing the right thing.” In some places defenders have excellent pretrial services, community corrections agencies and case specific planning to improve their work. However, it is well known that such assistance is limited and under-supported. Some defenders receive federal grant funding, others receive state allocations—but shortfalls are a continuing problem.

## Conclusion

A growing number of public interest and governmental organizations have recognized the advantages of community corrections.

The American Correctional Association, the American Bar Association, and the National Association of Counties all have endorsed the expanded use of community corrections.

Criminal justice professionals realize that the path to community safety involves more than mere punishment. Prevention, treatment, creative sanctions, and prison terms are all needed to keep security. Any particular person sentenced to prison is likely to be back on the street in a few years. While he’s in prison someone else will probably replace the offender in committing crimes he would have done. Understanding that a broader approach is needed, defenders can join with other criminal justice professionals and citizens who are looking for solutions outside of prison walls.

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<sup>1</sup> For a discussion of the challenges facing the defense bar, see United States Department of Justice, Office of Justice Programs, “Improving State and Local Criminal Justice Systems,” NCJ 173391-1 (Washington, D.C., 1998).

<sup>2</sup> Defender involvement coincides with community policing, and community problem solving by prosecutors. See Heike P. Gramckow, Rhonda Mims, “Problem Solving by Prosecutors: Community Prosecution,” (Washington, D.C.: United States Department of Justice, 1998), 1.

<sup>3</sup> Community Justice has been described in several recent publications. For example see Eduardo Barajas, "Community Justice :An Emerging Concept and Practice in K. Dunlap (ed). Community Justice Concepts and Strategies. Lexington, KY: American probation and Parole Association, 1998); See also Mark Carey, "Taking Down the Walls: Integrating the Justice System's Objectives With the Community's in Community Corrections Report, (5(1),5 1997).

<sup>4</sup> For an overview of client specific planning see Russ Immarigeon, "Sentence Planning Services: A Key to Reducing the Use of Incarceration" in Community Corrections Report, ISSN 1072-5415, (Kingston, NJ, Civic Research Institute, January , 1999, 19-20).

<sup>5</sup> United States Department of Justice, Office of Justice Programs, "Improving State and Local Criminal Justice Systems," NCJ 173391-1 (Washington, D.C., 1998), 1.

<sup>6</sup> See Bureau of Justice Statistics, "Nation's Prison Population Increased by More Than Five Percent in 1997," (Washington, D.C.: United States Department of Justice, August 2, 1998), 2.

<sup>7</sup> For example, at the federal level maximum rates for federal defenders, known as "panel attorneys" have been adjusted periodically but Congress has failed to appropriate funds to pay the higher maximum rate of \$75 in all 16 judicial districts. Chief Justice Rehnquist discussed this inadequacy of federal compensation noting that: "Inadequate compensation for panel attorneys is seriously hampering the ability of judges to recruit attorneys to provide effective representation." (William B. Rehnquist, Chief Justice of the United States "The 1998 Year-End Report of the Federal Judiciary, Washington, D.C. United States Supreme Court, January 1, 1999).

<sup>8</sup> According to Kathleen McGuire and Timothy Flanagan, Source Book of Criminal Justice Statistics—1990, Table 5.51, forty-nine percent of all felony defendants in urban counties entered a guilty plea. By 1994, felons in state courts entered an average guilty plea in sixty-three percent of the cases. The average number of days for a case to enter a guilty plea was 165 days between arrest and conviction. (United States Department of Justice, Bureau of Justice Statistics, State Court Sentencing of Convicted Felons, 1994, NCJ-164614, Washington, D.C.: U.S. Department of Justice, 1998), 48, 49, 52.

<sup>9</sup> Roger Connor, a fellow at the National Institute of Justice has suggested that defenders, prosecutors and other attorneys may be developing a new legal discipline of community justice. Those who are involved in problem solving, restorative justice, reconciliation, victim's services and dispute resolution use different legal tools and techniques which are reparative in nature. Others have noted that defenders involved in such processes are required to develop new procedures and to lay aside adversarial techniques to problem solve. The tension between adversarial and cooperative justice models is one which deserves further study and evaluation.

<sup>10</sup> See generally Michael Schruck, "The Neighborhood D.C. Program Description" (Portland, Oregon, District Attorney for Multnomah County).

