

# Federal Probation

The American Prison: The End of an Era . . . . . *Benjamin Frank*

Writing Standards for Correctional Accreditation . . . . . *Ernest G. Reimer*  
*Dale K. Sechrest*

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for Offenders . . . . . *Susan Hoffman Fishman*  
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A Critical Assessment . . . . . *Chris W. Eskridge*

Version of Juvenile Offenders: An Ambiguous State  
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Probation: A Skills Course  
Writing Techniques in Probation and Parole:  
Initial Interview (Part 1) . . . . . *Henry L. Hartman*

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All phases of preventive and correctional activities in delinquency and crime come within the fields of interest of FEDERAL PROBATION. The Quarterly wishes to share with its readers all constructively worthwhile points of view and welcomes the contributions of those engaged in the study of juvenile and adult offenders. Federal, state, and local organizations, institutions, and agencies—both public and private—are invited to submit any significant experience and findings related to the prevention and control of delinquency and crime.

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# Federal Probation

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## This Issue in Brief

**The American Prison: The End of an Era.**—That the century-old prison reform movement aimed at shaping the prison into an effective rehabilitative agency has come to an end is not debatable, asserts Dr. Benjamin Frank. The idea that the prison, even under the best conditions, does not and cannot cure criminals is now deeply imbedded in commonplace wisdom. The purpose of this article is to review the rise and decline of the "rehabilitative ideal" and to assess the impact of this change on the organizing principle of the prison.

**Writing Standards for Correctional Accreditation.**—In order to fulfill its mission of accrediting correctional agencies on a nationwide basis, the Commission on Accreditation for Corrections required a complete and measurable set of standards for use by field audit teams. Ernest G. Reimer and Dale K. Sechrest describe the process of standards development used by the Commission, including use of existing standards, use of consultants to draft standards, drafting techniques, field testing of standards, and the approval process. The resulting manuals of standards were carefully compiled by persons with experience and expertise in all aspects of the correctional operations, and with careful consideration of the wide range of correction practices.

**Strengthening Families as Natural Support Systems for offenders.**—This case illustration, by Susan Hoffman Fishman and Dr. Albert S. Alissi, demonstrates the importance of meeting the needs of family members at times of crisis in order to strengthen the family as a stable source of help to the offender. Women in Crisis, an innovative volunteer service agency, offers a model which has been found to be effective and

which has implications for new directions in the field of criminal justice. This program was originally initiated in response to an article which appeared in *FEDERAL PROBATION* in December 1974. Mrs. Margaret Worthington, a retired social worker and the founder of Woman in Crisis, was moved by the observations brought forth in "The Prisoner's Wife: A Study in Crisis," by Mary Schwartz and Judith Weintraub (Vol. 38, No. 4) and began mobilizing other interested individuals in the Hartford community to establish support for offenders' families.

### The Fine Option Program: An Alternative to

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**Prison for Fine Defaulters.**—After 4 years the Fine Option Program in Saskatchewan is fully operational and available to anyone who has been fined and given time to pay, reports Margery Heath. As a short-term solution to the problem of fine default it has been fairly successful. The total days of care are substantially reduced, although the number of admissions still remains in the range of approximately 1,500 per year.

**The Case for Creative Restitution in Corrections.**—Although restitution is a centuries-old concept, it provides exciting new alternatives and directions for the criminal justice system, write Dr. James H. Bridges, Dr. John T. Gandy, and James D. Jorgensen. Various dimensions of creative restitution are considered in their article, including its historical significance, a discussion of the restitutional process, and examples of creative restitution and points of application in criminal justice.

**An Evaluation of Federal Community Treatment Centers.**—The Community Treatment Center Field Study was initiated in 1976 as a comprehensive evaluation of Federal halfway house operations. To test the impact of halfway house placement on postrelease adjustment, a sample of Federal inmates released through a CTC (N=364) who successfully completed the program were compared to a group of offenders (N=337) who were released directly to the community (not referred to a CTC). Statistical controls were utilized to adjust for differences in the groups. According to Dr. James L. Beck, the results showed that, compared to a control group, offenders referred through a CTC had significantly better employment records after release to the community and there was evidence that CTC referral may reduce criminal behavior for "high

risk" offenders (e.g., offenders with extensive prior records).

**Education and Training of Probation Officers: A Critical Assessment.**—This article, by Dr. Chris W. Eskridge, deals with a number of critical issues involving the education and training of probation officers. It describes the types of backgrounds which probation officers bring with them to their jobs and examines the issue of whether college or graduate level study is necessarily desirable for all probation officers. The article also reviews the merits and demerits of both pre-service and inservice training and education.

**Police Diversion of Juvenile Offenders: An Ambiguous State of the Art.**—The author, Stanley Vanagunas, makes an analysis, based on a mailed survey response, of juvenile diversion practices of 34 municipal police agencies. The study's interest was to determine to what extent has juvenile diversion been formally integrated in contemporary police operations. Results suggest that juvenile diversion has been only partially "institutionalized" within contemporary police practice. Some police agencies do not as yet have or accept formal juvenile diversion responsibility; there is a conspicuous lack of professional case diagnostic staff; and there is, generally, an absence of systematic police administrative policy guidance pertaining to juvenile diversion.

**Interviewing Techniques in Probation and Parole, III: The Initial Interview (Part 1).**—The last two articles in Dr. Henry L. Hartman's four-article series on interviewing deal with the initial interview. In the first of the two articles he focuses attention on the techniques of commencing the interview, keeping the flow of communication alive, and organizing the interview.

All the articles appearing in this magazine are regarded as appropriate expressions of ideas worthy of thought but their publication is not to be taken as an endorsement by the editors or the federal probation office of the views set forth. The editors may or may not agree with the articles appearing in the magazine, but believe them in any case to be deserving of consideration.



# The American Prison: The End of an Era

By BENJAMIN FRANK, PH.D.\*

THE PRISON is periodically rediscovered in the United States. It is rediscovered with some regularity when prisoners rebel against their captivity. In these instances, investigative committees are established to uncover the causes of the rebellion and to recommend ameliorative action. The results are usually predictable: the instigators of the rebellion are identified and improvements in the amenities of prison life are recommended. Such recurring events have been the source of the constant banalities of the prison reform movement ever since the burghers of Philadelphia in 1790 organized the "Philadelphia Society for Alleviating the Miseries of Public Prisons."

The prison is also rediscovered when its practices and programs are in conflict with the demands of the society which it serves. This occurred in 1870, when the post civil war economy of the United States could no longer tolerate the competition of the prison factory in an expanding industrial market. The prison reformers of that day joined with the nascent labor unions and the manufacturing industries to abolish the exploitation of prison labor. The result was the invention of the "reformatory prison" in which the principle of "reform" replaced the principle of the "prison factory." The principle of reform required a radical change in organizational structure and management, different kinds of personnel staffing, and a different allocation of resources and institutional facilities. The later shift from reform to rehabilitation in the 1930's was more a change of style and sophistication than a change of principle.

In the 1970's, a similar rediscovery of the prison is occurring; but this time the concept of rehabilitation as the organizing principle of the prison is being challenged. At issue now is the validity of the assumptions underlying the theory of the rehabilitation principle in a rapidly changing society dominated by the demand for the

enhancement of individual civil rights and the realignment of political power. The purpose of this essay is to review the rise and decline of the concept of rehabilitation in the rhetoric of the prison reform movement and to assess the impact of this change of opinion on the organizing principle of the prison.

## *The Prison as Ideology*

There are several ways to read the history of the prison. Since the 1820's when the Quakers of Pennsylvania established the first prison dedicated to the moral regeneration of its prisoners, the history of the prison has been read as the history of the mischief that men of good intentions can do. Perhaps, the first to express his skepticism about the Quaker prison was de Tocqueville who wrote soon after its inauguration:

The theories of the reform of prisoners are vague and uncertain. It is not yet known to what degree the wicked may be regenerated, and by what means this regeneration may be obtained; but if the efficiency of the prison in correcting prisoners is yet doubtful, its power of depraving them still more is known because experience proves it.<sup>1</sup>

In recent years, historians of the prison have substantially revised the benign explanations of its origin. These historians have exposed the reformer's utopian beliefs and have shown how their programs intended to rehabilitate the prisoner, encouraged abuse and corruption. They try to explain the disparity between the ideals of the reformers and the cruelties they created. They make the point that while prisoner rehabilitation and prison reform have been stereotyped for more than half a century as a liberal-progressive movement, the prison has persistently failed to conform to the "liberal" expectations of its founders.<sup>2</sup>

A second way to read the history of the prison is to relate the origin and transformation of the penal system in general and the prison in partic-

<sup>1</sup> Beaumont, Gustave de and Tocqueville, Alexis de., "On the Penitentiary System in the U.S. and its Application to France," Carbondale, Illinois: Southern Illinois University, 1964, p. 81.

<sup>2</sup> Lewis, David L., "From Newgate to Dannemora," Ithaca, New York: Cornell University, 1965; Platt, Anthony, "The Child Savers: The Invention of Delinquency," Chicago, Illinois: University of Chicago Press, 1969; Rothman, David, "The Discovery of the Asylum, Boston, Mass.: Little, Brown Co., 1971; Schlossman, Steven L., "Love and the American Delinquent," Chicago, Illinois: The University of Chicago Press, 1977.

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ular to the stages of economic development.<sup>3</sup> This reading suggests that the emergence of the prison, and the forms it has taken over the years, have been determined more significantly by the changing demands of the labor market than by the philosophical justification of punishment which seemed to dominate the concerns of the liberal philosophers of the early 19th century.

Originally, the term corrections had little, if any, connection with crime or criminals. Corrections was for centuries more intimately associated with welfare and the economics of labor than with the administration of criminal justice. Corrections became a key word in the poor-relief laws enacted in England and many other European countries during the latter half of the 16th century. Confinement, in what soon became a network of work-houses and houses of correction, was in part to learn the skills of industry for the deserving poor and in part punishment for the beggars, shiftless tramps, and prostitutes. Thieves and robbers were executed or transported to the colonies. What was once the church's concern for the poor, the sick, and the insane, was transformed into a state policy of enforced segregation. Because subsistence relief and confinement were considered as the alternative to possible revolt, the rich were willing to tax themselves for the maintenance of these institutions. As one historian put it:

As late as the 1590's the rich still feared that the rogues and vagabonds would embolden the poor to say 'they will not starve' and proceed to direct action . . . but the prolonged depression of the 1620's and 30's left a cowed and dispirited populace. The poor laws, flogging, and the houses of correction had broken the spirit of the poor.<sup>4</sup>

The passing years, however, have not dissolved the links between the prison and the economics of labor and between corrections and the contemporary "poor laws" of public welfare. The effective and economical use of prison labor has always been a persistent and intractable problem

in prison management; and Professor Allen in his classic essay on criminal justice points out that:

Lawyers and social workers may well be reminded that the distinction between penal treatment and the administration of welfare services is one that has sometimes been far from clear, even in theory. This is especially likely to be true in a culture that tends to conceive of poverty, unemployment, and even physical handicaps as evidence of a lack of moral fiber in those who suffer such misfortunes.<sup>5</sup>

A third way to read the history of the prison is to locate its place in the hierarchy of other societal inventions. This approach to the history of the prison rejects the commonplace perception that the prison is somehow a marginal institution, performing a unique function, and only distantly related to the great variety of institutions designed to do society's work. On the contrary, the apparent idiosyncratic features of the prison are in reality shared by all other societal institutions, especially institutions such as schools, hospitals, and factories; and the features they possess in common originated with the establishment of the prison.

Bentham shared with virtually all the social philosophers of his day, the vision of a controlled and orderly society free from the upheavals of revolution. This vision was best exemplified in his design of the Panopticon prison and his program for its operation. But it was to be more than a prison; it was intended as a model not only for prisons but "for houses of industry, workhouses, poorhouses, manufactories, mad-houses, lazarettoes, hospitals, and schools," and suitable for any establishment:

no matter how different or even opposite in purpose; whether it be that of punishing the incorrigible, guarding the insane, reforming the vicious, confining the suspected, employing the idle, maintaining the helpless, curing the sick, instructing the willing in any branch of industry, or training the rising race in the path of education.<sup>6</sup>

To Bentham, and the libertarian philosophers of the early 19th century, the power to punish was no different from the power to cure or to educate; a principle of political power that has considerable relevancy in modern society.

Contemporary historians and social analysts have tried to describe the existence of an underlying unity between all institutions in modern society, including institutions that deal with education, social welfare, mental and physical health, and jails, prisons, and juvenile detention facilities.<sup>7</sup> The similarities these institutions share

<sup>3</sup> Rusche, George and Kirchheimer, Otto, "Punishment and Social Structure," New York, N.Y.: Columbia University Press, 1939; Sellin, Thorsten, "Slavery and the Penal System," New York, N.Y.: Elsevier Scientific Publishing Co., 1977; Ignatieff, Michael, "A Just Measure of Pain: The Penitentiary in the Industrial Revolution," New York, N.Y.: Pantheon Books, 1978.

<sup>4</sup> Hall, Christopher, "Reformation to the Industrial Revolution: The Making of Modern English Society," New York, N.Y.: Pantheon Books, 1967, p. 93.

<sup>5</sup> Allen, Francis, "The Borderland of Criminal Justice," Chicago, Illinois: The University of Chicago Press, 1964, p. 2.

<sup>6</sup> Quoted in Himmelfarb, Gertrude, "Victorian Minds," New York, N.Y.: A.A. Knopf, 1968. Chapter II, "The Haunted House of Jeremy Bentham," p. 34.

<sup>7</sup> Goffman, Erving, "Asylums," Garden City, N.Y.: Anchor Books, 1961; Foucault, Michel, "Discipline and Punishment: The Birth of the Prison," New York, N.Y.: Pantheon Books, 1977; Lasch, Christopher, "Haven in a Heartless World: The Family Besieged," New York, N.Y.: Basic Books, 1977; Dahl, Tove Stang, "State Intervention and Social Control in Nineteenth Century Europe," *Contemporary Crises*, April 1977, p. 163-187.

are more significant than the purposes that separate them. They share both the common vocabulary and the characteristic features of a control system that were first adopted by the prison. Individuals who come under the care of institutions such as education, welfare, health, and corrections undergo a change in civil status subject to legal sanctions and informal restrictions. They are labelled, observed, classified, fixed in time and space, and subject to a centralized registration and recording system. The ever growing demand for more and more information about these individuals stimulates the continuous expansion of the so-called "helping professions" which in turn legitimizes the alliance of knowledge and social control. The technologies of surveillance and control which originated with the prison are now the basic tools of bureaucracy.

There is much in this panoptic model of contemporary society that seems pertinent and recognizable. The popularity of novels and plays, such as *Clockwork Orange*, *One Flew Over the Cuckoo's Nest*, *Cancer Ward*, and Kafka's *Penal Colony*, speaks to a general sense of confinement in a world of concentric prisons. Aldous Huxley in one of his essays observes that "today every efficient office, every up-to-date factory is a panopticon prison."<sup>8</sup>

In this context, the question of whether the prison should be reformed or abolished becomes irrelevant. What is being challenged, however, are the more oppressive aspects of incarceration and control. In a marked reversal of their traditional hands-off policy, the courts have opened their doors to petitions of prisoners, mental hospital patients, public welfare recipients, students, and individuals subjected to enforced behavioral science research and therapy, for redress of grievances, and for protection against the abuse of power by their custodians and caretakers.

### ***Rehabilitation Becomes Public Policy***

Rehabilitation of the prisoner as the primary purpose of incarceration became national public policy in 1929 when the U.S. Congress authorized the creation of a Federal Bureau of Prisons. Following the lead of New Jersey which had already pioneered a system of classification and segregation of its prison population,<sup>9</sup> the mandate for

the new Federal prison bureau was to develop a system of institutions that would assure the proper classification and segregation of Federal prisoners and provide an individualized system of discipline, care, and treatment of persons committed to such institutions. To this mandate was added the rationale that "society is not protected unless prisoners are returned more efficient, more honest, and less criminal than when they went in."<sup>10</sup>

This policy accurately reflected the climate of intellectual opinion of the times. Social work had divorced itself from its attachment to "charity and corrections" and was moving rapidly towards the formation of a professional career-oriented service, stimulated by Abraham Flexner who so successfully revolutionized the medical profession, and Mary Richmond, who designed the framework of the new profession of social work. Psychology came out of the first world war with a new technology of mental measurements and personality assessment. Psychiatry, surcharged by the dynamics of Freudian analysis, offered special dispensations to the criminal and juvenile delinquents. The sociologist was busily staking out his claim to criminology, which, along with other phenomena, such as suicide, divorce, and urbanization, were classified under the general rubric of social pathology. This new generation of problem solvers offered a promise that social policymakers, looking for some solution to the crime problem, could not refuse. In effect, what the Pennsylvania Quakers of the 1830's set out to do—to achieve the redemption of its convicts through enforced isolation and meditation—the practitioners of the social and behavioral sciences of the 1930's promised to do through an enforced therapy.

With the entrance of these practitioners on the correctional scene, the liberal prison reform movement gathered increasing momentum. Given the promise of an expertness capable of diagnosing, classifying, and developing individualized programs of treatment, as well as predicting what kind of criminal would be resistant to the treatment program and thus more likely to become a recidivist, the idea of correctional rehabilitation soon captured the heights of the policy-making system. Punishment and retribution were dismissed as vestigial remnants of man's inhumanity to man; instead, rehabilitation was offered as a moral and scientific advance over deterrence.

Ultimately all states and the Federal Govern-

<sup>8</sup> Huxley, Aldous, "Themes and Variation," New York: Harper and Bros. in "Variations on a Prison," 1950, p. 203-206.

<sup>9</sup> Leiby, James, "Charity and Corrections in New Jersey: A History of State Welfare Institutions," New Brunswick, N.J.: Rutgers University Press, 1967. Chapter 1.

<sup>10</sup> Bates, Sanford, "Prisons and Beyond," New York, N.Y.: Macmillan Co., 1936, p. 73.

ment adopted some form of the indeterminate sentence and parole which permitted judges to set the parameters for the prisoner's term and allowed prison and parole authorities to exercise broad discretion in deciding who was to be paroled and when. The Federal prison system and California soon took the lead and brought the indeterminate-sentence-treatment model to an extreme level of sophistication. Both were hailed worldwide as the finest examples of the correctional rehabilitation model and of progressive prison administration.

Over the years, most of the more affluent and the more politically liberal states developed prison systems which incorporated the basic features of the progressive prison plan. First, it was necessary to maintain persistent pressure on the prisoner to participate in the treatment and training programs and to accumulate detailed records of the prisoner's response and progress. Second, the custodial personnel was to be upgraded educationally so that the position of prison guard could be replaced by a corps of correctional counselors. Third, the number of professional staff and the number and variety of treatment and training programs need to be increased to keep the caseload within professional treatment standards. And, fourth, every correctional system should have a division of classification and treatment to assure the professional staff and their programs status and coordination.

While this model is still advocated as the standard pattern of the contemporary American prison, we are, at the same time, witnessing a sharp reversal in public policy. The "liberal" innovations that sustained the idea of correctional rehabilitation are being subjected to severe tests of survival. The indeterminate sentence and parole, the juvenile court as a parental surrogate for the delinquent youth, and the substitution of the vocabulary of therapy for that of deterrence and punishment are today all under attack.

### *The Return to Orthodoxy*

The growing consensus among policymakers concerned with the administration of criminal justice seems to be that sending criminals to prison to be rehabilitated has failed as an anti-crime policy. A new rhetoric is in the making. The fixed or presumptive sentence is opposed

to the indeterminate sentence; community corrections is opposed to incarceration; graduated release is opposed to parole; and the idea of reintegration is opposed to rehabilitation. The assumptions underlying the rehabilitative ideal are being rejected as having been disastrously wrong. Selected for particular criticism are: the belief that future behavior of prisoners could be predicted; the practice of relating forced participation in treatment and training programs to the condition of paroled release; and the involuntary, coercive aspects of correctional rehabilitation which enabled the over-zealous practitioner and administrator to disregard the civil liberties of the prisoners.

Even the term "corrections" has been characterized recently as more misleading than useful. In their *Letter to the President on Crime Control*, Morris and Hawkins write:

There has been a tendency to obscure the nature of punishment by the use of such terms like corrections and treatment and training to refer to penal methods or procedures . . . . It is an extraordinary feature of the history of the institution of punishment that a contingent, incidental concomitant should in this century, have been elevated to the status of prime or essential function.<sup>11</sup>

Penal policy has now come full circle. The renewed interest in redefining the purpose of the prison has revived the dialogue about "first principles" that long antedated the notions of rehabilitation. The dialogue among the philosophers of the late 17th and early 18th centuries dealt with the formulation of principles that would establish the necessity and legitimacy of society's right to punish the criminal. On one side was the utilitarian argument that punishment was a practical necessity to deter other citizens from similar ventures into crime and to protect the peace and welfare of the community by isolating the criminal. On the other side, was the retributive argument that punishing the criminal was a moral obligation of the state to preserve its moral integrity and to satisfy the community's sense of justice. The issue then was largely one of priorities: to what extent should the claims of justice take precedence over the utilitarian principles?

The reform of the criminal law, that affirmed the necessity and legitimacy of punishment, also encouraged the belief that the criminal could be changed by incarceration as well as deterred by the punishment. To those who designed the early prison and to those who managed it, the prison had a seeming practicality. Imprisonment per-

<sup>11</sup> Morris, Norval and Hawkins, George, "Letter to the President on Crime Control," Chicago, Illinois: University of Chicago Press, 1977, p. 63-64.

mitted the rigid calculation for equating the severity of the punishment with the enormity of the crime; it was at the same time a humanitarian substitute for the gallows and the branding iron; it offered a rational and efficient system of custodial control; it made possible the combination of the moral regeneration of the prisoner with the profitable use of his labor.

To the tough-minded Calvinist of the 1830's the "penitentiary prison" seemed like the facsimile of a utopian community in which the sinner would learn habits of industry and regularity and then be returned to society as an obedient citizen, which was all that society could reasonably expect.

Today, however, when the rehabilitative theory of punishment is being rejected as unjust and unworkable, the neo-orthodox reformers have gone back to their classical sources and adopted the rationale that punishment for crime must rely primarily on the principles of deterrence and "just deserts." The quest is on for a more precise and evenhanded definition of punishment. The emerging "justice model of corrections," proposed as the alternative to the "rehabilitative model," contains two elements: first, the concept of equal punishment determined by fiat and disseminated rapidly and equitably; and second, a reconceptualized role for the prison in the criminal justice system.<sup>12</sup>

The revival of an orthodox ideology in the reshaping of penal policy has divided the corrections establishment around one question: Is the disavowal of the rehabilitative ideal in corrections a mere temporary response to the public clamor in the face of a rising crime rate, or is it a long term reaction to an ideology that has outgrown its time?

The response to this question comes in three forms. There are those who insist on the essential "goodness" of the rehabilitative-treatment model of corrections and call for ameliorative action by an infusion of more money, new designs for jails and prisons, and an expansion of treatment-

training programs. They argue that what is needed for the rehabilitative ideal to be achieved is a greater and more consistent public commitment.<sup>13</sup>

Another group, while not opposed to some remedial changes in the correctional system, prefer to assume the agnostic posture of the scientist and caution against radical change for two reasons: one, that wisdom in guiding social policy comes only from learning sound principles through the application and testing of relevant theory; and two, that the theories that support the rehabilitative ideal may yet be found relevant, given better scientifically designed tests of the varieties of programs which the virtuosity of the professionals is capable of creating.<sup>14</sup>

A third group, however, find more compelling the evidence that the inherent defect of the rehabilitation theory has made it vulnerable to a changing reality. The present disarray in penal policy may be ascribed largely to the rejection of the "cause-effect" theories of criminal behavior, and to the growing awareness that crime, and most other social problems, have political histories and must be defined in political terms rather than in terms of social disorganization or individual defect.<sup>15</sup>

### *The New Dialogue*

The long history of the prison reform movement in the U.S. aimed at shaping the prison into a more effective rehabilitative agency is over. The idea that prisons do not and cannot cure criminals is now deeply imbedded in common-place wisdom. More than 100 years of experience have demonstrated that no institution in American society has been more ambiguously centered and none has been guilty of greater pretense.

What reasons then remain to justify its retention? In response to this question, two divergent views have emerged. One view is that the ultimate goal in the prison reform movement has always been to keep people out of prison altogether, and now the abolishment of the prison is on the horizon. The use of the prison can be justified only to sequester the violent and dangerous offender to protect the public. The other view is that imprisonment is a form of punishment that most dramatically satisfies the principle of retributive justice demanded by law and the victim. Therefore, it is necessary to concentrate on making the prison conform more strictly to the basic principles of fairness and equity.

<sup>12</sup> Fogel, David, *We Are the Living Proof: The Justice Model of Corrections*. Cincinnati, Ohio: Anderson Publishing Co., 1975; Haag, Ernest van den, *Punishing Criminals*. New York, N.Y.: Basic Books, 1975; Hirsch, Andrew von, *Doing Justice: The Choice of Punishments*. New York, N.Y.: Hill and Wang, 1976; Friends Service Committee, *Struggle for Justice*, New York, N.Y.: Hill and Wang, 1971.

<sup>13</sup> Clark, Ramsey, "Crime in America." New York, N.Y.: Simon and Schuster Co., 1970.

<sup>14</sup> Glaser, Daniel, "The Counterproductivity of Conservative Thinking about Crime," *Criminology*, Vol. 16, August 1978, p. 209-224; Halleck, Seymour, "Is Rehabilitation Dead?" *Crime and Delinquency*, Vol. 23, October 1977, p. 365-382.

<sup>15</sup> Phillipson, Michael, *Understanding Crime and Delinquency*. Chicago, Illinois: Aldine Publishing Co., 1971; Hartjen, Clayton A., *Crime and Criminalization*. New York, N.Y.: Praeger Publishers, 1975; Taylor, Ian, *The New Criminology*. New York, N.Y.: Harper & Row, 1974; Wilson, James Q., *Thinking About Crime*. New York, N.Y.: Basic Books, Inc., 1975.

For those who advocate the abolition of the prison, the National Commission on Criminal Justice Standards and Goals offers a rationale and a strategy.<sup>16</sup> The rationale is that, despite its failure as an instrument of rehabilitation, the prison persisted because a civilized nation could not turn back to older barbaric punishments and until now no alternative could be found. Corrections has been caught in an inescapable dilemma. On the one hand, the major obstacle to effective correctional programs is due largely to inherited notions that equate crimes to moral and psychological illness which demanded institutional confinement; on the other hand, the variation and rates of crime are due more to conditions that produce crime: high unemployment, irrelevant education, racism, poor housing, family disintegration, and government corruption. The way out of this dilemma lies in the repudiation of the prison as useless for any purpose other than locking away persons who are too dangerous. For this purpose, the U.S. already has more prison space than it needs or will need in the foreseeable future.

The strategy is that each state should adopt a policy of not building new major institutions for juveniles under any circumstances, and not building new institutions for adults unless an analysis of the total criminal justice and adult corrections systems produce a clear finding that no alternative is possible. The financial and personnel resources used to construct and maintain custodial institutions would be allocated instead to the development of diversified network of alternatives to imprisonment: expanded probation, work-release, halfway houses, and a variety of community-based services. The assumption is that the process of turning criminals away from crime can best be accomplished in a community setting where all resources and supportive services can be brought to bear on the individual problems.

The aim is to "deprisonize" the correctional system by removing the prison from the center of penal policy and substituting for the older prison reform movement a community corrections movement. In a period when deinstitutionalization or alternatives to institutional care for the aged and the infirm, the mentally ill and retarded, and the physically handicapped, is the new rallying cry of the helping professions and social service

providers, the idea of community corrections finds both professional acceptance and ideological support.

Antithetical to the abolitionist view of the prison is the view that the prison is a necessary component of the criminal justice system. The prison serves the categorical imperatives of the law, a function that assures its existence for a very long time. The true aim of prison reform is not to cure minds or change character but to eliminate the destructive irrationalities of prison confinement. The problem for prison management is to protect prisoners against abuse by other prisoners and prison personnel, and to provide a nonoppressive, humanitarian environment within the inevitable conditions of imprisonment. The use of imprisonment, says Morris, is the largest power that the state exercises on a regular basis over its citizens. "Perhaps if we can bring principle and justice to the exercise of imprisonment, much else will improve in the uneasy tension between freedom and authority in post-industrial society."<sup>17</sup>

On this premise Morris constructs the intriguing concept of a "noncoercive prison" in which "facilitated change" is substituted for "coercive cure," and "graduated testing of fitness for freedom" replaces "parole prediction of suitability for release." In propounding this new organizing principle of imprisonment, Morris restores the prison to its initial moral purpose and returns the question of "why imprisonment" to ethics and jurisprudence where it belongs.

The divorce of the rehabilitative goal from the criminal sanction and the consequent loss of the indeterminate sentence imposes on prison management the necessity for restructuring the relationship between the prisoner population and the prison authority. In the "noncoercive prison," prisoners are freed from the discretionary authority of the prison and parole administrators that formerly tied their freedom to program participation. Opportunities for self-improvement would be offered but participation would no longer be made a condition of release. While treatment is not to be coerced, change would be facilitated.

Furthermore, the polarization that existed between treaters and keepers is converted to an alliance that salvages the array of rehabilitative programs to serve a dual purpose: first, programs originally designed to provide the benefits of rehabilitative treatment would now be used to diminish the pains of imprisonment; and second,

<sup>16</sup> National Advisory Commission on Criminal Justice Standards and Goals, *Corrections*. Washington, D.C.: U.S. Government Printing Office, 1973, p. 341-356.

<sup>17</sup> Morris, Norval, *The Future of Imprisonment*. Chicago, Illinois: University of Chicago Press, 1974, p. 2.

noncoercive rehabilitative intervention would assume a more reasonable and defensible posture.

According to its proponents, the attraction of the noncoercive principle of prison management lies in the modesty of its aims: to make the punishment of imprisonment as fair and equitable, and as least harmful as possible. Any other goal is beyond the competency of the correctional system.

### *Summary and Conclusions*

The two competing ideologies that have shaped prison policies continue to endure a precarious coexistence: one rooted in the ideology of retributive justice and the other derived from the liberal-utilitarian ideology of deterrence and correction. A prison policy founded on the concept of a "just punishment," must give greater weight to fairness and equity considerations than to deterrent or correctional considerations. The power of this policy, according to its proponents, lies in its preoccupation with the process and procedures that insure fairness rather than in an interest in practical outcomes, such as reduced crime rates or increased cost effectiveness. In fact, history breeds a profound skepticism concerning the practical outcomes of any change in corrections policy or programs; and contemporary experience strengthens the expectation that the prison in some form will be needed for many years to come, and that it will continue to receive an unvarying flow of offenders.

Nevertheless, despite the failure of the prison policy founded on the concept of rehabilitation, the rehabilitative ideal remains an ideology in good standing. By shifting attention from the "big-house" in the country to the "little-house" in the neighborhood, the older prison reform movement is being transformed into a vigorous

community corrections movement. Fueled by generous grants of public funds, the community corrections movement supports an intensive search for a variety of programs designed to serve as alternatives to imprisonment.

New procedures such as work-release, half-way houses, nonresidential community corrections centers, educational furloughs are eroding the dichotomy between imprisonment and liberty. Pretrial diversionary programs keep certain alleged offenders away from the criminal justice process and other alternative sentences divert convicted offenders from institutional confinement. The boundary lines of probation-institution-parole that defined the conventional corrections system are now becoming blurred.

The community corrections movement is justified on the ground that community-based programs will be more effective in reducing recidivism, that they are more humane, and they will be less costly. The rhetoric of the community corrections movement is also the familial language of rehabilitation and individual assessment and treatment.

Its critics call the community corrections movement vulnerable on two counts.<sup>18</sup> First, the movement is haunted by the specter of the dangerous (violent) criminal; for without the (unlikely) discovery of a technology capable of identifying, isolating, and treating this type of offender, the claims of the movement to control crime more effectively and economically will be less than credible. Second, the variety of diversion programs and alternative social services offering therapy and helpful intervention which are sanctioned by the community corrections movement may in effect be creating a new set of corrections decisionmakers and a wider network of increasing increments of control and surveillance with fewer legal protections of individual rights. If these observations are accurate, then the community corrections movement, like its predecessor the prison reform movement, is being trapped in its own rhetoric.

<sup>18</sup> Vorenberg, Elizabeth W. and Vorenberg, James, "Early Diversion from the Criminal Justice System: Practice in Search of Theory" in *Prisoners in America*, Lloyd Ohlin, editor. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1973, p. 151-183; Bynum, Timothy and Massey, Charles, "Implementing Community Based Corrections: An Exploration of Competing Goals and Efficiency" in *Contemporary Corrections: Social Control and Conflict*, C. Ronald Huff, editor. Beverly Hills, Calif.: Sage Publications, Inc., 1977, p. 140-158; and Bullington, Bruce, "A Critique of Diversionary Juvenile Justice," *Crime and Delinquency*, Vol. 24, January 1978, p. 59-71.

NEW ideas do not find easy acceptance, especially when they concern treatment of criminals and therefore meet emotional barriers.—THORSTEN SELLIN



# 72266 Writing Standards for Correctional Accreditation

By ERNEST G. REIMER AND DALE K. SECHREST, D.CRIM.\*

In 1974 the Law Enforcement Assistance Administration awarded a grant to the American Correctional Association to establish the Commission on Accreditation for Corrections, which consists of 20 members representing the full range of juvenile and adult correctional services, the broader criminal justice system, the business community, and the public. Commission members from all areas of the United States are elected by the membership of the American Correctional Association, and with the exception of the citizen-at-large and education/research representatives, all are currently active in the field of corrections. The Commission became administratively and financially independent of the ACA in March 1979. Election of members will continue to be done through regular ACA elections, and standards will be jointly approved by the ACA and the Commission prior to use in the accreditation process. With the expiration of Federal support at some future date, it is planned that the Commission will become financially self-sustaining through accreditation fees, publication sales and private funding sources. Since 1974, the Commission has been developing a comprehensive set of national standards for the field of corrections. To date, seven manuals have been published, and, by 1979, a complete set of 10 manuals will be published.<sup>1</sup> The Commission is currently applying these standards in a process of voluntary correctional accreditation.<sup>2</sup> The purposes of the Commission in developing and applying national standards through accreditation have been stated in numerous publications, and can be summarized as follows:

Brought about by the American Correctional Association and its affiliate organizations and members throughout the country, the Commission on Accreditation for Corrections represents for the first time in the history of the field, a major effort by the field

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itself to develop, promulgate and apply operational standards to correctional services nationwide. Pursuant to the standards, the achievement of accreditation by individual correctional agencies will provide a significant assurance that those agencies accept the obligation of accountability to the communities they serve.<sup>3</sup>

As articulated in a "Statement of Principles," specific Commission goals include the protection of the public and assistance to other criminal justice agencies, and the provision of just and humane care in the management of adult and juvenile offenders.<sup>4</sup>

## *Existing Correctional Standards*

The Commission recognized that the future integrity, vitality, and meaningfulness of the accreditation program would depend on the quality of standards developed for application in the field.<sup>5</sup> Several steps were taken to ensure that standards used by the Commission would be representative of past standards development efforts, that they would reflect the best judgment of corrections professionals regarding good corrections practice, that they would be clear, relevant and comprehensive, and that the standards development and approval process would involve participation by a wide range of concerned individuals and organizations.

Statements of minimal conditions of operation for correctional facilities and services have been articulated by the field for over 100 years.<sup>6</sup> Consequently when Commission work began, there were several key sources of standards already available, including: the American Correctional Association *Manual of Correctional Standards* (1966 edition), the United Nations *Standard Min-*

<sup>1</sup> Manuals of standards now published are for adult parole authorities, adult community residential services, adult probation and parole field services, adult correctional institutions, adult local detention facilities, juvenile community residential services and juvenile probation and aftercare services; manuals to be published are for juvenile detention facilities and services, juvenile training schools and the organization and administration of correctional services.

<sup>2</sup> *Accreditation Blueprint for Corrections*. Commission on Accreditation for Corrections, Rockville, Maryland, October 1978.

<sup>3</sup> *A Progress Report*. Commission on Accreditation for Corrections, Rockville, Maryland, April 1977; see also *"Progress Report 1978."*

<sup>4</sup> Robert H. Fosen, "Mid-Year Progress Report and Statement of Principles," *American Journal of Correction*, May-June 1975.

<sup>5</sup> Robert H. Fosen, "Current Activities Report, Commission on Accreditation for Corrections," *American Journal of Correction*, January-February 1976.

<sup>6</sup> Dale K. Sechrest, "The Accreditation Movement in Corrections," *FEDERAL PROBATION*, December 1976.



*imum Rules for Treatment of Prisoners* (1955), the Corrections report of the President's Commission on Law Enforcement and the Administration of Justice (1967), the *Corrections* volume of the National Advisory Commission on Criminal Justice Standards and Goals (1973), and several "model acts" developed by the National Council on Crime and Delinquency. As the work of the Commission progressed, the American Bar Association's *Tentative Draft on the Legal Rights of Prisoners* became available, as did institution medical standards developed by the American Medical Association.<sup>7</sup> Also in progress were several sets of standards for juvenile justice, including those developed by the Institute of Judicial Administration/American Bar Association Joint Commission on Juvenile Justice Standards (IJA/ABA Joint Commission), the Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention (Juvenile Justice Task Force), and the Advisory Committee to the LEAA Administrator on Standards for the Administration of Juvenile Justice (Standards Committee).<sup>8</sup> In addition to the major sources, over 200 other statements of policy, principles, and operating procedures from throughout the country were also examined by commission staff and consultants who then completed initial drafts of standards from these sources. The purpose of this article is to describe the entire process of standards development, including the use of existing standards, use of consultants, techniques of drafting standards, field testing standards, and the approval process.

### *Use of Existing Standards*

Why didn't the Commission simply apply existing standards in the accreditation program? The original grant award stated that accreditation would proceed with the standards contained in the American Correctional Association *Manual of Correctional Standards*. These standards were developed over a 30-year period and used in an earlier field test of the accreditation process sponsored by the American Correctional Association (ACA) in 1968-1970.<sup>9</sup> While they were an excel-

lent place to begin, the ACA standards had not been updated for a decade, particularly with respect to significant court decisions. The availability of more current standards, as cited above, and recent case law required the drafting of a complete and uniform set of standards for use in accrediting a wide range of corrections agencies. Moreover, existing standards frequently used such words as "appropriate," "as necessary" or "based on reasonable evidence," which allow judgment decisions, and consequently, cannot be used in a measurement of standards compliance based on a single interpretation, which would make the work of auditors (consultant-examiners) very difficult. Also, no single set of standards was complete. For example, the ACA standards were limited primarily to the Administration and programs of adult, long-term corrections institutions, and they were not current on issues relating to inmate's rights and the conditions of confinement as stated by the courts. Existing standards for paroling authorities, probation and parole field services, and juvenile programs also needed to be updated and expanded.

