

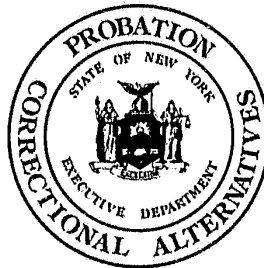
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on  
**PROBATION**  
and  
**CORRECTIONAL ALTERNATIVES**

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**Major Addresses and  
Summary of Sessions**



**Desmond Americana  
Albany, New York  
1986**

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**NEW YORK STATE  
DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES  
and the  
NEW YORK STATE PROBATION COMMISSION**

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**November 16-19, 1986  
Albany, New York**

**COMMUNITY CORRECTIONS:  
MAKING IT WORK IN NEW YORK STATE**

**EDMUND B. WUTZER**  
State Director

**SANDRA A. LAYTON** **NCJRS**  
Conference General Chairperson

**SEP 15 1988**

**ACQUISITIONS**

**NEW YORK STATE  
EXECUTIVE DEPARTMENT  
DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES  
60 South Pearl Street  
Albany, New York 12207-1595**

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*Chair, Program Committee*

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*Chair, Recording Committee*

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

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Editor's Note

The contents contained in the major addresses and in the summaries of the workshops do not necessarily represent the position or the views of the NYS Division of Probation and Correctional Alternatives.

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# CONTENTS

<i>FOREWARD</i> .....	<i>i</i>
<i>STATE DIRECTOR'S MESSAGE</i> .....	<i>ii</i>
<i>PROCLAMATION</i> .....	<i>iii</i>
<i>SPECIAL AWARD PRESENTATIONS</i> .....	<i>ix</i>
<i>OPENING SESSION</i> .....	<i>1</i>
<i>KEYNOTE ADDRESS</i> .....	<i>8</i>
<i>CONFERENCE LUNCHEON</i> .....	<i>20</i>
<i>SESSIONS</i>	
1. <i>Cocaine and Crack</i> .....	<i>27</i>
2. <i>Sex Offenders:</i> <i>Assessment, Treatment and Community Protection</i> .....	<i>30</i>
3. <i>The Designated Assessment Service:</i> <i>A New Strategy for PINS Diversion</i> .....	<i>35</i>
4. <i>Electronic Surveillance and Home Detention:</i> <i>A State of the Art Report</i> .....	<i>38</i>
5. <i>Community Corrections: Dollars and Sense Issues</i> .....	<i>42</i>
6. <i>The Growing Liability Insurance Crisis:</i> <i>New York State's Response</i> .....	<i>45</i>
7. <i>Community Supervision of the</i> <i>Poly-Substance Abuser</i> .....	<i>47</i>
8. <i>Adolescent Sexuality:</i> <i>What's Love Got to do with It</i> .....	<i>52</i>
9. <i>AIDS: Policy and Practice</i> .....	<i>55</i>
10. <i>Protecting the Community: Control vs Services?</i> .....	<i>59</i>
11. <i>Pretrial Standards: One Size Fits All?</i> .....	<i>62</i>
12. <i>Minority Issues in Community Corrections</i> .....	<i>67</i>
13. <i>Probation and Mental Health Teamwork:</i> <i>A Model for Improving Services to Juveniles</i> .....	<i>73</i>
14. <i>Computers and the Service Provider</i> .....	<i>76</i>

15. <i>Made in New York:</i> <i>The Marketing of Community Corrections</i> .....	81
16. <i>Determining Client Failure: Strategies for Avoiding or</i> <i>Justifying Removal from the Community</i> .....	83
17. <i>Family Violence: A Systems Response</i> .....	86
18. <i>Learning and Developmentally Disabled Offenders:</i> <i>Issues for Community-Based Supervision</i> .....	90
19. <i>Supervisor's Challenge:</i> <i>The Demotivated and Burned-Out Worker</i> .....	94
20. <i>Prior Considerations: A Closer Look at Electronic</i> <i>Surveillance and House Arrest</i> .....	97
21. <i>Pre-Plea Intervention: Issues and Limits</i> .....	100
22. <i>Managing the Depressed/Suicidal Client</i> .....	103
23. <i>Quality Services with Inadequate Resources:</i> <i>Doing More With Less</i> .....	106
24. <i>Drug Testing: Message in a Bottle?</i> .....	109
25. <i>Juvenile Justice in Conflict:</i> <i>Children's Rights vs. the Rights of Parents</i> .....	113
26. <i>Consumer's Report: The Offender's Perspective of</i> <i>Community Corrections</i> .....	117
27. <i>Measuring Up: Efficiency and Effectiveness in</i> <i>Community Corrections</i> .....	119
28. <i>Jail and Prison-Bound Indicators: The Latest Development</i> <i>in Criminal Justice Classification Instruments</i> .....	123
29. <i>Women Offenders: Responding to Specific Needs</i> .....	126
30. <i>Program Models for Managing the DWI Offender</i> .....	128
31. <i>Keeping Juveniles in the Community</i> .....	133
32. <i>New York State's Intensive Supervision Program:</i> <i>Maximizing the Probation Option</i> .....	136
33. <i>Jobs and Justice:</i> <i>Community Corrections Employment Programming</i> .....	139
<i>CLOSING SESSION — Community Corrections:</i>	
<i>Making It Work in the 21st Century</i> .....	142
<i>COMMERCIAL VENDORS</i> .....	169
<i>CONFERENCE EXHIBITORS</i> .....	171
<i>INDEX OF PANELISTS, PRESENTERS,</i> <i>MODERATORS, AND RECORDERS</i> .....	172, 173
<i>COMMITTEE MEMBERS OF THE</i> <i>SECOND ANNUAL CONFERENCE</i> .....	174, 175