<sup>11</sup> For details, see Cary Harkaway, Deputy Director, "Community Corrections Advisory Committee" in Restoring Hope Through Community Partnerships: The Real Deal in Crime Control by Betsy Fulton, (Multnomah County , Oregon, Multnomah County Department of Corrections 180-184).

<sup>12</sup> See Jennifer S. Joffe, "Recidivist Prevention Program of Fairfax County" in *Restoring Hope Through Community Partnerships: The Real Deal in Crime Control* by Betsy Fulton, (Virginia Department of Corrections, Division of Field Operations, Probation and Parole District 29, Fairfax Virginia 218-220).

<sup>13</sup> Bureau of Justice Statistics, *Prison and Jail Inmates at Midyear 1998*, United States Department of Justice, Washington, D.C., March 1999, NCJ-173414, 2.

<sup>14</sup> See discussion in "Improving State and Local Criminal Justice Systems," pp. 1,2 which indicates that regional criminal justice planning councils have continued to include defender programs and participation in their priorities.

<sup>15</sup> See Gramckow and Mims for a description of common elements of community prosecution which correspond to many other "community programs."

<sup>16</sup> For a description of the history see John L. Clark, "Federal Commitment to Community Corrections Inspired a Thirty-Year Partnership," *Community Partnerships in Action*, (American Correctional Association, Lanham Maryland, 1993).

<sup>17</sup> See Paul Gendreau, *Module IV: Effective Supervision Strategies*, in Betsy A. Fulton, Susan B. Stone, Paul Gendreau, *Restructuring Intensive Supervision Programs: Applying "What Works"* American Probation and Parole Association, Lexington, Kentucky, 1994, at pp. IV-3 to IV-29.

<sup>18</sup> "Community Corrections Coalition," in *Pursuit of Justice: Rebuilding the Future*, Raleigh, North Carolina, 1996.

<sup>19</sup> Office of Justice Programs, "Drug Court Activity: Summary Information (Washington, D.C., Office of Justice Programs United States Department of Justice, May 1998)

<sup>20</sup> For discussion of the findings of outcomes in Iowa's community-based corrections programs, see "Outcomes and Community-Based Corrections," *Iowa Corrections*, February 1997, pp. 1-9.

<sup>21</sup> See Tom Reilly, "No Time to Waste." *The Middlesex Community-Based Justice*, Cambridge, Massachusetts, no date.

<sup>22</sup> For description of the Midtown Manhattan Community Court and related concepts, see Center for Court Innovation, *Community Courts: A Manual of Principles* (Washington, D.C., U.S. Department of Justice, 1998).



# Probation and Parole Supervision

**Harold B. Wooten**

Probation and Parole services were founded on the assumption that trained officers, “working as the eyes and ears of the courts and parole commissions,” could help offenders live a law-abiding life. To accomplish this task officers help offenders solve social problems either through direct counseling and support or through a referral for treatment and support. Most of this assistance would fall primarily into one of the following categories: abiding by the general and special conditions of probation or parole; substance abuse treatment; vocational and employment assistance; resolving conflicts with inter-personal relationships; and, the development of pro-social attitudes and associates.

Historically, the probation officer’s role with the offender could be described, more so than not, as that of a “distant” authority who sought to guide the offender in infrequent interactions toward the accepted community norms. Most offenders tended to be relatively poor, with lengthy criminal records that started from an early age within a troubled and/or broken family. The 1960’s, a period of optimism and hope for resolving problems, tended to view the offender as a candidate for rehabilitation through treatment interventions. Hence, persons under supervision were called “clients.” The task of probation and parole systems was to make clinical assessments and make referrals to treatment sources, mostly in the areas of substance abuse, mental health, and employment assistance. By the late 1970’s researchers could not discredit the growing view that this model was not successfully rehabilitating offenders.

Since the late 1970’s, the fear of crime (and especially violent crime associated with crack cocaine gang related activities) has overwhelmed



the public's view toward persons who commit crime. Daily, the public has been bombarded with the media's "if it bleeds it leads" approach to reporting crime. Shocking the public and instilling fear has become the expected. This approach to news reporting has helped generate a collective "mean-spiritedness" that fosters stereotypical thinking about offenders in the public, and even with community correctional and law enforcement officers. By dehumanizing the process, practically every offender is seen as evil or a clone of "Willie Horton."