The United Nations *Standard Minimum Rules* focused primarily on human rights to the exclusion of operational concerns. National Advisory Commission standards were more comprehensive and were used extensively in the preparation of Commission standards. Their greatest strength was in stating inmate rights as interpreted by recent court decisions, although they were less thorough in stating specific operating procedures. They did not fully address such issues as physical plant, institution security and control, inmate supervision, food service, sanitation, safety and hygiene, medical services, inmate reception and orientation, inmate money and property control, release preparation, or temporary release. In order to realize Commission goals, a complete and uniform set of standards was required which, when used by Commission audit teams, would provide documentation that institutions and community agencies and services were well-administered, provided for the safety and well-being of staff and offenders, and were responsive to the needs of the communities they serve. Also institution standards had to be written to coincide with and complement standards being developed for community services.

As the Commission approached the task of preparing standards for the entire continuum of adult and juvenile corrections services, its mem-

<sup>7</sup> See *Compendium of Model Criminal Correctional Legislation and Standards*, Second Edition, U.S. Department of Justice Law Enforcement Assistance Administration, the American Bar Association Commission on Correctional Facilities and Services, and the Council of State Governments, June 1975; and *Tentative Draft on the Legal Rights of Prisoners*, American Bar Association, 1977.

<sup>8</sup> Wilfred W. Nuernberger and Richard Van Duizend, "Development of Standards for Juvenile Justice: An Overview," *Juvenile Justice*, 28 February 1977.

<sup>9</sup> *An Accreditation Plan for Corrections*, Committee on Self-Evaluation and Accreditation, American Correctional Association, College Park, Md., 1970.

bers were aware that diversity of purpose, policy and practice required the development of separate sets of standards for individual areas within corrections. Therefore, 10 volumes of standards were planned, as mentioned earlier.<sup>10</sup> Upon completion of nine manuals specific to adult and juvenile services, a tenth volume is being planned which will include standards and guidelines for the organization and administration of all corrections services within a given jurisdiction. This manual will include standards for central offices and will outline several organizational structures which will lead to the achievement of specific goals within each system. In developing these standards and guidelines, the same steps will be followed which were used in the development of previous standards.

### *Use of Consultants*

To ensure standards of high quality, liberal use was made of expert correctional consultants. As Commission staff proceeded from manual to manual, knowledgeable persons in specific areas of corrections were enrolled to draft the initial set of standards. These consultants were required to have extensive knowledge of the criminal justice system and the adult or juvenile corrections process, a minimum of 5 years experience in top administrative positions in their particular area of corrections expertise, and a demonstrated ability to write, to work well with others, and to complete work within specified deadlines. Another attribute that proved to be extremely important was the ability to conceptualize all aspects of the component of corrections for which standards were to be prepared, and within that conceptualization to produce the number and type of standards that would lead to a complete and high-quality correctional service. The best standards writers were those with the distinct ability to see the entire continuum of activity within their speciality and provide standards to cover all the important details within that continuum.

To assist these consultants in their work, the Commission library which contains over 200 references relating to the development of correctional standards was made available. These references include current State and Federal laws and regulations, model statutes, various court decisions, policy papers prepared by individuals and organizations, rules and regulations of various correctional agencies, standards prepared by

local and State governments, and the work of other national organizations cited earlier.

### *The Making of a Standard*

In the actual writing of standards, several ground rules were established which proved to be most helpful as the work progressed. The first of these rules was to cover only one concept or practice in a standard, and to write that standard as clearly and specifically as possible. For example, a correctional institution must have emergency power sources that are in working condition in order to use them in case of power failure. However, a standard written in this manner could lead to audit difficulties. An institution could have the necessary emergency equipment but lack a procedure for periodically testing the equipment to determine that it remains in working condition. Consequently, two standards were developed: *Standard 4185. The institution has equipment necessary to maintain essential lights, power and communication in an emergency, and Standard 4186. Emergency equipment is tested at least semiannually for effectiveness and is repaired or replaced as necessary.* The intent of semiannual testing is to ensure that the testing requirement does not deteriorate into a "once-in-a-while compliance with a paper regulation." Compliance with both these standards will provide assurance that the institution has the necessary emergency equipment, and that the equipment will work if needed in case of a power failure.

Another example is in the area of inmate correspondence. Recent court decisions have greatly extended the freedom and discretion of inmates to carry on their correspondence. A standard could have been prepared that, in essence, called for written policy providing inmates considerable leeway in the conduct of their correspondence. Past efforts at standards formulation frequently cast a standard in such broad terminology, making interpretation, application, and auditing extremely difficult, if not impossible. In order to define clearly what was needed in the area of inmate correspondence, the Commission found it necessary to issue nine separate standards to ensure compliance with good practice and recent court decisions. Each of the Commission's nine standards cover one and only one aspect of inmate correspondence. Standards that include more than one concept or practice are difficult to audit because compliance must be with the total standard.

Specificity in stating the standard is also very

<sup>10</sup> Op. cit.

important. Standards that are broadly worded are difficult or impossible to audit, such as a standard calling for a "reasonable" or "liberal" or "adequate," making a single and consistent interpretation impossible. Therefore, consultants were required to state specifically what is meant, even if several standards are required.

In summary, the first ground rule of standard writing is to prepare a standard that covers only one concept or correctional practice, and to write that standard as clearly and as specifically as possible.

To ensure clarity, it was found that preparation of standards in the present tense using simple declarative sentences whenever possible, produced the best results. Commission standards are not written to prescribe what "should" be happening, rather to specify what is now taking place. For example: *Standard 4058, A copy of the personnel policy manual is available to each employee,* or *Standard 4231, Written policy precludes the use of food as a reward or disciplinary measure.* This type of standard construction precludes or minimizes opportunities for more than one interpretation.

Not all standards lent themselves to simple declarative sentences, and it was decided to accompany each standard with a brief explanatory paragraph, labeled "Discussion." These discussions provided clarification of the standard via a more detailed explanation of the standard, why it was important, and, frequently, suggesting methods by which the standard could be met. For example, Standard 4233 states "*Written policy specifies that meals are served under conditions that minimize regimentation.*" The discussion for this standard explains, "*Cafeteria facilities are preferable to inmate waiter service. The dining area should provide normal group eating facilities, and conversation should be permitted during dining room hours. Where possible, there should be "open" dining room hours, thus eliminating traditional waiting lines and forced seating by housing unit, shop assignment, etc. Full cutlery service, based on a control system, generally should be provided.*" Here the discussion clarifies the standard and outlines conditions that would provide compliance with the standard. There were times during the development of the standards when sentences in the discussion exemplified better the concept sought in the standard, and the discussion was substituted for the original draft standard.

In preparing standards and their accompanying explanation or discussions, it became apparent that overwriting a standard was preferable to underwriting. Very early it was found that too many words rather than too few usually resulted in a more readily understood standard. One reason for overwriting was that the review and approval process involved a large number of people with varied backgrounds. Overwriting for this range of reviewers helped to ensure that the intent of the standard was accurately stated. The reviewers, in turn, helped in editing and identifying the principal elements required to produce more brief, concise final standards.

Overwriting may also be interpreted as resulting in too many and too detailed standards. Consultants and staff were aware of this danger, but decided that where doubt existed they should err in the direction of preparing another standard, since comprehensiveness was essential and duplicate standards could be eliminated or combined to create a stronger single standard. The intent was to prescribe standards for a sufficient number of elements within a function or operation to ensure that the function or operation was being implemented completely and in a quality manner. Similar to operating procedures, however, standards can be written to cover the most minute details of an operation and may literally leave nothing to the judgment of the responsible individual. This mistake, as well as that of stating standards in broad and general terms, was to be avoided.

Where it was thought improper to specify certain practices, it was decided to require the agency to fully document—describe and explain—its rationale for implementing those practices as it did. An example was caseload size for probation and parole officers and counselors in an institution. Opinions vary widely about the "ideal" size for a caseload, and many different standards have been promoted. There are legitimate reasons why caseload size may vary from jurisdiction to jurisdiction, and to prescribe one size caseload for the entire United States was felt to be presumptuous. Instead, the Commission adopted the procedure of requiring that the agency demonstrate that it has a plan for determining the size of caseloads, taking into consideration factors such as geography, legislative and administrative requirements, type of offenders to be supervised, and so forth. The Commission wanted agencies to examine their workload and assign staff in a

systematic manner, taking into account the results desired and other existing factors. The standard that emerged from these deliberations was: "*There exists a written workload formula which is used in the allocation of work to field staff.*" The discussion of the standard (3113) specifies consideration of factors such as legal requirements, goals, character and needs of offenders to be supervised, geographic area, administrative tasks required of field staff, and types of personnel to be utilized.

There are other situations where practice legitimately varies among correctional agencies. In such cases, the standards require an agency to have documentation as to why it chose to adopt that particular practice and to demonstrate its application. For example, rather than mandate one classification system for all correctional institutions, standard 4193 calls for "a system for classification of inmates which specifies the level of custodial control required and which requires a regular review of each classification." The discussion for this standard advocates levels of custodial classification, and adds that inmates should be assigned the least restrictive custodial level possible. While calling for a documented and systematic method for classifying inmates, this standard still provides for variation in classification systems depending on the physical plant, type of inmates, and other considerations specific to a given institution.

The next phenomenon that had to be considered in the writing of standards was what came to be called "avoiding the best fit." The goal was to prescribe the *best possible corrections practices* that could be achieved in the United States today, being both realistic and practical, but at the same time not settling for less than the best. Unfortunately, prevailing practice in many areas of corrections represents second best, or worse. There was a tendency on the part of some standards reviewers to try to lower the level of the standards to fit current practice, but staff and consultants were encouraged by many practitioners participating in field tests who urged raising or maintaining the high level of the standards. Another aspect of this phenomenon was what many administrators cited the lack of funds for their inability to meet standards, and voiced a preference for standards that recognize current budgetary limitations. The Commission quickly decided against this, reiterating their earlier position that humanitarian goals and high professional service were

the proper standard. The standards would not be compromised because of inadequate funding, antiquated buildings, existing statutes, or similar concerns that could be corrected with proper understanding, interest and support. In this sense the standards are a deliberate effort to raise professional corrections practices nationally.

### *Field Tests of Standards*

Once a set of standards had been prepared following the stated criteria, it was necessary to give them broad exposure to corrections practitioners. This was accomplished through distribution of the standards to professional organizations representing the particular area under consideration, including ACA affiliate organizations, by soliciting comments from interested individuals and groups, and by field testing the standards. Field testing consisted of having the staff of an operational agency review the standards for clarity, relevance and comprehensiveness. Since these standards were to be used and applied by practicing corrections professionals, it was deemed imperative that as many as possible be involved in their formulation. In this manner the Commission could be assured that the standards would be clear, relevant and attainable. In retrospect, the field testing of standards was invaluable in developing standards representative of good professional practice in corrections.

In field testing the standards an effort was made to test them in a wide range of agencies that represented good administrative and operational practice. In addition, agencies were selected to insure that a cross section of all such agencies was obtained, that a cross section of offenders served by such agencies was represented, and that geographically the sample represented appropriate local, State and Federal corrections. The standards for adult prisons were field tested in six different adult institutions, ranging from minimum to maximum custody, including male and female institutions, Federal and State, large and small. Geographically, two were in the West, two in the Midwest, and two in the East. Similarly, standards for local adult detention facilities were field tested in jails and lockups in California, Illinois and Maryland that ranged from small to large, and included both city and county facilities.

The process was to mail draft standards to the agency sufficiently ahead of the arrival of Commission staff and consultants, so that agency staff

would have time to read and consider the standards relevant to their areas of expertise.

In the larger field test agencies, the review process often took up to 3 days. Staff selected by the agency, sometimes as many as 30, met with Commission staff at scheduled times over the workday to review the standards pertaining to their specialty. For example, security and control standards were reviewed by the person in charge of security; fiscal management standards by the business manager; recreation standards by the recreation supervisor. In this way comments were received directly from the people who implemented programs, including personnel from the agency administrator to first line practitioners.

After conducting field tests over a wide variety of correctional agencies for the past 2 years, several impressions were gained. There was enthusiasm from operational personnel who welcomed the development of standards, frequently commenting that such were overdue. Moreover, they were pleased that they were to have the opportunity to participate in the process and contribute to what they felt were standards of good practice for themselves and for the field. Without exception, staff in the field test agencies applied themselves to the review wholeheartedly and very earnestly attempted to help develop the best possible standards. Often these reviewers were reminded that they might become consultant examiners for the Commission, and, consequently, would be applying the standards in the accreditation process. This made it imperative that they recommend standards which they could use to measure compliance. This also meant that a reviewer had to go beyond merely not liking a standard; he or she had to give a concrete example of what the standard should be. Staff were often surprised at the degree of clarity achieved in this method and at the number of times higher standards were recommended. More than once agency staff indicated that the opportunity to review the draft standards would help them to achieve and maintain a better quality corrections service in the future.

There was an inclination for some staff to think of the standards only as they applied to their own operation and offer reasons why the standards could not be met or would not be appropriate. However, this group was in the minority, and most of the people who reviewed the standards could react to them not only in terms of their

own operation but also in the context of how the standards could help bring about an improved correctional service for all. Many times they expressed the view, of "That's what we should be doing." This attitude reflects well on the future of corrections and the many professionals working in the field who are aware of good practices and want to do a good job.

### *Final Approval Process*

Following the field tests for each set of standards, all the comments received regarding the clarity, relevance and comprehensiveness of the standards were carefully considered and the standards rewritten accordingly. The standards were then carefully reviewed by the Commission on Accreditation for Corrections. This review was never a perfunctory endorsement of the work of Commission staff, but involved several days of reviews—standard by standard, page by page. Commission members also brought to this task broad experience and knowledge of good correctional practices. Discussions about the intent and/or inclusion of a standard were sometimes long and involved, but invariably resulted in a better set of standards. Standards were eliminated, added, or changed. Not until all 20 members of the Commission agreed were the set of standards approved.

The standards approved by the Commission on Accreditation for Corrections were then submitted to the American Correctional Association Committee on Standards and Accreditation. This Committee represents the American Correctional Association, and must jointly approve all standards with the Commission, as stated in Commission By-Laws. The comments and suggestions of this Committee, which also carefully and thoughtfully reviewed all standards, were reconciled with those of the Commission members. Then, and only then, was the resulting set of standards considered ready for publication.

### *Conclusion*

Standards development is the type of effort which can consume months of research and discussion in order to arrive at the optimum set of standards. The Commission and the ACA Committee understood their respective roles in developing the best possible set of standards that would represent the "state of the art" in a particular component of corrections, using all available information and the best opinions of correc-

tions practitioners. Both groups were of the opinion that a better standard might someday be written. Their goal was to develop a set of standards for use in the accreditation process which would begin the process of upgrading correctional services nationwide and provide a framework for the future development of better standards. All standards will be subject to revision and upgrading through the ACA Correctional Standards and Policies Program. Future editions of the

manuals will be jointly approved by the ACA and the Commission on Accreditation for Corrections. This will continue the process of providing standards that are in keeping with new corrections practices and new knowledge. If this process is used by all individuals and groups who want to participate in the development of standards for corrections it will be possible to continue to focus on important concerns and effectively communicate them to practitioners in the field.

## 72267 Strengthening Families as Natural Support Systems for Offenders

BY SUSAN HOFFMAN FISHMAN AND ALBERT S. ALISSI, D.S.W.\*

SERVICE programs in the field of corrections traditionally focus their efforts on rehabilitating, controlling or otherwise "treating" the individual offender, while little systematic attention is given to spouses, parents, children, relatives and other significantly related individuals whose well-being is often placed in jeopardy as a result of the offender's incarceration. Although the offender in prison is provided with food, clothing, shelter, some opportunity for job training and other types of physical and emotional support, the family, and specifically the woman, he has left behind has had to deal with all her needs alone. Not only must she establish a new life, care for her children and withstand the type of social criticism that can occur as a result of the crime committed by her loved one, but she must also learn to cope with the unfamiliar and often frightening court and prison systems in order to maintain meaningful contact with the offender.<sup>1</sup>

It has been documented that inmates who do maintain family ties while in prison have a better chance of remaining out of prison after their release. Drawing from a study of 412 prisoners of a minimum security facility in California, Holt and Miller,<sup>2</sup> in 1972, concluded that there was a strong and consistently positive relationship between parole success and the maintenance of

strong family ties during imprisonment. The study suggests that family members, as a natural support group for offenders, have a tremendous potential for assisting in the reintegration of the offender to community life.

Since family members themselves, however, are under new pressures and face new financial and emotional burdens during the separation process, they are usually not in a position to serve in an effective helping capacity until they stabilize their own lives and adapt to the "crisis" situation brought on by their loved one's incarceration.

Judith Weintraub and Mary Schwartz, in their article entitled, "The Prisoner's Wife: A Study in Crisis" recognized and documented the need and importance of prompt assistance for families of offenders.<sup>3</sup> It is these individuals who must be helped to sustain themselves and to maintain stable relationships during separation so that the family unit can offer an offender the support and security he will need upon his release. Although specialized assistance to prisoners' families can be essential to the well-being of the family members themselves and their corresponding ability to assist in the reintegration process of the offender, recognition of the unique needs of these families and appropriate services are

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<sup>1</sup> Mary Schwartz and Judith Weintraub, "The Prisoner's Wife: A Study in Crisis," *FEDERAL PROBATION*, Vol. 38, No. 4 (December 1974).

<sup>2</sup> Norman Holt and Donald Miller, *Explorations in Inmate Family Relationships*, Research Division, California Department of Corrections, Report Number 46, Sacramento, California: 1972.

<sup>3</sup> Schwartz and Weintraub, *op. cit.* See also Judith Weintraub, "The Delivery of Services to Families of Prisoners," *FEDERAL PROBATION*, Vol. 40, No. 4, (December 1976). These articles were most influential in the development of Women in Crisis.

not available through existing social service agencies. And, even though existing literature on families of offenders clearly indicates the specific needs of this special group, it presents little guidance on concrete, practical service programs which can effectively address such needs.<sup>4</sup>

The purpose of this article is to describe an innovative pilot program in Connecticut which was designed to meet the special needs of offenders' families and which has been formally evaluated as being highly successful in accomplishing that task.

Women in Crisis is a private, nonprofit program which utilizes trained volunteers to support and assist women from the Greater Hartford area whose husbands, boyfriends or sons have been sentenced to prison for the first time. Women in Crisis was implemented in March of 1977.<sup>5</sup> During the planning stages of the project, the Advisory Board of Women in Crisis developed several basic, underlying concepts and premises upon which the program itself now operates: (1) The use of volunteers as service providers, (2) The relationship as the primary tool of the volunteer, and (3) Advocacy as a role of the volunteer.

*I. The Use of Volunteers as Service Providers.*—The first decision reached by the planners of Women in Crisis was an overwhelming commitment to the use of trained women volunteers as the primary service providers to clients. The Board and staff reached this decision after carefully documenting available research and observing the experiences of numerous women whose men were sent to prison. They realized that women whose men are sentenced to prison experience what is usually termed as a "crisis" in their lives, a short term situational disturbance. Except in unusual circumstances, they are not pathologically damaged.<sup>6</sup> Based on this information, the Board concluded that most women could adjust to the abrupt and distressing change in

their life styles with the help of an informed, sensitive individual (volunteer).

In September of 1978, a study on the first 8 months of the program's operation was completed under the supervision of the University of Connecticut School of Social Work.<sup>7</sup> The researcher drew a total population sample including all clients and volunteers engaged in the Women in Crisis Program from March 1, 1977, through October 31, 1977. Interview schedules and questionnaires were developed, pretested in the field and administered. Clients and volunteers were contacted using all available information on record at the Women in Crisis office. In all, 22 out of a total possible sample of 40 clients were administered a personal interview; 16 were unable to be contacted and 2 refused to be interviewed. In addition, 14 of the 15 volunteers who had provided the services to the clients in the sample were identified and interviewed. The interview procedure was standardized and systematically applied to clients and volunteers alike. The study offered evidence that those volunteers who had been recruited from the community, trained by the program and assigned to assist families of offenders had been highly successful in their roles and offered invaluable services to their clients. In addition, statements made by volunteers, clients and representatives from community agencies connected with the program stressed several important reasons why volunteers can and should be major service-givers for the Women in Crisis Program. All of these factors have universal implications:

(1) Volunteers as helpers are not seen by potential clients as professional "do-gooders" or as part of any system connected with their recent experiences, but rather as concerned people addressing basic human needs.

(2) Volunteers as private citizens, taxpayers and community participants have a vested interest in the functioning of the correctional process. Their involvement in this process not only serves as a means of monitoring the system but can also serve as a tool for its improvement. One fine example of volunteers as pacemakers for change has occurred over the past year and a half at Superior Court in Hartford. Volunteers from Women in Crisis are present in court each sentencing day to approach and assist families immediately after an offender is sentenced and taken away. When the program initially began this service, court officials were suspicious of

<sup>4</sup> See for example, Laura Bakker *et al.*, "Hidden Victims of Crime," *Social Work*, Vol. 23, No. 2 (March 1978); Donald Schneller, "Some Social and Psychological Effects on the Families of Negro Prisoners," *American Journal of Correction*, Vol. 37, No. 1 (1975); Eugene Zemans and Ruth Cavan, "Marital Relationships of Prisoners," *The Journal of Criminal Law, Criminology and Police Science*, Vol. 47, No. 1 (1958); Harvey Wilmer, *et al.*, "Group Treatment of Prisoners and Their Families," *Mental Hygiene*, Vol. 50 (1966); Pauline Morris, "Fathers in Prison," *British Journal of Criminology*, Vol. 7 (1967); Sidney Friedman and Conway Esselstyn, "The Adjustment of Children of Jail Inmates," *FEDERAL PROBATION*, Vol. 29, No. 4 (1965) and Sister Maureen Fenlon, "An Innovative Project For Wives and Families of Prisoners," *FCI Treatment Notes*, Vol. 3, No. 2 (1972).

<sup>5</sup> Much of the early leadership in developing the program came from Margaret Worthington, a retired social worker, who conceived of the program in 1975 and served as the first President of the Women in Crisis Board of Directors.

<sup>6</sup> Schwartz and Weintraub, *op. cit.*

<sup>7</sup> *Women in Crisis Program Evaluation: March 1, 1977—October 31, 1977*, Hartford, Connecticut: Women in Crisis, 1978.



the volunteers and seemed indifferent to the needs of families in the court setting. For months, however, they have observed the positive effects resulting from information and support provided to families in court and, as a result, the sensitivity level of these court personnel has changed dramatically. Prosecutors, public defenders and sheriffs are now personally escorting families to Women in Crisis volunteers for assistance and are openly acknowledging an understanding of the stress being experienced by the families.

(3) As a result of their participation in the program, volunteers receive personal satisfactions and opportunities for education and growth. All volunteers are required to complete the intensive Women in Crisis training program before assignment is made. Training consists of four classroom sessions, each 3 hours in length. Topics include an introduction to the criminal justice system, values clarification, interpersonal skills, crisis intervention, the culture of poverty and a description of resources in the community. In addition to the classroom sessions, volunteers are also provided with orientations to Correctional Institutions and Superior Court. Periodic inservice training sessions are held throughout the year in order to provide detailed information on specialized topics of interest to Women in Crisis volunteers.

This growth and increased awareness of volunteers, in turn, affects the attitudes of others in the community with whom they come in contact. Women in Crisis volunteers interviewed for the program study highlighted some additional benefits gained through their involvement with the program. Half of the women interviewed observed an increase in their own sensitivity to the problems and strengths of others; approximately one-third of the volunteers felt that their communication skills became more highly developed; and one-third emphasized the satisfaction they received from making new acquaintances and coming to know women from different social and economic backgrounds.

(4) The participation of volunteers as the primary service providers to families of offenders is economically feasible for the program itself in a time when costs of services continue to increase.

*II. Relationship as the Primary Tool of the Volunteer.*—A second major concept which was substantiated by data in the evaluation study of the program, identified the informal, personal and

nonprofessional relationship between the volunteer and her client as the most important factor in the client's adjustment to her new life. At certain times, particularly on sentencing day, on the first visit to the institution and during the first few weeks of adjustment, the "woman in crisis" was in crucial need of the human, practical, uncomplicated assistance that was offered by an objective, informal volunteer.

(1) *Sentencing Day.*—Regardless of the nature of the crime committed by an offender and the likelihood that the offense would necessitate his incarceration, most families are not prepared for the possibility that the man will, in fact, be going to prison for an indefinite length of time, and, as a result, display symptoms of shock, panic or emotional turmoil in court when sentencing does occur. Therefore, Women in Crisis was structured in such a way that volunteers, under the supervision of a court liaison staff person, would be available in court each sentencing day to provide immediate information on court procedures and prison rules as well as practical guidance and emotional support. The evaluation study substantiated the assumption that Women in Crisis clients would need and respond positively to informed, well meaning volunteers in court regardless of differences in race or social background.

Eighty nine percent of those clients interviewed felt that it was important for them to have had someone in court to assist them on sentencing day and the vast majority of clients stated that the race of their volunteer made no difference to them. The type of human support that volunteers provide each week can best be understood by examining the specific experiences of Mrs. S and her volunteer, Jan.

Mrs. S., a woman in her fifties, is a widow with five sons. Her eldest son was in court to be sentenced for a sexual offense. Mrs. S. spoke in open court to the judge. She told him how she had tried to help her son and how difficult it had been for her. Jan approached Mrs. S. after the judge had sentenced the young man, explained who she was and asked if she could be of any assistance to her. Mrs. S. and Jan sat down together in the hallway, whereupon Mrs. S. put her head on Jan's shoulder and wept. She then expressed her feelings of frustration and shame in speaking before the judge. Jan assured her that her comments had made a great impact on the court. After talking with Jan for another 15 minutes, Mrs. S. told Jan that "just as I thought I didn't have anyone to turn to, you were there to help me."

(2) *First Visit.*—The first visit by a woman to her loved one in prison is usually a very difficult experience. There are a great many specific reg-



ulations and a precise visiting procedure outlined by the institution which can be overwhelming to a family member who is unaccustomed to expressing feelings in such a structured environment. The location of the prison itself can often present an insurmountable problem to a family without access to private transportation.<sup>8</sup>

The ability of a family member to acquire the appropriate information and support necessary to overcome these practical and emotional obstacles can determine her feelings towards subsequent visits. For this reason, the initial Advisory Board and staff of Women in Crisis felt that it was imperative for a volunteer, as part of her job responsibilities, to accompany a woman on her first visit to the prison. The volunteer would, in no way, be part of the actual visit itself but would be available to guide the woman through the procedure and discuss her reactions to it before and after the visit itself. In addition, by offering private transportation during weekday hours, the volunteers would be providing the "woman in crisis" with the opportunity to visit for the first time under less crowded conditions and for a longer period of time.

The evaluation study of Women in Crisis supported the program's commitment to the use of volunteers as helpers on the first visit. Over half of the clients interviewed experienced fear and nervousness before their first visit to the institution. Two-thirds of the clients interviewed indicated that they talked with their volunteers about their feelings prior to the first visit. Over 85 percent of the clients who were accompanied by their volunteers on their first visit said they relied heavily on the volunteer's presence. When asked whether it was helpful to have had a volunteer go with them on the first visit, 93 percent of the clients responded positively. Only those clients who were already familiar with the procedure felt that the volunteer's assistance was not imperative. It would seem, therefore, from this data, that the presence of a caring, objective person at this critical time in the family's adjustment process is very helpful. One volunteer described a client's first visit and her own role as an important helper:

When I met Dee for the first time, I was amazed that she seemed so calm and so much in control of herself. Until we went up to the prison together for that first visit, I wasn't sure what I could offer her. We talked quietly during the drive to Somers but as we approached the parking lot of the prison, I noticed that her expression suddenly changed. We walked together to the metal detector and into the first waiting area. At this point, Dee completely broke down, refused to go any further and insisted that she would never come to this awful place again. I sat with her as she cried and quietly encouraged her to go into the visiting room, since her husband was probably just as nervous and anxious to see her as she was. After what seemed like hours, she did finally go in. Later she told me that she would never have done so if it had not been for me.

It should be mentioned, at this point, that Women in Crisis volunteers are instructed to accompany a client *only* on this first, critical visit. The program does not want the volunteer to spend her time simply as a chauffeur. Nor does it feel that it is helpful for the "woman in crisis" to develop a dependency on the volunteer for transportation over a long period of time. Clients are, therefore, encouraged to develop their own resources. Since many clients mentioned during the evaluation interviews that the institution was frightening for them only until they became familiar with the visiting routine, it is apparent that continued volunteer support on additional visits is unnecessary.

(3) *The 6- to 8-Week Adjustment Period.*—In addition to the critical support that a volunteer provides to her client at the specific points of crisis on sentencing day and on the first visit, a volunteer is also available as a resource on continuing, intensive basis for the 6- to 8-week period which usually reflects the average critical adjustment time for a woman whose loved one has recently been incarcerated. Periodic followup can continue until the point when the man is released from the institution if the family desires this support. Clients interviewed indicated that of all the types of assistance provided by the volunteers during this adjustment period, it was the most helpful to have been able to relate on a human level to another person, to have "someone to talk to." The following letter, which one client wrote to her volunteer, describes the impact that their relationship had on her life:

Dear Meg:

I wrote you this letter to know how you field. I wish that when you receive this letter you are in good condition of health.

Mrs. Meg, I wish you have a good luck in your summer vacation, I meet you because you was a wonder-women, who I was the pleasure to know. I would never

<sup>8</sup> Somers Correctional Institution in Somers, Connecticut, is the primary intake prison for adult male felons in Connecticut, and like many prisons throughout the country, is located in an area of the state that is not on any preestablished, major passenger routes. Until April of 1978, when Women in Crisis successfully advocated on behalf of its clients for increased public bus service to Somers, there was only one bus per week which traveled from Hartford, the major urban area serviced by the program. This bus traveled only on the weekend when visiting hours are shorter and when the visiting room is the most congested. There is, however, no regular public transportation from other areas of Connecticut to Somers.

forget the day I know you because you bring me your friendly when I was alone.

Have a great summer vacation with all of your families. Stay as nice as you are. I will always remember you.

Sincerely,  
Your friend, Maria.

### III. *Advocacy as a Role of the Volunteer.*—

Although the initial Board of Women in Crisis considered the emotional support and assistance provided to a family member by a volunteer to be of critical importance, it also recognized additional concerns of clients which could not be addressed through emotional support alone. Families in turmoil need accurate information in order to make rational decisions about their future. They need to identify and establish contact with the appropriate personnel at the institution so that their concerns and fears about their loved ones can be expressed and addressed. They may need practical, professional services or crisis intervention to alleviate on-going or emergency situations. Many families facing problems so soon after the offender's incarceration feel helpless and overwhelmed. For this reason, the planners of Women in Crisis concluded that it would be important for well trained, informed volunteers, as part of their job assignment, to assume a role of advocacy on behalf of their clients. They, as vocal representatives of an established organization, could serve as liaisons and investigators to gather and interpret necessary information and steer clients towards appropriate, existing services. They could also intervene on issues relating to the prison if the client had a justifiable complaint and received no satisfactory response to it.

Since March of 1977 when the program officially began operation, volunteers have assumed advocacy roles in specific cases. Various types of services that volunteers have provided and the results of their intervention are summarized below:

An agitated mother called her volunteer because her son had been writing to her and complaining that he was being heavily drugged at the prison. Since the mother was unable to clarify the situation, the volunteer called the institution as a representative of Women in Crisis and established, to the mother's relief, that the inmate was not being medicated.

In her conversations with a young family member, one volunteer discovered that, as of mid-October, the woman had not enrolled her children in school. The woman was embarrassed that the youngsters did not have proper clothing to wear to school. The volunteer suggested to the woman that they visit a local clothing

bank together. When the woman acquired sufficient clothing for her children, she and the volunteer went to the school and registered the children in classes.

A volunteer whose client was being evicted from her apartment spent countless hours with her as the woman searched for suitable living quarters for herself and her small children.

A volunteer whose client was lonely and isolated in a suburban town arranged for a scholarship to a class at the local Y.W.C.A. for the woman so that she could meet and be with other women during the day.

An offender contacted the agency for help in re-establishing a relationship with his 3½-year-old son who was living with his former wife's parents. The parents had never responded to any of the offender's letters to them. A volunteer wrote a letter to the in-laws informing them of the man's desire to see his son upon his release from prison. When the in-laws responded to the letter, the volunteer was able to reassure them about the man's intentions and his awareness of the difficulties such a visit might cause. The in-laws were appreciative of the support offered by the volunteer and agreed to one initial visit between the child and his father. Subsequent visits ensued.

### *Additional Services*

Although Women in Crisis was established to address the needs of offenders' families during the critical period immediately following the man's sentencing and initial incarceration, the program has begun to develop services at other key points in time when family members are equally in need of vital assistance. Judith Weintraub, in her article, "The Delivery of Services to Families of Offenders,"<sup>9</sup> identifies arrest and arraignment and pre and post release as additionally turbulent and bewildering periods of crisis for families of offenders. The experiences of Women in Crisis over the past 2 years have substantiated her observations.

When loved ones cannot raise bail and must remain incarcerated for varying lengths of time prior to sentencing, families face practical, emotional and financial burdens as a result of the man's abrupt absence from the home. Vital information on court and jail procedures is as confusing and difficult to obtain as it is once the man is sentenced. Family members whose men have served their time and are preparing to reenter community life have adjusted to new roles and taken on new responsibilities during the man's absence. Their expectations may not be consistent with those of the offender whose life in prison has been so vastly different from their daily existence on the street. Common goals and realistic plans must be established between the man and his family so that the offender may experience

<sup>9</sup> Weintraub, *op. cit.*

a smooth transition between prison and community life.

Women in Crisis volunteers have begun to provide support services to families of felony offenders who remain incarcerated prior to sentencing. These family members (whose loved ones are classified as "transfers") receive the same type of services provided by the agency to families of sentenced offenders. Counselors and other personnel at the correctional facility, private attorneys, public defenders and bondsmen refer "transfer" families in need to the agency on a regular basis.

Within the "Return to Community" component, a family counselor is available to assist an offender and his family in establishing realistic goals and to facilitate effective communication among family members. The family counselor is in the process of determining methods for utilizing trained volunteers within this new project.

Women in Crisis also runs "personal growth classes" and group activities for family members of offenders. These sessions not only provide the opportunity for women to gather socially, but also allow them to discuss common problems and learn new skills which may be valuable to them as they adjust to new lives on their own. Some of the topics which have been addressed in the past include single person parenting, money management and interpersonal communication.

### Summary

Existing literature is limited in that it hypothesizes on the various means for meeting needs of offenders' families but does not present concrete programs and methods for dealing with these specific needs. Women in Crisis authenticates a method of providing services which has major advantages. In the first place, it is practical and can be offered with limited financial resources because it utilizes trained women volunteers as primary service providers. In addition, it provides

the opportunity for volunteers, as representatives of their communities, to serve in a positive way and contribute to the adjustment process of offenders' families. Not only do these volunteers realize personal rewards and satisfactions, but they also offer an effective, straightforward form of assistance which is viewed as genuine by family members "in crisis." To the extent that families are assisted in dealing with crises, there is every reason to believe that they can be strengthened to become a major source of support in furthering the rehabilitation of the offender as well.

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IT IS HOPED that the legal and social work systems recognize their long overdue commitment to provide comprehensive and systematic services to the families of prisoners.—MARY C. SCHWARTZ AND JUDITH F. WEINTRAUB

72208

# The Fine Option Program: An Alternative to Prison for Fine Defaulters

By MARGERY HEATH

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THE SANCTION of the fine is the most widely used of all sentence alternatives; it is considered to be the most cost-effective and can, in most cases, be tailored to meet the needs of relating to the seriousness of the offence and the means of the offender. One of the problems with the extensive use of the fine sentence is that some offenders are unable to pay their fines and are then faced with a term in jail for default of payment. For the court system the incidence of defaulters is negligible—only 1 to 2 percent of all those fined default on payment. However, that 1 to 2 percent translates into as many as 2,000 admissions (50 percent or more of all admissions) to Saskatchewan correctional facilities in some years. It was to provide a relief to the frequency and inordinately severe result of default that the Fine Option Program was developed.

"The hardship that society imposes on its law-breakers is unjustifiable when the sanction is more severely suffered by its poorer members. This financial fact of the differential effect of similar fines on different offenders distinguishes the fine from other sanctions and calls for a different scheme for achieving desired uniformity."<sup>1</sup>

## ***Historical Background***

As early as 1965-66 the Corrections Branch identified that 60 percent of males admitted to the provincial correctional centres could buy their release by paying their fines. Somewhat later, in 1971, the Premier and the Attorney General became aware of the problem and directed that steps be taken by the Department of Social Services (of which Corrections is a Branch) and the Attorney General's Department to eliminate "prison for debt" in this province. A detailed study in 1972-73 further identified the group of defaulters as of native ancestry (75 percent of men, 98 percent of women), whose offences were in the main related to liquor consumption and minor driving infractions. The majority spent less than 15 days in jail indicating their fines were not large.

An interdepartmental committee, consisting of senior staff of the Department of the Attorney General and Department of Social Services, was formed to consider and recommend a workable short-term solution. The following alternatives were considered:

1) Registering the fine as a civil judgment. This was deemed to be too costly—collection of a \$75 fine could involve up to \$500 in legal actions.

2) Relax liquor laws; treat those charged as having a health problem rather than as criminals. This alternative would deal with about 20 percent of the defaulters, but the province was lacking in appropriate alcohol treatment facilities to operationalize this suggestion.

3) Amend the Corrections Act to permit use of a probation order *instead of a fine* for offences under the Liquor Act, Liquor Licensing Act and Vehicle Act where it is obvious the convicted person had no means to pay. This alternative was rejected as it was feared that a substantial increase in probation officers would be necessary to meet the new demands.

4) Work programs—whereby those unable to pay fines would voluntarily work at worthwhile municipal and community projects.

It was agreed to recommend the development of an experimental work program, called the Fine Option Program, as an alternative to jail for default of fines; in the meantime, both departments were to explore longer term solutions including those that involved legislative changes to the fine system.

## ***Fine Option Program***

### ***Objectives***

(1) To provide a reasonable alternative to imprisonment, through community work service, for offenders who are unable or unwilling to pay a fine.

(2) To reduce the cost of the administration of justice by reducing the costs in such areas as transporting offenders to prison and by reducing demands on prison facilities.

<sup>1</sup> Law Reform Commission of Canada Working Paper No. 6—Fines.

### *Development*

Funding for the Program was approved in the spring of 1974. Advertising for the director was placed in June and an appointment announced in September. A secretary and two field personnel were in place by November, and January 1975 saw the opening of the first two Fine Option agencies in the province.