# FOREWARD

Under the aegis of the New York State Division of Probation and Correctional Alternatives and the State Probation Commission, the Second Annual Conference was convened in Albany to discuss programs and to share ideas concerning the future of community corrections in New York State.

This conference produced a variety of informative workshops that reflected current thinking, addressed contemporary problems and proposed new directions, as well as potential solutions to long standing issues engendered by our political environment over the years.

Hopefully, the contents of the Proceedings of the Second Annual Conference on Probation and Correctional Alternatives capture the essence and the magnitude of the issues presented during this three day event.

As the text of the Proceedings indicate, the conference program this year was expanded to thirty-three diversified sessions. With the exception of the four plenary sessions, the proceedings are presented in summary form. Verbatim recordings (with editorial changes) were taken of the plenary sessions, which include — the Opening Remarks by Alan Henry, Dr. Todd Clear's Keynote Address, Ken Schoen's Luncheon Address, and a most insightful and fitting concluding session, "Community Corrections: Making It Work in the 21st Century", with David Nee as the principal speaker.

A new feature has been added to this publication to pay tribute to the recipients of DPCA's outstanding performance awards for 1986.

It is, indeed, my pleasure to present these Proceedings on behalf of the State Director, our conference contributors, and all of our hard working community corrections professionals in this State.

FRANCIS N. SMITH  
*Editor*



*Message from EDMUND B. WUTZER  
State Director  
NYS Division of Probation and  
Correctional Alternatives*

The Second Annual Conference on Probation and Correctional Alternatives, I am pleased to say, was an enormous success. My clear sense is that community corrections in New York State is gathering additional momentum as a truly recognizable and integral component of the criminal justice system.

The strong conference program, which is in part reflected in these Proceedings, has helped to set the course for the future. "Community Corrections — Making It Work in New York State" is expressive of what lies before us. The challenge is there — making community corrections work for us for the immediate and long term future.

This year, we have introduced legislation to extend the classification/alternatives bill and we continue to put more alternatives' programs on line. These efforts require the strong support of the Governor's Office, our local and state legislators, community leaders and practitioners.

My other sense tells me that we have a deeply committed professional workforce which believes in what it is doing. We need to properly focus this commitment, tap our collective knowledge, nurture our dedication and strengthen our practice to craft the future. This requires collective leadership. And, I strongly believe that we have it in our hands. I am truly optimistic about the future, as we craft it together — all of us in concert — to achieve our desired goals on behalf of the people of this State.

It is my pleasure to share with you the Proceedings of the Second Annual Conference on Probation and Correctional Alternatives.

*Edmund B. Wutzer*



PROCLAMATION



Probation as an alternative to incarceration began eighty-five years ago in the State of New York with the leanest of resources and noblest of aims. It signalled the emergence of a new role for government at that time and a true test of society's commitment to the human ideals of security and justice, fairness and dignity.

The roots trace back to English Common Law and the concepts of pardon and judicial reprieve. The 1901 legislation that brought it into being in the State of New York enlisted the aid of a handful of volunteers, briefly sketched out their duties and then established a few general procedures. But that 1901 enactment did much more. It gave meaning to a precept so eminent in its reasonableness and rationality that it has endured in our State to this day...the principle that not everyone who breaks a law clearly belongs in jail.

This Administration advanced that time-tested principle in 1985 by creating the new Division of Probation and Correctional Alternatives, uniting for the first time public probation functions and private agency alternative programming. The new partnership added strength to the Division's capability to deliver comprehensive community corrections services.

While the criminal justice system has removed from society in increasing numbers those who truly threaten our communities, the new Division continues to supervise a substantially larger community-based caseload. Thus, community supervision by well-trained and hardworking professionals in all sectors continues to constitute a crucial and increasingly significant segment of our criminal justice system.

It is fitting to give recognition and tribute to the people who staff our probation and alternatives to incarceration projects, direct their programs and execute their policies.

NOW, THEREFORE, I, Mario M. Cuomo, Governor of the State of New York, do hereby proclaim November 16-22, 1986, as

PROBATION AND CORRECTIONAL ALTERNATIVES WEEK

in New York State.



BY THE GOVERNOR:

*James G. Thompson*  
Secretary to the Governor

G I V E N under my hand and the  
Privy Seal of the State at the  
Capitol in the City of Albany  
this twenty-eighth day of October  
in the year one thousand nine  
hundred and eighty-six.