Recently, a National Committee on Community Corrections member tested informally this "evil offender syndrome" on someone unencumbered with complex theory, namely, a kind and honest home repair carpenter named Jeff, who at the time of this informal interview was busy constructing a new wall and complaining about offenders who, "walk scot-free" out of court every day.

**Q** "Jeff, if you were a judge how would you sentence folks convicted for the following offenses?"

"Murder (of a friend)."

**Judge Jeff** "Easy, give the sucker the death penalty."

**Q** "Violent rape of a 12 year old girl."

**Judge Jeff** "Death, why should I have to pay to keep him alive in prison?"

**Q** "Attempted armed bank robbery (no injuries)."

**Judge Jeff** "Prison, forever."

**Q** "Theft of \$5,000 worth of goods from a warehouse."

**Judge Jeff** "This is easy. Prison, without doubt, for at least 10 years."

**Q** "An individual convicted for food stamp fraud over a period of 2 years."

*Judge Jeff* “These people have got to be taught a lesson. Five years in prison.”

*Q* “Possession with intent to distribute 5 grams of crack cocaine.”

*Judge Jeff* “Drugs are ruining our society. Ten years in prison.”

*Q* “Finally, suppose a well-intended, hard-working carpenter engaged in ‘moonlighting jobs’ (to help support his family) inadvertently failed to pay taxes on \$32,000 of earned income over 3 years and is subsequently convicted of income tax evasion?”

*Judge Jeff* “That’s a tough one. Probation.”

How did “Judge” Jeff develop the view that only prisons (with a notable exception) are the appropriate punishment for criminal conduct? Opinions about those who commit crimes have become more intolerant because of influences such as: the “war on drugs,” the “tough-on-crime” rhetoric of politicians, and a lack of confidence in the courts, probation and parole systems and the officers associated with them. Quickly, “clients” became “offenders” and the public accepted easily the new calls for getting tougher on criminals. Punishment “add-ons” for non-serious crimes resulted in special conditions of probation such as fines, restitution, and community service. At the center of the consternation are substance abusers and distributors, now the targets of lengthy prison sentences and mandatory minimum prison terms.

As a result, since 1980, we have increased the prison and jail populations by over 200 percent, tripled the persons in prison, and more than doubled the number of prisons. It costs approximately \$50,000 to build a new prison cell and \$22,000 to house one inmate for a year. Over 1.6 million persons are in prison, another 300,000 are in local jails (where more mental patients are housed than in mental institutions), and over 3,000,000 are on probation supervision.

Concomitant to probation’s movement away from rehabilitation, prisons revised their goals from rehabilitation toward safe, humane housing of offenders with no pretext of trying to change attitudes of

inmates or to help them gain new social or vocational skills. With rapid prison construction to house rising numbers of offenders (surpassing money spent on education), it is easy to understand how 85 percent of the correctional dollar has been devoted to prisons. Yet, 95 percent of incarcerated offenders will return to the community from which they came, less prepared to make it.

Clearly, it is in our national interest to have cost-effective community correctional supervision programs following an offender's release from prison, or as an option to prison for most. But these programs must supervise offenders safely and closely to reduce the risk of harm to the public, while also helping offenders to stop using drugs and join a law-abiding society. These programs must also be responsive to the needs of victims and have the confidence of the public. We have learned that the public will trust that probation officers can help insure their personal safety to the degree that they see results. Today, it is unlikely many citizens could name a local probation officer. Often citizens feel isolated from law enforcement and corrections organizations while local open drug markets, gangs, and violence are permitted to go (seemingly) uninterrupted. To truly gain the trust of the public, first, probation officers must "be there" in the local community and second, they must devote the majority of their time and attention toward reducing crimes committed by at-risk offenders. With stripped down budgets, probation systems have managed to supervise well the low risk of recidivism offender. However, for a variety of reasons, probation and parole systems must improve significantly in their ability to supervise the at-risk offender. In retooling, probation systems must deliver what they promise: safe, effective supervision of offenders in the community that actually reduces recidivism.

One great challenge will be to debunk two myths:

Probation and parole systems can operate alone effectively.

Probation and parole systems must display punishment in interactions with offenders to be successful and to be taken seriously by the public.

Probation and parole systems can operate alone effectively.