It is essential to remember that in 1974 this Program did not have a known precedent; everyone involved in its development felt a sense of pioneering. From the outset the director of the Program established lines of communication with the judiciary, the court clerks, the police, the communities and the offenders so that as problems and issues developed they could be dealt with quickly and effectively.

Geographic development was prioritized from the data collected for the 1972-73 fiscal year; communities that were sending high numbers of defaulters to jail designated for early development. It was a coincidence that the two high-count communities were also the home communities of the field officers, thus allowing them to begin the development of the Program where they were familiar with the needs and resources of the community.

Several principles were agreed to and established at the outset of development. After 4 years of operation these principles still apply and are as follows:

(1) Procedures should be simple and easy to administer to encourage involvement of lay people in the day to day operation.

(2) There will be no money involved, but rather the use of a voucher that converts hours of work to a dollar credit using the current minimum wage rate.

(3) Program should be flexible enough to adapt the available community resources to the needs of most offenders.

(4) The Program should be designed to serve native offenders who are over represented in the prisons for nonpayment of fines.

(5) Participation in the Program must be voluntary and the responsibility of the offender:

(6) The Program should not be used as a vehicle to impose treatment (such as for alcohol) on an offender.

(7) Standards for work options should reflect the norm of the local community and be adaptable to local needs.

(8) As far as possible, work placements should

be of a meaningful nature to the offender and useful to the community.

(9) All work performed shall be credited at the rate of minimum wage regardless of the skills or tools provided by the offender.

(10) All work placements should be with municipalities, Indian band administrators and non-profit organizations.

(11) Work placements provided to Fine Option participants should not take employment away from present or potential employees.

Very early in the development of the Program negotiations were initiated with the Unemployment Insurance Commission and the Saskatchewan Social Assistance Program to ensure continuance of benefits to the offender while participating in the Fine Option Program. These negotiations were successful with the qualification that the offender must be available for job interviews and job offers.

Worker's Compensation coverage is available to participants who incur injury while working in the Program. In the first 4 years there has been only one report of injury and that was of such a minor nature that no claim was paid.

### *Structure of the Program*

The structure reflects the principles of decentralization and community participation.

In each community the Fine Option field worker works with the elected people (municipal and town councils, and band councillors) to determine what organizations would be most appropriate to assume the duties of operating a Fine Option agency. These include receiving and registering an offender in the Program, placing the offender in a suitable work placement and completing and remitting the required documentation to the court for each offender. The organization chosen to provide the Fine Option services enters into a contract with the government and receives a fee-for-service of \$10 for each work placement made under the Program.

Work placements are developed by the staff of the local Fine Option agency with assistance from the Fine Option field workers; all placements must be described in detail and approved by the director of the Fine Option Program. This approval consists of ensuring that (1) the placement is with a suitable nonprofit organization, (2) the work will be useful and meaningful, and (3) supervision will be provided.

It is most important that a good relationship be established between the various work place-

ment agencies and the local Fine Option agency staff. The involvement of the agency staff in work placement development initiates a process of local cooperation in operating the Program that allows the Fine Option field worker's role to be supportive rather than directive. A successful community Fine Option agency will require only occasional attention from the field worker to ensure a smooth operation.

This community based structure has resulted in a large number of lay people having a direct involvement in the criminal justice system. There are presently 160 Fine Option agencies in the province and another 150 agencies who provide the work placements for the offenders. Some communities have organized formal justice councils, others have used existing channels such as their local policemen and judges to bring forward their concerns and ideas for dealing with crime. Those people working in the criminal justice system have responded by accepting invitations to speak to community groups about local crime problems as well as many of the broader criminal justice issues.

More importantly, the offender and his community are enabled to continue or reestablish their relationship through the Fine Option Program. The offender has a good feeling from being able to help his community; the community benefits from this work and, as a result of seeing the offender doing something worthwhile, is more prepared to help the offender. There are many documented cases of offenders receiving job offers, personal references and the encouragement and support to return to school or attend treatment services such as alcohol rehabilitation. As Judge Muir of Moose Jaw recently commented, "The Fine Option Program brings together the agencies who are seen as part of the 'establishment' and the people who live on the fringe of society and both groups are benefitting from the experience."

#### *Procedures*

Due to the experimental nature of the Fine Option Program the initial process for reaching the defaulter was designed to least disrupt the established court procedures. Because of a concern that fine revenue could be affected, it was decided that the only persons who should be offered the alternative of community service work were those who had, in fact, defaulted. This limited the period of contact with the offender to that time

between date of default and the issuance of the warrant.

A form letter was developed which, in effect, advised the offender that his fine was in default and that he was now eligible to use the Fine Option Program to avoid being sent to jail. This process, although reasonably effective, was cumbersome. It placed the responsibility on the courts (who referred names of defaulters to Fine Option agencies) and the Fine Option agencies (who mailed the form letter to the defaulter) to contact the offender. After much discussion and negotiation with the Attorney General's Department and the Chief Judge a procedure was developed that advised the offender at the time of sentence of his available options.

#### *The Notice of Fine*

The new procedure, introduced in March 1977, involved the development and use of a written notification to be given to the offender at the time of sentence. This notification, called the Notice of Fine, complemented the verbal instructions of the judge and includes details about the charge, the amount of the fine, days in lieu, default date, instructions for payment and a brief description of the Fine Option Program and how to participate in it. The judges are required to provide the Notice of Fine to *everyone who is allowed time to pay*. In effect, it is now the offenders' responsibility to choose whatever method appropriate for him to settle his fine.

If the offender chooses to use the Fine Option Program he must present the Notice of Fine to a Fine Option agent by date of default. The agent registers the offender and advises the court of the registration and the expected date of completion of the community service work. The court records this completion date as a new default date.

The Notice of Fine system has been in place for over a year and has vastly improved and streamlined the procedures for both Fine Option participation as well as payment of fines. The provision of information on the Fine Option Program to all persons who are given time to pay their fines has not changed the overall profile of participants. Only a very small number of Fine Option Program users are persons who could easily afford to pay their fines. These persons may well be the type who would serve a jail term if there is a principle involved in their refusal to pay.

Following registration in the Fine Option Program, the offender is interviewed briefly to de-

termine his skills, his availability and any handicaps so that an appropriate work placement can be arranged. The Fine Option agency contacts the work placement agency to arrange starting dates for the offender's work. The work placement agency provides supervision and keeps time sheets on each offender. When the required number of hours have been completed (or the offender terminates) the agency returns documentation to the Fine Option agency. The final check and validation of the documentation is done by the Fine Option agency who sends one copy to the court as settlement of the fine and one copy to the offender as a receipt.

The amount of work required to settle a fine is computed by dividing the amount of the fine by the current provincial minimum wage rate. No cash changes hands. The court accepts documentation from the Fine Option agencies showing hours of work performed as settlement of these fines.

Throughout the actual process of registration, placement, supervision, documentation and reporting of results, it is the community that is responsible for the successful functioning of the Program. The highly successful performance of these nonprofessionals in administering the Fine Option Program reinforces the comment of the Canadian Criminology and Corrections Association in its brief to the Task Force on the Role of the Private Agencies: "Only a community interest and involvement will bring about major reforms to improve the manner in which crime is handled in Canada. It is time for the community to be brought into the decisionmaking and implementation process."

### **IMPACT**

#### *On Correctional Institutions*

The objective of the Fine Option Program was to reduce the problem of incarceration for defaulted fines by providing the alternative of community service work. We believe the first 3 years of operation have resulted in a steady decline in the days of incarceration as well as reducing the number of admissions to the provincial correctional centres. During these same years the rate of incarceration for direct sentences has continued to increase. The provincial jails are presently experiencing an all time high inmate count.

#### *On Offenders*

Several benefits have accrued to the offender

beyond the avoidance of a jail term for default. Many have received job offers, references, assistance to enable a return to school, upgrading or job training and the community support that has encouraged many offenders to start the process of dealing with their alcohol, social or financial problems. Often it was these problems that landed them in trouble with the law. The disruption of family ties and responsibilities and the indignity of incarceration can now be avoided by the offender thus making the fine sentence fairer.

*On Communities*

A major impact has been the opportunity for community people to become involved in "a little bit of the action" in the criminal justice system. Some rural communities receive only sporadic benefits from their local Fine Option Program except in Indian reserve communities where the Program is used well and the benefits are highly visible. New or renovated band halls and offices, roadway maintenance projects and housing programs are a few of the activities assigned to Fine Option participants. Reserve communities are more cognizant of the destructive effects that removal of a family member, especially a parent, has on the family and the community. Chief Tony Cote, of the Cote Indian Reserve, commented that the most important contribution the Fine Option Program is making is that it prevents breakdown of families due to the incarceration of the male member of the family. Young offenders, in particular, are avoiding contact with "the criminal education" process that can happen in jails. Incarceration only holds fear for those who have not been subjected to it; it is vital that this sanction be retained for more serious criminal acts than nonpayment of fines. In the larger urban centres, such as Saskatoon and Regina, many nonprofit agencies are developing an increased appreciation of the benefits of Fine Option as their budgets for staff are reduced and the demand for services continues to expand.

#### *On the Criminal Justice System*

The Fine Option Program has impacted dramatically on the courts administrative system. During the first couple of years the referral process to the Fine Option Program created a serious work overload for the understaffed system. Coincidental with the introduction of the Notice of Fine was a staff increase in the court offices; the combination has resulted in the elimination of a 2 to 3 year backlog of fine default cases. Most court jurisdictions are able to now issue warrants

within several days of default resulting in quicker execution and closure of fine cases. The Program has considerably reduced the number of warrants issued for default thereby lessening the workload of both the court offices and the R.C.M.P. detachments.

In summary, the improved administration of fines has substantially reduced the incidence of avoiding the sanction thus improving the credibility of the justice system. It is commonly accepted that the best crime prevention is quick apprehension and sure justice.

### *Policy Issues*

Introduction of the Fine Option Program to the criminal justice system and the implementation of community service work as an alternative to cash settlement of a fine produced several policy issues.

One of the more contentious issues was the question of legality—(1) does the province have the authority to substitute the sanction of a monetary penalty or jail with another kind of settlement (i.e.) community service work?, (2) can the province extend this substitution to fines that are payable to the Federal Government? The statutory base for the Fine Option Program lies in an Order-in-Council which establishes regulations under the Department of Social Services Act. Recently the Federal Government, in Bill C51, has proposed amendments to the Criminal Code which when passed will legitimize community service work settlement. Until legislation is passed the position of the province is that, as the province is responsible for provision of incarceration services for defaulters of fines payable to the Federal Government, the province has the prerogative to establish programs that are a reasonable alternative to incarceration.

There has been the occasional complaint from communities regarding loss of fine revenue. These are communities who have extra policing costs, who depend on fine revenue to pay some of these expenses and who perceive the Fine Option Program as reducing that revenue and not replacing the dollar value with community service work. The offender usually chooses to work his fine in his home community, while the infraction may have occurred in another community and the fine, if paid, would accrue that community. The policy respecting place of work vis-a-vis place of infraction will continue to be the offender's choice for several reasons. (1) Cost of travel and ac-

commodation would be prohibitive to performance of community service work in locale of infraction. (2) Although some fine revenue from paid fines accrues to the local municipality the cost of incarceration for defaulted fines is not charged back as a direct cost to the offender's local municipality.

Credibility of the quality and quantity of work performed by offenders in the Fine Option Program continues to be of concern. Some incidents of both poor performance and poor choice of work placement have occurred. There is a diversity of opinion on what constitutes credible work. For example, a work placement that caused a great deal of discussion required the offender to assist in setting up and supervising an evening of bingo to raise funds for charitable purposes. This was perceived by some persons as a recreational activity and a decision was made to delete this work placement as being inappropriate.

Meaningful work for offenders is a problem in some communities—often it is related to seasonal demands. The creative capacities of local Fine Option agent and the community can often alleviate this concern. Knowledge and awareness of the community needs and available resources leads to development of work placements with the local library, senior citizens services and programs for specific groups such as youth and handicapped.

To assist communities in establishing meaningful and credible work placements standards and procedures have been developed. Some are:

(1) Use of time records signed by supervisor of work placement.

(2) Guidelines regarding absenteeism, late arrival, that are the same as an employment situation.

(3) Work placements that are (a) seen by the community as worthwhile (b) meaningful to the offender.

It is important to recognize that perceptions of what is meaningful, beneficial and credible vary from community to community. The assignment to dig toilet pits (fairly common on Indian reserves) would be considered punitive and harsh in a large urban centre. The work credibility issue does not have an easy solution, but is amenable to monitoring by field staff and serious violations are dealt with by way of fraud charges.

### *Summary*

After 4 years the Fine Option Program is



fully operational and available to anyone who has been fined and given time to pay. As a short term solution to the problem of fine default it has been fairly successful. The total days of care are substantially reduced, although the number of admissions still remains in the range of approximately 1,500 per year.

A recent study done by summer law students of all the defaulters incarcerated during a 10-week period indicates that a high percentage are not suitable candidates for the voluntary, low-control loosely structured Fine Option Program. Most have severe alcohol problems which have destroyed their initiative, self-worth and ability to perform even a very simple form of work. This group has a record of short jail terms, mostly for default, and to some extent their health may depend on this drying out period with warm, dry accommodation and good food. This study recommends that sentences to alcohol detoxification centres would be a more humane way to handle this group than fines and jail.

The expectation that the Fine Option Program would provide opportunities and experience in defining the fine problem has more than been fulfilled. Through operational experience, data collection and studies the following facts about fines have emerged:

(1) In 1976, 44 percent of incarcerated fine defaulters were not given time to pay; in 1978 this was still at 34 percent. These people are also ineligible to participate in Fine Option Program.

(2) Default time has no realistic relationship to the value of the fine—average \$5 per day.

(3) Fine defaulters continue to be predominantly native, older than other inmates, with a history of previous incarcerations.

(4) It is estimated that in excess of 11 million

dollars in fine revenues was generated in Saskatchewan in 1977-1978. In the same fiscal year \$400,000 (3.5 percent) in fines were settled by Fine Option and a further \$24,000 written off as uncollectable.

Fines levied for Vehicle Act and Liquor Act offences continue to form the majority of defaulted fines but there is a steady increase in driving while impaired fines. Another group has fines for a variety of offences for which no time to pay was given by the court. The following changes would result in a decrease in use of the Fine Option Program as well as a decrease in the number of incarcerated defaulters:

(1) Decriminalization of liquor offences and use of detoxification centres for nuisance-type alcohol abusers.

(2) Attachment of unpaid fines to operators licences or vehicle registration fees for offences under the Vehicle Act.

(3) Substantial decrease in the use by judges of "no time to pay" would affect 35 percent of the present group of defaulters in jails.

Even with substantive reforms to the fine system there will still be some need for the Fine Option Program. It is a considerably more cost effective program than elaborate screening mechanisms to determine means to pay, recall of offenders to arrange installment payments, etc. However, it is incumbent for reform to be undertaken that will reduce the present high numbers of people who are fined and are unable to pay some or all of their fine. The Fine Option Program should eventually be the program of second last resort in the fine system—with the last resort being jail for those who are willful defaulters.

OUR OFFENDER population frequently has a plethora of problems. Keep in mind that these problems, in general, did not develop overnight; and, they cannot be resolved in like fashion. It is most important for the probation officer to *listen* to the offender's assessment of the problems which are getting in the way of realizing stability. While we cannot help the offender change the past, we can help him with the present and ultimately the future.

—HAROLD B. WOOTEN

# The Case for Creative Restitution in Corrections

BY JAMES H. BRIDGES, PH.D., JOHN T. GANDY, D.S.W., AND JAMES D. JORGENSEN\*

AS CHILDREN, most of us were taught the lesson, "Crime does not pay." Years later, as adults, we realize that this homily, like many others, was, and is not true. Crime pays. It pays very well assuming the criminal practitioner is willing to assume the risks; risks which are not as high as we might think. The vast majority of crimes go unreported. Only a small portion of those that are reported are finally cleared by arrest. Even if arrested and charged, the likelihood of conviction is slight and the chances of serving a sentence upon conviction is also somewhat remote. Further, if that sentence happens to be a prison sentence, the probability of such an intervention preventing further criminal acts is also questionable. With such odds, crime should flourish and, indeed, it does.

Paralleling the flourishing crime industry is the ever growing criminal justice industry. Years after the passage of a "safe streets" act, streets are still relatively unsafe. The tenure of the Law Enforcement Assistance Administration, reluctantly extended by Congress, will temporarily maintain a bureaucracy whose efforts have not provided the hoped for control in crime. In the absence of any other approach it continues however, until some other strategy emerges. If the criminal justice industry follows the "more is better" philosophy which has framed many of the policies of the past decade, we will undoubtedly even have larger police departments, more and better hardware, enlarged prisons, a more sophisticated computer technology and finally, more offenders. "More" is apparently not the answer.

While the crime and criminal justice industries have flourished, the state of the art of corrections has not. Korn's comment states the dilemma graphically:

Why is fundamental innovation so difficult to achieve in corrections? Why is an establishment committed to the reformation of others unable to reform itself?

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In seeking to account for this we cited three general causes: the invalid attribution of exclusive expertise, the exclusion of the ordinary citizens' indispensable contribution and the exclusion of the offenders' meaningful participation in his own rehabilitation. The end result has been that those most dependent on one another for the success of each have been isolated or alienated from each other. The same causes which prevent corrections from achieving its mission prevent it from reforming itself.<sup>1</sup>

Correctional programs and institutions are in disarray. They are caught between two schools of thought: one which makes the case for fixed mandatory sentences and charges that rehabilitation doesn't work, and those at the other end of the spectrum, who make the plea that rehabilitation really hasn't been tried and until it has it shouldn't be abandoned. Others ask for more concern for the victim. Meanwhile, the ordinary citizen who pays the bill, ventures out less at night, and by marking personal property and installing dead-bolts attempts to "harden the target" called home. In desperation he moves to suburbia only to find that the intruder has recently moved there as well.

"Nothing works." That is the chief complaint to be heard among correctional administrators and staff. One has only to visit the correctional workers a short time to understand their dismay. Be it counseling or coercion, punishment or psychiatry, the old technology simply doesn't work.

If the resulting payoff for crime is ever to be reduced, it would appear that communities must develop a different societal stance toward offenders by redefining their social obligation toward society. This would of necessity inconvenience the offender for the practice of crime. The present correctional interventions are not necessarily viewed as inconveniences. Probation is often seen simply as "reporting" to a probation officer. Incarceration, for many, is actually less harsh than hustling the unsafe streets of the inner city. Our present policy is generally one of locking up offenders and making them pay their "debt" to society once their records become serious and

<sup>1</sup> Richard R. Korn, "Correctional Innovation and the Dilemma of Change from Within," *Behavioral Science and Modern Penology*, ed. William H. Lyle, Jr., Springfield, Illinois: Charles C. Thomas, 1972, p. 311.

are viewed as "habitual." Until then they are processed on "caseloads" in the community.

In a capitalistic or "free enterprise" society, the economics of crime could be made less attractive. If this were so, the basic question that would face the offender at any stage in the correctional process would be, "How do you intend to make amends for the injury you have caused your victim and/or society at large?" This posture would be quite different from our present orientation in that the offender would be faced with the necessity of taking the initiative in making restitution before being re-integrated into society. Favorable consideration by the correctional system would be based upon the extent to which the offender "made right" the "wrongs" embodied in his criminal activities. The burden of responsibility would rest with the offender to initiate a plan for making satisfactory restitution. Consistent with this orientation would be that of the correctional system assisting and encouraging the offender toward total reintegration once restitutional obligations were satisfied.<sup>2</sup> Probation and parole field services would need to be restructured in terms of advocacy and brokerage in order to assist the offender in securing the goods and services which make for adequate quality of life standards. Once this stance were achieved, the risks inherent in criminal activity would be increased in that the act would no longer be "paid" for only through serving time on probation or in prison, but through money payments and other concrete restitutional acts as well. Achieving this kind of climate calls for abandoning the philosophy of "lock them up and throw away the key," as well as the extremely sentimental and simple approach which holds that offenders are merely the victims of social injustice.

This article will propose a framework for incorporating the concept of "creative restitution" into the correctional process. It is the contention of the authors that in the proper climate, well

conceptualized and properly applied restitution can provide a low cost, middle ground approach for corrections which can satisfy society's demands for punishment as well as the offender's needs for rehabilitation. This approach would also recognize and serve the badly neglected victims of crime, as well.

### *Historical Importance of Restitution*

Restitution has been a significant concept over the centuries and has had a vital place in a variety of cultures. Although restitution has played a prominent role historically, the concept has, for the most part, been ignored in contemporary criminal justice.<sup>3</sup> According to Cohen, "In the torturous history of man's punishment of man, restitution has had an established position. It is an ancient institution."<sup>4</sup>

Historically, the relationship between restitution and punishment has been of primary importance. Schafer states that restitution "... has had an established position in the history of penology, and for a long period was almost inseparably attached to the institution of punishment."<sup>5</sup> Schafer continued to establish the link between restitution and punishment, "... for injuries both to person and property, restitution or reparation in some form was the chief and often the only element of punishment."<sup>6</sup>

The transition over the centuries with regard to the concept of restitution has been noted by Barnes and Teeters:

Our barbarian ancestors were wiser and more just than we are today, for they adopted the theory of restitution to the injured, whereas we have abandoned this practice, to the detriment of all concerned. Even where fines are imposed today, the state retains the proceeds, and the victim gets no compensation.<sup>7</sup>

A primary foundational support for the concept of restitution is its concern for the motivations and psychological dynamics on the part of the offender. Evidence for this concern in "primitive" criminal law can be found in Germanic law, Roman law, Babylonian and ancient Persian law, and contemporary primitive laws.<sup>8</sup> The restitutional component of punishment in Roman law can be witnessed in the Law of the Twelve Tables:

Indeed, according to the Law of the Twelve Tables, in the case of theft, the thief who was not caught in the act of committing the theft was obliged to pay double the value of the stolen object. In cases where the stolen object was found in the course of a house search, he was to pay three times the value, or four times the value if he resisted the execution of the house search. Again he was to pay four times the value of the stolen object if he had taken it by robbery.<sup>9</sup>

<sup>2</sup> Frank Dell'Apa, W. Tom Adams, James D. Jorgensen and Herbert R. Sigurdson, "Advocacy, Brokerage, Community: The ABC's of Probation and Parole," *FEDERAL PROBATION*, XXX, No. 4 (December 1976), pp. 37-45.

<sup>3</sup> Burt Galaway and Joe Hudson, "Issues in the Correctional Implementation of Restitution to Victims of Crime," (paper presented to the annual meeting of the American Society of Criminology, New York, November 1973), p. 1.

<sup>4</sup> Irving E. Cohen, "The Integration of Restitution in the Probation Services," *Journal of Criminal Law and Criminology*, XXXIV (January-February 1944), p. 3, 5.

<sup>5</sup> Stephen Schafer, *Restitution to Victims of Crime*, Chicago: Quadrangle Books, Inc., 1960, p. 3.

<sup>6</sup> *Ibid.*

<sup>7</sup> Harry E. Barnes and Negley K. Teeters, *New Horizons in Criminology*, Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1959, p. 288.

<sup>8</sup> Gerhard O.W. Mueller, "Tort Crime and the Primitive," *Journal of Criminal Law, Criminology, and Police Science*, XXXVI, No. 3 (September-October 1955), pp. 323-332.

<sup>9</sup> Schafer, *op. cit.*, p. 4.

The Code of Hammurabi, as it relates to Babylonian and Ancient Persian Law is concerned with men's reasons or the motivations of the offender by the explicit provision that in a quarrel if one individual is wounded the other will swear that it was not intentional and will pay the physician for treating the wounded.<sup>10</sup> It can be stated, "... the penal law of ancient communities was not a law of crimes; it was a law of torts."<sup>11</sup>

A primary element in early criminal law was the fact that private wrongs were generally settled on a personal basis. The "blood feud" was a widely used means for handling criminal acts. The settlement of the criminal act was between the offender and the victim's family. According to Hudson and Galaway, "... underpinning and largely regulating this process in many cultures was Lex talionis or the eye-for-an-eye principle."<sup>12</sup> Satisfaction for the victim or the victim's family was a significant factor in the "blood feud" and Lex talionis, the retaliatory nature of this process, as well as the vendetta which was inherent, gradually contributed to alternative means of dealing with the concept of satisfaction on the part of the victim or the victim's family.

The idea of retaliating in a way other than with the blood feud was emphasized after a time because the vendetta generated by an injury was likely to be perpetual, and there was the consequent risk of living for generations in this type of situation. In short, the blood feud often became less hostile because compensation or the payment of damages would help neutralize vindictive feelings generated by an offense.<sup>13</sup>

Revenge which was present on the part of the offender or the offender's family, began to be dealt with in a much different fashion than it had previously. The restitutional factor in punishment began to exert a rather pervasive influence in early law.

Composition or compensation which was manifested as a system of monetary payments or fines for personal injury developed as a dominant element in early law. A complex system of tariffs evolved which was concerned with the extent as well as the nature of the injuries.<sup>14</sup> Important consideration was also given to the social standing of the victim.

The amount of compensation varied according to the nature of the crime and the age, rank, sex, or prestige of the injured party. "A free-born man is worth more than a slave; a grown-up more than a child, a man more than a woman, and person of rank more than a freeman," were the usual principles governing compensations. Moreover, a crime that might be settled by compensation if it were committed against an average man, would call for blood revenge, if committed against a nobleman. From these differences in the amount of damages and the value of the victim, there grew up such a complicated system of regulations that the earliest codified law of many peoples, particularly that of the Anglo-Saxons, was in considerable part devoted to this subject of man-money, or wergild.<sup>15</sup>

In Anglo-Saxon law, the monetary payment or bot in which the offender made amends for his acts was prevalent, although there were very serious offenses for which the bot did not apply and they were described as being botless.<sup>16</sup> The Germanic tribes utilized a system of fines for injuries which were known as faida or feud committed for money.<sup>17</sup>

These systems of restitution or personal reparation to the victim or the victim's family by the offender, provided the foundation for early criminal law. In fact the integral supports for law in various societies embraced the concept of personal restitution. These various systems of restitution or reparation, which were fundamental aspects of early law, survived for centuries. This early concept of law incorporated the central notion that an offense was to be settled between the victim and the offender. This conception of the process of law demonstrated significant awareness of the victim as well as the one who offended. However, this restitutional process began to be diluted and subsequently experienced a period of transition in Anglo-Saxon law.

Composition or compensation, as was previously discussed, involved a rather complicated system of tariffs; and, because of its complex nature, the state authority over this process gradually increased. Associated with this development in Anglo-Saxon law was the prominent influence and changing role of the king. According to Barnes and Teeters:

With the growth of this conception of crime as an offense against the public welfare, as exemplified in the majesty of the king, there was a corresponding decline in the principle of compensation, which ultimately became obsolete.<sup>18</sup>

Instead of the victim receiving the entire compensation, the king began receiving a part of the payment as his role developed into that of an intermediary in criminal law matters. Gradually

<sup>10</sup> Mueller, op. cit., p. 328.

<sup>11</sup> Cohen, loc. cit.

<sup>12</sup> Joe Hudson and Burt Galaway, "Undoing the Wrong," *Social Work*, XIX, No. 3 (May 1974), p. 314.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Barnes and Teeters, op. cit., pp. 287-288.

<sup>16</sup> Hudson and Galaway, loc. cit.

<sup>17</sup> "The Minnesota Restitution Center," (unpublished project report of the Minnesota Department of Corrections, 1974), p. 2.

<sup>18</sup> Barnes and Teeters, op. cit., p. 288.

the king's or state's share increased and eventually the entire compensation or payment went to the king. Crime was viewed as an offense against the state and, corresponding to this change, the victim's importance and role declined. As restitution declined in significance, the state increasingly utilized punishment in dealing with the offender. The unlawful act came to be conceptualized differently than it had been previously. With regard to the deteriorating role of restitution and the increased significance of punishment and state authority, Laster states:

Once the state replaced the victim as the recipient of the criminal's compensative payment, it was a logical next step for the state to replace the victim as the prosecuting party. This move further de-emphasized harm to the victim and necessarily reinforced the concept of harm to society, the state's philosophical justification for punishing the criminal. Tying all of these arguments together, one can see that as the system of fines narrowed the scope of community composition and squeezed the victim out of certain proceedings deemed criminal, the focus of those proceedings shifted to the criminal and his act and away from harm to the individual. This shift in focus may have resulted in monetary benefits for the king, but it reduced the economic lot of the victim, shifted the aim of the law away from any constructive policy of restitution, and reinforced the concept of harm to society to justify the criminalization of certain "harmful" acts to individuals.<sup>19</sup>

Thus punishment evolved as the primary philosophical orientation in the state's approach to the criminal offender, while the victim became the forgotten party.

The concept of restitution has not been the focal point of thought and writing, for the most part, in modern day criminal justice. Since its early use in criminal law matters, there has been some sporadic although limited interest in the concept. While there is some interest at present in restitutional ideas, the criminal justice system embraces other philosophical orientation with regard to the offender. According to Hudson and Galaway:

Historically, the emphasis in dealing with criminal offenders has tended to shift toward the use of fines, various means of corporal punishment, and in more recent time to imprisonment and enforced therapy.<sup>20</sup>

### *The Process of Restitution*

The concept of restitution as discussed in this article is in relation to the criminal justice system. However, its general use and application will also be noted. Its importance as a process in itself has been described in the literature, as well as its utilization with various populations.

The dynamic of restitution is incorporated into the behavior patterns of most people and when misbehavior does occur, subsequent restitution or some act of amending is likely to take place.<sup>21</sup> Restitution is a natural process which occurs in all of our lives, begins at an early age and can take a variety of forms. The countless ways that individuals "make-up" to someone they have hurt is but one example of this natural process. As an effective disciplinary or educative technique "rectification" or "making good" is an important process with children.<sup>22</sup> This "rectification" or "making good" is, in fact, restitution. It is not only a natural process, but may be an integral element in treatment; and, according to Eglash:

Restitution may appropriately be part of a clinical treatment program, and replace the distorted restitution which occurs spontaneously in ego disorders.<sup>23</sup>

Two important developments which have emerged in human services are volunteerism and the self-help group movement. The concept of restitution is primary to both of them. According to Eglash:

A form of restitution always available, whether one has committed an offense, or has inflicted accidental damage, or has himself suffered a wrong either from others or from fate, is to seek out and to help others in the same boat.<sup>24</sup>

The act of volunteering in an infinite variety of situations: ex-drug user and ex-offender programs, Alcoholics Anonymous, as well as many other related programs, all embrace the concept of restitution.

The general significance of restitution only further supports the concept and its potential incorporation in criminal justice. The term "creative restitution" referred to in this article is geared to depicting restitution in its broadest application and is defined as:

A process in which an offender, under appropriate supervision, is helped to find some way to make amends to those he has hurt by his offense.<sup>25</sup>

It refers to "... payments in either goods, services, or money made by offenders to the victims of their crimes."<sup>26</sup> Creative restitution, as it is conceptualized here, also refers to services pro-

<sup>19</sup> Richard E. Laster, "Criminal Restitution: A Survey of Its Past History and an Analysis of Its Present Usefulness," *University of Richmond Law Review*, Vol. 71, 1970, pp. 79-80.

<sup>20</sup> Hudson and Galaway, loc. cit.

<sup>21</sup> P. Docker-Drysdale, "Some Aspects of Damage and Restitution," *British Journal of Delinquency*, (July 1953), pp. 4-13.

<sup>22</sup> Stephen Schafer, "Restitution to Victims of Crime—An Old Correctional Aim Modernized," *Minnesota Law Review*, 50, No. 2 (December 1965), p. 250.

<sup>23</sup> Albert Eglash, "Creative Restitution: A Broader Meaning for an Old Term," *Journal of Criminal Law, Criminology and Police Science*, 48, (March-April 1958), p. 620.

<sup>24</sup> Ibid., p. 621.

<sup>25</sup> Albert Eglash, "Creative Restitution: Some Suggestions for Prison Rehabilitation Programs," *American Journal of Corrections*, XX (November-December 1958), p. 20.

<sup>26</sup> Hudson and Galaway, op. cit., pp. 313-314.

vided by the offender to the community and to the general "community good." Thus, it may take three forms:

- (1) monetary payments to the victim;
- (2) service to the victim;
- (3) service to the general community.

While it is not mandatory that the offender make restitution directly to the victim, where this is possible it is preferred. Creative restitution should not be confused with victim compensation, which is concerned with the state's responsibility to the victim for the criminal act.<sup>27</sup>

The characteristics of the creative restitutional act have been described as follows:

- (1) It is an active effortful role on the part of the offender.
- (2) This activity has socially constructive consequences.
- (3) These consequences are related to the offense.
- (4) The relationship between offense and restitution is reparative and restorative.
- (5) The reparation may leave the situation better than before the offense was committed.<sup>28</sup>

Critical elements in creative restitution are that the restitution be related, when possible, to the offense and that the restitution not be imposed on the offender, but developed through a contractual relationship between the offender and victim. The offender cannot be forced to become involved in the process by criminal justice personnel and insofar as it is possible for any aspect of the criminal justice system to be voluntary, the restitutional contract should be entered into on a voluntary basis. The point to be made here is that the offender has the choice of satisfying or not satisfying a societal expectation that he make amends.

The following points are necessary considerations in considering the process of restitutional contracting, according to Hudson and Galaway:

- (1) The agreement for restitution is rationally and logically related to the damages done, which is not the case when the correctional system cages offenders for a specific period of time and largely ignores the victims.
- (2) The contract for restitution is clear and explicit, and the offender knows at all times where he stands

with respect to attaining goals. He can experience ongoing successes as he moves toward his goals. Again, this is not the case when offenders are in the prison settings, with goals of treatment that are often vague and misleading.

(3) Restitution requires the offender's active participation. He is not the passive recipient of either treatment or punishment that is provided to change his behavior. His active involvement in undoing the wrong should increase his self-esteem and self-image as a responsible and worthwhile member of society.

(4) Restitution offers a concrete way in which the offender can atone and make amends for his wrongdoing. It thus provides a constructive and socially useful means for the offender to deal with any sense of guilt that his wrongdoing may have generated.

(5) Members of the community tend to respond more positively toward offenders making restitution than to those who are in prison. Thus it is assumed that they will perceive offenders making restitution as persons who have committed illegal acts, are attempting to undo the wrong and are in the process of becoming reconciled with society. Thus, they will not see these offenders as persons who are either "sick," "sinful," or "irretrievably immoral."<sup>29</sup>

### *Examples of Restitution*

An indication of the extremely limited utilization of creative restitution is manifested by the number of programs in operation. Although a number of states authorize what they term compensational or restitutional payment, significant elements of creative restitution are lacking.<sup>30</sup> The following are program examples of how creative restitution can be implemented at various stages in the criminal justice process.

#### *Arrest*

According to Sutherland and Cressey:

... there are thousands of cases of shoplifting, embezzlement, and automobile theft annually which are not reported to the public by the victim because restitution or reparation is made.<sup>31</sup>

There is little reason why more of this kind of approach couldn't be applied formally as a means of diverting people out of the formal criminal justice system.

#### *Plea Bargaining*

Despite the fact that plea bargaining is recognized as one of the least desirable features of the criminal justice process, it prevails. The incorporation of creative restitution as a means of reducing the formal charge would provide both the prosecuting attorney and defense attorney a more constructive element to bargain with than that which is presently being negotiated.

#### *Deferred Prosecution*

The present use of creative restitution as a tool to defer prosecution can often be incorporated into "nolo contendere" pleas. In such an instance

<sup>27</sup> Stephen Schafer, *The Victim and His Criminal*, New York: Random House, 1968, p. 112.

<sup>28</sup> Eglash, "Creative Restitution: Some Suggestions for Prison Rehabilitation Programs," p. 20.

<sup>29</sup> Hudson and Galaway, op. cit., p. 317.

<sup>30</sup> See, e.g., James Polish, "Rehabilitation of the Victims of Crime: An Overview," *U.C.L.A. Law Review*, XXL, No. 1 (October 1973), pp. 325-330.

<sup>31</sup> Edwin H. Sutherland and Donald R. Cressey, *Principles of Criminology*, Seventh Edition, Philadelphia and New York: J.B. Lippincott Co., 1966, p. 332.

the defendant would voluntarily submit to the supervision of probation personnel in carrying out restitutional contracts. It could be utilized in a deferred sentencing strategy as well.

#### *Work Release*

The concept of work release is based on placing a relatively "safe" population into the community to work while remaining under the limited custodial care of a jail or residential center. Such a population could fulfill the standards of restitution and in many cases complete a restitutional contract as well. Economic restitution can be made from the earnings of work release and community service can be rendered out of work release programs when such action is deemed appropriate.

#### *Probation*

In view of the fact that probation contains a sanction for failure to comply, it works as a powerful force to induce the offender to successfully complete a restitutional contract. The supervisory staff has the capability to perform the monitoring function.

Examples of creative restitution for probationers might be:

(1) Volunteering a specified number of hours per week to a drug crisis center for an extended period of time. This might be a suitable disposition for a drug related offense such as dealing in narcotics.

(2) A convicted burglar might, as an alternative to incarceration, work with the police in such "target hardening" projects as community education, property identification, in addition to making financial restitution to identified victims.

#### *Institutions*

It is somewhat more difficult to think of restitutional contracts which incarcerated offenders can fulfill, in that society, through incarceration, has deemed them as being too unsafe to remain in the community. It is possible, however, to use restitution as a means of testing inmate readiness to "own" responsibility for their previous behavior.

For example, incarcerated offenders could become involved in such projects as "do as I say not as I do" type of youth education programs which have met with some success. They could also become blood donors for emergency rooms in hospitals where stabbing and shooting victims are treated.

"Restitution like" programs, although not formally conceptualized as restitution, have historically been a part of correctional programming. Offender involvement in service programs such as March of Dimes drives, toy repair projects, fighting forest fires and other national disasters, as well as volunteer participation in medical experiments relating to cancer, malaria, etc., are well documented.<sup>32</sup> Although these activities are not necessarily structured or organized, they manifest the same dynamics and motivational processes as do more structured and formalized programs. The possibilities for implementing creative restitution are infinite.

#### *Parole*

Paroling authorities have basically the same enforcement power as probation departments. They are logically the organizations which could assist the offender in developing restitutional plans while in prison; plans to be completed as a condition of parole. Economic restitution, through payment of a victim's medical or hospital bill would be appropriate. Volunteer work in a rape crisis center could conceivably become a public service program for selected rapists who are released on parole.

In view of the relatively limited application of creative restitution in our society, we have only a partial picture of the possibilities inherent in this type of intervention. Undoubtedly offenders could help correctional staff expand the concept. Like everyone else, they have self-concepts, be they good or bad. Self-concept must be considered in the development of criminal or delinquent behavior as well as in the termination of such behavior. A self-concept which tends to reinforce and support social values should be a goal in the criminal justice system. The authors support the contention that a pro-active self-concept is developed by involving the offender in processes which support positive social values. Creative restitution is such a process.