*Mario M. Cuomo*









# **AWARD RECIPIENTS**

November 18, 1986

## **FOR OUTSTANDING CONTRIBUTION TO THE FIELD OF PROBATION AND ALTERNATIVES TO INCARCERATION**

**SYLVIA DeFRANCISCO-SKINNER  
&**

**STUART JOSEPH**

Madison County Probation Department

*... for their work with sex offenders ...*

**REVEREND PETER YOUNG**

Altamont House

*... for his work in the area of alcoholism ...*

## **OUTSTANDING EMPLOYEE OF THE YEAR AWARD**

**JOANN PAGE, ESQ.**

Court Employment Project, NYC

**&**

**JEANETTE RILEY**

Orleans County Probation Department

*... for their untiring dedication  
and professionalism ...*

# AWARD RECIPIENTS

November 18, 1986

## SPECIAL SERVICE AWARD

### JOHN MULHOLLAND

Director, Rockland County Probation Department

*. . . for more than four decades of outstanding service  
to the Rockland County Probation Department . . .*

## DPCA AWARD

### PAMELA V. DERRICK

Probation Program Research Specialist

&

### WARREN W. CROW

Chief, Management Information Systems

*. . . for their collaborative work on the  
development of the Comprehensive Management  
and Operations Review System . . .*

**OPENING SESSION**  
**of the**  
**SECOND ANNUAL CONFERENCE ON PROBATION**  
**AND CORRECTIONAL ALTERNATIVES**

**Remarks**  
**Delivered by**  
**ALAN HENRY**  
**Director, Pretrial Services Resource Center**  
**Washington, D.C.**  
**on**  
**November 16, 1986**

I would like to thank you for asking me here for the Second Annual Conference on Probation and Correctional Alternatives.

One often thinks when one is asked to give opening remarks, what exactly one should do, what one should talk about. I mulled over that idea, talked to some friends who have done this much more often than myself, and decided that opening remarks, if they are done correctly, should be something similar to an appetizer for a meal — they shouldn't be too long, they certainly shouldn't be too heavy, and they should complement the main course, if that is at all possible. The main course here is obviously, the agenda, the menu you have for your conference for the next few days. I must say that I have had an opportunity to attend quite a few conferences and this, at least on paper, seems to be one of the finest programs I have ever been associated with, and I compliment you in advance to whomever is primarily responsible for it. The titles are very enticing and I am sure that the substance will be also.

Now, in fairness, I have to tell you that there are some shortcomings that I present to this conference in providing an appetizer for you. One of those shortcomings is that my background is primarily in the area of jail crowding, remedies to jail crowding, how to examine them, and the philosophies that have led to jail crowding. And even more particularly, I specialize in the pre-adjudication area. My second problem might be more problematic and, that is, that I am from Washington. I learned a long time ago that when you come to a state or local conference and you're introduced as being from Washington, there is some reluctance. It reminds me really of those wonderful ads for Isuzu where the gentleman says "Hi, I'm Allen Washington and I'm here to help

you. I have all the money you want and it's yours. Just simply ask for it and you will not have to compromise any of your principles to get it. You can have as much as you want and there won't be any paperwork involved." Well, this is the message that some people hear. I go through the same thing in Washington in dealing with administrative officials with whom we sometimes have problems in deciding what exactly they are trying to market and what we are asked to buy.

One of the things I would like to spend a few minutes talking about — that I was asked to discuss a little bit this evening — is this marriage, if you will, between the alternatives to incarceration unit and the probation division, and to perhaps comment on similar sorts of combinations that have taken place across the country to see if we can make some suggestions or some comments based on those other experiences. Well, obviously, it's a very good idea. It's a wonderful idea — alternatives to incarceration, and the programs that come under that rubric, are obviously in line with what probation intends. Probation is, of course, the first alternative to incarceration, if you will. It's the first attempt to really provide judicial officers with some form of sanction, short of incarcerating someone. What about this label — alternatives to incarceration. Alternatives to incarceration — doesn't that by definition suggest that incarceration is the norm and, like everything else, it's simply an alternative? And is the norm, if that is true, our goal? Is incarceration our goal? Is it the goal of our sanctioning system? I think no. I think we can all agree that incarceration isn't one of our goals. I think best that it might be one of the means to a goal. So what then are some of the goals that we deal with when we look at the whole idea of sanctioning in criminal justice, that we've had to deal with in our jobs in the pre and the post trial area?

Let me, for a minute, look mostly at the pretrial area. I'm sorry, the post conviction part, the sanction part. Well, we know that there are certain goals that come and go and have different priorities. There is the goal of deterrence. We hope that we sanction to deter future criminal activity. There is the goal of incapacitation. Simply, to say, all we want to do is lock this person up so that he will not be available to commit further crime or actions that aren't socially acceptable. Another one is rehabilitation with which many of us are quite familiar, and perhaps have become frustrated with over the years. Punishment — simple punishment. Let's not make it any more complex than it is. This sanction would simply punish those that did wrong. And finally, perhaps the most recent one that again is beginning to get some attention, and well deserved, is the idea of restitution in one form or another. Restitution is an attempt to make whole the victims of crime and, in fact, make the sanction try to rectify the grievous error in which the assailant or the offender took part.