*Consider the following scenario:*

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

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

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

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

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

*Now consider this:*

The five juvenile probation officers do not routinely discuss their cases with each other or with the state probation officers, with the federal probation officers, or even with the two city community police officers, and certainly not with the local citizens.

The six state probation officers do not routinely discuss their cases with each other, with the juvenile probation officers, with the federal probation officers, or with the two city community police officers, and certainly not with the local citizens.

The four federal probation officers do not routinely discuss their cases with each other, with the juvenile probation officers, with the state probation officers, with the two city community police officers, and certainly not with the local citizens.

The two city community police officers do not routinely discuss crime matters or information about at-risk offenders in Dismal Swamp with each other, with the juvenile probation officers, with the state probation officers, with the federal probation officers, and certainly not with the local citizens.

And the 3,000 citizens know very little about the at-risk offenders in Dismal Swamp and certainly are not included in discussions with any of the probation officers or the community police officers.

But many of the 120 offenders in Dismal Swamp are interacting and sharing information every day! There is something very wrong with this picture.

The task of changing self-defeating anti-social behavior of offenders is and always has been too complex for probation systems to carry out successfully alone. Revitalization demands new partnerships with community police, private investors, universities, senior citizens, social services, mental health agencies, schools, community organizations, and social services of religious organizations. Extensive and cost-effective treatment options can co-exist with swift and certain interventions for offenders.

*Probation and parole systems must display punishment in interactions with offenders to be successful and to be taken seriously by the public.*

Increasingly, over the past two decades probation and parole systems have tried to shed the image of social workers and, instead, be viewed

as law enforcement or “punishment agents” in an effort to compete with prisons for the correctional dollar and to gain public confidence. Most new initiatives first had to meet the test of political correctness by drawing upon images of punishment. Over time, these punishment programs have revealed themselves to be vacuous. The research literature is clear, however, that *not one single punishment program has had a positive effect on reducing recidivism*; to the contrary, only well-designed, well-administered offender treatment programs appropriate to the learning style of offenders have shown a positive effect on reducing recidivism.

Unfortunately, the initiatives that display proudly an image of probation and parole systems as punishment agents have served primarily to increase the number of offenders returned to prison for failing to abide by program conditions. For example, in 1989, the state of California discovered that 47 percent of its new entries into prison (34,000+) were technical violations of the conditions of community supervision, i.e., without new criminal conduct. Practitioners are aware that the primary reason for these technical violations is substance abuse. Catching substance abusers using drugs while offering inadequate treatment programs is like shooting fish in a barrel, but more wasteful.

Recently, the Office of Justice Programs of the U.S. Department of Justice convened leading correctional authorities from all over the country to “rethink probation.” There is great optimism, again, that probation and parole systems can re-engineer their many skills and assets toward a pragmatic and principled new vision. A new mission is most likely to incorporate three goals as the appropriate domain for the probation profession in the future. They are:

- **Fulfill Administrative and Public Safety Duties:** The essential task is to fulfill the duties and requirements of the courts and/or parole commissions, including providing sufficient resources toward the supervision of at-risk offenders in the community.
- **Reduce Crime:** The essential task is to reduce the number and severity of offenses committed by offenders under supervision.
- **Help Prevent Crime:** The essential task is to develop partnerships in the local community to help diminish the impact of crime and to increase the quality of life through the encouragement of pro-social values.

**A new mission: Fulfill administrative and public safety duties,  
reduce crime, help prevent crime**

These goals allow the probation and parole systems to follow closely the tenets of the contemporary “what works” research literature, and to integrate well with the community justice movement, restorative justice, community corrections “of place,” and community probation/police partnerships.

The fruition of these goals will be a vision of probation and parole system that may look like the following:

Over half of all officers (now called community probation/parole officers) are working on tightly knit teams with community police officers and community advocates. The teams work closely with community prosecutors, business leaders, school officials, treatment providers, victims’ advocates, domestic violence experts, public health officials, religious organizations, civic groups, neighborhood councils and organizations, and local citizens. The team “office” (more like a clubhouse) is located in an apartment complex in the community where the offenders under their supervision live and work. The officers are well known in the community, even by young children. Officers primarily focus on problem solving with a caseload of at-risk offenders. Yet, their activities also include the following: participation in local crime prevention initiatives such as orchestrating the clean up and repair of a trashed neighborhood; working with community prosecutors and citizens to close down abandoned townhouses used for crack use; and, serving on a local board of directors to start an after school tutoring program for vulnerable children. This vision may soon become a reality.