### *Theoretical Considerations in Creative Restitution*

Creative restitution can be supported through various theoretical formulations. They will be discussed here briefly:

#### *Symbolic Interaction Theory*

According to Blumer:

Symbolic interactionism rests in the last analysis on three simple premises. The first premise is that human beings act toward things on the basis of the

<sup>32</sup> Gordon Fuller, "Value to Prisoners of Participation in Public Service Projects," *FEDERAL PROBATION*, XX, No. 4 (December 1956), p. 53.

meanings that the things have for them . . . The second premise is that the meaning of such things is derived from, or arise out of, the social interaction that one has with his fellows. The third premise is that these meanings are handled in, and modified through, an interpretive process used by the person in dealing with the things he encounters.<sup>33</sup>

According to symbolic interaction theory, behavior rests upon definition and interpretation of acts among associations. Thus criminal behavior is learned from one's associations through verbalization as well as interpretation and definitions. Continued criminal behavior, according to symbolic interaction theory rests on these continuing associations. It would appear that, conversely, if these criminal behavior patterns are to cease, criminal associations should be severed. This has direct implication for creative restitution in that it places the offender in contact with non-criminal or socially accepted behaviors through contact with the victim as well as the general community. Through the creative restitution process, an offender's verbalizations, definitions, and interpretations are more likely to be noncriminal in nature; that is they will consist of values which are socially acceptable.

#### *Differential Association Theory*

The explanation of criminal behavior through differential association theory spells out nine basic phases:

- (1) Criminal behavior is learned.
- (2) Criminal behavior is learned in interaction with other persons in a process of communication.
- (3) The principal part of the learning of criminal behavior occurs within intimate personal groups.
- (4) When criminal behavior is learned, the learning includes (a) techniques of committing the crime, which are sometimes very complicated, sometimes very simple; (b) the specific direction of motives, drives, rationalizations and attitudes.
- (5) The specific direction of motives and drives is learned from definitions of the legal codes as favorable or unfavorable.
- (6) A person becomes delinquent because of an excess of definitions favorable to violation of law over definitions unfavorable to violations of law.

- (7) Differential associations may vary in frequency, duration, priority and intensity.
- (8) The process of learning criminal behavior by association with criminal and anti-criminal patterns involves all of the mechanisms that are involved in any other learning.
- (9) While criminal behavior is an expression of general needs and values, it is not explained by those general needs and values, since noncriminal behavior is an expression of the same needs and values.<sup>34</sup>

In essence, differential association theory teaches us that criminal behavior "makes sense" given the circumstances around which it is learned. The implication as it relates to creative restitution is that pro-social behavior is also learned and reinforced and makes sense as well. It follows that creative restitution provides a field of forces more likely to interrupt and combat criminal responses while producing socializing behaviors. Pure punishment or retribution does not have this capability.

#### *Delinquency and Opportunity Theory*

Related to differential association theory in terms of creative restitution and punishment is Cloward and Ohlin's delinquency and opportunity theory. According to Cloward and Ohlin:

Our use of the term "opportunities" legitimate or illegitimate, implies access to both learning and performance structures. That is, the individual must have access to appropriate environments for the acquisition of the values and skills associated with the performance of a particular role, and he must be supported in the performance of the role once he has learned it.<sup>35</sup>

At present, offenders generally do not have the same access to legitimate opportunity structures as the rest of the population. Our present penal system, more often than not, tends to provide access to illegitimate opportunity structures via the broad and general concept of punishment. Creative restitution on the other hand presents considerable potential for opening up legitimate opportunity structures as well as providing for active participation in a rehabilitative process. This is vital in the acquisition of societal values and noncriminal behavior patterns.

#### *Public Support for Creative Restitution*

In 1975, Gandy conducted a study which examined public opinion toward the concept of creative restitution, as well as opinions toward

<sup>33</sup> Herbert Blumer, *Symbolic Interactionism: Perspective and Method*, Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1969, p. 2.

<sup>34</sup> Sutherland and Cressey, op. cit., pp. 81-82.

<sup>35</sup> Richard A. Cloward and Lloyd E. Ohlin, *Delinquency and Opportunity: A Theory of Delinquent Gangs*, Illinois: The Free Press of Glencoe, 1960, p. 148.



the more traditional concepts of punishment.<sup>36</sup> These concepts, or dimensions of punishment have traditionally been termed:

- (1) Retribution
- (2) Social defense
- (3) Rehabilitation
- (4) Deterrence

Gandy surveyed the opinions of a number of different groups which included:

- (1) Probation officers
- (2) Parole officers
- (3) Social work graduate students
- (4) Methodist Church members
- (5) Suburban police officers
- (6) Members of a large community women's organization

In his findings, Gandy observed a broad range of opinions among these groups relative to the traditional approaches to punishment. However, among these same community groups there tended to be a high degree of support for the concept of creative restitution, with much less variability in responses than was true for the traditional approaches. Gandy observed, on the basis of these findings, that perhaps creative restitution contains elements of all the more traditional approaches in a different way. Further research is necessary to determine just what specific combin-

ation of elements is really inherent in the concept of restitution.

### *Summary and Conclusions*

Creative restitution stands as an alternative and a supplement to many of the more traditional correctional practices. Within the broad parameters of this concept, programs can be designed which can bring about realistic and logical consequences for criminal acts. It incorporates the central idea of reciprocity, and in so doing satisfies society's need for punishment while providing the offender an opportunity to become proactively engaged in making amends to victims of crime and society at large. By fulfilling self-initiated restitutional contracts, the offender "pays his debt" by voluntarily rendering positive social acts rather than simply "doing time."

The principles inherent in creative restitution are deeply rooted in the history of civilization. The concept has sound theoretical constructs and can be applied at virtually every stage in the criminal justice system with apparent broad community support.

The challenge that exists for correctional practitioners today is that of collaborating with offenders to design creative restitution programs that are compatible with complex urban society. If this is done we may well have taken an important step to assure that "crime does not pay."

<sup>36</sup> John T. Gandy, *Community Attitudes Toward Creative Restitution and Punishment*, unpublished Doctoral dissertation, University of Denver, Graduate School of Social Work, August 1975.

**M**OUNTING evidence discrediting the effectiveness of coerced therapy in the criminal justice system, increasing costs of imposing traditional criminal justice sanctions, and the tendency of criminal justice officials to ignore the victim of crimes have all contributed during the past few years to a renewed interest in the ancient concept of restitution.—BURT GALAWAY

# An Evaluation of Federal Community Treatment Centers\*

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COMMUNITY Treatment Centers (CTCs) have in recent years been called on to accomplish a number of divergent goals. Among these are the reduction in prison populations, a reduction in the cost of imprisonment, and a reduction in the pain of incarceration by limiting the degree of separation between the offender and his family and community ties. The present evaluation, however, is a study of the effectiveness of community treatment centers in meeting their primary purpose—aiding the transition of the offender into the community and ultimately reducing recidivism.

## *Study Design*

The Community Treatment Center Field Study was initiated in 1976 by the Federal Prison System as a comprehensive evaluation of Federal halfway house operations (see Seiter, 1977). The methodology compared a sample of releasees from Federal and Federally contracted CTCs with a sample of inmates released directly to the community without the benefit of a CTC. The sample for the CTC group consisted of referrals from Federal institutions to selected CTCs between May 1, 1976, and September 15, 1976.<sup>1</sup> The subjects included only those released on parole or probation supervision who successfully completed the CTC program (N=364). Subjects who were arrested for a new crime while at the CTC, returned to prison because of disciplinary infractions, or who escaped from the CTC are excluded.<sup>2</sup>

The halfway houses included in the study were 10 Federally operated and four Federally contracted CTCs.<sup>3</sup> The 10 Federal centers were chosen to cover all geographic regions and range of programs within the Federal CTC system. The four contract facilities, while not representative of all contract facilities, were selected because they are regionally important, receive a large

number of Federal releasees, and are well established programs.<sup>4</sup>

The CTC subjects were compared to a control group consisting of a sample of releasees from Federal institutions between June 1976 and December 1976 who were *not* referred to a CTC. Again, only those released on parole or probation supervision (N=337) were studied. A subject was excluded from the control group if he was ineligible for CTC placement because of notoriety, a potential for violence, or the presence of a detainer, or if the subject was not referred to a CTC because of old age, medical or psychiatric problems. With some exceptions, the subject also had to be residing in the same metropolitan area after release as the CTC group.

To control for differences between the CTC and control groups, an analysis of covariance design was used. A number of background variables were controlled for statistically, including Salient Factor Score, race, sex, and level of need (rated by institution staff) in a number of areas such as need to upgrade job skills. The Salient Factor Score (See Appendix A) is a device used by the United States Parole Commission to assess risk of recidivism.<sup>5</sup> In general, the CTC group can be characterized as more likely than the control group to be arrested after release on the basis of a lower Salient Factor Score (significant at the .001 level) and as having greater need levels in such areas as employment.

## *Outcome Criteria*

Two outcome criteria were used: Positive ad-

<sup>1</sup> A previous report (Beck and Seiter, 1978) also examined direct commitments to a CTC including split sentence cases sentenced directly to a halfway house and public law cases.

<sup>2</sup> Also excluded were a small number (about 3%) who transferred out of the CTC for the benefit of the resident (i.e., for reasons other than discipline, a new arrest or escape) or who died during the followup period.

<sup>3</sup> The Federal CTCs participating in the study were located in Atlanta, Chicago, Dallas, Detroit, Houston, Kansas City, Long Beach, Los Angeles, New York, and Phoenix. The four participating contract CTCs were the Bureau of Rehabilitation (Washington, D.C.), Magdala Foundation (St. Louis), Gateways Residential Center (Los Angeles), and Pioneer Cooperative Affiliation (Seattle).

<sup>4</sup> As of December 1978 there were 11 Federally operated and 396 Federally contracted CTCs.

<sup>5</sup> A lower score indicates a greater risk of committing a new crime after release. The version of the Salient Factor Score used was that adopted by the United States Parole Commission in April 1977 (see Hoffman et al., 1978).

\* The opinions expressed in this report are those of the author and do not represent the official position or policy of the Federal Prison System.

justment in the community and criminal behavior. Positive adjustment was measured in two ways: (1) number of days employed, and (2) amount of money earned. Number of days employed was based on an 8-hour day. For example, 16 hours part-time employment would count as 2 full time days. Both money earned and days employed were calculated from the date of release to the end of the followup period, and included only "legitimate" employment.

Criminal behavior was also measured in two ways: (1) a severity score based on the relative seriousness of any new arrests, (2) a dichotomous (success/failure) recidivism measure. The severity score was calculated by adding up the scores for all arrests that occurred during the followup period. For example, theft was given a score of four, armed robbery a six, and homicide a nine. For the more traditional dichotomous recidivism measure, failure was defined as an arrest for a new offense or a warrant issued for a technical violation during the followup period. With this measure a subject was either classified as a success (no arrest/no warrant) or as a failure (arrest/warrant). For both measures of criminal behavior, arrests for minor offenses such as traffic violations, intoxication, or disorderly conduct were excluded.

Uniform followup periods of 6 and 12 months were utilized. Both followup periods were calculated from either the date of release from the CTC (CTC group) or from a Federal institution (control group). Outcome data were collected by interviewing the supervising probation officer.<sup>6</sup> Information on criminal behavior was better than 95 percent complete while positive adjustment data ranged from 85 percent to 90 percent complete.

### Results

(a) *Positive Adjustment.*—The data for "days employed" and "money earned" are reported for two categories of subjects: (1) all cases on whom data were available, and (2) all cases with complete data excluding those with a legitimate reason for being unemployed. Those legitimately unemployed included students, retired persons, housewives, or the physically disabled. All results reported are statistically adjusted for sample differences.

The results at 6 months after release show

that referral through a CTC resulted in a better employment record as measured by both number of days employed and amount of money earned (see table I). Differences are statistically significant. For example, after excluding those legitimately unemployed, offenders released through a CTC worked an adjusted average of 94 days during the first 6 months after release and earned an adjusted average of \$3,159. Offenders released directly from an institution, however, worked only 78 days and earned \$2,588.

TABLE I.—Positive adjustment at 6 months after release adjusted for sample differences

Measure	CTC	Control	Significance
Number of days employed	90 days (N=320)	68 days (N=300)	.001
Days employed excluding legitimate unemployment	94 days (N=294)	78 days (N=253)	.001
Amount of money earned	\$2,954 (N=310)	\$2,220 (N=299)	.001
Money earned excluding legitimate unemployment	\$3,159 (N=285)	\$2,588 (N=252)	.01

The results at 12 months after release indicate that releasees through a CTC (see table II) still showed generally better employment, but the differences were not significant when excluding those legitimately unemployed. With exclusions CTC referrals worked an adjusted average of 171 days compared to 157 days for the control group (not significant) and earned an adjusted average of \$6,658 compared with \$5,932 for the control group (not significant).

TABLE II.—Positive adjustment at 12 months after release adjusted for sample differences

Measure	CTC	Control	Significance
Number of days employed	165 days (N=309)	142 days (N=290)	.01
Days employed excluding legitimate unemployment	171 days (N=285)	157 days (N=259)	N.S.
Amount of money earned	\$6,388 (N=304)	\$5,321 (N=287)	.05
Money earned excluding legitimate unemployment	\$6,658 (N=281)	\$5,932 (N=256)	N.S.

There is good evidence, then, that subjects referred through a CTC are both earning more money and working more days during the first critical months after release. To that degree, CTCs are effective tools in aiding the transition of the offender into the community. The impact, however, tends to dissipate the longer the subject is free in the community.

In examining the type of individuals most likely to profit from referral to a CTC, the data showed that all groups of offenders examined (e.g., offenders grouped by race, extensiveness of prior

<sup>6</sup> If the subject was not under supervision for the entire followup period, arrest data was available from FBI records. Information on positive adjustment was not available.

record, or difficulty in finding employment) tended to benefit economically from CTC placement. For example, among those that staff felt had "no need to find employment," the CTC group worked an average of 99 days at 6 months compared to 76 days for the control group. Among those rated as having a "maximum need to find employment," the CTC group worked 78 days compared to 46 days for the control group.

(b) *Criminal Behavior*.—Results for criminal behavior (see table III) show no difference between the CTC and control groups after adjusting for sample differences.<sup>7</sup> Both in terms of the cumulative severity of any new arrests and in the percent rearrested, the evidence does not show that referral through a CTC resulted in a lower incidence of criminal behavior. This result is the same for both the 6 and 12 month followup periods.

TABLE III.—Criminal behavior after release adjusted for sample differences

Measure	CTC	Control	Significance
Percent rearrested or warrant issued at six months	16.7% (N=361)	15.5% (N=335)	N.S.
Percent rearrested or warrant issued at twelve months	25.8% (N=359)	23.9% (N=333)	N.S.
Offense severity at six months <sup>1</sup>	1.06 (N=360)	.92 (N=335)	N.S.
Offense severity at twelve months <sup>1</sup>	1.80 (N=357)	1.74 (N=331)	N.S.

<sup>1</sup> Higher score indicates greater arrest severity.

While the results are that referrals to CTCs show the same rearrest rate as those not referred, the data for the CTC group is based only on those who successfully completed a stay in a CTC. It is arguable that if all referrals were examined (including those who fail in the CTC) the results might be different. To examine this, criminal behavior data were collected on cases who failed in the CTC (N=47) and who would have been released on parole or probation supervision had they successfully completed the CTC program.<sup>8</sup> Somewhat arbitrarily, a case was de-

<sup>7</sup> Actual rearrest rate at six months (before adjusting for sample differences) was 20% for the CTC group and 13% for the control group. Actual rearrest rate at twelve months was 30% for the CTC group and 20% for the control group.

<sup>8</sup> Data on positive adjustment were generally not available for CTC program failures. Therefore, it was not possible to examine postrelease employment for these cases.

<sup>9</sup> Cases with no information on postrelease outcome were excluded from the analysis. However, the data were still more than 95% complete.

<sup>10</sup> Actual rearrest rates (before adjusting for sample differences) for the CTC group including program failures were 23% at 6 months and 34% at 12 months.

<sup>11</sup> The Salient Factor Score (see Appendix A) was revised to the extent of replacing the parole violation item (offender receives one point if he has never had his parole revoked or been convicted of a new offense while on parole) with an item measuring time free in the community (offender receives one point if he has had more than 18 months free in the community or if he has no previous incarcerations).

fined as a failure in terms of postrelease outcome if he was arrested for a new crime while residing at the CTC (N=7) or if he received a new sentence for escape from the CTC (N=7). The remaining cases were defined as a failure if the subject was rearrested for a new crime or had a warrant issued for a technical violation within the followup period after his eventual release to the community.<sup>9</sup> Information on the severity of any new arrests was also collected. After adjusting for sample difference, (see table IV) there was no difference in criminal activity relative to a control group when all CTC referrals (program failures as well as program successes) were examined.<sup>10</sup> This was true for both the severity of any new arrests and in the percent rearrested.

TABLE IV.—Criminal behavior (including CTC program failures) adjusted for sample differences

Measure	CTC	Control	Significance
Percent rearrested or warrant issued at six months	19.7% (N=401)	16.3% (N=335)	N.S.
Percent rearrested or warrant issued at twelve months	28.9% (N=397)	24.7% (N=333)	N.S.
Offense severity at six months <sup>1</sup>	1.22 (N=394)	.99 (N=335)	N.S.
Offense severity at twelve months <sup>1</sup>	1.94 (N=389)	1.82 (N=331)	N.S.

<sup>1</sup> Higher score indicates greater arrest severity.

(c) *Criminal Behavior by Risk of Recidivism*.—Although as a group, referrals to a CTC did not engage in less criminal activity, the previous analysis did not identify subgroups for whom CTC placement might be most effective. Placement in a CTC might be useful to some and not to others. To explore this, subsequent analysis identified separate risk groups measured by the Salient Factor Score (see table V).<sup>11</sup> The results were for 12 months after release and included CTC program failures. Overall, there were no significant differences between the CTC and control groups. However, there was evidence that the CTC referral resulted in a lower severity score and percent rearrested for the "poor risk" offenders compared to the control group, but more criminal activity for less risky individuals. This finding, termed an "interaction," was significant at the .01 level. This indicates that referral to a CTC resulted in less criminal activity for those most likely to commit a new crime after release. This is balanced by the fact that less risky offenders show more criminal behavior if referred to a CTC.

TABLE V.—*Criminal activity at 12 months after release<sup>1</sup>*

	Poor Risk	Fair Risk	Good Risk	Very Good Risk
Percent rearrested or warrant issued				
----- CTC <sup>2</sup>	55% (N=65)	45% (N=86)	32% (N=152)	13% (N=94)
CONTROL	71% (N=28)	23% (N=43)	20% (N=124)	7% (N=138)
Interaction: $p < .01$				
Offense severity <sup>3</sup>	4.11	3.05	2.07	1.04
----- CTC <sup>2</sup>	(N=62)	(N=84)	(N=151)	(N=92)
CONTROL	6.07 (N=28)	1.86 (N=43)	1.27 (N=122)	.43 (N=138)

Interaction:  $p < .01$ <sup>1</sup> Risk is measured by a revision of the Salient Factor Score.<sup>2</sup> Includes CTC program failures.<sup>3</sup> Higher score indicates greater severity.

### Discussion

There is good evidence that offenders referred to a CTC have better employment records during the first months after release as shown by the number of days employed and the amount of money earned. In addition, both high and low need offenders benefited from CTC referral. There was no evidence indicating that overall, offenders referred to a CTC engaged in criminal activity

less often or that their criminal activity was relatively less serious. There was data, however, which showed that offenders most likely to commit a new crime may engage in less criminal activity if referred to a CTC.

Apart from the fact that there may be economic and humanitarian reasons for utilization of half-way houses, CTCs are useful in aiding the transition of the offender into the community. While the study has shown that CTC placement has only a limited effect on recidivism, it does appear that CTCs provide a worthwhile service to offenders in terms of employment. Community Treatment Centers are effective in finding employment for offenders in the first critical months after release which benefits not only the offender, but his family as well.

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APPENDIX A  
SALIENT FACTOR SCORE

ITEM A -----

No prior convictions (adult or juvenile) = 3  
One prior conviction = 2  
Two or three prior convictions = 1  
Four or more prior convictions = 0

ITEM B -----

No prior incarcerations (adult or juvenile) = 2  
One or two prior incarcerations = 1  
Three or more prior incarcerations = 0

ITEM C -----

Age at first commitment (adult or juvenile) :  
26 or older = 2  
18 - 25 = 1  
17 or younger = 0

\*ITEM D -----

Commitment offense did not involve auto theft or  
checks(s) (forgery/larceny) = 1  
Commitment offense involved auto theft [X], or  
check(s) [Y], or both [Z] = 0

\*ITEM E -----

Never had parole revoked or been committed for a  
new offense while on parole, and not a probation  
violation this time = 1  
Has had parole revoked or been committed for a  
new offense while on parole [X], or is a probation  
violation this time [Y], or both [Z] = 0

ITEM F -----

No history of heroin or opiate dependence = 1  
Otherwise = 0

ITEM G -----

Verified employment (or full-time school attendance)  
for a total of at least 6 months during the last 2  
years in the community = 1  
Otherwise = 0

TOTAL SCORE -----

# Education and Training of Probation Officers: A Critical Assessment\*

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IN THE 1950's, the National Probation and Parole Association (NPPA) recommended that all probation officers hold a bachelor's degree supplemented by at least 1 year of graduate study or full-time field experience,<sup>1</sup> on the assumption that an educated officer is a more competent and mature individual and thus is in a better position to efficiently perform the varied functions of the probation officer.

However, it was not until the educational emphasis reflected in the 1967 President's Commission on Law Enforcement and the Administration of Justice Task Force Report and the Federal funds were available that the demand for a college education for probation officers began to rise. In 1970, the American Bar Association (ABA) reaffirmed the old NPPA standard and suggested that attainment of a master's degree be the preferred norm.<sup>2</sup> It was noted by the ABA that, while few departments have held to this standard, many are encouraging their personnel to become involved in higher education.

What evidence is there that the formal, post high school education suggested by this standard should be required of probation officers? Comanor has suggested that acceptance of the philosophy of professional education as a necessary preparation for entry into a position, has several practical advantages for employing organizations:

(1) Responsibility for basic preparation for the field is assumed by educational institutions and by the student. This represents a large scale investment of time, money and educational skill which will not be required of the employing organization;

(2) The graduate degree is a positive indicator of the suitability of the new employee for the

position, reducing loss of organizational efficiency through errors of recruitment and slowness in assuming a full workload;

(3) It reduces the scope of training for which the organization and field must take responsibility, permitting focus on advanced work and innovation, instead of directing effort to elementary knowledge;

(4) A common base of knowledge is assured, enhancing internal communication and cooperation, and facilitating interchange and influence with other fields and organizations;

(5) The professional perspective, i.e., the profession's social accountability and the learning of contemporary concepts at the graduate level protect against organizational introversions and intellectual isolation.<sup>3</sup>

Unfortunately, Comanor offered no empirical data to support these points. Secondly, he made no attempt to ascertain the nature and extent of the education that will lead to the greatest benefit for the probation system. The literature is replete with often contradictory educational curriculum proposals. Each of these seems to have raised operational issues as various departments have sought to adhere to one form or another of these preservice educational and/or inservice training programs and standards. However, the critical, overriding issues of the past 25 years have focused on whether there is a need for advanced preservice education and, second, what type of inservice training will provide the greatest benefit to the probation officer, the department, the clientele, and the system.

## *Preservice Educational Standards*

The premise that a university graduate is more capable and competent a probation officer seems to

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<sup>1</sup> National Probation and Parole Association, "Standards for Selection of Probation and Parole Personnel," in Dressler, *Practice and Theory of Probation and Parole*, (New York, New York: Columbia University Press, 1959), p. 224.

<sup>2</sup> American Bar Association, *Standards Relating to Probation*, (New York, New York: American Bar Association, Project on Standards for Criminal Justice, 1970), p. 92.

<sup>3</sup> Albert Comanor, *Proposals for a Staff Training Program for New Jersey Probation*, (New Brunswick, New Jersey: Rutgers University, School of Social Work, 1964), p. 44.

have been generally accepted by criminal justice planners, administrators and educators,<sup>4</sup> although there seems to be little hard evidence to support this idea. This lack of hard data can be attributed in large part to the lack of a consensus as to the objectives of the preservice educational programs.<sup>5</sup> Schnur has pointed out that, in order to assess the impact of preservice education we must first agree upon the proper purpose and practice for probation officers.<sup>6</sup> To date, there has been no consensus as to their proper function,<sup>7</sup> nor can we reasonably expect there to be, given our decentralized system of justice, where the "proper function" varies from jurisdiction to jurisdiction and from situation to situation. Newman is credited with a similar conclusion which holds that before arriving at a decision as to the function of education, we must decide what it is the correctional system is to accomplish. Newman has suggested that training must be training for something and as long as we do not know what that something is, we cannot say what proper training should be.<sup>8</sup> Schnur has pointed out that the establishment of educational standards seems quite premature when corrections has yet to come to a consensus regarding its own objectives.<sup>9</sup> Edwards has stated that the main task of designing an effective program is to bring into focus clearly what the program is to achieve.<sup>10</sup> This focus has not been made in the area of probation nor corrections as a whole. If it is assumed that a proper function can be defined for probation, several logical steps must be followed to determine what comprises a competent performance of that function. First, competency must be cate-

gorized into basic elements (skills) and then some determination made as to the weighted significance of each element upon overall probation competency. Once having performed these previous steps and on the assumption that an accurate, obtainable indicator of competency could be developed, we would finally be able to empirically measure the impact of education upon competency.

Preservice education is defined here as being college education received prior to employment as a probation officer. A few researchers such as Cohn,<sup>11</sup> Miles,<sup>12</sup> and Newman,<sup>13</sup> have addressed themselves to this subject by examining various probation work elements they perceived as fundamental, and evaluating the impact of education upon those elements. Up to this time however, there seem to have been no empirical attempts to evaluate and categorize competency into basic elements and to quantitatively ascertain the weighted significance of each element upon probation officer competency. This need has been recognized by such authors as Sternbach,<sup>14</sup> Taylor and McEachern,<sup>15</sup> the California Youth Authority,<sup>16</sup> and the State of Oklahoma Probation Department,<sup>17</sup> for without such an empirical analysis, we will remain uncertain about the true worth and impact of education upon probation officer performance.

While an analysis of probation work elements as described above seems unattainable at this time, perhaps a cost/benefit review would be helpful. Taylor and McEachern have pointed out that there is a traditional acceptance of the fact that a little time lost in training is made up later in increased efficiency.<sup>18</sup> However, they present no foundation for such a claim, possibly because, again, there does not appear to have been any research done in this area.

Cost/benefit analyses would help determine the nature, frequency, and quantity of educational investment that would bring the optimum rate of return (in this case optimum competency) at the minimum cost. Such an undertaking is methodologically hazardous, for to undertake this type of study also requires clear-cut, predetermined proper probation officer functions, as well as a consensus as to what comprises a competent performance of each function. Such determinations are extremely difficult, as has been suggested previously. While extensive difficulties may be present in any attempt to measure output and effi-

<sup>4</sup> Clarence M. Leeds, "Probation Work Requires Special Training," *FEDERAL PROBATION*, Vol. 15 (ASI), p. 25.

<sup>5</sup> Alfred C. Schnur, "Pre-Service Training," *Journal of Criminal Law, Criminology, and Police Science*, Vol. 50 (1959), p. 27.

<sup>6</sup> *Ibid.*, p. 27.

<sup>7</sup> Alvin W. Cohn, *Decision-Making in the Administration of Probation Services: A Descriptive Study of the Probation Manager*, (Berkeley, California: University of California. Ph.D. Dissertation), Chapter V.

<sup>8</sup> Charles L. Newman, *Sourcebook on Probation, Parole and Pardons*, (Springfield, Illinois: Charles C. Thomas, 1970), p. 84.

<sup>9</sup> Schnur, *ibid.*, p. 28.

<sup>10</sup> H. Franklin Edwards, *Intergroup Workshop for Maricopa County Probation Officers*, (Phoenix, Arizona: Maricopa County Probation Department, 1973).

<sup>11</sup> Cohn, *ibid.*

<sup>12</sup> Arthur P. Miles, "The Reality of the Probation Officer's Dilemma," *FEDERAL PROBATION*, Vol. 29, No. 1 (1965).

<sup>13</sup> Newman, *ibid.*

<sup>14</sup> Jack C. Sternbach, *Executive Summary of Evaluation Report: In-Service and Graduate Training Project*, (Philadelphia, Pennsylvania: Philadelphia Probation Department, 1975).

<sup>15</sup> Edward Taylor and Alexander McEachern, "Needs and Directions in Probation Training," *FEDERAL PROBATION*, Vol. 30, No. 3 (March 1966).

<sup>16</sup> California Youth Authority, *Education, Training and Deployment of Staff: A Survey of Probation Departments and the California Youth Authority*, (Sacramento, California: California Youth Authority, 1972).

<sup>17</sup> Oklahoma Department of Corrections, *Improved and Expanded Probation and Parole Services: Research Report No. 5*, (Oklahoma City, Oklahoma: Oklahoma Department of Corrections, April 1973), p. 30.

<sup>18</sup> Taylor and McEachern, *ibid.*, p. 19.



ciency of probation agencies, Ostrom<sup>19</sup> has pointed out that such efforts must be undertaken to evaluate the success of reforms and to predict success or failure with a higher degree of accuracy. Without serious attempts to evaluate the consequences of reform, future changes may produce more harm than good.

As mentioned, there have been only a few attempts to handle these issues. In 1970, Cohn conducted a study involving some 270 probation officers and administrators.<sup>20</sup> He found that the higher the level of education, regardless of the area of study, the more lenient the probation administrator tended to be, and conversely the lower the educational achievement, the more severe he tended to be. He further reported finding no significant difference between preservice education subject area studied and case judgment. However, he did observe a tendency for undergraduate social work majors to be slightly more severe in their judgments than undergraduates with other majors. This has been an issue of great debate in the past few years. While there are many who concur with Cohn that the area of study does not make a difference upon attitude or performance, there are those who feel quite strongly to the contrary. Schnur has stated that "training for corrections should be training in corrections."<sup>21</sup> Others, such as Newman espouse a more liberal educational preparation but with emphasis on correctional topics.<sup>22</sup>

From 1974 to 1975, the city of Philadelphia conducted an evaluation of their probation officer inservice training program.<sup>23</sup> A major component of the program was a series of mandatory undergraduate and graduate level course work for officers. The major aspects of the evaluation included at least a weekly face-to-face conference between probation officer trainees and the training unit, along with classroom instructor feedback to the probation department staff. A questionnaire mailed to past training participants was also analyzed. Unfortunately, the researchers did not utilize a uniform method of evaluating

subsequent performance, thus no attempt was made to assess the actual impact of training on the officers' level of performance or competency. However, the existing data do not support any necessary connection between education and competency in the human services field.<sup>24</sup> While Newman has suggested that, in general, pre-entry education should develop general skills and bring an aura of maturity and professionalism to the probation officer, he has concluded that neither education nor lack of it assures us of a stable and emotionally mature individual.<sup>25</sup> Schnur would seem to agree with Newman that education is not a substitute for personal maturity, and, in calling for a moratorium on the establishment of educational standards for probation officers, stated that what is important is not how the applicant secured his knowledge and ability, but whether he has what it takes to be a good officer.<sup>26</sup> A 15-year study by Heath independently concurs with Newman's observations, suggesting that good grades and other usual measures of academic success do not correlate with personal maturity and competency in later life.<sup>27</sup>

Leeds has asked if the necessary interpersonal skills can be developed in a college setting. In his opinion they can, although he further states that the practice of overwhelming the educated probation officer with a caseload of 100-150 probationers negates the value of that education. Leeds, however, provides no indication as to how this conclusion was derived.<sup>28</sup>

In 1961, the State of Wisconsin examined the function of probation and parole as interpreted by 116 officers. The results of this study are quite provocative. Miles' report of the study suggested that preservice education had somewhat of a negative association with the probation and parole officers' personal opinions.<sup>29</sup> This negative association was manifested in feelings of insecurity and inability to reconcile the principles of casework as presented in schools of social work with the elements of surveillance and law enforcement required by the officers' day-to-day tasks. Miles also noted that the officer who enters probation service without a graduate level education experiences less of this trauma, and, after several years of experience, there is very little difference between the philosophy and the practice of the educated and less educated officers.<sup>30</sup> This would lead one to believe that the value of preservice education is predominantly short-run in impact

<sup>19</sup> Elinor Ostrom, "On the Meaning and Measurement of Output and Efficiency in the Provision of Urban Police Services," *Journal of Criminal Justice*, Vol. 1, No. 2 (1973), pp. 93-111.

<sup>20</sup> Cohn, *ibid.*

<sup>21</sup> Schnur, *ibid.*, p. 30.

<sup>22</sup> Newman, *ibid.*, pp. 88-90.

<sup>23</sup> Sternbach, *ibid.*

<sup>24</sup> *Ibid.*, p. 6.

<sup>25</sup> Newman, *ibid.*, p. 85.

<sup>26</sup> Schnur, *ibid.*, p. 28.

<sup>27</sup> Douglas H. Heath, "Prescription for Collegiate Survival: Return to Liberally Educate today's Youth," *Liberal Education*, (May 1977), pp. 338-350.

<sup>28</sup> Leeds, *ibid.*, p. 25.

<sup>29</sup> Miles, *ibid.*, p. 21.

<sup>30</sup> *Ibid.*, p. 21.

and its immense cost may not be worth such a minimal, perhaps even negative, benefit.

### *Inservice Training Standards*

Inservice training is defined here as training received subsequent to acceptance as a probation department employee. The establishment of standards in the area of inservice training meets with many of the methodological hazards previously detailed above. In the absence of any hard data as to the most beneficial training curriculum, probation has seen a myriad of suggested curricula, which are often contradictory even within a single program. The Philadelphia project noted considerable ambivalence, difference and clash of opinion as to proper training functions, structure and activity.<sup>31</sup> In 1975, the National Council on Crime and Delinquency report on the Florida Parole and Probation Commission stated:

There is indication that expectations of what training should do are different among some key people, all of whom are located higher up in the organization than the training manager. Depending on who is talking to or making demands on training, the expectation is subtly different.<sup>32</sup>

This situation again points to the need of determining the elements of a competent probation officer performance and quantitatively ascertaining the nature and extent of the training needed to produce the greatest benefit for that performance at the least cost. Until this is done, we will be unable to determine the true impact of training upon the system.

Despite some of the conceptual problems outlined here, we should consider several operational issues. Inservice training has generally been divided into two time-frames, each with its own broad objectives, namely orientation training and developmental training.<sup>33</sup> Orientation training is, as its name suggests, provided to acquaint the probation officer with the community and with the probation department as an organization and

instruct him in the basic mechanics of probation service. Developmental training is provided to polish skills and attend to the individual probation officer needs in increasing his own job performance efficiency. Departments vary widely in the amount of education and training which they require and offer. While there does not appear to be any comprehensive nationwide review of developmental and orientation programs being offered, a number of studies were revised. These studies demonstrated a lack of consistency in both the nature and degree of training provided. For example, the Oklahoma Department of Corrections requires a 120-classroom hour orientation training period and an additional 120-classroom hour developmental training to be certified as a probation officer.<sup>34</sup> Massachusetts general law states that all incoming probation officers are to receive formal orientation training within 6 months of their appointments and a 45-hour developmental training session at least once every 3 years thereafter.<sup>35</sup> The State of Florida recommends 40 hours of orientation during the first year and 60 additional hours during the first year.<sup>36</sup> Operationalization of these standards is another matter. For example, most officers in Florida reported that they were on the job from 1 to 2 months and had a full caseload before receiving any formal orientation training, and by then it was quite irrelevant and redundant. In addition, a great deal of anxiety was experienced since the training required a 2-week absence from the field.<sup>37</sup>

On the other hand, some programs have found wide probation officer acceptance of their operations. The Cleveland State University Training Institute was evaluated as good to very good by 88 percent of the participants.<sup>38</sup> Seventy percent of the probation officers who participated in a 1974 training program in Kentucky felt that the training had improved some aspect of their service delivery technique. One hundred percent of these probation officers' clients noted that, since the training, the officers had improved their services in some way.<sup>39</sup>

A survey of probation personnel in 52 probation departments in the State of California found that probation officers preferred workshops and group sessions to any other form of developmental training. The following table represents techniques, skills, and knowledge covered in these workshops and the percent of the staff judged to be knowledgeable in the area as viewed by

<sup>31</sup> Leeds, *ibid.*, p. 2.

<sup>32</sup> National Council on Crime and Delinquency, *Management Plan Prepared For Florida Parole and Probation Commission*, (Austin, Texas: National Council on Crime and Delinquency, 1975), p. 166.

<sup>33</sup> Newman, *ibid.*, and National Council on Crime and Delinquency, *Massachusetts Probation Training Needs*, (Austin, Texas: National Council on Crime and Delinquency, 1975).

<sup>34</sup> Oklahoma Department of Corrections, *ibid.*

<sup>35</sup> National Council on Crime and Delinquency, *Massachusetts Probation Training Needs*, *ibid.*

<sup>36</sup> National Council on Crime and Delinquency, *Management Plan Prepared for Florida*, *ibid.*

<sup>37</sup> *Ibid.*, p. 169.

<sup>38</sup> Charles M. Unkovic and Gloria D. Battisti, *Study of Ohio Adult Correctional Personnel and Training Program*, (Cleveland, Ohio: Cleveland State University Correctional Training Center, 1968).

<sup>39</sup> Kentucky Mental Health Manpower Commission, *Community Resource Management Training for Kentucky Probation and Parole Officers*, (Frankfort, Kentucky: Kentucky Mental Health Manpower Commission, 1974).

the probation department staff and administrators.<sup>40</sup> Interestingly, administrators consistently estimate the knowledge level of the staff higher than the staff itself.