Now these goals change, as we all know. They can change with each defendant as the judicial officers decide what they think is best

for the particular individual in front of them. They can also change as the local society dictates, or suggests to dictate, and we have seen how it becomes somewhat cyclical. There has been the rehabilitation effort where rehabilitation was really the watchword of corrections in criminal justice. That was followed with the sense of nothing worked. Research tried to suggest that, in fact, nothing in the area of rehabilitation really did rehabilitate anyone. There is now, I think, the push towards more extreme sanctions. Certainly, incapacitation is one. We see it with "minimum mandatories", passed in States across the country, sometimes quite appropriately. I don't think there'll be much disagreement if we look at DUI (driving under the influence) cases, for example. Across the country there has been a rush to pass legislation in this area to make the sanctions more absolute for first, second and third offenders for driving under the influence.

Well, it seems to me that we have to look a little clearer at what exactly our goals are in our criminal justice system. Once we're sure of that, or at least have a fair idea of that, then we can develop the appropriate options that can accomplish that goal or a combination of goals. For example, one of our primary goals in a specific case is to rehabilitate, and I think we all know that jailing is hardly likely to rehabilitate. The state of our jails and prisons is, for the most part, not conducive to rehabilitating anyone. If deterrence is our goal, do we deter future criminal activities by incarceration? Most people again agree that no — the deterrent effect of incarceration is minimal. Some argue that, in fact, we don't really deter crime, we simply improve the criminal and make him a better criminal by his exposure to the people similarly situated. So, perhaps deterrence isn't achieved through incarceration.

Is punishment our goal? Most certainly, I think incarceration is a punishment. But then, we have to look at all the other options we might choose, even if punishment is our goal, that might more satisfactorily achieve that end, that goal. I look at the example in Oregon. Recently, some of you may have read about defendants convicted of certain crimes who have been given the option, instead of a sentence of incarceration, to be publicly embarrassed, if you will, by placing their picture in the paper with a public apology for the crimes that they've committed. They can say why and, in fact, apologize to the community for what they did. Now that's a form of punishment, I would suggest. There are other forms of punishment that don't involve incarceration or different forms of incarceration. The latest involved, I suppose, and we'll talk about this in a couple of minutes, is electronic surveillance. How we might incarcerate someone by not incarcerating them, but certainly punish them. One of the other goals — restitution — we know restitution just simply doesn't occur by locking someone up for a crime that he or she committed — if it's larceny, a simple assault, etcetera. It doesn't tend to do the victim much good at all.

I think what we have to do as we work in this area of corrections is be very much aware that the goals that we establish, spoken or otherwise, merely dictate the options that we might choose, and we have to be careful to make sure that we are clear about what goals we hope to achieve.

Let's talk a little bit more about this marriage of ATI and probation. Will it succeed? There's certainly potential for disagreement, I think. We look at other jurisdictions where this sense of coming together has been attempted and we see that, in some places, the tendency is to view traditional probation services as too structured, unable to accept new ideas, and not able to adapt to the changing population that comes into the criminal justice system and, particularly, the problems that the defendant population has. Well, is this true? Of course, it can be in some cases, but does it have to be? Of course not! We see many cases of probation departments around the country that are truly, truly innovative. The different forms of intensive probation supervision that provide judicial officers options, and an option that is truly an alternative to incarceration by increasing the level of supervision, still keeping the person out, has been initiated by probation, even in the process that probation offers to the court. One of the primary ones, of course, is the presentence investigation and the timeliness with which it is offered is crucial when we look at jail crowding. But we've seen many jurisdictions where probation departments have taken the initiative that there is a problem. We can do our presentence investigations in less time. Broward County, Florida, is a prime example where the average is five to six weeks for presentence investigations on a routine basis, and rarely less than four. They decided that they would do their presentence investigations in two weeks; that two weeks would be the absolute maximum. So, to suggest that probation departments are uniformly capable of providing this sort of novel approach, or to improve the system, simply doesn't hold water, if we look at probation departments around the country and probation experiences here in the State of New York.

Now, what about the other side — the alternatives to incarceration — the ATI? What do we have here? Well, some would say that we have left wing anarchists who are simply bent on destroying the criminal justice system from within. They somehow manage to penetrate the soft underbelly of our criminal justice system and now we're going to reap havoc. Others would say that it's not quite that bad. They're simply bumbling civilians who don't know what they're doing and they simply get in our way and they suggest things that we tried years ago and it just doesn't work. Well, I hope those chuckles aren't because I described adequately what the thoughts are here.