Toward that vision, CCC believes that one of the most promising developments in community corrections has been the community justice movement.

## Community justice programs

The following community justice programs have gained support from the Office of Justice Programs of the Department of Justice.

### The Community Probation — Community Police Teams Process

**Operation Spotlight:** The CP-CPT process is a cross-agency interactive structure that is built on the “what works” research literature, organization change theory, high performance team building, the tenets of structured family therapy, and upon proverbs drawn from human experiences that resemble common sense. The fundamental premise is that the probation profession, working in partnership with community police and the community and its resources, can deliver on the promise of public safety, by directly reducing the number and severity of new crimes by at-risk offenders already in the community. Moreover, by joining in partnership with community organizations and leaders, community probation officers (and community police officers) can help prevent future criminal acts by persons not on supervision. The CP-CPT process is clearly one of the primary means by which probation and parole systems will establish their relevancy and value to the public in the future. And, importantly, even with existing finite resources, the CP-CPT process is capable of exhibiting the mission of probation, not just in “public language” policies but by fully visible actions.

Today, the CP-CPT process is operational in 37 sites in various locations with community probation officers from Federal, state, and juvenile services community police officers from State, county, and sheriffs’ offices, community prosecutors, victims’ advocates, domestic violence specialists, community coordinators and activists. The CP-CPT process (sometimes known as Operation Spotlight) focuses investigative and supervision services of probation systems on the at-risk offenders already in the community. It is best viewed as a crime reduction community justice model; yet, many activities of the team are also directed more toward helping the local community prevent future crimes, even by those not under the team’s supervision. Formal training, technical assistance, and an automated information system, carried out by the National Center on Institutions and Alternatives, are all essential ingredients of Operation Spotlight.



## Connecticut Office of Alternative Sanctions

**Fresh Start Program:** a residential treatment program based in Hartford, Connecticut, is designed to provide offenders who are mothers with drug treatment and parenting and living skills. The Fresh Start program also works toward reducing the offender's involvement with the criminal justice system. The target population is prison-bound; substance-abusing mothers ages 16 to 30.

## Florida Department of Corrections

**Drug Punishment Program:** This program offers intervention and treatment for male and female drug-involved offenders age 21 or younger. The program is targeted to four Florida counties, three judicial circuits, and the cities of Tampa, Sarasota, and St. Petersburg. Suitable offenders are diverted from prison to probation with the provision that they complete the three-phase program.

The program consists of 6 months of intensive residential treatment in a secure facility. Treatment includes diagnosis; development of an individual treatment plan with specific treatment interventions, measurable behavioral criteria, and group counseling; a 3-month transition to the community in a nonsecure bed supplied by a contracted community drug treatment provider; and 9 months of regular probation with employment and/or study supervised by a specially trained correctional probation officer with a 30 to 1 caseload. In each phase, the consequences for noncompliance with supervised conditions are clearly stated, as are the rewards for compliance. Urinalysis is conducted throughout the program.

## Vermont Department of Corrections

**Restructuring Corrections Program:** Vermont is completely restructuring the Department of Corrections (DOC), including the ways in which offenders are classified and the sentencing options that are available. The restructuring program provides the courts with an increased range of sanctions and programs for youthful offenders ages 16 to 26. The primary goal of the restructuring is to reduce prison crowding by diverting nonviolent offenders from prison while maintaining public safety with

intensive treatment and control. A secondary program goal is to address the factors that contribute to recidivism among younger offenders.

### *Washington Department of Corrections*

*Reintegration Project:* is a two-track program — a prison track and a community track — focusing on work, education, and employment readiness for youthful offenders. The mainstay of the program is the intensive involvement of the private sector in the provision of jobs, job training, and education, both in the community and in correctional facilities.



# Glossary

## *Glossary of commonly used terms pertaining to sanctions*

**Classification of Offenders-risk assessment and classification** – are processes which gather specific information about an offender for law enforcement, correctional, or court agencies; this includes individual offender behavior descriptions, needs, skills, and aptitude as well as factors related to criminal conduct.