TABLE 1.—*Knowledgeability of probation staff and administrators*

Areas of Job Skills and Knowledge	Percent of Staff Judged to be Knowledgeable in the area	
	Administrators	Staff
General area of social sciences	96%	88%
General casework techniques	90%	78%
Social investigation techniques	94%	75%
Human relations	87%	67%
Orientation to the correctional field	87%	69%
Law as it affects the offender and staff	85%	69%
Utilization of community resources	83%	58%
Specialized diagnostic and treatment methods	72%	48%
Law enforcement techniques	74%	55%
Custody control and emergency techniques	77%	45%
Development of community resources	77%	47%
Management and administrative techniques	73%	44%

The State of Florida provides training such as alcohol rehabilitation, drug and drug abuse training, MMPI (Minnesota Multi-Phasic Inventory) training, FCIC (Florida Communications Information Center teletype system) terminal operations, reality therapy, transactional analysis and general management training. However, the 1975 NCCD report found this training to be conducted by poorly prepared instructors who presented inadequate materials.<sup>41</sup> Senna has reported that some states have reported the termination of their professional staff development programs; the reasons: loss of financial support and some general dissatisfaction.<sup>42</sup>

Studies that have examined different aspects of inservice training operations have uncovered some interesting observations. For example, a 1973 California Youth Authority study of some 52 probation departments in California states that staff interest in formal training is influenced by the extent to which they believe it will contribute

toward getting promoted.<sup>43</sup> The report went on to recognize a clear need for more extensive training embracing a much larger number of client-serving staff than have been involved thus far.<sup>44</sup> The report does not give any indication as to how it arrived at this conclusion of a "clear need," other than the fact that 70 percent of the staff, who desire to receive additional training in order to receive a promotion, do not feel that adequate training is being provided. Sternbach's review of the Philadelphia project found training to have the greatest impact upon new officers who lack previous relevant education.<sup>45</sup> The value of that initial training and all subsequent training, however, decreases as time on the job increases. This observation by Sternbach concerning inservice training parallels the finding of Leeds regarding preservice education.<sup>46</sup> The evidence indicates that the value of inservice training is predominantly short-run in impact, and thus its cost may not be worth such a minimal long-run benefit. The State of Connecticut, however, does feel that the benefit is worth the cost. Connecticut has recognized that with a new emphasis upon hiring younger, relatively highly educated persons as probation officers there is a likelihood of greater turnover in the adult probation officer ranks. They feel however that this turnover can be reduced by offering explicit training and educational assistance to the probation officer and rewarding those who involve themselves in those pursuits.<sup>47</sup> Leeds would agree in part, for he has advocated the view that educational and training opportunities must be made available to probation officers and valid rewards be given them for their efforts, not so much to increase the quality of the officer, but to spare the frustration which will inevitably develop among educated probation officers when an undereducated supervisor is given responsibility for their direction.<sup>48</sup> Schnur also concurs with this concept in part. He has identified the practice of seniority advancement as a threat to the entire concept of trained probation officers. A seniority system and a lack of a lateral entry system for the well-educated and trained promotes negative selection of personnel. The best man for the job should be selected, regardless of his years of experience, since mere experience is no guarantee that a particular individual can do a job better than someone else.<sup>49</sup> By the same token, a well-educated and trained man offers no guarantee that he can do a job better than someone else. The education and train-

<sup>40</sup> California Youth Authority, *ibid.*, p. 40.

<sup>41</sup> National Council on Crime and Delinquency, *Management Plan Prepared for Florida*, *ibid.*

<sup>42</sup> Joseph J. Senna, "The Need for Professional Education in Probation and Parole," *Crime and Delinquency*, (January 1976), p. 72.

<sup>43</sup> California Youth Authority, *ibid.*, p. 40.

<sup>44</sup> *Ibid.*, p. 44.

<sup>45</sup> Sternbach, *ibid.*, p. 9.

<sup>46</sup> Leeds, *ibid.*

<sup>47</sup> Connecticut Department of Adult Probation, *Job Task Analysis and Personnel Organization Study Final Report*, (Hartford, Connecticut: Department of Adult Probation, 1974).

<sup>48</sup> Leeds, *ibid.*

<sup>49</sup> Schnur, *ibid.*, p. 28.

ing may have given him the tools, but he must know how to use them in the field, and he must be willing to continue to use them.

As with preservice education, a variety of opinion exists as to the nature of the inservice training program that would best meet the probation officer's needs. As previously noted, Schnur has stated that training and education for corrections should be training and education in corrections.<sup>50</sup> He might well concur with the State of Connecticut which supports the following topic areas for staff development training:<sup>51</sup>

- (1) understanding criminal behavior
- (2) socio/legal environment
- (3) state laws/legal structure
- (4) department of adult probation orientation
- (5) "how to" regarding probation officers duties
- (6) basic personal skills needed by probation officers
- (7) community resources
- (8) community relations
- (9) managerial skills

Edwards has strongly advocated training probation officers in the use of sensitivity training techniques. To be more effective, Edwards has suggested, probation officers must comprehend sociological and psychological problems experienced by their clients.<sup>52</sup> Sensitivity training can help the probation officer to be more aware of those needs, Edwards asserts. The entire September-October 1967 edition of the *American Behavioral Scientist* was devoted to this group therapy training concept and presented a suggested technique for disseminating the information to probation officers and other social workers. The authors stated that a course which trains probation officers and other social workers to use group therapy training with their clients can be taught in a relatively brief 50 hour sessions.<sup>53</sup>

Beyond the issue of content a major problem that tends to confound the training issue is the organizational structure of the department. The 1975 Philadelphia project report referred to an isolation of the training unit from the department communication network,<sup>54</sup> while a Florida report stated that area trainers and supervisors experi-

enced some degree of frustration as the central office training unit staff stood in the way of their attempts to provide meaningful and innovative training.<sup>55</sup> The best organizational location for the training function is an unresolved issue. Large states such as California, New York, and Texas have long struggled with the problems of how to organize a probation training plan which would meet the needs of officers from small, rural departments as well as those from larger, urban departments.

Two basic ideas have emerged in the past few years and both have experienced some degree of operational success. The first broad approach, which seems to be the most popular at the moment, advocates a centralized approach. Proponents of this concept, such as the states of California, Connecticut and Florida opt for a centralized training unit located in the state department of corrections with mandatory training requirements for all officers. In Florida, some problems developed because local officers with local training responsibilities felt overburdened with work and reacted negatively to divided supervision (i.e., their Chief Probation Officer and the central office training unit staff). If these problems are to be eliminated the responsibilities for personnel training in this centralized approach must be handled at all levels by personnel whose sole responsibility is training. Taylor and McEachern have advocated a national training program developed by the Federal Government for distribution to the line personnel through training units in the state department of corrections.<sup>56</sup> Taylor and McEachern realize that some degree of state and local objection to such a proposal will arise, but nevertheless back their proposal with the following points: (1) It has become increasingly important that a means be found to introduce social and behavioral science research directly into the working operations and training operations of the departments; (2) When the smaller department does invest its time and money training its officers, it is often only to lose them a year or so later to a larger department with the advantages of better pay, more facilities, and greater opportunities for advancement; (A 1956 study of California Probation officers found a very strong positive correlation ( $r_s=.94$ ) between county size and mean level of education among probation officers. This is, the larger the county, the more educated the probation officer

<sup>50</sup> *Ibid.*, p. 30.

<sup>51</sup> Connecticut Department of Adult Probation, *ibid.*, pp. 86-91.

<sup>52</sup> Edwards, *ibid.*, p. 1.

<sup>53</sup> *American Behavioral Scientist*, Vol. 11, No. 1 (September-October 1967).

<sup>54</sup> Sternbach, *ibid.*, p. 2.

<sup>55</sup> National Council on Crime and Delinquency, *Management Plan Prepared for Florida*, *ibid.*

<sup>56</sup> Taylor and McEachern, *ibid.*

population tends to be.)<sup>57</sup> (3) It is doubtful that local probation departments will be capable of keeping pace with the magnitude and complexity of the problems they face by utilizing their own resources alone. Taylor and McEachern's plan calls for home study on the part of the probation officer, utilizing supplies such as tape cassettes, movies, slides and reading materials prepared for him by the Federal Government.

On the other hand a decentralized training approach is advocated by Bertinot and Taylor<sup>58</sup> for the State of Texas, and by the NCCD for the State of Massachusetts.<sup>59</sup> In this plan, training is strictly voluntary, although special incentives such as tuition reimbursement, salary increases, and promotional opportunities are employed. Outside trainers are not used. Rather the officers determine their training problems. This concept operates on the theory that adequate training resources are available on the local level. There is no training unit in the central office. The training function responsibility is vested in the local chief and assistant chief probation officer who are responsible by way of the usual chain of command to the head of the state department of corrections.

Inservice training programs, regardless of their organizational location, raise a number of issues, few of which have been adequately explored. For the individual officer mandatory training programs can be extremely time-consuming. They can detract from available client time and they may compete with family and leisure time. Voluntary training programs on the other hand can create a dilemma for the officer who does not wish to participate, but feels pressured by those who do. The most difficult situation, however, may

arise when inservice training is presented as an important requirement for advancement, but then ignored when promotions are made.

Inservice training can also create problems for the established organization. A 1965 North Carolina study observed a definite resistance to training among probation officers, especially when the training was viewed as a threat to their established roles and work patterns. To combat such difficulties, the study called for wide flexibility in the nature and timing of the course work and stressed the need for the development of personal relationships between the trainees and the trainers.<sup>60</sup>

### Summary

The fact that probation as a profession has failed to define its goals has and will continue to hamper any solid evaluation of the value of pre-service education and inservice training upon probation work.

The need for graduate level education and frequent inservice training has been advocated for many years. There has come to be a philosophical acceptance of formal education as a prerequisite of quality probation service, and of inservice training as a means of maintaining and improving that service. This need has been "documented" by several national commissions and organizations,<sup>61</sup> along with a score of individual writers and researchers.<sup>62</sup> However, our review of these works has found no empirical documentation that education can improve overall performance. Furthermore, our review has found no empirical evidence to the effect that the cost involved to the individual, the department, the clientele, and the system is worth the benefit derived. In reality, the evidence available offers no support for the traditional theory. In summary:

- (1) There is no support for any connection between education and competency in the human service field.
- (2) There is no indication that a graduate level education in social work is of any greater value to probation officer competency than a nongraduate level education in any field of study.
- (3) There are indications that a graduate degree negatively affects probation officer opinions for the first few years on the job.
- (4) There are indications that after a few years on the job probation officer philos-

<sup>57</sup> National Probation and Parole Association, *Probation in California*, (Sacramento, California: National Probation and Parole Association, 1957).

<sup>58</sup> Libby Bertinot and Jack E. Taylor, "A Basic Plan for Statewide Probation Training," *FEDERAL PROBATION*, Vol. 38, No. 2 (June 1974), pp. 29-31.

<sup>59</sup> National Council on Crime and Delinquency, *Massachusetts Probation Training Needs*, *ibid.*

<sup>60</sup> North Carolina University Training Center on Delinquency and Youth Crime, *Probation Training: Content and Method*, (Washington, D.C.: U.S. Department of Health, Education and Welfare, Office of Juvenile Delinquency and Youth Development, 1956).

<sup>61</sup> For example, see: President's Commission on Law Enforcement and the Administration of Justice, *Task Force Report: Corrections*, (Washington, D.C.: U.S. Government Printing Office, 1967), p. 100. American Bar Association, *Standards Relating to Probation*, (Washington, D.C.: American Bar Association, Standards for Criminal Justice Standards and Goals, *A National Strategy to Reduce Crime*, (Washington, D.C.: U.S. Government Printing Office, 1973), p. 192.

<sup>62</sup> For example, see: Joseph J. Senna, "The Need for Professional Education in Probation and Parole," *Crime and Delinquency*, (January 1976), pp. 67-74; Edward M. Taylor and Alexander W. McEachern, "Needs and Direction in Probation Training," *FEDERAL PROBATION*, Vol. 30, No. 3 March 1966), pp. 18-24; Charles L. Newman, *Sourcebook on Probation, Parole, and Pardon*, (Springfield, Illinois, Charles C. Thomas, 1970), and Don Loughbery, "College Education, A Must for Probation Officers?" *Crime and Corrections*, Vol. 3, No. 1, (Spring 1975), pp. 1-7.

ophy and performance levels for the graduate and nongraduate are generally the same.

- (5) There are indications that the effects of inservice training decreases as time on the job increases.

From this evidence, it appears that probation as

a profession should proceed cautiously before adopting any firm educational standards or inservice training programs, at least until more is known concerning the aggregate impact of such plans and until probation can determine if it is getting what it wants in terms of education and training, and probation officer performance.

## Police Diversion of Juvenile Offenders: An Ambiguous State of the Art

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THIS STUDY analyzes the policy and practice of 34 municipal police agencies as they pertain to the disposition of juvenile offenders. Particular emphasis is placed on determining to what extent has the police community formally adopted the "diversion ideal" inherent in juvenile justice.

### *Diversion as the Core of Police Role in Juvenile Justice*

To the degree that the police cope with criminality, they are very much coping with the unsophisticated, *ad hoc*, yet at times brutal offenses of the young. This proposition is encapsulated by the fact that, on the average, 75 percent of police arrests for Part I of the Index offenses are those of people under age 25. The ratio applicable to those under 18 years of age approximates 50 percent. The latter category of offenders are, in most jurisdictions, defined as delinquent children.

Arrests, of course, are but a partial indicator of the incidence of crime. Much crime goes unreported or unsolved. Nevertheless, such data underline the importance that police agencies should attach to youth crime and to the handling of young offenders.

For the most part, the police role vis-a-vis crimes of the young is no different from what they have in conjunction with crimes of adults. To the extent that police are capable of preventing street crime, they prevent youthful criminality

simply because a disproportionate amount of such offenses are perpetrated by the young. Moreover, police must investigate all crimes, irrespective of the age of the offender.

Police role differentiation in juvenile as opposed to adult justice occurs in two circumstances. For most nations delinquent children are those who violate the criminal code.<sup>1</sup> However, American delinquency laws have tended to include an "omnibus" clause which gives jurisdiction to the courts over children who have behaved in a manner which, although undesirable, is not prohibited by the criminal code. This type of delinquency is commonly referred to as "status offenses"; that is, acts which would not be offenses if performed by adults.

Police have authority to take into custody status offenders and refer them to the juvenile court. While this aspect of police work is clearly juvenile justice specific, it should be noted that there is currently a trend to eliminate many status offenses from delinquency laws. This portends a correspondingly decreasing need for police intervention in the case of status offenders.

The second circumstance where police role can be sharply differentiated as being exclusive to juvenile offenders arises in the area of police dispositions of children who commit crimes.

The juvenile justice process can be divided into two stages, adjudication and disposition. Adjudication consists of a legal finding whether a particular child is delinquent or not. The adjudicatory stage, as a result of such Supreme Court decisions as *In re Gault*,<sup>2</sup> and *In re Winship*,<sup>3</sup> to-

<sup>1</sup> Don C. Gibbons, *Delinquent Behavior*, (Englewood Cliffs, N.J.: Prentice Hall, 1976), p. 14.

<sup>2</sup> *In re Gault*, 387 U.S. 1 (1967).

<sup>3</sup> *In re Winship*, 397 U.S. 358 (1970).

day amounts to a factfinding process comparable to the guilt or innocence decision of the criminal court. It is an adversary, due process oriented method for ascertaining the validity of allegations against a child. Because the contemporary evidentiary standards in juvenile adjudication are comparable to the adult criminal court, police role in this aspect of juvenile justice is also comparable to its role relative to adult offenders.

It is in the dispositional aspect that there exists a basic difference between adult and juvenile justice. Disposition of children who violate criminal laws is still approached from the *parens patriae* perspective which dictates that the function of juvenile justice is not to punish a child but to take such action which would best serve the child's rehabilitative interest. Because of this premise the police have wider discretion for disposing of young offenders. They can, with greater latitude than in the case of an adult offender, divert the child from court. Herein lies the central core to the police role in the juvenile justice system.

It is not the purpose here to argue the case for or against diversion. There are advocates of both views.<sup>4</sup> The important fact is that police have always practiced it although very informally and under an attitude of "greater leniency" towards children's misconduct.<sup>5</sup> Adequate performance of many police duties requires a degree of informality, it is the lubricant for the often cumbersome and harsh substance of our criminal laws. On the other hand, total informality in the performance of an important police responsibility creates opportunity for caprice and arbitrariness in the administration of justice. The police decision to feed one child and not another into the juvenile justice machinery is an important one, at the very least from the child's perspective. It is a decision which perhaps needs a more formal framework, a greater public visibility.

The purpose of this study can now be more narrowly stated. It is to ascertain to what degree police agencies have formally equipped themselves to meet the central core of their responsibility in juvenile justice—the making of the diversion decision. Specifically, the study addresses three questions: Does the police community perceive

diversion of juveniles as being clearly within the scope of its responsibility? Have the police staffed themselves adequately to make the diversion decision? Is the diversion decision made in the context of concrete departmental policy?

### Data and Method

A survey instrument was mailed in early 1978 to 50 municipal police agencies. It was designed to elicit select categories of information which would permit some assessment of the policies and practices of such agencies pertaining to the diversion of juvenile offenders. The inquiry was directed to a sample of municipal police departments representative of all the broad areas, Northeast, North Central, South and West, of the Nation. Only departments employing more than 200 sworn officers were included in the sample.

Thirty-seven of the 50 mailed inquiries were returned, representing a response ratio of 74 percent. Three responding departments indicated that there was no formal "Juvenile Unit" within their organizational structures. Since the study was designed to utilize information only from departments having an organizationally distinct Juvenile Unit ("Bureau," "Division," etc.), the ensuing analysis is based on the responses of 34 urban police agencies. Some characteristics of these agencies are summarized in table 1.

TABLE 1.—Select characteristics of responding municipal agencies

Region of the Country	Number of Agencies Responding	Sworn Officers Employed	Employees in the Juvenile Unit		
			% Sworn Officers	% Civilian "Professionals"	
Northeast	4	2,421	62	83%	7%
North Central	9	10,857	225	92%	3%
South	11	9,285	162	88%	3%
West	10	10,048	275	82%	0%
TOTAL	34	32,611	724	86%	2%

### Exercise of Police Responsibility for Juvenile Diversion

There is an implication in diversion literature that police authority to divert delinquent juveniles from adjudication is unambiguous. Thus, for instance, both the 1967 President's Commission on Law Enforcement and Administration of Justice and the 1973 National Advisory Commission on Criminal Justice Standards and Goals strongly recommend juvenile diversion by police. While it is true that police have been traditionally inclined to channel but a small fraction of young offenders into the juvenile justice machinery, this study indicates that responsibility for such police discretionary decisions has either not been formally granted or formally assumed by some police agen-

<sup>4</sup> E.g.: B. Bullington, J. Sprowls, D. Katkin, and M. Philips, "A Critique of Diversionary Juvenile Justice," *Crime and Delinquency*, 24 (January 1978), pp. 59-71; and L.T. Empey, "Juvenile Justice Reform," *Prisoners in America*, ed. L.T. Ohlin, (Englewood Cliffs, N.J.: Prentice-Hall, 1973).

<sup>5</sup> N. Goldman, *The Differential Selection of Juvenile Offenders for Court Appearances*, (Hackensack, N.J.: National Council on Crime and Delinquency, 1963).



cies.<sup>6</sup> Only 24 of the responding departments stated that they had the responsibility for diverting an arrested child from adjudication. Ten agencies indicated that the diversion decision, either by statute or accepted practice, rested with a nonpolice agency; such as, the juvenile court, juvenile probation, a youth aid bureau, or the county attorney's office.

TABLE 2.—*Distribution of perceived diversion responsibility for responding municipal police agencies*

1. Total number of agencies responding . . . . .	37
2. Respondent agencies without a Juvenile Unit . . . . .	3
3. Respondent agencies with a Juvenile Unit . . . . .	34
4. Agencies with Juvenile Units that do not have diversion responsibility . . . . .	10
5. Agencies with Juvenile Units that have diversion responsibility . . . . .	24
6. Agencies with Juvenile Units that have diversion responsibility but share it with some other agency outside the department . . . . .	3
7. Agencies with Juvenile Units with unilateral diversion responsibility . . . . .	21
8. Estimated mean proportion of workload devoted to diversion by Juvenile Units with unilateral diversion responsibility . . . . .	60%

Of the 24 departments stating that they make the diversionary decision, 21 indicated that this responsibility is primarily that of the Juvenile Unit. One, however, which is often exercised in consultation with other police divisions, such as criminal investigation, or other agencies, such as the prosecutor's office.

A Police Foundation analysis shows that police juvenile units tend to be engaged in three functions: investigation of criminal allegations against a child; case screening designed to reach an appropriate disposition (that is, whether to refer a child to court or divert); and programs to prevent delinquency or to rehabilitate a delinquent child.<sup>7</sup> The present study sought to determine what approximate proportion of Juvenile Units' workload deals with the diversion responsibility. Twenty of the 21 departments indicating that the Juvenile Unit is primarily responsible for diversion, were willing to estimate the percentage of the Unit's time devoted to the "defer or not to refer to court" decisionmaking. Responses varied widely, from a low of 5 percent to a high of 100 percent. The mean for the estimates was 60 percent. This implies that police departments which formally admit the diversion responsibility, utilize their Juvenile Units principally for the diversion function. This tendency is compatible with the previously argued proposition that the

core of police responsibility in the context of juvenile justice is diversion.

The 10 departments with Juvenile Units disclaiming diversion authority, presumably utilize such Units for other juvenile specific programs. However, in their case, an argument could be raised to whether such a specialization is warranted in the absence of the diversion responsibility.

### *Police Staffing Patterns for the Making of the Diversion Decision*

The acclaimed purpose of juvenile diversion is rehabilitation. The concept envisions justice machinery to be an avenue of last resort reserved for "hard-core" delinquent. Children not fitting the latter categorization are intended to be diverted to a program of community treatment or otherwise disposed of in a manner which will best serve their rehabilitative interest. At the heart of the diversion decision then, lies a diagnostic process guiding the selection of an appropriate disposition. The criteria for making such a "diagnosis" can be envisioned as falling into two, but interrelated, sets.

The first can be called a "legalistic" criterion. Thus the police agency must weigh such factors as the seriousness of the offense alleged against the child, the quality of evidence against him, his previous criminal record, and the like. The second criterion can be called "rehabilitative." Thus the police agency must weigh such factors as the child's psychic and physical makeup, his family and social environment, his potential dangerousness to the community, his economic status, his school performance, and the like.

Each set of criteria for making of the diversion decision implies the need for differing aptitudes on part of police agency staff disposing of children. The "legalistic" diagnosis is most properly within the competency of sworn police personnel. On the other hand, the "rehabilitative" diagnosis suggests staff aptitudes not normally possessed by sworn personnel. The assessment of the psychological and social attributes of a child in trouble calls for professional expertise in, for example, psychometric skills or casework; aptitudes found in certain "civilian" professions such as social work, psychology, rehabilitation or counseling.

To the extent that a good diversionary practice rests on a staff capable of reaching a "most rehabilitative" disposition, this study indicates that

<sup>6</sup> *Ibid.*

<sup>7</sup> R. Rovner-Piecznik, *Police and Juvenile Justice: Individual Treatment vs. Law Enforcement Goals*. A paper to the National Conference of the American Society for Public Administration, Phoenix, Arizona, April 9-12, 1978.



the police are lacking. Generally, only 2 percent of personnel working in the Juvenile Units of the responding departments (see table 1) are civilian professionals. Of the 21 departments indicating that their Juvenile Units tend to have unilateral responsibility for diversion, only one indicated that diversion is handled by professional civilians, two said that such professionals are partially involved, while 18 stated that the diversion decision is made solely by sworn personnel.

### *Police Administrative Policy Guidance on Juvenile Diversion*

Perhaps one measure of the extent to which a given police practice has reached a level of formal acceptance by the police community is the prevalence of written administrative policy covering such a practice. This study was consequently interested in determining to what degree police diversionary practices were encompassed by administrative guidelines.

In response to the question as to whether the department had written guidelines governing the Juvenile Unit's diversion decision, 22 of the 34 respondents replied in the affirmative. The sources of such published guidelines, however, were found to be highly diverse. Seven agencies said that the guidelines were issued by the chief of police; six stated that such policy statements were developed by the Juvenile Unit itself; five departments indicated that the guidelines being followed were those issued by the juvenile court; while the remaining four agencies identified miscellaneous other sources for the policy statements. Among the latter, reference was made to the "district attorney," the "criminal investigation division," in the case of two departments to the "juvenile code."

The police organizations surveyed were also asked to indicate if the officers' decision whether to arrest or not to arrest an allegedly delinquent child, a case of "street diversion," was guided by written policy. Of the 34 respondents, 16 replied in the negative, two did not respond to the query, while 16 responded in the affirmative. Of those departments stating that guidelines existed for aiding a police officer's arrest decision, eight agencies said that such policy was issued by the chief of police, three stated that such guidelines were promulgated by the Juvenile Unit, and five departments indicated miscellaneous sources for these policy statements. Among them the following were identified; "patrol commander," "district

attorney," "juvenile judge," the "department."

The above indicates that, generally, police juvenile diversion practices are not encompassed by systematic articulation of the police administrative policies. However, at least some departments seem to be well on the way to the formalization of diversion by means of concrete guidelines.

### *Summary and Conclusions*

This study sought to determine to what degree has the police community formalized juvenile diversion within its mode of operations. Three specific questions were addressed: Does the police community perceive diversion of juveniles as being clearly within the scope of its responsibility? Have the police staffed themselves adequately to make the diversion decision?

Is the diversion decision made in the context of formally articulated departmental policy?

This analysis indicates that the police community response to the "juvenile diversion ideal" has to date been an ambiguous one. Such a conclusion is warranted from the following implications inherent in the survey results:

(1) Only about two-thirds of the responding police agencies admit formal diversion responsibility. One-third of the responding departments disclaim such responsibility apparently because of perceived lack of legal authority for diversion or because of perceived lack of competence to make the diversion decision.

It is important to note that most state statutes, at least on their face, do not acknowledge selective, discretionary enforcement by police. Juvenile diversion entails precisely that. It may be that diversion will not be formally integrated into police operations until laws reflect unambiguous authority for police to dispose administratively of children who violate criminal laws.

(2) Police agencies that admit to the diversion responsibility seem to practice it primarily in the context of "legalistic" rather than "rehabilitative" criteria. This implication is founded in the near-total absence of civilian professionals' involvement in the diversion decision. Diversion is handled almost exclusively by sworn officers who may lack sufficient training for juvenile dispositions based on psychometric, casework methodologies which a "rehabilitative" diversionary practice requires.

It can be argued, however, that the police role vis-a-vis juvenile offenders should not extend beyond legalistic grounds. Traditional police orien-

tation perceives the selection of rehabilitative treatment alternatives for young offenders to be beyond its actual, or even desired competencies.

(3) Overall, police administrators apparently have not as yet confronted diversion of juveniles as a priority operational issue. Although about half of the responding departments indicated that there exists written policy guidelines on juvenile diversion, analysis of the sources of such guidelines shows great diversity of promulgators and a seemingly as yet unsystematic approach to the

<sup>8</sup> M.W. Klein and K.S. Teilmann, *Pivotal Ingredients of Police Juvenile Diversion Programs*, (Washington, D.C.: National Institute for Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, May 1976).

development of formal police policy on diversion.

These conclusions are generally consistent with the 1976 findings by Klein and Teilmann.<sup>8</sup> The latter analyzed the diversion practices of the Los Angeles Police Department, the Los Angeles Sheriff's Department and of 35 suburban police agencies. Among other findings, this research pointed out that diversion practices among the subject departments, even in as localized an area as the Los Angeles vicinity, varied widely as to style and levels of commitment. Moreover, the very initiation of juvenile diversion practices was closely related to the availability of outside funding.

## Interviewing Techniques in Probation and Parole

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### III. The Initial Interview (Part 1)\*

THE PREVIOUS two articles in this series on interviewing techniques were concerned with building the sort of relationship between the probation officer and the probationer which made communication possible, and with the art of listening to what is actually being communicated during the interview. This article and the one to follow will deal with the techniques employed in carrying on the initial interview. In practice the initial interview may extend over two or three sessions with the probationer.<sup>1</sup> It has two main goals: (1) developing a relationship and (2) obtaining a picture of the probationer and his developmental background from which the probation officer can draw some inferences as to the dynamics of the probationer's antisocial behavior.

The subjects to be discussed in this article will

relate to techniques of commencing the interview and keeping the flow of communication alive and, just as importantly, focusing and structuring it. The final article in this series will discuss the techniques to be utilized in continuing and terminating the interview. As in the previous two papers, an attempt will be made to be as concrete and specific as possible. In reading these suggestions, however, the probation officer must be mindful of the fact that in this or any type of interviewing, two variables are always present. In this situation these are the personality of the probationer and the personality of the probation officer. Hence, the suggestions made will not always be applicable to every probationer, nor will every probation officer find that his personality allows him to feel comfortable while using all of these techniques. Where it is feasible, an attempt will be made to differentiate the type of person with whom one technique or another should be utilized. This is, however, not always within the scope of an essay of this length. As far as the individual

\* This is the third of a series of four articles on interviewing in probation and parole by Dr. Henry L. Hartman, a practicing psychiatrist at Toledo, Ohio, and consultant to the Child Study Institute of Toledo's Family Court Center. Dr. Hartman's third article is the first of a series of two on the initial interview. The concluding article will appear in the December issue of *Federal Probation*. *Editor's Note:* This article is a reprint of Dr. Hartman's September 1963 article. It is updated at the end with current comments.

<sup>1</sup> In many instances the initial interview is that in which the probation officer begins his social (or presentence) investigation. The same principles enunciated in this article apply to the prospective probationer as well as to the probationer.

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probation officer is concerned it will be up to his own judgment as to which suggestions he feels can best be utilized within the framework of his own personality.

### *Beginning the Interview*

The first time the officer sees the probationer it is necessary for him to introduce himself and his function. This introduction should always, in one way or another, convey the idea of wanting to be of help. This idea must be conveyed without any air of condescension, and without appearing to be either superior or punitive. Some such statement as, "I'm John Jones. I'm going to be your probation officer. The court has assigned me to help you while you are on probation. We'll be talking together about you from time to time," will serve the purpose. Once this sort of preparatory introduction has been made the officer should turn his attention immediately to the matters of building a relationship and listening to the probationer, techniques for which were discussed in the first two articles of this series.

It might seem that the most important thing to do immediately is to put the probationer at ease, and it is quite a temptation when interviewing a person for the first time, particularly if he seems tense and ill at ease, to start with small talk or anything that might ease the strain of meeting. Talk about the weather, sports, school, work, might serve that purpose, but it is extremely difficult for the officer to respond in such a way as to convey a feeling of being nonjudgmental or understanding when he is responding to the probationer's answer to "It's a beautiful day, isn't it?" or for the officer to empathize with the probationer who has replied to, "I see the Packers won again last Saturday." Possibly this may convey to the probationer that the probation officer is unhurried and has plenty of time to spend *with* him, but it does not convey interest or the feeling that the officer has plenty of time to spend on his problems.

This sort of thing then should be avoided if possible. At times it may be an effective technique in allaying the officer's own anxiety. If the officer does feel a need for small talk to bridge the gap, and many may, then it should be focused on the probationer. Thus, if talking about the weather, instead of saying "Isn't it a warm day?" it might be phrased, "Does this hot weather bother *you*?" Or one might say "Do *you* get down on grey days like this?" or, if about sports, "Which team do *you* like in the series?" In other words the focus

should be on the probationer and his reactions from the very beginning, regardless of the topic under discussion. Where feasible though, the small talk should be omitted.

Right from the beginning the probationer should be the topic of the conversation. In general this focus on the probationer should be in as broad and nonspecific terms as possible. Once the introduction is out of the way it seems preferable in this initial interview to start with the current situation. The opening gambit should always be one which allows a multiplicity of answers, rather than requiring one specific response. Thus, "Would you like to tell me about it?" or, "You seem to be having difficulties, would you like to talk about them?" or, "Would you like to talk about what brought you here?" are all acceptable opening questions. Note that these contrast sharply with "tell me what you did?" or "Why did you do it?" or "How did you ever get mixed up in something like this?" The reason for this insistence on the broad approach is that it gives the individual a chance to talk about what is really on his mind, even though it may not be at all what the officer expects, and hence furnishes a valuable lead to what some of the real factors in the situation may be.

Two cases will serve to illustrate the sort of answer which may be expected from this type of approach. A 12-year-old boy is seen following his arrest for shoplifting. This, it was learned, was the latest in a series of offenses dating back for some time, starting with pilfering pennies from his mother's purse, going on to fighting in an unprovoked manner, stealing from other youngsters in school, stealing from the teacher's purse, and finally culminating in the shoplifting, in which there was not too much attempt at concealment apparent. When asked to "tell me about it," he replied, "Well, the way I see it is that somebody's got to say no to me and make it stick." As he talked on it became apparent that he saw himself as the prize in a struggle between his parents, as to which one could do the most for him, cover up most for him from the other and from the authorities. If one said that he could not do something, it was easy to get permission from the other. If both said no, no punishment would follow anyway, or if one were imposed it would not be followed through, or if one threatened punishment the other would protect him from it. He was literally afraid of what he might be tempted to do if controls were not applied, and each offense was a way

of asking for them. All of this, with the exception of the last statement about controls which was implied rather than overt, came out spontaneously in response to, "Would you like to tell me about it?"

The second example involves a mother being interviewed in connection with severely delinquent behavior on the part of a 16-year-old son. She is not asked "Would you like to tell me about your son?" but again the question is phrased, "Would you like to tell me about it?" Once again the answer leads almost immediately to the heart of the difficulty. "I just can't understand that man," and it becomes quickly apparent that she is talking not about the son, but about the husband. Very quickly a picture emerges of him as a severely paranoid individual, who in his illness has dominated the family in such an unreasonable fashion that the son's behavior can be understood as a method of coping with this irrational tyranny.

One immediate advantage of this nondirective type of approach can be seen from the foregoing examples. Not infrequently the initial question may lead directly to the root of the problem with which the officer will have to deal. There is another more subtle and more far-reaching implication of this approach, the benefits of which are not so immediately apparent, but which may be of even greater significance as the relationship between the probationer and his officer continues. Right at the beginning of this relationship it is made clear by this approach that this is not a situation in which the officer is going to do something to or for the probationer, but rather that this is to be a situation in which they do something together, and that the role of the probationer is equally as important as the role of the officer for a successful conclusion of their mutual task.

If at the beginning of the interview the probationer is able to respond to some such nondirective question as "tell me about it," then the interview is off to a good start. The concluding article will discuss the conduct of the interview from this point. It would be very fortunate if all initial interviews followed this pattern, but unfortunately this is not always true. Not uncommonly the probationer has some difficulty in responding to this sort of nondirective question. Where this difficulty is manifested by silence it is probably wiser at this point, early in the relationship, not to let the silence be prolonged very long. A pro-

longed silence at this time is likely to build too much tension of an unwanted sort. At a later stage in working with the probationer, at times even at a later stage in the initial interview, tension building by means of silence may be a helpful thing. Such tension helps to mobilize anxiety, and the probationer may then begin to talk about the things he is most anxious about.

At this moment of initiating the first interview, however, such tension is likely to be destructive rather than constructive, and so the silence should be broken fairly quickly. A remark may be made such as, "Well, probably you'll want to tell me about it when we get to know each other better," and the conversation shifted to a discussion of neutral topics. The use of the term "neutral topics" does not imply small talk, but rather topics which have reference to the probationer, yet are probably free from any great emotional overtone. There is, of course, always the possibility that a theoretically neutral topic may have emotional overtones for any specific individual. "Is your father alive?" for example, may be quite emotionally laden to a person who feels he is illegitimate, but this can rarely be foreseen. Should it be noted that there is a marked emotional response to what is expected to be a neutral topic, this information is filed away for exploration at a later time.

Frequently the probationer, rather than meeting the question with silence, will respond to, "Would you like to tell me about it?" with a question of his own, such as, "About what?" or "What would you like me to tell you about?" This sort of reply is best responded to again as nonspecifically as possible. Some such response as, "Tell me a little about yourself," would be an appropriate rejoinder. If the response to this is something like "What do you want to know about me?" it becomes obvious that a contest is going on, and this should not be allowed to develop. A tentative "Anything that you want to tell me?" should be offered, but at the least sign of hesitation in producing an answer this should be followed immediately with more concrete questions. These may deal with age, education, occupation, hobbies, interests, anything which will furnish the probationer a stimulus to which he may respond without having to reveal too much of himself at this point when he is still unsure of whether he is willing to do so. Where it is at all feasible, even these concrete questions should be phrased in as nonspecific a way as possible, in order to leave the door open to an answer to more than just the

question asked. For example: "Tell me about your family," rather than "Who's in your family?" "Tell me about your neighborhood," rather than "Where do you live?" "What about school?" instead of "What school do you go to?" These are examples of questions about specific topics, posed in a quite nonspecific way. As noted, this leaves an opening for the probationer to go on and divulge any amount of significant material in the areas under question. It facilitates the flow of communication, and yet gives a little more structure than the previously used, "Would you like to tell me about it?"

Quite commonly just this small amount of stimulus will serve to initiate an exploration of a meaningful and problem-laden area. However, there will be left a relatively small number of individuals who are unable to respond to either of the two suggested approaches, and who will give only specific answers to specific questions asked them. This may be so for any one of a number of reasons. These may be introverted or at times severely inhibited individuals who have a great deal of difficulty in expressing themselves. They may be extremely literal minded people, accustomed to thinking only in the most concrete and specific terms. Or this may be a purely defensive reaction, arising out of a fear of revealing too much. Whatever the reason, these people must be dealt with on their own terms and a simple question-and-answer routine followed for some time until it is possible to build a relationship which can be used to facilitate the communication of problems and feelings.

### *Focusing the Interview*

With these last discussed individuals there is no problem in focusing the interview. Each specific question asked serves as the only focus, and the problem is one of stimulating enough spontaneity to allow the officer to identify the important trends in the genesis of the probationer's problems. Focusing also presents no problem in those persons who respond to the nonspecific question asked, exhaust the area, and then wait only for another stimulus to explore a different field as thoroughly. It then becomes only a question of what fields the officer wishes to explore, or to what depth he wishes to go in any field.

Focusing in the initial interview becomes a problem only with those probationers who respond to the invitation to "Tell me about it" with a seemingly endless stream of apparently discon-

nected material. In such instances the first thing which must be determined is: Will this stream of talk spontaneously answer many of the questions which would ultimately be posed? If the answer to the question is yes, then there is no need to attempt to focus strenuously in the initial interview. Instead the officer may busy himself with sorting and classifying the meaningful material, assessing its significance to the probationer, noting areas which need elaboration and clarification in later interviews, and sorting out the feelings which underlie this recital. Indeed, instead of attempting to focus, the officer, with this sort of person, utilizes those techniques previously described to express interest and facilitate the flow of thought. He nods, smiles, says "mmh-hmmh," repeats the probationer's last words at a pause, empathizes with his feelings, or rephrases a point to emphasize its meaning.

After this initial outpouring it is wise to attempt to focus on only one or two meaningful trends in any one subsequent interview. For example, during the first interview the probationer may have referred to or touched on his feelings of being a failure, his reactions to his criminal offense, his dissatisfaction with his wife, his feelings about what he considered the unreasonable attitudes of his parents when he was growing up, the undisciplined attitudes of his son, the seemingly inordinate demands of his employer, his fantasies of being a big shot, the high cost of living, the success of an older brother, his love for his daughter, etc.