Again, we know that's simply not true. We may have some people that work in those units we have problems with. But for the most part, we know that what they do, and what they are trying to do, is again

to increase the viable options available to the judicial officer, both at the pre and post trial stage. Can it work? Of course it can. Anyone of you can name a number of programs here in the State. I look at one that's been around for quite a while outside of this State, but nonetheless worth mentioning. In Milwaukee, Wisconsin, a group called the Wisconsin Correctional Services, is a non-profit agency that does a good deal in the form of novel approaches to sentencing, including working with the mental health population, the public intoxicants, and other difficult populations that, heretofore, remain in jail. This group has the respect of the criminal justice system, particularly the judiciary. I might add that it works very well with the probation department.

So, can this sort of marriage we're talking about here in New York, that's been going on now for a couple of years, can it succeed? Well, of course it can. Is it easy? Well, of course not. But let's look at any marriage. What do we have in a marriage? We have two people with different views coming together trying to work towards a similar goal; they try to complement each other in their effort. And I know of no one, who I consider to have a successful marriage, who has said to me — it's real easy. It's just a piece of cake. One friend of mine does say that, but he's a liar. So I don't think we should expect that it would be easy. I do think that we can learn from each other, and I think that has already been occurring. You tell me what you already know. In fact, probation department staff can learn from some of the ATI programs that already exist and that will continue to be developed. And just so, the ATI staff is learning a great deal about processes in the criminal justice system from probation. What's the secret? Well, I think you could tell me. I think for the most part, it's very simple, it's communication. Again, just as we say any marriage is, the secret is good communication. If you don't have that, it simply isn't going to work. When you do have that, you have a good chance of succeeding.

It's interesting to think about marriage as an analogy. You think about what we're involved in. We're involved in trying to do something with people who are arrested and come through our system. People often talk about our success rate and how, when we talk about recidivism, two-thirds of the time we're successful. Maybe less. Sometimes, people outside the criminal justice system tend to get a little down and ask "why aren't you any more successful?" The State also seems to sponsor marriage. It certainly encourages it, suggests that it should be "death to us part". I think we all know what the success rate of marriages are. Perhaps not in New York, but in many places it's fifty percent. I'm not suggesting that we give up on marriage. We should try to see what's happening and try to make it work a little better. Just so, should we give up on our rehabilitation because, in almost half the cases, it isn't working? Well, of course not. It simply means that we have to look at it a little closer, and make it a little better.



Now, let's talk about some alternatives to incarceration — I will use them in the sense of alternatives to jail. What are we really looking for? I often feel that when I go into a jurisdiction to look at jail crowding, that the people you're talking to — county commissioners, state legislators or others — are very similar to people, and I include myself in this, who have a problem with weight. This is another one of those analogies — you'll have to bare with me for a second. People who are a little overweight, like myself, we know what we need to do. You simply decrease your intake and you increase the time it takes to process the calories, to burn off the calories. But does that mean that's the way we approach our weight loss. No! We do as I do — we look for the quick fixes. What can you give me that is going to help me get to this goal as easily as possible. That's what I want. I want the new fad. I want the new idea. Thursday night I was watching a wonderful movie on TV and then an ad came on right in the middle of it, and the gentleman was talking about "Dream Away". Did you ever see it? It's a wonderful pill you apparently take just before you go to sleep and you lose weight. You need do nothing. Well, it seems to me that when I talk to county people, I'm sure you feel the same frustrations, you go in and they tell you that the jail is crowded. They want to know where their "Dream Away" is. Where is this panacea? What is going to help me right now? Now, they also usually say the same thing that I say when I'm thinking of my weight. I tried everything. We tried everything, Mr. Henry. We have pretrial release, we have a darn good probation program, we've got intensive supervision, but our jail is still crowded. Well, I think that's when we have to pick up the responsibility of pointing out to these people that, in fact, it is similar to losing weight. If we want to do that, it's going to take some time. Any radical suggestions might be short-termed. They're certainly not going to last for any length of time. And, you'll eventually have the problem again. And, besides taking time, you have to expect that they are going to involve changes in your daily procedure.

Now, when we talk about programs that alleviate crowding, we find that the problems causing jail crowding are "processes". By that I mean, it's the length of time between the various steps in the processing of people or cases through your system. Now, it's difficult to look at these if you want to remedy jail crowding. It's difficult to look at because you are now getting on somebody's turf. You are going to suggest that he or she in his office, or her office, should be doing something a little differently and a little better. It's much easier to look for the new programs, the "sleep away", that you can simply add to the system, and that will alleviate your problem.

Another thing I would say, and which I have talked about over the years, is something that's becoming more and more clear to us, and I know to you, but I guess that I will just mention it one more time, and ask you not to forget it. That is, when you talk about alternatives to incarceration, including probation under that rubric, or any other

type of alternative, every alternative that we have seen implemented has within it the seeds to cause increased crowding. As I said earlier, I come from a pretrial services background, predominantly, and it's very troubling to me when I go into a jurisdiction and look at the jail population. I look at how people are processed through the system and I look at how, for example, a pretrial release program or pretrial services program makes its decisions as to whom to recommend or not recommend for release. We often find that it's much more conservative than any standards would dictate, certainly, any past practices by any measurement of success or failure. So, what we have is a program, introduced to help alleviate the problem of jail crowding, by being difficult in the standards it uses, the measurements it uses, and, in fact, suggests or leads to increased crowding in the facility. That goes for just about any of the options we've seen. I mentioned pretrial services, or supervised pretrial release, because I'm most familiar with it. Citation release — we can start at the front end of the system and walk through every option that's been developed, and you can come up with, unfortunately, some jurisdictions with that option. Because of the way it's been implemented, it has, in fact, led to more people being locked up.