**Client-Specific Planning (Defense-Based Planning)** – focuses on advocating punishment for offenders which fit the circumstances of their case, the risk they pose to the community, and individual characteristics related to crime. Defenders develop sentencing plans with particular activities geared to their clients' needs and community safety.

**Community Corrections Acts** – statewide legislation which provide a structure and funding for subsidies for operating community correctional programs.

**Community Corrections Programs** – a variety of local, state, or federal activities involving punishment and management of offenders in controlled environments within the jurisdictions where they live.

**Community Courts** – pioneered in Manhattan, the concept of community courts provides adjudication of misdemeanor and other minor crimes along with restitution and supervision for offenders.

**Community Justice** – a concept which recognizes the rights of victims and emphasizes the importance of communities participating in dialogue with offenders to restore individuals and harmony.

**Community Prosecution** – District Attorneys focus their activities upon certain locations in their community and develop problem-solving strategies in conjunction with other agencies.

**Community Service** – mandatory work requires offenders to give back to the community by cleaning streets, painting public offices or wiping off signs of vandalism.

**Cross-Designation** – law enforcement agencies or prosecution participation by multiple criminal justice agencies where there may be overlapping jurisdiction in more than one venue.

**Day Reporting Programs** – are alternative sentences where offenders must appear daily and participate in programs or community service work.

**Determinate Sentencing (Structured or Presumptive Sentencing)** – has decreased use of judicial discretion in individual sentencing cases in an effort to make sentencing more equitable overall.

**Diversion Programs** – activities which remove the offender from criminal justice case processing provided that he participates in specified programs.

**Drug Treatment** – in-patient or out-patient, drug treatment is proven to reduce drug use and the associated criminal behavior among the number of drug addicted people in the justice system.

**Economic Sanctions** – a range of financial punishments that include payment of costs, fees, fines, and forfeiture of property or licenses.

**Electronic Monitoring** – helps maintain close surveillance among people ordered to home confinement, work programs or drug counseling.

**Fines** – assessed in proportion to people’s ability to pay, fines provide a strong financial disincentive to lawbreaking while helping to fund the court system or victims’ fund.

**Halfway Houses** – places where offenders work and pay rent while undergoing counseling and job training.

**Intensive Supervision** – authorities maintain a close watch on offenders, far closer than ordinary probation, to ensure their fines, do their community service, attend their drug counseling, etc.

**Intermediate Sanctions** – those punishments which are less restrictive than incarceration and more restrictive than unsupervised probation. Intermediate sanctions were developed to deal with a broad range of non-violent offenders.

**Probation/Parole** – involves supervised release of any person who has been convicted or whose sentence has been suspended. Parole often requires offenders to participate in programs administered by parole agencies. Probation and parole supervision may be revoked when offenders are non-compliant.

**Restitution** – requirement for offenders to fix harm done to victims and communities by repairing property damage or replacing stolen property.

**Restorative Justice** – like community justice programs, restorative justice repairs the harm that has occurred due to crime through restitution, community service, victim-offender dialogue, and other innovative approaches.

**Specialized Courts** – provide adjudication and supervision of offenders for particular problems such as substance abuse and domestic violence.

**Vertical Case Prosecution** – a method of coordinating prosecution between levels of government and law enforcement agencies in order to gather all the evidence and solve crimes more efficiently.

**Victims' Services** – a range of activities which coordinate victims' and witnesses' testimony, attend to their needs, and support them until a case is resolved in the criminal justice system.

# About the Center for Community Corrections

The Center for Community Corrections is a broad coalition of former public officials, researchers, and correctional professionals representing local, state, and federal interests. The Center was created in 1987 to promote the overall concept of community-based sanctions as well as specific program initiatives based on current research and actual program application. Our purpose is to help shape public policy through communication with legislative bodies, correctional officials, and the media. The work of the Center adheres to the following tenets, which state that community corrections programs must:

- Promote offender accountability, principles of due process and fairness, and concepts of proportionality and equity in punishment.
- Specify clear objectives for public safety, punishment, victim compensation, reparations for the crime committed, and realistic treatment of the offender.
- Encompass the same discretion as other elements of the criminal justice system, administered within an explicit, publicly stated policy.
- Provide services that are open to public scrutiny, and encourage the community to participate in decisions and issues related to these services.
- Strive to achieve cost-effective services without endangering the community or jeopardizing the quality of the programs.

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