At the subsequent interview the officer should attempt to focus the probationer's responses on one or two topics which seem to be of real significance. Thus if the probationer again makes some reference to his parents' attitudes, the officer might make some such statement as, "You mentioned something about that last time. Would you like to talk a little about what you felt they really expected of you?" At appropriate moments in the response the question may then be interpolated, "And how did that make you feel?" If the probationer tends to drift from this area of the parents' expectations before it is fully explored, the new topic is acknowledged, but then the discussion is brought back to the parents and their attitudes by means of a pointed question such as, "What was their reaction when you brought home your report card?" If this elicits a feeling of having failed, and an underlying feeling of resentment that it was not really failure, but that the parents'

demands were too great, it is not then too difficult to phrase questions or responses in such a way that the connection between the childhood feelings and the present feelings of being a failure become quite clear, and this area can then be explored.

One important point should be stressed here. If a probationer is eager to talk about one topic, the officer should not try to switch him to another, no matter how trivial the former or how significant the latter appear to the officer. Such an attempt can only hinder the formation of a relationship, lead to a lessened feeling of self-worth on the part of the probationer, and increase resistance. Most importantly, what appears to be trivial to the officer may be the preliminary to something which is extremely significant, and which may not emerge if the probationer is not allowed to talk about it at his pace.

If, however, in this initial interview, should there seem to be no real pattern of significance to the individual's flow of words, then the officer should ask himself the question: Is this apparent rambling really representative of this person's normal thought pattern? If the answer seems to be yes, then it becomes obvious that a good deal of time will be wasted in letting him ramble. A definite attempt will have to be made to focus this outpouring. This could be done quite easily, of course, by simply interrupting at any time and asking a pointed question. When the rambling begins again there is another interruption and another question, and so on. Although this will certainly serve to elicit a larger amount of factual information within a given period of time, it is generally wiser to avoid this type of focusing. Instead, it seems preferable to use a technique which might be labeled nondirective focusing. In essence this consists in the use of the reverse of the maneuvers which were previously suggested to convey interest. As the rambling proceeds the officer instead of appearing interested, appears bored. He may yawn, close his eyes, tap with his pencil, drum with his fingers on the chair arm. Instead of saying yes or "mmh-hmmh" he remains silent, unnodding, unresponsive. At first this may seem to have little effect, but before very long the meandering torrent of words slows to a trickle, and then comes to a dead stop. When this silence occurs the officer then proffers a cue about a topic which interests him, and as long as this topic is discussed continues to convey his interest. Once again as the probationer meanders

from the topic this same treatment is repeated, and so on, until before very long only topics of interest are being discussed. Obviously this is more time consuming than interrupting and asking questions.

What then are the advantages of this method? First, it keeps the interview from developing into a question and answer session, in which all the necessary facts may be obtained but none of the important feelings.

Second, this expression of disinterest, this method of using boredom, silence, etc., serves as a counterpoint to the show of interest in significant material, so that it underlines this interest when it is present, and helps the probationer to learn relatively quickly about the areas in which the officer is interested. It serves to delineate the areas of significance, keep attention focused on these areas, and allows the probationer to assume the responsibility for working on them.

Third, it does this in a way which does not mobilize his defenses, which does not make him feel dominated and pushed around, as direct questions may. He may not be completely aware of what is going on, and yet he realizes that the probation officer is basically interested in those things which are significant and important to him. The result is that the officer is able to learn about the probationer in a way which allows the latter to retain his self-respect, and without giving him the feeling of having things dragged out from him against his wishes.

At times the answer to "Would you like to tell me about it?" may be not only rambling and seemingly incessant, but also disconnected and disjointed. Under these circumstances there is most probably an underlying mental disorder and medical help should be requested. There is one other possibility which must be considered in attempting to focus a rambling, interminable, seemingly inconsequential answer to the introductory question. The final question which the probation officer must consider is: Is this a form of defense—a smoke screen of words, thrown up consciously or unconsciously to avoid talking of anything of significance? If the answer to this question is yes, the method of dealing with it in order to focus the interview will depend on the officer's judgment as to whether it is conscious or unconscious. If it is unconscious, then in all probability it stems from uneasiness in the situation, a fear of the officer as an unknown quantity, and an attempt to gain time in order to size up the situation.

Under these circumstances the individual's feelings should be respected and no direct attempt should be made to circumvent this. Instead, the officer, by means of the techniques described in the first article in this series, should direct his efforts toward establishing a relationship, building a feeling of confidence in the probationer, and conveying the feeling that the officer understands and empathizes with the feelings underlying this behavior. With such an individual it may take several interviews before the proper atmosphere can be established to make meaningful interviewing possible.

On the contrary, when this smoke screen is felt to be consciously motivated, particularly if it seems to stem from an attitude of "You can't con me. I'm smarter than you are, Mac," then the officer should intervene directly. In whatever words he chooses to use, most appropriately in the probationer's own vocabulary, the message should be conveyed to "cut out the malarkey and get down to business." Working with such an individual in any sort of meaningful relationship is impossible unless he realizes that the officer is as smart as he, is not going to be fooled, and will not allow himself to be outmaneuvered.

### *Organizing the Interview*

The fact that he is using nondirective techniques does not absolve the officer from the responsibility of structuring the interview. The one exception to this occurs when the probationer himself is effectively structuring the interview along constructive lines. While this should occur with more and more frequency as probation continues, it is not too common during early interviews. Since one purpose of the initial interview is to obtain a history, a general picture of the individual and his development, then the structuring should take place along lines which make this possible. In order to do this most effectively the probation officer should have firmly fixed in his mind an outline of the material which he wishes to explore with the probationer during the initial interview. It is not within the scope of this paper to furnish a detailed outline for the officer's use. In general the following topics are expected to be explored:

*The parents and parent substitutes: their relationship to each other, relationship to the individual, both during his formative years and at present, with particular emphasis on the standards, values, and methods of discipline, the emotional interactions between them.*

*The environment: past and present, sociocultural-economic, physical, and emotional.*

*The individual's development: birth, physical development, health, history, emotional development, school and work adjustment and achievement, hobbies and activities, goals and standards.*

*The individual's relationships: to parents, siblings, peers, mate, children, authority figures.*

*Antisocial behavior: past, present attitudes toward it.*

The exact details of the outline are not important. What is significant is the use of the outline as a guide to areas to be explored for understanding the probationer and his behavior. Thus, with each topic under discussion the officer should be asking himself two questions: "Has this topic been completely covered?" and "What bearing has this had on the problem which this person is experiencing?" Used in this way the outline serves as a guide to structure the interview and does not become some sort of compartmented box, meant to be neatly filled with assorted facts, each one tucked neatly into place.

Viewed with this attitude the question of whether to follow the outline in order, step by step, does not arise in the interview. Most commonly the area to be covered first will be determined by the probationer's response to the first nonspecific gambit. The importance of the outline in structuring lies in delineating the areas to be explored, and in furnishing a handy mental check list for covering each area thoroughly before moving on to another one.

As was noted in the first article in this series, this does not imply that if a probationer starts to stray from the area under discussion one does not let him do so, but as soon as this side excursion has come to its logical conclusion, the probationer should be led back to that area which was under exploration until each item in that area has been covered. Under no circumstances should zealous desire to satisfy the demands of an outline be allowed to hinder the flow of thought of a probationer who is bursting to talk about a specific topic or problem, no matter if nothing in the outline seems to fit that topic.

### *In Summary*

The initial interview, which may in practice last over several sessions, has two functions which must be operative simultaneously. These are to obtain the information about the probationer necessary to delineate the nature and development of his problems, and at the same time to establish the type of relationship which will set the pattern



for future meetings between the probationer and the officer. A nondirective approach seems to offer the best way of filling both of these requirements at the same time. By focusing on the probationer and his problems immediately the officer establishes the pattern that these things are important to him. By offering the probationer the opportunity to discuss his problems in a relatively unstructured fashion, the attitude is conveyed that the probationer has an equally important responsibility for working toward a solution as does the officer.

There are several possible ways in which the probationer may respond to a nondirective approach. If he is able to respond significantly immediately there is no problem in managing the interview. He may, however, respond to this approach with silence. Under these circumstances more concrete questions must be asked, but even these should be phrased in a fashion to permit many possible answers.

With either of these responses on the part of the probationer no need arises for the officer to focus the interview. When, however, the probationer responds with a rambling type of soliloquy which contains little of significance, it is then the responsibility of the officer to provide some focus to this flow of words. The way this is done depends to a large measure on the officer's estimate of the underlying cause. If this seems to be the habitual way in which this particular probationer responds to those in his environment, focusing is carried out in a nondirective fashion. If it seems to be the result of fear in the situation, then the underlying fear is dealt with, and the emphasis is placed on the relationship. If, however, it appears to be a definite attempt to obscure and outmaneuver, then it must be attacked directly.

In addition to focusing the flow of thought it is the responsibility of the officer to structure the interview. To do this effectively it is wise for the officer to utilize the framework of an outline which has been thoroughly learned. Care must be taken not to use the outline in a rigid fashion which might tend to constrict the material elicited. Rather it should be used as a guide to a thorough exploration of those areas which are to be covered. How this is done, and the way in which the officer can move easily from one area to another as the interview progresses will be discussed in the concluding article of this series.

<sup>2</sup> In this era of the "legalization" of the juvenile court these remarks apply to juvenile defendants as well.

### *Current Comments*

It is extremely important before seeing a client to have read all obtainable material relating to that client. Review of past arrest and conviction records is almost mandatory. In a presentence report the material to be reviewed should include the police report and the exact nature of the offense charged. It is helpful to know if the conviction is based on a trial or a plea. (The former is more apt to reflect the true offense.)<sup>2</sup> After the initial interview leads from stories of hospitalizations and previous institutionalizations should be followed. In the case of a parolee it is hoped that all records will have arrived from the penal institution. These records (police reports, pleas, penal records, etc.) can be used to check against the client's statements. This may give an immediate picture of the truthfulness, evasiveness or openness of the particular client.

This does not imply that any discrepancy between the client's statements and the various reports should lead to immediate confrontation as to whether or not there is some tampering with the truth. It is only natural that an individual in this situation is going to try to make the best possible impression on first meeting. Opportunities should therefore be presented at various points in the interview for the client to make the necessary corrections in the record. This should not be allowed to go on indefinitely, nor should the client be allowed to get into the sort of situation from which no escape is possible without an admission of lying. This entails the kind of loss of face which makes the development of a relationship very difficult. At the same time, not getting the true picture on the table can only lead to ongoing deception on both sides of the desk.

The answer lies in a face-saving remark such as, "I wonder if you were so upset at the time of your arrest that you have forgotten what you said at the time," or, "You know as time passes, we all begin to change things in our minds to make ourselves look better. Do you think that might be happening to you?" These remarks say, "You see, I really know all about it, and I want you to know that. But I really don't think that you are a confirmed liar." If, however, you feel that you are dealing with a con artist, then confrontation should be direct and relatively immediate.



# Looking at the Law

BY JUDD D. KUTCHER

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## THE STATUS OF PROBATION OFFICER-PREPARED DOCUMENTS

It is often important to know whether a report prepared by a probation officer is considered a court or an executive agency's document. Generally, the rule to follow is that the report belongs to whomever it was initially prepared for, regardless of subsequent use or physical possession.

For example, a presentence report which a probation officer prepares for the court is a court document. And, it retains that identity even when it is given to the Parole Commission for its consideration. *Warth v. Department of Justice*, 595 F.2d 521 (9th Cir. 1979). Since court records are not subject to the Freedom of Information Act (FOIA) or the Privacy Act, see e.g., *Cook v. Willingham*, a presentence report in the physical custody of the Parole Commission is not subject to a FOIA request. *Warth, supra*.

A prisoner's request to review his presentence report in connection with a parole release termination under section 4208(c)(1)-(3) poses a similar question. Section 4208(c) states:

If any document is deemed by either the Commission, . . . or any other agency to fall within the exclusionary provisions [for confidential records] . . . then it shall become the duty of the Commission, . . . or such other agency, as the case may be, to summarize the basic contents of the material withheld, . . . . (Emphasis added.)

Thus, when a prisoner seeks a presentence report under section 4208(c), the court for whom the report was prepared is the "agency" which should determine the application of the confidentiality provisions enumerated in section 4208(c).

Conversely, a postsentence report prepared by a probation officer for the Parole Commission is that agency's document. As a result, both the FOIA and the Privacy Act would apply to the document and a personal request under section 4208(c) would be properly directed to the Parole Commission.

## CONCURRENT TERMS OF PROBATION

Revocation of one term of concurrent terms of probation does not operate to revoke automatically the other terms of probation. *McGaughey v. United States*, 596 F.2d 796 (8th Cir. 1979).

In *McGaughey*, the defendant had been given four concurrent terms of probation. When he was found guilty of conduct violating the terms of probation, one of the four terms was revoked and he then spent time in prison. That revocation did not, however, operate to revoke the other three probationary periods. As a result, when the defendant violated the terms of probation after his release from prison, the remaining three terms of probation could be revoked and an additional prison term imposed.

The practice of revoking one term of probation while continuing three other terms of probation, as occurred in *McGaughey*, may be questioned. Nevertheless, the authority to revoke one or all the terms of probation should lie in the discretion of the court. One situation which

supports viewing concurrent terms of probation as distinct is that certain conditions may apply only to one term of probation; for example, a condition of restitution. Violation of that technical condition might not support revocation of the other terms.

Also, the nature or degree of the violation may argue for revocation of only one term. That was true in *McGaughey*. The initial term of probation was apparently revoked in connection with the probationer's alcohol problem; a problem of concern, but not in the nature of a serious criminal behavior. The subsequent violations which related to the revocation of the other three terms of probation involved possession of a firearm, assault with a firearm, as well as further alcohol problems. A court might reasonably conclude that the first violation requiring both revocation and remedial action; e.g., ordering the defendant to serve time at an institution and participate in an alcohol therapy program. That determination would not be mutually inconsistent with continuing his probation on the other terms until the probationer demonstrated by committing serious offenses that he was entirely unsuited for probation.

Finally, the fact that *McGaughey's* indictments were consolidated and presided over by one judge should not operate to place him in a different situation than if he had received the concurrent terms of probation by separate courts. It is unlikely that one judge's decision to revoke would necessarily prompt revocation of other probation terms imposed by different courts. Cf. *United States ex rel. Edelson v. Thompson*, 175 F.2d 140 (2d Cir. 1949) (overlapping probation terms in two districts revoked at different times).

## PROBATION; LEGAL RESPONSIBILITY

The case law defining the legal responsibility of correctional officers continues to grow and to establish the existence of that responsibility. It applies most clearly when the person under supervision represents a physical risk not readily discoverable by foreseeable victims. In such circumstances the probation officer has a special duty to warn the foreseeable victims or to take sufficient alternative actions to minimize the injury from occurring. *Thompson v. County of Alameda*, 24 Crim.L.Rptr. 1089 (Jan. 30, 1979); *Johnson v. State*, 73 Cal.Rptr. 232, 447 P.2d 352 (Sup.Ct. 1968); *Georgen v. State*, 18 Misc.2d 1085, N.Y.S.2d 455 (1956); see *Rieser v. District of Columbia*, 563 F.2d 462 (D.C. Cir. 1977) (vacated). Cf. *Gibson v. United States*, 457 F.2d 1391 (3d Cir. 1972).

In *Thompson*, California County parole authorities released a juvenile who had an established behavioral record of violence and who told parole authorities that he intended to kill a child in his neighborhood.

Notwithstanding the apparent inappropriateness of releasing this dangerous person on parole, the parole authorities also failed to warn anyone of the risk he posed. No warning was given to the parolee's mother so that she could properly try to control his conduct. No warning was given to the local police authorities so that they might be alerted to the potential danger that the juvenile represented to his neighborhood, and no warning was

given to any of the neighbors so that they could take steps to protect themselves.

As a consequence, the juvenile followed through on his stated intention and killed a five-year old neighborhood boy. The victim's parents then sued the correctional authorities, not for the release decision (quasi-judicial in nature), but for the ministerial omission of failure to warn.

Correctional officers are also responsible for foreseeable financial risks. But liability may be limited to those circumstances where the probation officer has taken an affirmative act upon which the injured party relied. See *Myers v. Los Angeles County Probation Department*, 144 Cal.Rptr. 186 (Cal.Ct.App. 1978).

These cases suggest that correctional officers should evaluate persons under their supervision to determine whether any problem cases exist. However, in doing so, care must be taken in taking corrective steps. Also, the focus should not be on every risk that might conceivably occur, just risks which have a high degree of probability of occurring.

#### MISCELLANEOUS CASES

##### A. Probation Officers; Ethics

There is little case law on this subject, but a recent Pennsylvania Superior Court opinion offers some guidance. The court concluded that licensing probation officers as private detectives contravenes public policy in view of the potential conflict of interest. There is no procedure used to ascertain whether the record a probation officer requests pertains to a probationer who is under his supervision. So a probation officer could conceivably examine the police records of any individual. If a probation officer is also a private detective, the potential for his abusing his special record privilege becomes apparent. *Commonwealth v. Gregg*, 24 Crim.L.Rptr. 2449 (S.Ct. Pa., Jan. 19, 1979).

##### B. Probation Officer; Termination

Resignation of a probation officer, which is procured by duress or fraud, is voidable. And, the officer can sue the judge who fired him for any damages arising from an improper termination. *Atcherson v. Siebenmann*, 458 F. Supp. 526 (S.D. Iowa 1978). In *Atcherson* a state judge became displeased with a probation officer employed by him, called her in and gave her the choice "to resign 'or let me consider' whether I am going to fire you or not." *Atcherson, supra*, at 543. Such a choice is not, of course, a choice, so the officer would not be bound by a resignation made in response to such an "offer."

In asserting her right to proper redress, the officer

in *Atcherson* posed the issue of whether the absolute immunity enjoyed by judges extended to duties of hiring and firing. The court held such duties were nonjudicial activities and, therefore, the judge's absolute judicial immunity did not shield him from the civil damage suit arising from the termination. A judge would only have a qualified immunity from a civil action. *Atcherson, supra*, 458 F. Supp. at 537; see *Stump v. Sparkman*, 435 U.S. 349, 359 (1978).

##### C. Pretrial Diversion

While a pretrial diversion program generally suspends criminal prosecution and places a defendant in a "probationary status," the individual is not in fact on probation within a court's jurisdiction. A court's probation authority lies solely in the statutory provisions of section 3651 of title 18 which expressly provide for probation only "upon entering a judgment of conviction."

As a consequence, a court can impose no sanctions on a pretrial diverttee under the supervision of a probation officer. Also, the separation of powers doctrine precludes judicial promulgation of rules covering a pretrial diversion program, and a court has no authority to review the prosecutorial decisionmaking involved in operating a pretrial diversion program. *United States v. Coleman*, 24 Crim.L.Rptr. 1072 (D. N.J., Jan. 5, 1979).

##### D. Probation Condition; Tax Returns

A condition of probation that an individual convicted of tax evasion provide his probation officer with copies of his tax returns for several years is valid against a Thirteenth Amendment attack. *United States v. Kahl*, 583 F.2d 1351 (5th Cir. 1978).

##### E. Split Sentences

The purpose of the split sentencing provision of section 3651 of title 18 is to permit a court to confine a person for a period not exceeding 6 months in connection with the grant of probation on a one-count, rather than multi-count indictment. *United States v. Hooper*, 564 F.2d 217, 220 (7th Cir. 1977).

##### F. Sentencing; Permissible Factors

Evidence or information of other criminal conduct not resulting in conviction may properly be considered by a court in imposing sentence. Thus, a firearms defendant's due process rights were not violated by a sentencing judge's consideration of the fact that he had previously been acquitted of the possession of LSD. *United States v. Morgan*, 25 Crim.L.Rptr. 2089 (9th Cir., March 14, 1979); *United States v. Miller*, 588 F.2d 1256, 1266 (9th Cir. 1978).

LAW is the embodiment of the moral sentiment of the people.—

BLACKSTONE

# News of the Future

## RESEARCH AND DEVELOPMENT IN CORRECTIONS

By JOHN P. CONRAD

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CONTRIBUTIONS to the theory and practice of correctional rehabilitation are few and far between in these systems-oriented times. As everyone knows, the climate changed early in the seventies with a growing consensus that offenders could be led to the therapist, but they couldn't be coerced into changes for the better. Our policy-makers are now advised to try changing systems instead of changing offenders. We don't know whether system-changing will work any better than people changing. No returns have yet been seen.

If credit is to be apportioned for the deflation of correctional treatment, we researchers should get most of it. Try as we would—and some of us were biased, true believers,—we have never shown that any treatment program is consistently effective; few have even been occasionally effective. Our disillusion has taken place in a context of disenchantment in the larger world of the helping professions. Traditional psychoanalysis, once so chic, once the essential prop for the troubled but affluent, is still alive but certainly not well. Therapeutic anarchy is rampant. Unhappy members of the comfortable classes, dissatisfied with themselves and with a world from which they have received so much, seek a new sense of purpose in therapeutic experiences that are unsupported by conventional psychiatry and psychology. Most of these therapeutic novelties have the merit of dispatch; none of them compare with the interminable psychoanalysis of the fifties. Their prevalence testifies to the meaninglessness and the sadness of the lives of many of our most materially fortunate contemporaries.

These unconventional, flashy, and atheoretical treatments have found their ways into corrections. An enthusiastic purveyor of such wares can easily slide by an administrator who has come to believe that if not much good can be expected from therapy, not much harm will be done, either, and prisoners will be kept occupied and innocently diverted who might otherwise be idle or committing mischief.

Thus it is that the primal scream, est, transcendental meditation and other quasi-proprietary schemes of psychological uplift have crept into corrections. Flourishing along with these exotica are various people-changing approaches that look suspiciously like Synanon, that ominous archetype of salvation through self-subjugation to a new tribalism. Social science research falters before the real and pretended scruples of the promoters of these novelties. We are not allowed to collect data or make comparisons with controls. Research design gives way to impressions and anecdotes. Conscientious observers of corrections must allay their anxieties with the reflection that most of these treatments are administered by people who must be paid, and the budgets we work within seldom can be stretched to accommodate any service that is not a proven necessity. Austere as our circumstances are now and are likely to be for the foreseeable future, the

survival of patented enlightenments in the correctional apparatus is at least unlikely.

In the light of all the flackery of contemporary treatment, the patient work of Samuel Yochelson and Stanton Samenow stands out as an anachronism, a recrudescence of a mode of thought and work characteristic of an earlier epoch. Their two volumes on *The Criminal Personality* were published 2 years ago,<sup>1</sup> and a third is in the writing. These books have received a warm welcome in some quarters, and an angry response in others. In this contribution I shall abstain from applause or cat-calls. I want to examine this massive study in the context of how we identify those characteristics of people that enable us to engage in people-changing.

I shall give away my conclusion right now. Yochelson and Samenow have produced an enormous amount of unrefined information that leads to conclusions about criminals and their treatment that are far too sweeping, though not wholly and demonstrably wrong. The treatment method that emerges is impractical on at least two counts: it calls for protracted and intensive contacts with therapists conditioned to perform rightly disciplined tasks, and it must have the cooperation of offenders at a level of effort and self-abnegation that many of the subjects in the study were not willing to give. It will not be easy to recruit, train, and pay for therapists who are intellectually and emotionally able to manage treatment in a caseload ratio of 2 for every 12 subjects. The future of the Yochelson-Samenow method in its strict form must be limited to Dr. Samenow himself, (Dr. Yochelson died in 1976), and those disciples whom he can enlist and train. Like most treatments administered by decent and caring people, the Yochelson-Samenow method will have its successes, and the successes will be at least partly attributable to factors extraneous to the method. Like all methods of psychotherapy, it is vulnerable to the personal and professional shortcomings of those who administer it—more so than most. But it is not the innovating treatment that has provoked public attention; rather it is the profoundly pessimistic message of the underlying theory that Yochelson and Samenow constructed over the many years of their effort. It is the theory that requires discussion, not the treatment, which seems to be as impractical as the one-to-one psychoanalysis that used to be the model for all psychotherapy.

### THE DATA

Yochelson and Samenow began their work at Saint Elizabeth's Hospital in Washington, working with patients who had been found not guilty of criminal charges by reason of insanity. Both authors were trained in the practice of psychoanalysis and began their work with the intention of adapting this discipline to the treatment of criminals. They report their disillusioning frustrations, their improvisations, and their final arrival at a standardized theory and practice. The propositions on which the theory rests were derived from the patients they worked with over a period of 14 years. Statistics evi-

<sup>1</sup> Samuel Yochelson, M.D., Ph.D. and Stanton E. Samenow, Ph.D., *The Criminal Personality*. New York, Jason Aronson. Volume 1, 1976, Volume II, 1977.

dently did not interest the authors, and we find only one table in the entire two volumes, but that table is the data base for the study. I reproduce it here:

*Distribution of time spent with 240 cases  
during the period 1961-1975<sup>2</sup>*

1000 hours or more . . . . .	17*
500-1000 hours . . . . .	7
100-500 hours . . . . .	23
50-100 hours . . . . .	28
10-50 hours . . . . .	72
less than 10 hours . . . . .	93
TOTAL . . . . .	240

\*"In about a dozen cases, we spent more than 5000 hours per person." This frequency distribution does not lend itself to analysis, but using the interval midpoints as averages I arrived at a total of 84,375 hours, of which at least 60,000 were devoted to 12 patients, and another 7,500 to 5 who had more than 1,000 hours of attention. So about 7 percent of the study sample received about 80 percent of the time. It is difficult to suppress the inference that conclusions tended to be drawn from observation of an experience with this exceedingly small subsample.

The text discusses the sample in more detail. We are told that 162 were "hard-core" adult criminals. "Another 59 from 13 to 21 years old can be considered hard-core, in that criminal patterns of thinking (were) present and violations have been numerous over a number of years; these 59 subjects were interviewed and evaluated and worked with briefly in community clinics." Thirteen others were interviewed briefly—they were participants as research subjects and were not in the program for the purpose of change. "Finally, we . . . interviewed six children under thirteen, whose parents asked us for an evaluation because they were worried about their offsprings' behavior, which pointed the way to more serious future difficulties."<sup>3</sup>

There is no way of telling how the hours were spent. The program called for group sessions lasting 3½ hours, 5 days a week, and it must be supposed that a substantial fraction of the total amount of time spent was group time rather than in individual interviews. Much can be discovered about a person by his behavior in a group that will not be revealed in a one-to-one contact, but even a casual researcher would like to have a more definitive distribution of the time spent in differing clinical situations.

We are given no distribution—other than as indicated in the foregoing of the sample by age, race, instant offense, criminal history, education, occupation or any of the other customary variables. We do know that only three of the 240 were women, but we do not know how much time was spent with them. The authors add that they interviewed many wives and girl-friends, "many of whom showed the same criminal patterns of thinking and action."<sup>3</sup>

As we shall see, the authors arrive at sweeping conclusions on the basis of their 14 years of contact with these people. Several points are to be made about conclusions based on this kind of data:

(1) *No control.*—The significance of this deficiency can hardly be overestimated. The authors want to distinguish a pattern that differentiates criminals from all others. This pattern is to consist of personality traits and ways of life that are peculiar to criminals and not to be found

among noncriminals. Admittedly the comparison of attitudes and "think patterns" between two disparate groups is neither easy nor likely to produce firm conclusions. But the assertions made by the authors rest on data that have been compared to nothing except the authors' personal perceptions of what a noncriminal is like.

(2) *Small sample.*—The 240 persons who compose the sample have to represent the hundreds of thousands of people who commit crimes or who, without actually committing crimes, engage in criminal thought processes. It is difficult to say how large a sample would satisfy a researcher under these circumstances, but throughout my reading of these volumes I was uncomfortably aware that not only were the authors limited to 240 human beings in arriving at their conclusions but that the bulk of their time was given to that 7 percent who got more than 1,000 hours of their attention. Neither the requirements of randomness nor of representative selection can be satisfied by these distributions.

(3) *No information on outcome.*—The theory and practice are based on evidence of success demonstrated by "destruction" of criminal thought patterns, and achievement of a noncriminal way of life. But although we are assured that there were successes, we do not know how many there were, how long it took them to succeed, and what the evidence of success was. We do not know how many dropped out of treatment, although it is asserted that all those who did, "without exception" reverted to their criminal way of life.

(4) *The special nature of the population.*—Most of the sample were Saint Elizabeth's patients. On the face of it, these were patients who, in someone's opinion, had some kind of severe psychological problems. It is doubtful that many were psychotic, judging from the numerous quotations from case notes that are presented, but it can hardly be said that this group represented the criminal population of Washington, D.C., let alone the criminals—in the making, active and retired, throughout the whole country. If any conclusions are possible from a study of this kind, they would have to be limited to persons, who, after some kind of screening, found themselves to be under observation or patients in a hospital for the mentally disturbed criminals. Considering the difference between St. Elizabeth's and most state facilities for such persons, one would be cautious in accepting generalizations of even this limited nature.

#### THE THEORY

The authors simplify their task by rejecting all theories that attempt to explain criminal behavior. Such theories merely afford criminals an excuse for their conduct and make possible various counter-productive manipulations. In the authors' view, criminal behavior is related to criminal thinking patterns, which include the processes of projection, deception, manipulation, and a number of other patterns that hardly seem to come under the heading of thought—e.g., energy, fear, anger, and pride, although these states certainly influence thought. The theory holds that a person is a criminal if he thinks in the way that the authors describe as criminal whether he commits a crime or not. His only hope is to engage in a treatment process that will destroy his criminal personality and substitute for it a "lawful" alternative. The origin of the criminal thinking pattern is mysterious indeed. It cannot have its source in the parental home, in the peer relationships of childhood adolescence, in the cultural influences of the community, or even in the genes. Yochelson and Samenow specifically dismiss any account-

<sup>2</sup> *Ibid.*: Volume I, p. 118.

<sup>3</sup> *Ibid.*: p. 118.

ing for the criminal thought process as irrelevant: the process exists and must be treated, and it is unimportant where it came from. Nevertheless, considerable space is given to the implausibility of any of the usual theories accounting for criminal behavior. The fixed idea in the theory is that the criminal thought patterns are irresponsible attitudes toward life and that it is up to the criminal himself to take responsibility for himself without trying to lay the blame for his predicament on circumstances outside of himself. The difficulty any criminal faces in making this change is stressed again and again, but the authors insist that the change is feasible, and no criminal should be excused from making the necessary effort.

#### THE PRACTICE

The theory is simple, the practice is also simple, but exhausting. It is not easy to deduce what actually goes on between Dr. Samenow and his patients. The basic principle is that the therapist must recognize and rigidly reject all criminal thought processes that manifest themselves in a group or individual discourse. To do this, of course, requires that the therapist must be on to the lies, projections, and manipulations of the criminal whenever they come on display. The 14 years of effort that the authors put into this study presumably qualified them to recognize criminal thoughts when they see them, and judging from the quotations they offer from their case notes, their rejection is forthright and contemptuous. The fact that they are so perceptive they consider an obvious advantage; criminals are just as impressed by the mind-reader as anyone else.

Daily group sessions are part of the prescription, but the authors believe that it is far preferable to conduct these sessions in the community where the natural problems of living are to be encountered rather than in the artificial circumstances of the prison. Throughout these sessions, a focus is kept in the hopelessness of the criminal way of life as compared with the advantages of the lawful alternatives. We do not get a sense of how the advantages to some forms of lawful life are presented, as for example, the youthful, unskilled and unemployable urban black. The authors concede that usually the criminal must be "fed up" with his criminal ways before he is willing to expose himself to the grueling therapy they have to offer.

#### THE IMPLICATIONS

As I have suggested above, there does not seem to be much future in store for the Yochelson-Samenow method. Undoubtedly in diluted forms it will be applied, but the difficulties of adhering even partly to its principles are daunting and not within the capabilities of many clinicians. It is not every young psychologist who will want to spend years of his life learning the intricacies of the criminal thought process and then learning how to heap scorn on those who think that way.

What is troublesome about the Yochelson-Samenow method is the strong support it gives for the proposition that criminals are different and worse than the rest of us. There are indeed some important differences between criminals and noncriminals but we are a lot better off if we attribute these differences to the conditioning we all get from the lives we lead than to ascribe them to thought patterns acquired early in life and to be extirpated at the cost of months of humiliating therapy. Evidently some offenders will subject themselves to this regime and profit from it, but it is not likely to enlist much participation without considerable coercion.

It is one of the more repellent human traits to justify ill-treatment of others by pointing to the moral inferiority of those we abuse. Thus it was that slave-owners could rationalize slavery by claims that blacks were somehow inferior to them. Similarly the nobility everywhere has found in the inferiority of the peasants, or the untouchables, or other lesser breeds a reason for denying them the amenities of life. In this country ordinary citizens prefer to regard criminals as morally inferior and therefore eligible for degrading treatment that we could not countenance if we thought they were in any way like ourselves.

This book, for all its acute observations, for all the immense amount of work behind it, and for all the professional dedication that must be conceded to the authors, gives powerful support to the notion that criminals are indelibly tainted and that the costs of changing them are prohibitive. Welcome news for hard-liners, but not in accord with well established facts about the criminal population. We must continue to rely on good will combined with a wide variety of treatment possibilities. The harm that these authors may have unintentionally done is to persuade influential readers of the futility of any treatment but the hard line.

HUNDREDS of millions of dollars per year—billions in the past decade—have been spent by the Federal Government for criminal justice research, defined broadly as including all development, demonstration, and evaluation of innovations, as well as surveys and analyses of offenses and current practices. Despite slim returns on some investments, these expenditures have produced many worthwhile additions to our knowledge on the dimensions and causes of crime and delinquency . . . . However, much work remains, to separate the grain from the chaff in our harvest, and to learn what modes of cultivation may be still more fruitful.—DANIEL GLASER

# Letter to the Editor

## TO THE EDITOR:

I am one who thoroughly enjoys your publication and find many articles extremely relevant to our situation here in Nova Scotia Correctional Services. The announcement in your December 1978 issue that you were running a series of articles on "Practical Probation" delighted me greatly. We have attempted to design an on the job training program for Probation Officers in Nova Scotia based on selected readings and supervised performance of tasks. The first year program was divided into 3 phases and during the first phase which lasted 4 months a manual of readings was assigned to the Probation Officers, many of which were taken from *FEDERAL PROBATION*. The task of the new officer was to read the articles and critique them. Periodically the manual was reviewed and articles were changed in response to the criticisms of the staff in terms of their relevance. I look forward to the upcoming articles that you list in your December issue and am delighted to see that Dr. Henry L. Hartman's articles are being reprinted.

Some other articles which are of interest to me are the articles in a series entitled "Sex Offenders on Probation" written by Alex. K. Gigeroff, J.W. Mohr, and R.E. Turner. I have some poor copies of one on the exhibitionist and I am aware that there is another one on homosexuality as well. I would appreciate receiving reprints of the articles in these series and obtaining information on reprints of other articles which have been published in your Journal.

I am in the role of Coordinator of Staff Training and Development for Nova Scotia Correctional Services which involves designing and implementing training programs for Adult Probation Officers and staff of adult institutions in the Province of Nova Scotia. From time to time I put together manuals for various persons such as Superintendents of Jails, etc., and I find the *FEDERAL PROBATION* an excellent resource for this purpose. There are times when I find certain issues of the Journal not available

and would be interested in knowing if back issues are available from time to time.

Another article which we found extremely interesting and helpful in our service was the one entitled "Contract Setting in Probation" and would be interested in receiving more information on that model of case classification.

We have initiated a project here in Nova Scotia Correctional Services and I would be interested in knowing if other jurisdictions are involved in the same type of project. This is a project in which we are attempting to develop training programs for Probation Officers with the use of videotape. We have already produced 2 videotapes, each of one hour duration. The first one is entitled "Effective Interviewing for Correctional Counsellors" and utilizes 3 Probation Officers performing the role plays demonstrating each of the teaching points and this writer explaining them with the use of a flip chart. The second videotape is entitled "Effective Problem-Solving for Correctional Officers" and utilizes Dr. Thomas Gordon's 3 methods of problem solving that he outlines in his *Parent Effectiveness Training* and *Leader Effectiveness Training*. The reason we have gone into videotape programs is because we are hoping to provide training which is mobile. The next tape we are trying to produce is one relating to Probation Officer—Secretary Team Concept. The target date for this one is December 1979. The article in your *FEDERAL PROBATION* entitled "Receptionist: A Key Role in the Probation Office" will be one of the references we will utilize in developing this program.

July 25, 1979

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AS A PROBATION OFFICER, I have found that the social work concept of setting the contract gives clarity and direction to my work. This concept has proved very useful in social work and other forms of counseling for many years. Setting the contract simply means reaching agreement with the client as to what goals he will work toward achieving. I believe that other probation officers working with offenders could use this concept to avoid feeling overwhelmed and discouraged by seemingly unmanageable caseloads.—EDITH ANKERSMIT

# Reviews of Professional Periodicals

## THE JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY

*Reviewed by* EUGENE H. CZAJKOSKI

"Parole Board Decisionmaking: A Study of Disparity Reduction and the Impact of Institutional Behavior," by Michael R. Gottfredson (Spring 1979). Regular reviewers of social science research often get the impression that many studies are undertaken to merely exploit easily accessible data—a situation wherein theoretical or policy issues are contrived to fit data at hand. The ingenuity and strained assumptions involved in developing issues for data (instead of the other way around) may result in overdressed research with threadbare findings.

The study reported in this article is a possible example of assumptions fetched from afar in order to support working the data along the lines of a reasonably worthwhile issue. In this case, the researcher aims at evaluating the degree to which parole board decisionmaking reduces disparity in judicial sentencing and the degree to which parole board decisions are influenced by behavior while imprisoned.

The researcher makes the argument that reduction of sentencing disparity is a latent function of parole, a function substantially considered in the current debates over the viability of parole boards. While one might be somewhat held back by the fact that, historically and philosophically, reduction in sentencing disparity is not to be found in parole's armamentarium of justifications (and therefore not much at issue), one could concede the researcher's argument for the sake of arriving at the next point having to do with parole decisions affected by prison behavior. This latter point is at least historically in keeping with the mission of parole. It is also, undoubtedly, related to sentencing disparity for if there is evidence that parole boards are concentrating on prison behavior for making parole decisions then there would be little room for decisions oriented to reducing sentencing disparity. Moreover, in recent decades, protection of the community and rehabilitation potential have been oftentimes stated as primary criteria for the parole decisions and, more significant perhaps, they have been the keystones of the rhetoric that for so long supported the parole device. Of course, frequently in a covert way, prison adjustment was used as the measure of both rehabilitation potential and community protection so that prison behavior emerges as the most critical element to be measured in the parole decisionmaking process.