Now, I said I would talk a little bit on electronic surveillance. This is really one of the newer ideas that is being introduced, and which is under experimentation to try and get at a specifically jail-bound or prison-bound population and to suggest that, with the use of the bracelet or the box charm, which is a machine that works off a voice print, we can assure the same end, at a cheaper price, without incarceration. Well, suffice it to say, the National Institute of Justice is right now looking into this. They are looking into the number of jurisdictions that are experimenting with electronic surveillance and, again, this is a very broad label. The findings are not in, as yet, in terms of whether or not we will capture the jail or prison-bound population, or whether or not we might get into the same problem we've seen with so many other options that, in fact, is placed on people who would not otherwise be incarcerated. I would simply urge some caution in this until we know more and until we see that this sort of mechanized supervision can attain the ends and the goals that you establish.

Dr. Samuel Johnson, the true Renaissance man of England, was once asked: What is the best of all occupations? He thought for a minute and said that the doctor of medicine, and the astronomer. His students requested that he explain this. Johnson replied that the medical doctor, at least, can believe he is helping someone, while the astronomer can be fairly certain that he is not hurting anyone. I think, as we spend the next couple of days going through these workshops and reflecting on the information we will receive there, that this is not an unattainable goal. Perhaps each one of us should ensure that, at a minimum, we leave here as better astronomers and, maybe, a few of us as good doctors.

Thank you.

**KEYNOTE ADDRESS**  
of the  
**SECOND ANNUAL CONFERENCE ON PROBATION  
AND CORRECTIONAL ALTERNATIVES**

**Delivered by**  
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**on**  
**November 17, 1986**

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It's nice to be back in Albany. When I was here a decade ago, or a little bit more, this was a cow pasture, and I hope that what I have to say doesn't make you think it still is one. I'd like to talk for a while about the directions of community corrections and then leave some time open for questions or reactions to what I have to say.

I've spent the last fifteen years of my life involved in community corrections as a person who believes in the field. When I talk to folks who are not in the community corrections business, and who are not in the probation, parole and alternatives movement, I try to talk about what is really going on. When I have a chance to talk to folks who are like you, who have dedicated their lives to the field of corrections, particularly community corrections, I like to talk about what it is we need to think about when we get together. So, what I'm going to say I hope will challenge you a little bit, and I also would hope that it would lead you to do some thinking about some of the work you are now doing.

You know, corrections travels in cycles. Anyone who has been in the business for more than ten years can talk from personal experience about a cycle because they seem to run in about ten year cycles. When I was in Albany back in the early 70's, we were in. It was a good thing

to be with the criminal justice professionals and to be talking about corrections, particularly community corrections. As a matter of fact, the kind of thing we heard was "ask not what your country can do for you, ask what you can do for your country". That's what we heard from the federal leadership in Washington and it's the kind of thing you were used to. As a matter of fact, I was paid \$1800 a year just to go to school — in addition to a fellowship and tuition free (schooling), because we were going to do something about crime and the country was interested in investing in us. Now, it was very easy to get money in those days for a variety of things. I don't know if there was anybody here who sat on any local LEAA project board, but it didn't seem like an idea had to have any merit at all to get funded — you could talk about juveniles in trouble or use the phrases integration, treatment and rehabilitation. The lingo of the 1960's and early 1970's that brought you face-to-face with cashable checks was things like treatment, rehabilitation, and so forth. I was really one of the beneficiaries. I wouldn't be here if it weren't for the money movement that occurred during that time period. I suspect some of the people that are sitting here also are beneficiaries in a sense. A lot of people entered the field in the late 60's and early 70's, and there was a great deal of hope to be had. That was an "up cycle". That was the feeling in those days. We then crashed head long into a period of drought. Budgets dried up. Caseloads around the country rose. Many people left the field, some of them without appreciation for leaving. And the catch words of the day were things like "doing more with less". We also talked efficiency and we put together a two hour presentation on being effective with a 10 percent budget cutback. Times were hard.

Today, to access the funding you need you have to use the right lingo — get tough, get harsh, get mean, surveillance, control, intrusion. If you have that language down, and if you can do it well, you can get money.

Intensive supervision is like the latest dance on American Bandstand. If you don't have intensive supervision in your agency, you are behind the times. I have had at least a half dozen phone calls in the last three months from people who would ask me what they could put together in the form of a drug program because the money is there.

It is truly schizophrenic for those of us who entered in the 60's singing the praises of rehabilitation and reintegration and now be talking about our new muscle-bound realities. It seems to me that one of the great ironies of the 1980's is that we are very concerned about doing something about everybody's addiction and, at the same time, we seem to be hesitant to face our own "addiction". I don't mean addiction to drugs. There are people in this room who are involved in that area and are knowledgeable. I work with people in the area of substance abuse quite frequently and what strikes me as interesting is that, in my analogy, many of the criteria used to determine whether or not

an individual who comes to treatment is, in fact, addicted, when applied to this culture and the way we deal with punishment, many of the same criteria can be applied in diagnosing our addiction to punishment.

When a person comes in for treatment for some kind of substance abuse, one of the first questions that is asked is, does the person seem to have any ability to control the desire of that substance? Added to that is that if the person does not have some personal control over the desire, that is one of the criteria you can use to determine whether or not there is an addiction.

Last night when I was watching television, it occurred to me that there are a great deal of cultural artifacts out there in our movies and in our political advertisements. They really have an emotional knee-jerk reaction to crime that is uncontrollable in the sense of our desire for punishment. I don't know if you have the same problem I have when I'm driving down the street and somebody with a New York license plate cuts me off. It seems that I'm never cut off by someone who drives with a Garden State plate. My first reaction is some form of obscenity and then I want justice, which means to me ripping their legs off. I think it's not just those guys out there, but it's the people in this room too. We are addicted to this virtually uncontrollable desire to hurt people when they do something wrong.

A second criterion is that the use of the substance causes certain problems that wouldn't exist if the person didn't use the substance. Now if there is a reaction to the withdrawal of that substance, one of the questions you ask is that, if I take away the drug that you're using, alcohol, will you have a physical reaction and will the use of that substance interfere with some aspects of your life. You don't have to look very far to get the answer. We have institutional overcrowding in this State. You have judges and attorneys closely watching the ways and the number of people that are being incarcerated. Our courts are over-loaded. The system seems to lack credibility. You should ask the question, has our addiction to punishment affected the way we look at the world and our behavior? The answer is obviously yes.

A third criterion is that there are illogical rationalizations that are used to support the use of the substance. So, alcohol addicts will say things like, "I like to think about myself taking the easy way out", or "I can control it", and so forth. We see that, recently, the National Academy of Science did a series of reports on what we know about incarceration. The first one, in the late 70's, was on rehabilitation and treatment. Then there was a book on deterrence, and a book on classification. Some point of all that research suggests that punishment has limited or no effect on crime rates during incapacitation, deterrence or rehabilitation. Now the word "limited" is important because there's some evidence that there is some effect, and it is small. Recent research, which was just reported by the National Academy of Scientists, suggests that we have wrung every bit of incapacitation value out of our prison dollar

that we were able to get at this current time, and that in order to get any meaningful increase in the amount of crime control for more incarceration required tripling or even quadrupling the current prison population, which is twice as large as it was in the 60's. And so, this rationalization that we have punishment because it makes our lives better is really not true. It's just a rationalization like the addicts use to rationalize their use of other kinds of substance to which they are addicted.

A fourth criterion is that if an addict says a little bit of use is not enough and it leads the person to need more or want more, that the person is likely addicted in an ascending way. Well, obviously, if there is any testimony in the 1980's to our cultural addiction to punishment, it is that a little bit of punishment is not nearly good enough, we want more and as we get more, we get people who actually have political advertisements that suggest that they want to buy an island off the State of Alaska and send the criminals there. The political campaign is built on the strength of the winds and the degrees of temperature in the month of February.

A final criterion is that there is a tremendous impact of the addiction on those surrounding the addict — on family members, employees, employers, and that sort of thing. I would suggest to you that the dollars that you are spending in this State on punishment are dollars that you are not spending on education, on repairing potholes, on health, on bringing a real first class A-1 football team to your university system, which we've recently done at Rutgers, much to our chagrin. If you really want to think that your addiction to punishment causes you collateral consequences that are unpleasant, you don't have to look very far. So, the fact is that, in this culture, and I think for some time, we've had a growing addiction to punishment. It has become more and more severe and, in many respects, we are some of the worst actors because as we are the new tough alternatives to incarceration on the street. We feed that addiction by saying that we can be as punitive as the next guy, just watch us. You don't have to worry about your addiction, we'll serve your addiction in our own way. Well, if we're going to do anything about this addiction analogy, what are our choices? Well, the problem is that when you start talking about dealing with substance abuse addicts, the analogy seems to break down because the only solution for persons truly addicted is to stop, and it really may be more than I'm willing to be to say you should stop punishing. So, I'm going to suggest that, in order to do something about our compulsive behavior in relation to punishment, we have three things that we need to do. First, we have to get much more clear about what we are doing and why. The specific interventions that we put into people's lives need to be justified according to some clear criteria. The second step is that we probably ought to stop promising less and delivering more, which is slightly different from what we do now. Now we promise more and deliver less, and we call it intensive supervision. We need

to break down the cycle of promises followed by excuses. I'll talk a little bit more about that syndrome in a minute. The third step that we need to take, I think, is to recognize that there is a relationship between clarity of what we are doing and the promises that we are willing to make about what we are doing.