The problem of trying to determine how the factor of reducing sentencing disparity prevails against the factor of prison behavior in parole decisions is complicated enough in itself but it is made awesome by the extreme difficulty of operationally defining sentencing disparity. The researcher here settled for defining it in terms of offense and prior record thereby casting off a host of other defining features such as work history, offender attitude, psychiatric condition, plea, drug or alcohol involvement, education, confinement status, medical history, age, sex, race, etc. In addition, the phenomenon of plea bargaining draws a mottled veil over the relationship between crime and sentence thereby confusing any per-

ception of balance between convicted offense and sentence imposed. The fact that the researcher virtually ignored the problem of plea bargaining seriously undermines his investigation.

Data used in the study was collected from a sample of adult cases drawn from the U.S. Board of Parole in the years 1970-72 before the Board became a Commission and before the implementation of the Commission's parole guideline system. Among the variables measured were seriousness of offense, prior record, maximum length of sentence, time actually served, and prison rule infractions. Unfortunately, other measures of prison behavior such as successful participation in treatment were not available.

As might be expected from a study having so many limitations, the results are only "suggestive." It appears that for the sample studied, the Federal parole board "substantially reduced the time actually served in prison from the maximum judicially set sentence length but overall the relative reduction in variability in sentences for similarly situated offenders was not large." In other words, there is not much reduction in sentencing disparity as defined by the researcher. The study also suggests that the parole board does "modify sentencing decisions on the basis of institutional behavior but that these modifications account for a relatively small proportion of the sentence modification variation."

In any case to the extent that sentencing disparity reduction through parole decisions is an important issue beyond the contrivance of this particular study, the only conclusion to be drawn is that more research is needed.

"Judicial Decisions and Sanction Patterns in Criminal Justice," by Susette Talarico (Spring 1979). The author of this article has produced a thoughtful and interesting piece of research and, as usual with research of its kind, it raises more questions than it answers (an outcome not to be disparaged). Inasmuch as the data utilized in the study was collected from a single State (Connecticut), and inasmuch as there has been a significant, albeit erratic, trend throughout the country to establish rather firm sentencing and parole guidelines, the ability to generalize from this study is quite limited. Still, it effectively points to assumptions and policies which require re-examination.

The study approaches a fundamental question in our criminal justice system having to do with the congruence of official goals and operational goals. Put another way, the question becomes to what extent do operative decision criteria relate to recognized goal priorities. Using discriminant analysis techniques, the author determined which of some 14 variables seemed to have the greatest effect on sentencing decisions and which of some 21 variables seemed to have the greatest effect on parole decisions. Variables were grouped as to their association with such general goals as rehabilitation, retribution, incapacitation and deterrence. The variables were measured against what the author calls the "two key post conviction decisions in the criminal justice system"—sentencing and parole. One could argue that there are three, not two key postconviction decisions by simply referring to clemency decisions, notably pardon, and, in the case of death sentences, especially commutation and reprieve. One could also quibble with the author's assertion that the sentencing decision involves "a threefold



option: (1) suspension of entire sentence through probation; (2) partial suspension of sentence, some incarceration and probation; and (3) incarceration." That categorization ignores the long established discreet disposition of a fine and also ignores the vogue in restitution type sentences. Moreover, probation is not the only vehicle for suspending a sentence.

Among the interesting study findings were: (1) defendant's plea and probation officer recommendations weigh more heavily in the sentencing decision than legal criteria, i.e., criminal record, severity of offense, etc.; (2) bail status has a significant negative discriminating impact; and (3) parole decisions seem mainly influenced by employment factors and little influenced by offense severity and criminal history. (This latter finding relates to the question raised in the above reviewed article by Gottfredson in that it speaks to a parole board's capacity for reducing sentencing disparity based on offense.)

The several important questions raised by the research relate to: the implications of the finding that "bargain norms carry considerable weight in sentence classification"; the fact that economic status bears heavily on sentencing outcome; the suggestion of organizational maintenance as an important factor in decisionmaking; and the research complications arising from the fact that plea bargained convictions do not reflect actual offense behavior (which strongly suggests that it might be better to deal with offense for which arrested rather than the offense for which convicted).

The author concludes that the decision processes of the parole board and the court cannot be said to be directed to particular goal priorities. Neither can it be said that the parole decision process duplicates the sentencing function (again refer to Gottfredson above). It is contended by the author "that decision criteria will be haphazardly applied unless and until the question of goal priority is adequately resolved."

"The Caseload Controversy and the Study of Criminal Courts," by Peter F. Nardulli (Spring 1979). Caseload pressure is pervasively used in the criminal justice system to account for a variety of shortcomings. In corrections, especially in probation and parole, it is given as the explanation for ineffectiveness in regard to recidivism. In police work, it is offered as an excuse for low clearance rates. In the courts, where the focus of this article is placed, caseload pressure has been used to account for unduly high dismissal rates, excessive plea bargaining and weakening of the adversary mode.

The model followed by traditional research on the effects of caseload pressure has been one where caseload pressure works against various due process notions in affecting dispositional strategies which produce criminal court outputs. In the research reported here, the model preferred is an organizational one which substitutes "interest of the court organization's governing coalition" for caseload pressure and substitutes prevailing notions or community expectations for formal rules of criminal procedure.

Applying a "micro-perspective," the author studied the effects of variations in monthly caseload levels among the judges of the Criminal Division of the Criminal Court in Chicago. Involved was a sample of 816 adult felony cases disposed of during 1972-73. It was found that caseload pressure had a meager impact on the dispositional decisions of the court. Moreover, it appeared that the trial courts of Chicago had "excess capacity" or a good deal of idle time. There was indication that a "clubhouse" atmosphere in the court was more influential in the dispositional process than caseload pressure. Despite an

"excess capacity" the Chicago court "was clearly not due process oriented" during the period encompassed by the study. Expeditious handling of cases (at the expense of due process notions) produces benefits which can be shared by judges, prosecutors and defense attorneys and "they have been able to maintain a resilient coalition which is a viable force within the dispositional process." It appears that manipulation of caseload magnitudes is not likely to have the desired effect of increasing the due process thrust in the court. The conclusion drawn in the article is that an organizational perspective, inasmuch as it attends to the power and interest structures of the court, provides a more effective approach in dealing with the way the court disposes of its cases.

## PROBATION JOURNAL

(England)

*Reviewed by* HAROLD W. KELTON

"Development of a Court Intake and Assessment Team," by Fred Jarvis, Laurence Coates, and Pat Hutchinson (June 1978). If a probation office is organized into two specialist teams—one providing court services and one providing supervision-treatment services—would probation staff, thereby, be enabled to realize their full potential in these two areas? The Leicestershire Probation and Aftercare Service determined to find out by experimenting with such a system. The staff was reorganized into five field supervision teams and one court intake and assessment team (CIAT). Four months were allotted to establish the reorganization. Assignment to the CIAT was found to be resisted by the Bristol probation officer who views the "treatment" function of probation services as the more fulfilling part of the job. This problem was alleviated by providing CIAT staff the option of returning to a treatment team after a specified period of service and requiring new probation officers to serve with CIAT as "an important part of (their) professional development." Members of the CIAT were also assigned to each treatment team for liaison and participated in regularly scheduled staffings. Other problems were that CIAT members had to become accustomed to grinding out a never-ending backlog of reports and dealing with minor friction that inevitably developed between CIAT and treatment team staff. The article concludes that such a system can be helpful to offices with a "... large central conurbation." There is a research project report on the Leicestershire Program that can be obtained from the Leicestershire Probation and Aftercare Service (2.40 British Pounds).

"The Probation Order, Its Decline," by R.H. Robinson (June 1978). Robinson was prompted to prepare this work because he wondered about the steadily decreasing use of probation orders, the decline of which has been both absolute and proportionate since 1967. Part of this, he thinks, may be a result of the "Community Service Alternative." His main attention, however, is drawn to the relationship between sentences and probation officers' recommendations as to sentencing and the result for us is a fine, little presentation of some very intriguing ideas. Offenders before the court, he says, are mainly of the career type, and so we will be seeing them again and again. We have fallen into a pattern of granting probation to "first offenders" and prison to repeaters. Robinson's bold idea is that first offenders should not be admitted to probation on general grounds that they do not really



need it and tend to monopolize limited agency resources. Something on the order of a simple, suspended sentence without supervision would do fine. On the other hand, probation should be seriously considered for the experienced offender even though he has previously served a few prison sentences, the general theory here being that full probation services at this point are likely to be more effective and have more reason to offer success. This format for granting probation would, Robinson feels, see its use increase. Finally, he observes that the development of some form of *sentencing guidelines* would enable probation officers, working in teams, to fully utilize the extensive data contained in Sentencing Inquiry Reports (presentence reports) and eliminate "idiosyncratic patterns" in sentencing recommendations.

"The Court Experience: Prisoners' Views," by Frank Holden (June 1978). Do offenders passing through the court system on their way to prison feel they are being put through a "sausage machine"? Holden rather suspected that they did, and so he asked 60 of them a series of 12 questions and, in terms of attitudinal consistency, the results are notable. Prisoners tend to *feel* that while Social Inquiry Reports (presentences) are accurate, they do not get adequate opportunity to read them, they are cursorily prepared, and the significance of the content and recommendation is not clearly known to them. Furthermore, prisoners may feel that their legal representation was inadequate and that the legal process, generally, is rather mysterious. Robinson's data is presented, and readers can make their own interpretation of it, but a point is made that, of all the court figures, the probation officer is the one person best suited and best situated to help offenders gain comprehension of the process in which they find themselves enmeshed.

"Young Offenders in USA (Report of a Visit)," by Brendan Fulton (June 1978). To a visitor from North Ireland, juvenile probation work in the USA seems to be characterized by probation officers who see themselves as counselor/case managers with an abundance of special program private agencies with whom they may contract for services. Why do private agencies "blossom forth" in the USA? Probably because of big government money, private enterprise spirit, and the enforcement of little accountability or maintenance of standards. They are, consequently, involved in a "revolving door" activity classifying needs and, in "compartmentalized fashion," pushing those with deficiencies in social functioning towards "... a programme to rectify with the presumption that development within this area will result in a move away from criminal or antisocial behavior." While this may cut the probation officer off from the community, it may tend to "bridge the gap" for offenders. Another interesting observation: Plea bargaining in the USA is "widespread" with the judge acting as "honest broker," the district attorney wielding impressive power, and the defendant more likely to find satisfaction with the process.

"Employing the Unemployable," by Martin L.J. Rudenko (June 1978). It is a tiresome knowledge that the vocationally disadvantaged—prisoners, alcoholics, and the psychopathic—have little chance of breaking out from a life of menial work, welfare, and institutional existence. Rudenko's survey of men in various Southampton Hostels once again confirms this situation. Probation officers, for their part, could probably be more effective in dealing with this if they did more to understand the problem and develop necessary skills as "employment specialists." There are two general courses of action; the employment placement agency and the "workshop." Employment place-

ment specialists must learn "... businesslike approach to employment ..." by frequently meeting with employers, knowing all employment agencies and bureaus in the area, keeping indexes and files, and attending all meetings and functions of these peoples and organizations. Establishment of a workshop will be successful when it meets commercial needs as well as *really* meeting needs of employees. This means it must turn out a good, honest product while providing to employees a level of income and vocational fulfillment that is worth their while. Workshops are often founded with the goal of providing "job training," and we agree with Rudenko that the real emphasis should be in simply providing "work." Finally, he observes that there are many organizations willing, not only to advise, but also to assist such projects.

"The Persistent Sexual Offender—Control and Rehabilitation (A Follow-Up)," by Roger Shaw (June 1978). As a followup to his original article appearing in the Journal in March 1978 Shaw now provides more details of a program combining use of "libido suppressant" drugs and a counseling group. The drug, Cyproterone Acetate, must, of course, be administered under medical supervision, and so participation by a doctor is a program prerequisite. For Shaw, this service was provided by a volunteer physician interested in the penal system. Advanced preparation included discussion with the magistrates, the drug manufactures, and physicians. The subjects of the program were prisoners who began use of the drug just prior to their release on parole. Shaw reiterated that his plan was to "... reduce—but not totally remove—sexual drive by a libido suppressant and to back this up with probation resources notably a group of volunteers who met in weekly support sessions with the probation officer." This plan of treatment did seem to be helpful to the compulsive sex offender and to courts looking for workable alternatives to imprisonment. Shaw further observed that volunteers serving on the counseling group operated at a more intense pitch with probation officers and other authority figures absent and women in attendance with whom offenders had stable relationships.

This plan while very interesting and generating a considerable response was terminated simply because Shaw was transferred to another district. He, therefore, makes the point that the probation service needs adequate resources to experiment with such innovative ideas but notes that implementation and continuance of them usually depends on the imagination and initiative of one dedicated person.

## CORRECTIONS MAGAZINE

Reviewed by OMAR G. RIOS

"Profile/Mississippi: Has Come a Long Way, But It Has a Long Way to Come," by Stephen Gettinger (June 1979). In this article, Mr. Gettinger describes the Mississippi State Penitentiary system at Parchman, whose 22,000 acres of isolation provides the security for the various "camps." Parchman did not pretend to rehabilitate anyone and existed for punishment and for profit.

In 1972, the prison system was declared unconstitutionally cruel and Mississippi was ordered to come up with a plan to remedy the situation. The system has changed drastically in the past 5 years. Mississippi's

history of imprisonment and some of the events which led to the 1972 ruling of the leadership and practices are reviewed.

It was not until 1975 that stricter court orders pushed the state toward faster reform. Several prison camps were ordered closed over a 2-year period and that forced the State into a crash building program. The interested reader can learn of the changes made to alleviate the overcrowded living conditions, to cover disciplinary matters, to keep inmates busy, to hire and to train personnel. Other changes are also reported.

Changes being discussed for the future are population reduction by using diversion programs; by making more use of community programs, by encouraging local communities to reduce the number of people they send to Parchman and by initiating laws that bypass the parole board.

Critics say that programs, such as work-release, are not used liberally. Others criticize the state's building program by saying that far too many people are sent to prison and that alternatives to imprisonment should be examined.

"The Quality of Mercy," by Kevin Krajick (June 1979). The President and governors in the United States retain the power of executive clemency. Those in power are often influenced by electoral politics, newspaper publicity and by personal quirks. "While it has great potential for abuse, executive clemency is used extremely sparingly." The differences between commutation of a sentence, between a pardon, and between a reprieve are discussed. These three categories are what executive clemency covers and most people understand poorly these concepts.

Sometimes, who receives clemency has to do with "luck," public acclaim, heroic acts by an inmate, ritual significance of clemency, and with emotional issues such as the death penalty. Executive clemency was the forerunner of parole. Now that parole has become the major release process, clemency has been retained as a safety valve to deal with those extraordinary cases. The conservatism toward granting executive clemency is mentioned.

Also discussed is New York State's tough, inflexible drug law and how commutations are usually handed down to correct prior sentencing disparity.

Mississippi has a system of temporary leaves called "executive suspension." The governor may free inmates for 90 days at a time and may renew the suspension every 90 days until the term expires. Seasonal commutations, which usually occur around Christmas time are reviewed as is the mass commutation that occurred in Georgia in October 1976. Other examples of how public pressure can impede clemency are cited.

Clemency process and procedures are described. One can read this article for further familiarization with this long and complicated process and one can learn of the reasons for the conservative attitude toward Presidential clemency.

Two short companion articles by John Blackmore comment on the clemency process in the states of Pennsylvania and Tennessee. Pennsylvania has, since 1874, had a constitutionally prescribed process by which an independent board reviews clemency petitions before one reaches the governor's desk.

Tennessee's clemency system is examined and current reform efforts are presented. The article by John Blackmore is titled "Tennessee's Clemency—Selling Scheme: Could Blanton Not Have Known?" and specifically deals with the granting of pardons and sentence commutations under questionable circumstances.

"The Death Penalty Is Back—And So Is the Debate," by Stephen Gettinger (June 1979). The author presents excerpts from his forthcoming book, *Sentenced To Die*, and questions whether the death penalty can ever be applied in a fair and just manner. This article discusses (1) The "new" Death Penalty, (2) Does Capital Punishment Reduce Murder?, (3) The Moral Debate, and (4) Race is Still a Factor.

In 1972, in *Furman v. Georgia*, the U.S. Supreme Court declared unconstitutional the procedures by which death sentences were given. Various state legislatures enacted laws that made death mandatory upon conviction for a specific crime or they attempted to provide standards to guide juries in making their decisions. In 1976, the Court approved sentencing standard guidelines but not mandatory sentencing schemes.

Statistics indicate that murder is a once-in-a-lifetime crime. Studies are cited that lead to inconclusive evidence about the death penalty acting as a deterrent. The death penalty deters some murders and it also inspires others to commit murder. "And the evidence is convincing that any effect capital punishment might have on the murder rate is so subtle that it cannot be measured by today's most sophisticated researchers." It is presented that fear of the electric chair comes when one is living next door to it. "The moral dilemma lies at the heart of the capital punishment issue: Does the death penalty enhance the value of life, or demean it?"

The racial aspects of the administration of the death penalty have become a relatively new issue in this debate. Studies cited revealed that the racial factors were the only significant ones to account for the death penalty in offenses such as rape. In murder cases, while racial discrimination is still evident, nevertheless, it is still dramatic.

This is a very good reference article that presents opposite views on these four topics.

## CANADIAN JOURNAL OF CRIMINOLOGY

Reviewed by VERNON FOX

"The Juvenile Services Project: An Experiment in Delinquency Control," by J.A. Byles and A. Maurice (April 1979). With the Young Offender Act soon intended to replace the Juvenile Delinquents Act of Canada, it is time to evaluate the effectiveness of delinquency prevention programs that have previously been disappointing. The Juvenile Services Project was designed to make service readily available to all believed in need of help and provide close collaboration between police and mental health systems. The target group were children in Hamilton, Ontario, with two or more contacts with the police while under 14 years of age in order to permit a 2-year followup. Intervention was directed at the family as a system, rather than the individual offender. Of the 305 target juveniles who met these criteria, 154 were randomly assigned to the experimental group and 151 to the control group. Intervention was based on crisis-oriented strategy in that when an occurrence report was received on a juvenile in the experimental group, the plainclothes Youth Bureau officer called the home to set up an appointment with the entire family, then arranged for a therapist to accompany him to the meeting. Nine different therapists identified with the Out-Patient Clinic of the general

hospital's Department of Psychiatry, including nurses and social workers, participated in the program. The results showed "no effect," possibly partially because the experimental group had more police contacts to begin with than did the control group. The results of the Juvenile Services Project are consistent with every carefully evaluated delinquency control program that has been conducted. Present evidence suggests that delinquency is not primarily a mental health problem, so the only use of these services to reduce the anti-social behavior of children will likely result in continued frustration and disappointment. Consequently, every plausible alternative should be attempted, rather than ignoring an important problem.

"Canadian Victimization Surveys: A Discussion Paper," by John L. Evans and Gerald J. Leger (April 1979). The Research Division of the federal Solicitor General's Department has undertaken a program of research designed to produce previously unavailable data in a cost efficient manner. The first major victimization surveys were conducted in the United States in 1967 as a result of their initiation by the President's Commission on Law Enforcement and Administration of Justice. Subsequent major surveys have been done by the U.S. Bureau of the Census with LEAA support. Victimization surveys have been conducted in several other countries. With the exception of a mailed victimization questionnaire in British Columbia and a study of burglary victims in Toronto, no major victimization surveys have been made in Canada previous to the currently planned survey. The four major objectives are to determine (1) the extent and distribution of selected crimes, (2) impact of selected crimes, (3) risk of criminal victimization, and (4) indicators of criminal justice system functioning. Based on an analysis of previous data, a logical sequence of studies would be (1) another reverse record check with a revised questionnaire based on data from the Edmonton study completed in May 1977 in which victims were identified by police, rather than randomly selected, (2) a random digit dialing study (RDD) that has produced reliable results in previous studies, (3) a French language test of the revised questionnaire, and (4) a major survey in Canada. Potential users of the victimization survey data are asked for comments on the development of the Canadian Victimization Surveys.

"La conscience du droit chez les étudiants anglo et franco ontariens," by F.X. Ribordy and A.N. Barnett (April 1979). The image of the law was surveyed among 293 primary school students, 370 secondary school students, and 103 students in the university, 66.3 percent of whom were English and 38.1 percent of whom were of French background. The study was done in Sudbury, Ontario, which is located near French-speaking Quebec.

The findings were that students identified with the English culture tend to view the law as a normative element with greater belief in the value of the rule, while students identified with the French culture tend to view the law as coercive and part of a hierarchal tradition in society. As the students progress from primary school to the university, the distance between the two groups is diminished.

"Comment: The Commercialization of Criminological Research in Canada," by Jim Hackler (April 1979). The increasing amounts of money being invested in criminological research in Canada may yield low dividends because it rewards commercialization, rather than genuine scholarship. Research reports prepared by consulting firms, are read by only a few people. Contract research encourages researchers to adjust their strategies to finan-

cial considerations, rather than toward a major contribution to knowledge. Consultants cannot ask for small grants, since consulting firms cannot do so much work with as little money as some major research contributions have had. Lastly, the timing of funding by some agencies frequently involves extensive delays before decisions are made and then these decisions tend to be made with the condition that the research be done quickly. Effective criminological research is enhanced more by sustaining a dynamic process, such as in a university setting, than by creating politically motivated guidelines for elusive and often futile goals.

## SOCIAL WORK PERIODICALS

*Reviewed by HARVEY TREGER*

"The Personality of the Worker: An Unexplored Dimension in Treatment," by Sonya L. Rhodes. (*Social Casework*, May 1979.) This article is about an aspect of the treatment process, the worker's personality, which has been thought to be significant but is rarely written about. The author states, "The therapeutic relationship is as much characterized by the worker's personal attributes as it is by technical expertise. It is this combination of personality and professional competence that characterizes the worker's therapeutic style. An acknowledgement of the dimension of the worker's personality in teaching and supervision has implications for workers' preferences of setting and fields of practice, fosters benevolent 'matches' between workers and clients, and explains the relative comfort and success workers have with various modalities of intervention and treatment." The worker must sort out what is real and what is not in the relationship. Underlying this approach is that the workers must know enough about themselves to recognize the realistic component in clients' reactions. Acknowledgment of worker's input as part of the impetus to clients' behavior tends to de-emphasize pathology and normalizes the process by which one takes responsibility for one's reactions and behavior. Healthier clients are able to do this while clients at the borderline and psychotic end of the clinical spectrum do not. On the other hand borderline and psychotic patients whose reality testing is impaired are more sensitized to countertransference reactions.

The author believes it is a good diagnostic index as well as good therapeutic technique to be willing to discuss clients' feelings and thoughts about workers' personalities as perceived by clients, and not solely in terms of transference implications. Countertransference is discussed in terms of the therapist learning about his own reactions as well as the behavior of the client that is bringing about these feelings. The need for supervisors to help bring countertransference into awareness and discuss personal qualities, natural abilities and styles of relating should be a basic part of supervision so that it can advance the work with the client and further increase professionalization.

This article suggests to the reviewer an extension of the concept to an examination of the interrelationship between the program developer's personality and the development of a program.

"Compulsory Persuasion: A Problem For Correctional Social Work," by Peter Raynor. (*The British Journal of Social Work*, Winter, 1978, Vol. 8, No. 4.) The author is a

former probation officer now a lecturer in the Department of Social Policy and Social Work at the University College of Swansea where he has a particular interest in probation training.

In a summary paragraph the author states: "Social Work risks being misused as a technique for controlling undesirable behavior, regardless of clients' expectations or choices. This approach to social work involves certain underlying assumptions about human nature which raise considerable ethical and practical difficulties." In the article he considers recent trends in the probation and aftercare service together with some research studies of the effectiveness of social work in reducing offending behavior. Raynor's main point is that "social work services for offenders are more likely to be effective when the emphasis is on helping with perceived problems and difficulties rather than on crime prevention." It is believed, Raynor states, that we can help people more effectively if we remain aware of distinctions between coercion, constraint and influence. The notion of client-worker contract and the client's participation in its development are significant points. In all, this is a thoughtful article which will stimulate the quality and level of discussion that is needed and possibly some further questions for research into the social work role with offenders. The author makes good use of his background in philosophy in highlighting and analyzing the issues. His discussion is well documented. The article can be utilized for in-service staff training in probation offices and for institutional staff as well as for social work students interested in social work in the Justice System or the protective services—child and adult.

## THE JOURNAL OF DRUG ISSUES

*Reviewed by* GEORGE I. DIFFENBAUCHER

"A Research Model for a Comprehensive, Health Service Oriented Understanding of Drug Use," by Richard Dembo and Louis E. LaGrand (Fall 1978). Two related trends are reflected in the growing theoretical and methodological sophistication of research on drug use. First, there is increasing recognition that drug use must be considered in the context of the attitudes, beliefs, and social and cultural experiences of the people taking them. Second, addressing attention to the use of one substance or another has given way to the perspective that a comprehensive understanding of drug use requires that the use of legal (prescription, or the counter drugs, alcohol and tobacco) and illicit drugs be studied. In addition to the chemical structure of a drug, the psychological set, or predisposition of the user, and the social setting in which drug taking occurs are essential features in learning about the drug experience. Drug use is invested with numerous values, meanings and status features which often differ markedly among various social cultural groups.

For example, research done by the Institute for Research in Social Behavior of Berkeley, California, and the Social Research Group of the George Washington University in 1970-71 reveals some interesting probabilities about Americans above the age of 18, among them: that the proportion of women using prescription psychotherapeutic drugs is much greater than for men; that there tends to be an increase in the percent of people

using prescription psychotherapeutic drugs as they grow older; that alcohol, which has pharmacological effects similar to those of sedatives, hypnotics, and minor tranquilizers, is an alternative means of coping with emotional distress; that there is a moderate, positive relationship between the level of life crisis and the taking of medically prescribed psychotherapeutic substances; that the American public continues to have strong reservations regarding the use of psychotherapeutic drugs, even though they do use them.

One doing research into drug use must establish a frame of reference that systematically assesses the salient features of life of different cultural and social groups in specific areas. Such a comprehensive perspective demands a detailed focus on three levels: (1) to locate the demographic and social life conditions of the people researched; (2) to learn the cultural and social values, health beliefs and behavior that are important to these persons; and (3) to determine how the first two factors, or life style features, relate to the use of substances. The authors describe a comprehensive research agenda.

"Evidence for Controlled Drinking in Diagnosed Alcoholics: A Critical Analysis of the Goodwin Et Al. Adoption Study," by David A. Ward (Fall 1978). The most controversial issue in the treatment of alcoholism surrounds the debate over the possibility of controlled social drinking for recovered alcoholics. Behavioral psychologists contend that alcoholism is learned behavior and that alcoholics can be trained to regain control over their drinking. On the other hand, proponents of the disease conception of alcoholism contend that it is possible for alcoholics to drink normally because they may have inherited a susceptibility to alcoholism. The author believes that the Goodwin study cited provides evidence supporting both the disease conception and the controlled drinking thesis.

There have been enough reported cases in the Goodwin study and others to conclude, at least tentatively, that some alcoholics can return to some fashion of nonalcoholic drinking. It may be impractical to impose the goal of total abstinence on alcoholics who will not seek treatment because of it. The practical basis for the position that the ultimate treatment goal for alcoholics should be abstinence stems from the fact that present knowledge about controlled drinking does not indicate which alcoholics can achieve it.

There has been a good deal of energy spent over the issue of the possibility of controlled social drinking for recovered alcoholics. It seems practical to put aside the debate over whether it is possible. The only meaningful debate should be over whether it is therapeutically practical.

"Drug Education: Further Results and Recommendations," by Richard H. Blum, Emily F. Garfield, Judy L. Johnstone, and John G. Magistad (Fall 1978). This is a report of an experiment in drug education which took place over 2 years among entering sixth graders in five suburban California schools. A previous study found that the greatest impact of drug education was in the sixth grade.

Descriptively, the study found that the trend toward ever earlier nonmedical self-administered drug use among children is continuing. Two kinds of educational impact were found, one of which is "destabilizing" (increases new drug use) and the other of which is "restraining" (retards uptake of more extreme unsanctioned substances such as amphetamines, barbiturates, hallucinogens, cocaine and opiates).

Variables significantly contributing to use trends over time or drug use level at the beginning of the sixth grade and inhalant use history, only five percent of the variants is accounted by educational experience and school, indicating how minor a role education does play in explaining drug use trends. The largest number of students can be expected not to change their level of use if they receive little or no drug education at all. Nonetheless, drug education does have some impact on sixth and seventh graders' nonmedical psychoactive drug use.

The practical citizen, interested in children's restraint in self-administered psychoactive drug use, will include school-based education in that effort. That citizen will not, however, have great expectations for its impact and will necessarily engage other arenas and institutions in the effort to prevent that conduct which is either morally unacceptable, a demonstrable health risk, or an identifiable agent in reducing the adequacy of personal and social behavior.

"Gestalt Polarities: Understanding and Counseling the

Resistant, Non-Motivated Drug-Dependent Person," by Arnold B. Coven and Evan Blackhawk (Fall 1978). The concept of polarities in Gestalt's theory sheds light on the resistance and nonmotivation of drug-dependent clients. Gestalt principles and methods enable counselors to work with nonmotivation in a more behavioral manner. Persons working with "nonmotivated" clients, such as in a probation setting, need to understand the Gestalt concept that resistance is an unavoidable process in every effective treatment and that this phenomenon is not specific to drug rehabilitation.

There are many polarizations or paradoxes in substance abuse. The paradox of methadone is that the helpfulness of the drug treatment contradicts the message of the negative effects of drugs. Another relates to drugs inducing good feelings and yet causes sickness and dependency.

The author describes "the inadequate impasse," a "statement of opposite life goals," and "role playing opposites" as three areas for resisting and treating polarities relating to counselee resistance.

## Your Bookshelf on Review

EDITED BY BENJAMIN FRANK, PH.D.

### A Critical View of Juvenile Justice

*Counter-Deterrence: A Report on Juvenile Sentencing and Effects of Prisonization.* By Gerald R. Wheeler, Ph.D. Chicago, Illinois: Nelson-Hall, Inc., 1978. Pp. 182. \$13.95.

In this brief, compact book, Gerald R. Wheeler brings descriptive statistical analysis to the task of characterizing and evaluating juvenile justice. From an examination of the origins of the welfare state (quoting Kettie, Morris, Hawkins, and others) Wheeler proceeds to identify and systematically test the major theories of juvenile sentencing, classification, and parole policy. In doing so he develops a statistically based argument for abandoning indeterminate sentencing and offers a 10-point recommendation for resolving the accompanying ills of coercive treatment. "The Child Welfare Effect," he asserts, results in a perversion of justice (counted-deterrence) within present-day juvenile systems where the younger status offender is likely to serve more time than his older counterpart committed for a crime of violence.

The author's analysis begins by examining institutional length of stay as a measure of institutional effectiveness. He takes his data initially from two sources, H.E.W. statistics on public institutions for Delinquent Children, and the Pappenfort Analysis (University of Chicago), on length of stay. He then systematically controls for release method, classification, institution size, interaction effects, and committing offense in reporting institutions in 1966 and the period 1970-1974. On prisonization, the author uses data consisting of a 3-month cohort (686 cases) of youth committed to a mid-Western State's Youth Commission in 1972. Some of the same correlations are performed, but for this analysis other variables such as offender characteristics: sex, age, race,—and committing offense are added.

Taken together, the author's findings show a remark-

able lack of significant correlation between the variables. In 1974, the 30 reporting states showed large institutions confining youth slightly longer than small institutions, but the difference was not significant. The same lack of significance held when comparing length of stay in institutions using staff-initiated release systems, as opposed to institutions with parole board-initiated release. In comparison of classification methods, the Interpersonal Maturity Level (I-Level), the Quay, or a combination of the two confined youth somewhat longer than did a standard APA Test, however, the result was not statistically significant. All categories of institutions released inmates near the ninth month of confinement, belying the theory of differential treatment.

Likewise, length of parole, when compared across institutions showed institutional assignment to be the intervening variable, causing all offender-related variables to disappear. The author concludes that such a finding suggests an extension of the therapeutic state into the community. In other words, juvenile parole poses another example of counter-deterrence: Youth with the *least* serious offense at commitment were found serving equal or longer supervision terms in the community than (F.B.I.) Index offenders.

Chapter 9, "A New Policy of Juvenile Justice," carries the author's recommendations for reform. Although all are of interest, some appear to be better substantiated by his data than others. Wheeler recommends abolition of indeterminate sentencing, and with it, abolition of compulsory juvenile parole or aftercare services. He endorses use of "creative" punishment sanctions, whereby offenders are allowed to serve their sentence by contributing time to projects in nonprofit agencies. Mandatory computer monitoring and evaluation by State Legislature, Juvenile Courts, and Federal Granting Agencies, is proposed, primarily to make use of computers' speed in recovering information and their potential for measuring cost-effectiveness of proposed services.

Wheeler's arguments are strongest when he stays close to his data. As the author presents his "Case for Non-coercive Humanitarianism," readers are given an intuitively appealing philosophy, but one lacking a substantive experience or evidence to recommend it. Still *Counter-Deterrence* belongs on your bookshelf. Wheeler's scrupulous empiricism, exhibited best in his early chapters, discards sentimentality in a way that is likely to be the norm for criminal justice critics in years to come. Furthermore, his findings about length of stay and parole policy have implications for all justice systems, juvenile and adult, State and Federal.

Washington, D. C.

JUD WATKINS

### Reforming the Criminal Justice System

*Organizing the Non-System.* By Daniel L. Skoler. Lexington, Massachusetts: Lexington Books, D.C. Heath and Company, 1978. Pp. 309.

In *Organizing the Non-System*, Daniel L. Skoler analyzes the difficulties in unifying the criminal justice system. Mr. Skoler makes a valuable contribution to the debate about the desirability of a unified criminal justice system by laying out the practical and theoretical problems that a centralized system might generate. Mr. Skoler provides a useful summary of criminal justice reform efforts (from the Wickersham Commission in 1931 to the present) and reviews the responses that have been made to the recommendations of the various commissions.

*Organizing the Non-System* begins with a description of the components of the criminal justice system; the roles of governmental bodies; and budget issues. Mr. Skoler then deals separately with police, courts and the judiciary, prosecution, defense and corrections. For each component, he outlines its structure, reviews reform proposals and analyses centralization efforts. The last two chapters address integrating the criminal justice system and the future of unification. Mr. Skoler illustrates almost every point he makes with a specific example (such as the experience of jurisdictions which have consolidated police departments or the elimination of local prosecutors in Alaska, Delaware, and Rhode Island).

This book is an excellent resource for criminal justice planners who may confuse the various commissions and their proposals and who do not have the geographical or chronological overview of the criminal justice system that this book usefully imparts. Mr. Skoler successfully synthesizes the reform efforts and by discussing each agency separately, makes it possible to follow the evolution of thinking about criminal justice unification.

Mr. Skoler makes no pretense of being a detached analyst; he is an advocate of greater centralization. Although he takes cognizance of constitutional barriers to unification,—i.e., the need to keep the judiciary and the executive separate,—he argues that some obstacles to unification can be overcome. Using Kentucky and Minnesota as examples, Mr. Skoler provides empirical evidence that some centralization can occur without violating separation of powers. He does not, however, advocate complete centralization.

Despite its thoroughness, *Organizing the Non-System* does not address the increasing diversity of criminal justice-related agencies; such as pretrial diversion, victim services, mediation, and noninstitutional rehabilitation programs. The growth in the type and number of quasi-criminal justice organizations will make centralizing more difficult and perhaps as a goal more unrealistic. Indeed, fragmentation of the system may be increasing rather than declining.

Although Mr. Skoler deliberately chose to address only the "criminal justice apparatus" and not crime or criminal justice, this may have been a mistake. Did the reformers sitting on the various commissions expect their proposals to affect the quality or efficiency of the system? Does Mr. Skoler believe that greater centralization would affect the quality of justice? The amount of crime? While these issues are implicit, they don't rise to the surface sufficiently often or clearly enough to convince the reader, particularly one who is not familiar with the criminal justice system, that questions about structure and organization are pressing public policy issues.

This book should be useful for planners and policymakers as they move toward or away from unifying the criminal justice system. *Organizing the Non-System* provides a comprehensive and insightful view of the progress toward consolidation of criminal justice agencies and carefully describes the criminal justice organization (or disorganization) in many of the states. Although readers may not agree with Mr. Skoler's conclusion about the desirability of centralization, they can be grateful for the careful way the issues are exposed and the framework Mr. Skoler provides for thinking about a more centralized organization of the criminal justice non-system.

New York City

LUCY N. FRIEDMAN

### Reaffirming Criminology's Liberal Tradition

*Crime in Our Changing Society.* By Daniel Glaser. New York: Holt, Rinehart and Winston, 1978. Pp. 533. Hardcover and paperback.

The diversified scope of criminology is no where more evident than in contemporary analysis of "the" crime problem and its solution. For some time, the dominant criminological philosophy was a liberal tradition of seeking "causes" of criminality and then advocating policies pertaining to crime reduction that attacked those causes. This liberal approach, however, has recently been under severe and sustained criticism from both writers of the left (Quinney, Platt) and the right (Wilson, van den Haag). Under the weight of such assaults, it is perhaps unsurprising that some criminologists have felt compelled to defend etiological work in criminology (see Donald R. Cressey, in *Criminology*, August 1978), something that would have been unthinkable and unnecessary even 5 years ago.

Yet, the liberal tradition is far from moribund, as Daniel Glaser's book reflects. Glaser, a sophisticated criminologist who has made a number of important contributions over the years to our understanding of imprisonment, criminal justice, and adult criminality, has written a cogent (and unwitting) defense of liberal criminological thinking. Glaser's book is an analysis of crime in terms of etiology. He reviews major theories of crime and does not limit his review only to sociological contributions; thus, the reader learns also of the latest biological and psychological thinking on crime. There are excellent substantive chapters on the major forms of crime, as well as chapters on substance abuse (and its relation to crime) and sex offenses. Throughout, Glaser fruitfully employs the distinction between predatory and nonpredatory criminality that he introduced in an earlier work. Material dealing with criminal justice agencies (e.g., police, courts, prisons) is neglected purposefully, except as that material is relevant to the issues at hand.

There are two noteworthy chapters, one dealing with



the risk of apprehension (chapter 5), and another concerning the problem of explaining the crime peak in adolescence (chapter 8). The element of risk of apprehension and subsequent punishment for crime has been a major concern in criminology since the revival of interest in deterrence, and Glaser's handling of this topic is very informative. He points out that it is not sufficient merely to examine police clearance rates to explore the nature of this gamble by the offender since most criminals commit more than one crime. Placing his discussion in the context of probability theory, Glaser shows that successive offenses are associated with higher and higher chances of apprehension since the probability of escaping detection for two or more crimes is the product of the probability of each offense, not the risk of each offense alone. Explaining the age of peak criminality in adolescence is no less an important topic. Glaser studies this issue from the perspective of the social position of adolescents, the apparent widening of the age-generation structure in our society, the lengthening time persons are subjected to adolescence, and a number of other casual factors that are intertwined and as yet poorly understood. The chapter is valuable if only because this problem of explaining the relation between crime and age still ranks as one of the more crucial and enduring criminological puzzles, and one that has thus far withstood various attempts at explanation.

This book would be very useful in courses on criminology (although not criminal justice, the subject of a subsequent volume by Glaser). It is clearly written, the issues are precisely identified, and the discussion orderly and concise. And, as Glaser shows, the liberal tradition from which the book came is far from anachronistic. Clearly, we have more to learn from examining causes of crime and the possible policies that flow from those causes.

Washington State University ROBERT F. MEIER

### Twenty-five Years of American Criminology

*Evaluating Criminology.* By Marvin E. Wolfgang, Robert M. Figlio, and Terence P. Thornberry. New York: Elsevier North-Holland, Inc., 1978. Pp. 340. \$27.50.

In *Evaluating Criminology*, Wolfgang and his associates set out to measure the scientific adequacy of American Criminology during the period 1945 to 1972. The results of this investigation are presented in three stages. The first stage examines the citation index as a measure of scientific excellence, the second presents the results of a peer survey, and in the final stage the authors devise a composite measure of excellence and examine the factors associated with high and low quality works.

The section dealing with the citation index is the best presented and perhaps the most interesting. By a diligent search of the literature the research team compiled a bibliography of 3,690 source documents relating to American Criminology during the period under study. From these documents they abstracted over 20,000 citations to works within the bibliography. The analysis of the citation data makes fascinating reading. Most striking are the facts that 50 percent of all citations were made to 2 percent of the works in the bibliography and that nearly 60 percent of published studies disappeared instantly and were never cited again!

The peer survey is the least satisfactory part of the research. In this survey a panel of peer judges were asked to nominate the 20 books and articles in Criminology they thought the best. The response rate in this survey was

exceptionally low: only 20 percent of the peer judges returned useable questionnaires. However, the authors suggest that this response rate does not impugn the validity of the survey. First, it is argued that rating tasks are not influenced by sample bias. While it may be a common empirical result that ranking procedures are robust with respect to sample bias, this conclusion may not be true in general. (Indeed, one would be very suspicious of the results of an election in which 80 percent of potential voters failed to poll. Then, in an effort to turn vice into virtue, the authors present data to show that the respondents were more qualified to assess Criminology than were the nonrespondents. In view of this, they argue, the low response rate could be seen as an asset rather than a liability. This is pure sophistry! The important issue in evaluating the survey is whether the sampling was done adequately. It is doubtful whether a survey which achieved a 20 percent response rate could be described as well conducted even if there were fortuitous features which may have ameliorated the effects of sample bias. To be fair, however, the authors made considerable efforts to obtain a representative sample of peer judges and the defects in the peer survey are more a reflection on the criminologists who were asked to participate than on the research workers' technical competence.

In the concluding section, the 3,690 works in the bibliography are grouped into three quality classes—high quality, average quality and low quality—on the basis of the citation index, the peer survey, and a global rating made following content analysis of the source documents. This classification was achieved by a clustering procedure which partitioned the 3,690 works into the three sets by minimizing the within groups variance of the three quality measures. I was rather disappointed at the limited use of measurement models in this stage of the research. During the last decade there have been rapid developments in measurement and scaling models for social data and it would have been of interest to compare the classifications obtained from different methods. In addition, the authors pay little attention to the problems of the reliability and validity of the classification.

The results of the cluster analysis form the basis of a chapter which lists, by content and orientation, the best works in American Criminology. The chapter consists of over 40 pages of reproduced computer print-out and is not very interesting to read (unless, of course, your name appears in one or more of the lists). I will refrain from telling you who is in the Criminological Top 100 but if you have attended or taught a course in Criminology in the last 10 years many of the best works would have been on your reading list.

Using the results of the classification, the authors then attempt to identify the factors which discriminate between high and low quality work. In this analysis a series of measures derived from a content analysis of the source documents are used as predictor variables in a number of discriminant function analyses. Because of the haphazard amorphous nature of the predictor variables, the results are not very informative. We learn, for example, that high quality methodological works are characterized by such features as: having interpretations congruent with the data; not making purely assumptive interpretations and having hypotheses stated in symbolic form. Other features such as large sample, field observation and the use of specific techniques such as regression and factor analysis also increase the quality of methodological studies. High quality theoretical works have such features as: interpretations which follow from

assumptions and definitions; testable propositions stated and proposition which are logically (as opposed to empirically) derived. While the analysis is conducted carefully, the findings could have been anticipated easily from a reading of an elementary text on scientific methods in social research and it is clear that the authors have failed to capture the elusive qualities which distinguish between good and bad science.

The book concludes with a chapter which discusses the growth of American Criminology during 1945 to 1972 and argues persuasively that this growth conforms to the logistic function which is characteristic of the growth of many sciences. While much of the material is interesting, the chapter could have well been omitted since it seems to have little bearing on the rest of the research.

My overall impression is that this is a conscientious and generally well conducted attempt to examine the knotty problem of measuring scientific excellence. Because the study has many features which are associated with high quality methodological work (for example, interpretations which are congruent with the data, large sample size, factor analysis and regression), I am forced to conclude that this is above average methodological study.

Christchurch, New Zealand

D. M. FERGUSON

### Generic Casework for the Correctional Client

*Correctional Casework and Counseling.* By Hayes A. Hatcher. Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1978. Pp. 332. \$13.95.

The last decade has witnessed an explosion of publications on the criminal justice system with nearly every facet of the system being the subject of scores of texts. While the quality of these publications varies dramatically, the quantity is such that most areas of the criminal justice system have at least a few good books from which the reader may choose. Several areas have, however, been largely neglected by this bombardment of publications; most notably, correctional counseling and casework. One is hard-pressed to name more than one or two texts which are devoted exclusively to these areas. Readers have, therefore, had to read books from other settings and then try to generalize to the correctional setting. For the most part, this has not proved to be a very satisfactory solution. Consequently, readers interested in correctional counseling and casework should have their intellectual appetites whetted by the appearance of Hayes Hatcher's *Correctional Casework and Counseling*.

Hatcher begins his efforts by assigning himself the monumental task of "introducing the student and practitioner to correctional casework models, services, philosophy, history, and principles against a backdrop of development and contemporary practices." (P. xiv). The only possible way the author could hope to cover so much material in 332 pages was to resort to brief and often shallow discussions. Nowhere is this sketchy coverage more evident than in the "Introduction" where the author is content to define correctional casework as "the work of all professional and paraprofessional employees of various formal and informal agencies who deliver services to the corrections client" (P. 1) and to note that counseling is the "major vehicle by which correctional casework achieves its end." (P. 3). While both of these statements are valid in the broadest sense, they certainly do not represent tight definitions.

A number of significant casualties result from this shotgun approach. Most importantly, only one chapter is devoted to casework models (which I would prefer to

term counseling orientations). The result is that reality therapy which has been popular in many correctional settings for well over a decade receives just a couple of paragraphs of attention, and the discussion of the eclectic approach covers a mere one and one-half pages. Further, group counseling is limited to one 11-page chapter. Within this chapter, the discussion concerning the types of group counseling deals only with didactic, psychodrama, and encounter groups; all of which are covered in about one page. My personal opinion is that counseling orientations and group counseling should constitute the core of a book of this nature and more space should have been given to them. As it is, many of these topics are rushed through so hurriedly that the reader may be more confused than helped by their inclusion.

On a more positive note, the chapter headings are arranged in a logical sequence which the reader will find relatively easy to follow. The first six chapters are devoted to topics which relate to the caseworker's professional role and development; specifically, "The History of Correctional Casework and Counseling," "Correctional Casework Standards and Principles," "Casework Role and Function," "The Goals of Correctional Counseling and Casework," "Competencies and Training Required of Correctional Counselors," and "The Competencies of Effective Counselors." Although some of these chapters are rather skimpy, they all contain much information which the reader should find useful. The next chapter is devoted to "The Correctional Client," and chapters 8 through 18 relate to specific casework models and services. Several of these chapters deal with material which is rarely found in a book of this nature, e.g., "Employment Counseling," "The Career-Planning Service," and "The Appraisal Service." These chapters should be of special interest to both preservice students and practitioners. And, then the last chapter attempts to provide an overall perspective by discussing issues and trends in correctional counseling and casework.

My most critical observation of the book relates to the first chapter, "The History of Correctional Casework and Counseling," which is apparently intended to establish a suitable background for readers who are not students of corrections. The coverage is fairly adequate except for the fact that the author reverses the Pennsylvania and Auburn Systems. As every first-year criminology student knows, the Auburn System represented a decided improvement over the Pennsylvania System in that it was less expensive and was considerably less damaging to the inmate's psychological well-being. While a chapter of this nature is not critical for an appreciation of correctional casework and counseling, such a glaring inaccuracy is still disturbing. Confusing something as elementary as the Pennsylvania and Auburn Systems must raise grave doubts in the minds of serious students concerning the validity of other parts of the text.

The scholarly luster of the book is further dulled by the lack of references in certain important chapters, in spite of the fact that many excellent articles are readily available in the professional literature. For example, the chapter entitled "Employment Counseling" has but one footnote, and it relates to a tangential matter other than identifying any important book or article on employment counseling. Since the author devotes only eight pages to this important subject, references become especially important. The chapter on "The Referral Service" is also eight pages long and has only two references. Another shortcoming is the author's tendency to make serial references from the same source. In this respect, the chapter on "Correctional Casework Standards and Prin-



ciples" has 10 references but the first six come from the same source. None of this is intended to demean the quality of the references, but rather is meant to emphasize that the reader may be hampered in pursuing an area of interest beyond the book.

My overall impression is that this book would have been considerably stronger if the author had narrowed the scope of the book and provided more indepth analyses. In trying to cover too much material in too short a space, the author resorts to superficial discussions which lack the theoretical sophistication and practical flavor necessary to satisfy the interests and needs of either practitioners or preservice students. Still, it is difficult to be too critical of *Correctional Casework and Counseling* because of the dearth of relevant books with which it can fairly be compared. While the book falls somewhat short of what this reader would have desired, hopefully its publication will point up the need for more and better books in these largely ignored areas.

Indiana State University

JEFF SCHRINK

### Socio-Legal Dimensions of Drug Abuse

*Drug Abuse: The Law and Treatment Alternatives.* By James C. Weissman. Denver, Colorado: Anderson Publishing Company, 1978. Pp. 306. \$14.50.

The author tells us at the beginning that he is writing a *textbook* which will provide the criminal justice student with a *comprehensive, balanced perspective regarding socio-legal dimensions of drug abuse*. The reader will learn very little about addicts or addiction per se, but will learn a great deal about the establishment's response to them. The major focus is a description of drug abuse legislation and the efforts (or lack of) of various official and quasi-official agencies to operationalize such legislation. This task is pursued primarily in his sections on *Legal Aspects, Law Enforcement, Rehabilitation and Corrections, and Prevention*.

The book has the strengths and weaknesses characteristic of most *textbooks*. Like the paintings of Andrea Del Sarto, the technique is excellent but the work lacks that spark of creativity, of *life*.

The book ranges over a wide variety of relevant subjects, provides enough information to serve as an introduction to such subjects, and is written in a very objective, remarkably bias free fashion. It is filled with statistical, historical, informational data that will certainly *educate* even the most experienced drug abuse worker. The reviewer, who spends a significant part of his time training drug abuse personnel, has already found himself relying on the book to look up the dates of this or that piece of drug legislation, to review DEA strategy, to get the major Supreme Court cases which define the affirmative defense of entrapment, and to get ideas on how to organize a talk on drug prevention. Educators who use the book will also appreciate the author's inclusion of discussion questions following each chapter.

Being a textbook, however, it lacks passion, imagination, indepth analysis. The reader will get a great deal of information regarding how the Criminal Justice System functions and dysfunctions in its interaction with the drug problem but will get little insight into the why's. The author's delivery of information is so *value-free* that the reader may not quite know what to make of it. Some evaluation, interpretation, even speculation would have added tremendously to the work.

As an example, we are given the information that the

*most common disposition for drug law violators is outright dismissal of the charges*, with the author moving on to other matters. I would have liked to have seen him explore some explanations and implications. Does this lack of prosecution by the Criminal Justice System actually encourage crime? Is this why Police Departments do not vigorously enforce certain drug laws? Are so many dismissals conditioned by overcrowded court calendars?

In another area, the author does an excellent job of documenting that whenever drug legislation is enacted which provides *harsh* or mandatory prison terms, the Criminal Justice System universally reacts by systematically developing techniques to avoid application and enforcement of the laws. The author then explains that the very operation of the Criminal Justice System, from policeman to prosecutor to judge to parole board, requires *flexibility and discretion*. In this context, the author states, and this is one of the most crucial statements in the book, that *all available evidence indicates that the criminal law is a qualified failure at deterring drug usage, at least with respect to the United States*.

This stimulates perhaps the most crucial question which the book raises: Does the criminal law fail to deter drug use simply because criminal sanctions, punishment, is not an effective deterrent, or, is it because the Criminal Justice System refuses to operationalize the law? If the latter, then we are left with the paradoxical position that the Criminal Justice System, which has the job of deterring illegal drug use, actually reinforces it. Again, the author does not pursue these issues.

Perhaps this is not a criticism of the author, per se, but of the medium of discourse he selected to communicate the fruits of his extensive labor. As it is, he has made a significant contribution to the field and his book should be part of the background of criminal justice personnel. He could have made an even more significant contribution, however, had he given us the benefit of his *judgment as well as his wide-ranging knowledge*.

Los Angeles, Calif.

DONALD HARTLEY

### Social and Institutional Evolution: The Case of the Police

*Police in a Time of Change.* By John J. Broderick. Morristown, New Jersey: General Learning Press, 1977. Pp. 240. \$5.95.

Recent dramatic change in the American social panorama includes an array of social mores, specific behavior, and public expectations of our institutions. This has, in turn, resulted in some commensurate change in public attitudes concerning the law and law enforcers. Such changes are also reflected in the area of law enforcement. *Police in a Time of Change* reflects upon many of these changes. The book is a thought-provoking culmination of a research project which offers a number of insights and basic understanding of some of these changes within the police occupation and attitudes among contemporary law enforcement officials. Broderick skillfully interposes participate-observation research field notes, survey data, attitude scales data, theory, and literature review along with some useful commentary offered by inservice law-enforcement students.

An intriguing aspect of this book is the first four chapters covering the basic personality types of police officers (N=109) of various ranks. Included are: (1) the enforcers, (2) the idealists, (3) the realists, and (4) the optimists. Here Broderick approaches the four ideal per-

sonality types and then goes beyond the ideal with realistic examples of these "law" and "order" types articulating the overall pattern of values, attitudes, and beliefs of officers adjusting to and coping with their occupation.

The thrust of the book is change—change in the police, the social milieu and in management. Broderick also suggests that occupational socialization and experience are critical factors that give rise to negative attitudes, antagonism and cynicism for some police officers. Job satisfaction on the other hand, is, according to Broderick, a function of the ability or the inability of individual officers to engage in occupational environment manipulation.

Recognizing that personalities do not operate apart from groups the second portion of the book describes the social milieu in which the four personality types operate. Extensive use of field notes comprise the major portion of the middle sections of the book. Indeed, Broderick makes extensive use of field notes through the first seven chapters. The last two chapters reflect upon recent changes in law enforcement and focus upon additional changes which remain to be made.

*Police in a Time of Change* is a fairly well-written book which should prove useful to the law enforcement novice and others interested in the police. The first several chapters on personality types create some interest and Broderick makes adequate use of the field notes and commentary throughout the book. The author also attempts some summary sociological commentary for most sections. However, as a contribution to new knowledge this is a fairly minimal offering. Much of what Broderick introduces has already been well documented in the empirical sociological and police literature. In this vein, Broderick's *Police in a Time of Change* would not be considered a breakthrough. In addition, one has some difficulty ascertaining how the author developed the four theoretical typologies presented in the 2 X 2 matrix (Table I) based on such niggardly percentage distributions as are offered in Table 2. These data are, according to Broderick, "... a summary of some of ... [the] questionnaire responses." One has no idea how the author manages his questionnaire data along with the qualitative open-ended responses, interviews, and "extensive participant-observation field notes" to come up with four distinctive personality types.

The suggestion that the questionnaire results and the participant-observation data were discussed with inservice officers attending college for the purpose of developing the "working personalities" appears to be the only justification to be found. As ideal types to "provide a simple frame of reference . . ." for relating all the data "... to the major goals of law enforcement . . ." which, in the words of the author, is to provide for "... the protection of constitutional rights and the enforcement of statutes" is not only grandiose in its scheme, but such a method, even in a qualitative sense, is most vulnerable to the question of validity. The reader is not offered the luxury of an explicit explanatory rationale for how this methodological technique bridged the gap. Given this difficulty one is left to accept that this is the way it is. This would appear to be a major liability to Broderick's effort.

Nevertheless, *Police in a Time of Change* should serve as a useful teaching aid. The final pages include a series of discussion questions which touch upon the chapter highlights. In addition, the book is easily read.

The University of Alabama

DENNIS L. PECK

## Burglary in Metropolitan Toronto

*Burglary: The Victim and the Public.* By Irvin Waller & Norman Okihiro. Toronto, Ontario, Canada; University of Toronto Press, 1978. Pp. xii, 190. \$12.50.

This recent volume in the Canadian Studies in Criminology series, reflecting the typological approach to crime, focuses on residential burglary in Metropolitan Toronto during the middle seventies. The authors/researchers, affiliated with the Centre of Criminology at the University of Toronto, employed area/cluster sampling to elicit epidemiological and etiological information on this relatively unexamined offense.

Waller and Okihiro interviewed randomly selected victims and nonvictims concerning experiences with burglary and the criminal justice system. The researchers discovered infrequent and minor criminal justice contact, a moderately high level of fear of being a burglary victim, a realistic assessment of police efficiency, and an enlightened attitude toward offender rehabilitation.

Burglary, a crime of opportunity engaged in by unsophisticated males, is characterized by a relatively low value of stolen property, a remarkable ease of entrance (unlocked doors), and an absence of confrontation. The decision to notify authorities is affected by property value and damage to residence (though multicollinearity appears to "explain" the unimportance of insurance); whereas, the desire for retribution is related only to damage of residential dwelling.

The most valuable portion of the research project concerns testing the validity of various theories of crime and burglary causation: crimes as opportunity (defensible space and social cohesion), crime and opportunity (a potential offender population), and crime of opportunity (affluence and availability).

Multiple regression analysis of burglarized dwellings disclosed the unimportance of nonwhite and immigrant populations, the overwhelming importance of proximity to public housing, and the significance of household income, time dwelling occupied, and surveillability. The authors conclude that the presence of a large potential offender population is the most important contributing element to residential burglary.

This reviewer has no methodological quarrel with the "disproportionate stratified" sampling measures, an effective means of isolating the victim population for intensive investigation. External validity, however, is problematic; residential burglary in "Toronto the good" (a low crime/burglary rate, a highly educated population, the absence of a deteriorating inner city) may not be comparable to residential burglary in other locales.

The most incisive part of this pithy volume reports on the testing of Oscar Newman's "defensible space" concept. The construction of measurement scales (social cohesion, surveillability) is applauded. However, the researchers overemphasize the community/social cohesion aspect of "defensible space" and disregard the significance of occupancy and surveillability—variables equally supportive of Newman's model. Moreover, Newman concentrates on public housing (comparing crime rates among housing projects); whereas, the Waller and Okihiro research is oriented toward private dwelling units (many of which employ doorkeepers). And Newman is concerned with all types of offenses; whereas, the present study is limited to burglary (in which crime location is irrelevant by definition). It appears, therefore, that "defensible space" adequately accounts for general crime in

public housing but needs some modification as an explanation for private residential burglary.

Portland, Oregon

RONALD E. JACKSON

### Balancing Accounts

*Offender Restitution in Theory and Action.* Edited by Burt Galaway and Joe Hudson. Lexington, Massachusetts: Lexington Books, 1978. Pp. 212. \$16.00.

Among the more intriguing aspects of jurisprudence is the complex and subtle concept of loss or injury sustained by victims of wrongful acts. Virtually all legal systems seem to acknowledge, however tacitly, that such acts upset a desired equilibrium in the order of things, and that justice demands its restoration. "Injury" can be as tangible as physical hurt and loss of property, or as insubstantial as bruised dignity and mental suffering. "Victims" can be deities, sovereigns, governments, "society," and ordinary persons. And by such diverse measures as monetary payment, apology, penance, servitude and execution, things can be set aright.

Seeking explanations for the seeming ubiquity in human affairs of an urge to keep accounts balanced, some sociologists attribute its source to a basic need of social systems that parties to interactions must not too often feel victimized or exploited or "reduced" lest the parties become reluctant to enact needed social roles. Thus (goes the theory) there arose early in human society a "norm of reciprocity" in the form of an implicit expectation that interactions will be mutually supportive of interactors. From this viewpoint, "wrongful" acts are those violative of the norm, and a "victim" is one who comes out the loser in a transaction wilfully made lopsided by the wrongdoer. As one of the ways to balance accounts, restitution to victims or their kin has waxed and waned over the centuries. Perhaps reflecting the current trends both toward strengthening the retributive functions of criminal justice and acknowledging the distress of victims, restitution seems now to be waxing yet again, for some 40 restitution programs for adult offenders have been established in this country during the last 10 years.

The book reviewed here contains 17 papers read at the Second National Symposium on Restitution, held in St. Paul late in 1977 with grant support from the LEAA. For symposium purposes restitution was defined as "a sanction imposed by an official of the criminal justice system requiring the offender to make a payment of money or service to either the direct or substitute crime victim."

Most of the contributors to this book are persons working in corrections, or are academicians with vocational experience in that field. Among a generally good collection of papers three I found particularly interesting.

Mary Utne and Elaine Hatfield describe psychology's recently emerged counterpart to sociology's reciprocity notions in "Equity Theory and Restitution Programming." By studying experimentally interpersonal exchanges which contain exploitation possibilities, equity researchers seem, if incidentally, to be acquiring proof that offender restitution has much potential as a device not merely for repaying victims' material losses, but as importantly, for restoring their damaged "wholeness" of self by relieving their sense of injury and personal diminution. In a stimulating essay, Patrick McAnany identified five possible functions of restitution, each arising from distinctively different ideas as to what punishment should be intended to achieve, and each raising particular questions pertain-

ing to our fundamental social values. Crucial here, says McAnany, is the problem of determining the morally proper relationship between restitution and retribution, for each contains elements of the other. Finally, Charles Title offers an ingenious theoretical analysis of the possible consequences for deterrence of each of seven ways in which restitution can be required of offenders. These ways result from different combinations of the chief variables in restitution, which are: the presence or absence of penal sanction accompanying an order of restitution; whether payment is in assigned labor or in money; if the latter, whether it is to come from the offender's pocket or from future earnings; and the proportion to be repaid of the loss he caused.

Several current programs, some of which use monetary and some of which use work restitution, are described in six papers. These show that administrative problems differ considerably between the two types, and suggest that the two might not be likely to dwell comfortably under the same managerial roof.

In addition to references appended to nine articles by their authors, the editors of this volume have included a welcome 86-item selected bibliography. Anyone wanting an instructive and useful introduction to the ancient but reviving use of restitution should read this book.

University of Rhode Island RALPH W. ENGLAND, JR.

### A Primer on White-Collar Crime

*White-Collar Crime: A 20th Century Crisis.* By August Bequai. Lexington, Massachusetts: D.C. Heath and Company, 1978. Pp. 186. \$14.95.

This concise informative book provides an excellent introduction to the area of white-collar crime. It is a much needed work simply because such a volume does not exist and its potential utility is great. An overview of various types of white-collar crime is presented along with numerous, but brief, case illustrations, the context in which these crimes occur and the justice system components that attempt to control these illegal behaviors.

A few notes on definition, scope of the problem, the perpetrators, and some ideas on why this area of crime has been neglected introduce the work. The next 11 chapters describe specific types of white-collar crime with varying detail. A chapter on securities-related crimes presents the development of the securities industry, a brief review of securities laws and a section on the "corporate animal" which provides a setting in which these crimes may occur. This chapter also notes the various sub-types of these offenses and the process of regulation by the Securities and Exchange Commission and the Department of Justice.

In contrast, a chapter on environmental offenses simply traces the history and notes the current statutes, as well as the lax enforcement. Other chapters focus on bankruptcy frauds; bribes, kickbacks, and political frauds; consumer frauds; frauds in government contracts and programs; insurance frauds; insider frauds such as embezzlement; antitrust and restraint of trade practices; computer crimes; and tax frauds. Each of these chapters is quite informative, laying out the basic facts surrounding the crime, the laws, and the enforcers.

The inclusion and exclusion of crimes as white-collar could be argued. Are also labor violations, food and drug violations, and health and safety violations offenses that could be classified as white-collar? Should crime by computer be cited when this is a method for committing crime not the crime itself? Computer crime is usually fraud through the use of the computer. The definitional debate

however, will continue, and what is presented here are most of those offenses that the public would consider white-collar crime.

Though the term "white-collar crime" was coined by a sociologist, we do not get any sociological insights or perspectives on the problems and issues relevant to white-collar offending. August Bequai is an attorney and former Federal prosecutor, and it is predominantly this legal and justice system perspective that is presented. Future years of research in a variety of disciplines will hopefully lead us to a better understanding of the problems and issues in dealing more effectively with these crimes.

Early in his work, Bequai notes the problem of obtaining data in the white-collar crime area. The problem is also obvious throughout the book with only case illustrations and estimates of impact presented. The problem, however, goes beyond obtaining data. It goes to the matter of what data our society regards as important to collect, compile, and report. While we have several sources of data on "common" crimes, we are a long way from indicators in white-collar crime. Bequai's one page on the data problem barely touches this major issue, which is in large part accountable for a lack of depth and detail in this book.

Three of the final chapters address problems of investigators, problems of prosecutors, and litigation problems. The first of these refer to a lack of training, too few staff, insufficient funds, bureaucratic red tape and other such easily remedied problems. After some discussion of history and politics, the chapter on prosecutors presents the problems of red tape, lack of a firm commitment, the politicized nature of the U.S. Attorney offices, and a hesitancy to shift prosecutorial strategies. The chapter on litigation problems reviews procedural safeguards and constitutional rights, and would be more appropriately titled "Litigation Issues." Unfortunately the final chapter on "What the Future Holds in White-Collar Crime" deals entirely with electronic funds transfer systems.

In summary, this book does not advance the state of the knowledge in white-collar crime. It does offer a concise, convenient description of crimes that can be labeled white-collar, and an "awareness" document that will hopefully be read by many. Having thus increased our awareness, we may be better equipped to consider the more difficult issues regarding the disparities within our justice system which handles the white-collar criminal quite differently from the ordinary criminal.

Washington, D.C.

BERNARD AUCHTER

## Reports Received

*Administrative Segregation of Prisoners: Due Process Issues.* Committee on the Office of Attorney General, 3901 Barrett Drive, Raleigh, N.C. 27609, January 1979. Pp. 43. This report discusses the applicability of procedural due process to the placement of prisoners in segregated confinement for security reasons rather than as punishment for rule infractions. Judicial responses to the claims that state statutes, regulations, or practice have given prisoners a constitutionally protected interest in general population privileges are examined. The report also analyzes challenges to the basis of administrative segregation and the policy considerations involved in determining whether procedural due process should be extended to this area of decisionmaking. Price: \$2.50.

*The Consumer Protection Case Digest.* Committee on the Office of Attorney General, 3901 Barrett Drive, Raleigh, N.C. 27609, March 1979. Pp. 111. This report reviews and categorizes cases reported since COAG's *Analysis and Digest of Consumer Protection Case Law* (June

1976). The cases in this update were obtained from COAG's monthly *Consumer Protection Newsletter*, an October 1978 survey of state consumer protection contacts, and *West General Digest*. The report is divided into three sections: constitutional challenges, substantive statutory applications, and procedural questions. A table of cases, a table of state consumer protection statutes, and a subject index are included. Price: \$5.00.

*Correctional Law: A Selected Bibliography.* Department of Corrections, 138 South Pine Street, Doylestown, Pa., 1979. Pp. 34. This bibliography was prepared by the Pennsylvania Prison Warden's Association to assist correctional administrators in developing a working library on correctional law. It contains annotated references to correctional legal material, commentaries, abstracts, and specialized studies.

*Day Training Centre.* Inner London Probation and After-Care Service, 73 Great Peter Street, London, England, January 1979. Pp. 22. This pamphlet describes a program established in 1973 as an experimental "alternative to imprisonment" project within the Criminal Justice Act of 1972. The program is designed to meet the needs of the "inadequate" recidivist with the requirement of 60 days attendance at the Centre followed by probation in lieu of a custodial sentence.

*Delay in the Administration of Criminal Justice.* United Nations Social Defence Research Institute, Via Giulia 52, Rome. Publication No. 18, October 1978. Pp. 73. The purpose of this study was to determine the extent to which delay occurs at different stages of the criminal justice system in India and to identify measures which could help eliminate or reduce such delay. The study also deals with the use of bail.

*Directory of Criminal Justice Information Sources.* National Institute of Law Enforcement and Criminal Justice, U.S. Department of Justice, Washington, D.C., September 1978. Pp. 155. This is the second edition of the directory which contains a listing of services offered by agencies and associations directly or indirectly related to the field of criminal justice. The 137 agencies described feature information services, reference and technical assistance to criminal justice professionals.

*The Evaluation of Juvenile Diversion Programs.* Department of the Youth Authority, Health and Welfare Agency, Sacramento, Calif., 1978. Pp. 366. This is the final report of a project begun in 1974 which involved an extensive survey of 74 diversion projects and an evaluation of 15 projects selected to represent the 74. This report deals with the evaluation phase and is concerned with three questions: how many youths were diverted, was recidivism reduced, and how much did the project cost.

*Federal District Judges: An Analysis of Judicial Perceptions.* College Press, Baltimore, Md., 1978. Pp. 224. In the introduction, William I. Kitchen of Loyola College, the author of this book, states that the purpose of this study is to describe how a sample of Federal district judges perceives their jobs and to compare their perceptions to those of other judges, state and Federal, trial and appellate. The theoretical framework for this research is role theory; chapters are devoted to the "purposive role" of judges, the process of deciding cases, innovation and policymaking, the administrative role, and automated jurisprudence.

*Prison Law Monitor.* Institution Educational Services, Inc., 1806 T Street, N.W., Washington, D.C. Volume I, 1978-1979, Nos. 1-11. To meet the need for a compre-

hensive prisoners' rights law reporter to replace the old Prison Law Reporter published by the A.B.A., the Prison Law Monitor began publication with its first issue in June 1978. Each issue contains an examination of recent court decisions at Federal and state levels dealing with the wide range of correctional law: probation, parole, discipline, due process, juvenile detention; as well as contributed articles and reports on legislative and organizational activities.

*The Role of the Administrator in Evaluation.* Pretrial Services Resources Center, 1010 Vermont Avenue, N.W., Washington, D. C., February 1979. Pp. 58. The activities required of the administrator if a good evaluation of an agency is to be produced are described in this publication. It presents six steps which the administrator can take to intervene in the evaluation process in a meaningful way.

*Prison Conditions: An Outline of Cases.* Committee on the Office of Attorney General, 3901 Barrett Drive, Raleigh, N.C. 27609, March 1979. Pp. 37. Confinement itself under certain conditions may violate the Eighth Amendment's prohibition of cruel and unusual punishment. This outline delineates the particular conditions which, separately or in conjunction with others, have been held unconstitutional. Its aim is to assist the reader to judge what kind of deficiencies by themselves violate the Eighth Amendment, which ones not in themselves unconstitutional may yet contribute to an overall situation which constitutes cruel and unusual punishment, and which shortcomings will be held to lack constitutional magnitude. Price: \$2.50.

### Books Received

*Battered Women.* Edited by Donna M. Moore. Beverly Hills, California: Sage Publications, Inc., 1979. Pp. 224. \$7.95 (paper).

*Beating a Rap? Defendants Found Incompetent to Stand Trial.* By Henry J. Steadman. Chicago: The University of Chicago Press, 1979. Pp. 144. \$13.00.

*Behind Jail Bars.* By Octavio Antonio Ballesteros. New York: Philosophical Library, Inc., 1979. Pp. 300. \$14.95.

*The Criminal Justice System and Its Psychology.* By Alfred Cohn and Roy Udolf. New York: Van Nostrand Reinhold, 1979. Pp. 345. \$17.95.

*The Criminological Enterprise: Theories and Perspectives.* By Don C. Gibbons. Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1979. Pp. 226. \$6.95.

*Criminology Review Yearbook, Volume 1.* Edited by Sheldon L. Messinger and Egon Bittner. Beverly Hills, California: Sage Publications, Inc., 1979. Pp. 767. \$32.50.

*Dictionary of American Penology: An Introductory Guide.* By Vergil L. Williams. Westport, Connecticut: Greenwood Press, 1979. Pp. 530. \$29.95.

*Introduction to Criminal Justice, Second Edition.* By Neil C. Chamelin, Vernon B. Fox, and Paul M. Whisenand. Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1979. Pp. 514. \$14.95.

*Introduction to Criminal Justice.* By Thomas R. Phelps, Charles R. Swanson, Jr., and Kenneth R. Evans. Santa Monica, California: Goodyear Publishing Company, Inc., 1979. Pp. 451.

*Juvenile Delinquency.* By Peter C. Kratcoski and Lucille Dunn Kratcoski. Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1979. Pp. 429. \$14.95.

*Modern Security Methods.* By Charles F. Hemphill, Jr. Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1979. Pp. 300. \$14.95.

*On the Penitentiary System in the United States and Its Application in France.* By Gustave de Beaumont and Alexis de Tocqueville. Carbondale: Southern Illinois University Press, 1979. Pp. 222. \$5.95 (paperback).

## It Has Come to Our Attention

The following item appeared in the May 17 edition of *The Washington Post*: "Unusual Prayer for Judge—Washington Lawyer Peter H. Wolf was sworn in yesterday as an associate judge of the D.C. Superior Court. The following prayer was read at the ceremony by the Rev. Herbert Meza of the Church of the Pilgrims: 'Our Father . . . We pause to ask your blessing upon this proceeding, not just because a good and honorable man is being invested, but because justice is being enhanced. So we seek your favor beyond this moment. So that all who come into this court may find justice in his judgment and judgment in his justice. To that end, we do not pray for his welfare as we pray for his handicaps. Keep him blind to skin color. Keep him deaf to broken English. Keep him dumb to power brokers. Keep him quarantined from lobbies and star chambers. Keep him sick of seeking cronies. So that having afflicted him with the virus of judicial wisdom he might become immune from judicial waste. In a day when many have reduced life to an endless litigation before an absent judge, let his life continue to be full of your righteousness and mercy so that they reflect the glory of that higher bench in which you preside. Amen.' "

The first nationally recognized, professional accreditation of an adult correctional institution was awarded today to the Vienna, Illinois, Correctional Center by the Commission on Accreditation for Corrections. "This is truly an historic first for the field of corrections in the United States," said Commission Chairman Thomas J. Mangogna, who presented the award. "Vienna Correctional Center provides a national model for corrections administrators, not only in its operation, but also in its willingness to be accountable to the public it services." To receive the 3-year accreditation, the Vienna Correctional Center complied with the most stringent national standards developed for correctional agencies.

The National Council on Crime and Delinquency made public on August 5 a letter to Governor Carey which criticized the New York State plan for building and acquiring new prisons at a cost of several hundred million dollars. The letter and a background document urge the Governor to halt construction on new prisons until a commission is established to examine ways of dealing with offenders without the building or acquiring of more prison space. The commission would be instructed to look into the effect on prison population of legislative

changes in drug, designated felony and second felony offense laws. It would also consider alternatives to imprisonment and such new programs as mediation and conflict resolution which function outside the criminal justice system. It would recommend the possible tightening up of administrative corrections procedures and would assess the effect of new parole policies on the prison population.

The Criminal Division of the Department of Justice and the Law Enforcement Assistance Administration on July 31 signed an agreement to share ideas on how to improve state and local law enforcement in such areas as white-collar crime, organized crime, and arson. A committee of three LEAA and three Criminal Division officials will coordinate the activities.

Harvey Treger in August travelled to the Federal Republic of Germany on a grant from the German Marshall Fund to offer consultation to the Ministry of Justice, Lower Saxony, where a police-social work team program is being started—the first in Europe. This is a program which was initiated and developed by Treger at the University of Illinois, Chicago Circle Campus, Jane Addams College of Social Work from 1970-1977. There are now 40 police departments in Illinois that have the program. Originally funded by the Illinois Law Enforcement Commission and local communities, the programs are now 100 percent community supported and a line item in police budgets.

"Crime victims are frequently subjected to callous treatment from the very system that is supposed to protect them," S. Shepherd Tate, president of the American Bar Association, said in a speech in May. Speaking to the Oakland County (Mich.) Bar Association meeting in Southfield, Mich., Tate said he has a deep concern for the problems confronting victims. He called on members of the legal profession to use their power to make sure the justice system serves victims, too. He noted that, "As our criminal justice system has become more complex,

we seem to have lost sight of the fundamental purpose of that system—to protect the life, liberty and property of all citizens. That includes both the accused and the victim. But the major focus of our present system is to catch, judge, punish, or rehabilitate the offender. Too often we forget the victim."

The Department of Philosophy of Georgia State University announces a Call for Papers for an Interdisciplinary Conference on Capital Punishment, to be held in Atlanta on April 18 and 19, 1980. Academic fields represented will include Philosophy, Religion, Sociology, Criminology, Law, Psychology, Political Science, and Economics. Invited speakers include Ernest van den Haag, Richard Wasserstrom, Russell Kirk, Marvin Wolfgang, and Millard Farmer. Papers may be on any aspect of capital punishment—pro or con—and may involve any method or approach. Questions to be addressed include: Is Capital Punishment Constitutional? Is it Moral? Is it Effective? Papers may be of any length, but reading time (of selected portions or summaries, where necessary) will be limited to 30 minutes. Papers should be typed, double-spaced, and submitted in duplicate. Arrangements are being made to publish selected papers in a book. The deadline for submitted papers is December 15, 1979. Selections will be announced by February 1, 1980. Send papers and inquiries to: Professor C.G. Luckhardt, Department of Philosophy, Georgia State University, University Plaza, Atlanta, Georgia 30303.

Nevin Trammell, supervising probation officer, U.S. District Court, Middle District of Tennessee, has been named chairman of the Tennessee Pardons and Parole Board.

Three European seminars in criminal justice have been announced by Lake City Community College. They will be held in Germany (Christmas 1979), Poland (summer 1980), and Germany (summer 1980). For additional information contact Robert E. Page, Lake City Community College, Lake City, Florida 32055.

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