So, let me begin by talking about clarifying why we do what we do. I shared an office with Dick Ely for two years and I can't remember if I had a beard then or not. I went about four or five years without a beard and I don't know if this happens to other males in this audience, but a lot of my important realizations occur when I'm standing in front of the mirror in the morning shaving, and so forth, and this beard is my own self-defense — I don't need any more important realizations. I have enough, thank you. One of them was that I would engage in a career that is dedicated to giving people painful experiences. Everyone in this room is. I think, otherwise, you haven't really thought about it very much. You really want to do it efficiently, effectively, cost effectively, or humanely, or something. But you're in the pain business, and you take money from the citizens of this State, either by contract or by direct payment through the State treasury, and you translate that money into a series of painful experiences and you hand those painful experiences out. So, the first point about being clear about what you do is that you are in the pain giving business and that you really ought to face the responsibilities of what that means, and I'll talk about that more in a minute. The second realization is that I'm in the "mistake making" business; that is, that I'm in the error business in the process of giving people painful experiences. There are two reasons why you might want to make somebody feel pain, as a matter of government involvement. One of those reasons that justifies giving people pain is what we call retribution or dessert. I'd like to talk about it as punishment because the term punishment is a good use of the phrase, but retribution is a very specific means of punishment. By that, we mean that you want to hurt somebody just because the person has hurt somebody else. The person has committed a crime, broken the rules and there's some kind of balancing that occurs when you provide that person with some kind of pain. The second reason that you all get paid to distribute pain around in your society is that you want to control risk. You want to do something that somehow makes the community more safe from future potential acts. And the two vehicles you use for that are treatment and incapacitation. And I would suggest there are no other reasons for being in the pain business. All of the pain you are dishing out is either to do something about retribution or do something about risk control. So, when you're in the "mistake making" business, you are dishing out pain to people for one of those reasons and you're wrong. That is, you're giving somebody a lot of pain because the person needs retribution, and the person doesn't, or society doesn't need it for that person, or you're not giving that person enough pain, which would

be the reverse side, and society wants more, you should have given more for some reason.

In the risk control business, the errors you make are that you should have given a different type of pain that would have prevented a new crime, or you are giving somebody pain and the pain is irrelevant because the person would not have committed a new crime anyway.

So, now I met my first step, which is to clarify what it is we do — we make mistakes giving pain. Let's talk a little bit about what some of the rules are regarding both the delivering of that pain and the making of mistakes in relation to that pain.

Let's begin with the first justification that I have talked about, which is retribution; that is punishment. You're going to give somebody a painful experience because that person committed a crime and, therefore, deserves some painful experience. The reason why you're in the pain business of retribution is that you are trying to impose some pain, or loss, or suffering and that is your main purpose. So, any actions that you take in this area are to make somebody feel some sense of loss, pain or suffering. The second notion is that the amount of loss, pain or suffering should be proportional to the seriousness of the crime. We don't say in this culture that you committed a crime, you're going to get four years, whether it's burglary or writing a bad check. We recognize that some crimes are more serious than others and we try to impose painful experiences in some way to demonstrate the reprehensibility of that conduct, both to us, to the person, and to a larger society. We disapprove of their behavior, and we disapprove of behaviors differently because some behaviors are more blameworthy, and more reprehensible, and so we adjust the amount of pain to reflect that.

The third notion is the burden of proof. In this culture, we have a very strong value that the State must prove that the crime was committed beyond a reasonable doubt before we can impose any pain. That's a value, and if we gave it up, it would significantly change the nature of our culture. Perhaps it's the most central value of the retribution business.

The fourth requirement is that the State must eliminate collateral consequences of its pain giving action. Let me explain that a little bit because it's very important. We say that for your crime, your punishment will be X and we impose that punishment, but the Constitution is very clear that unintended and unrelated negative consequences of that imposition are not to be tolerated. So, for example, in the prisons of Texas, even though the people of Texas have decided that they want, through their penal code, to punish certain offenders; that is, to exact retribution for crimes, conditions in those prisons are unconstitutional to the degree that going to them is unconstitutional. It is not inconceivable that any prison in Texas would be unconstitutional. It is the nature of the specific unintended and collateral consequences of those prisons.



The same thing is true of offenders when they come out on the streets. If we impose hardships on offenders that go above and beyond the amount of pain that has been designated for the penalty, those hardships are unconstitutional. So, we are obligated as a culture to carry out our addiction, and to do it in a way that does not develop into unintentional collateral hardships beyond that intended for the specific punishment.

The fifth requirement is that we can't use this as a cover-up for risk control. I'm used to people doing this all the time. I hear people say, "I'm scared of this guy, so I'm going to punish him a lot". That's really two different issues. You don't punish a person for being scared of him because you're the one that's actually got the problem, not the person. You control that person's risk because you're scared of that person, but it's not a crime in this country for someone to be fearful to you. It's not against the law. It's against the law for that person to do something. And so, we can't use these as confusions. You don't give people intentional pain because they appear to be scary to you. In fact, that is unconstitutional. It's against the law. So, we don't use punishment rationales as a cover-up for our hidden fears that people scare us.

And finally, the enforcement notion. I say enforcement is mandatory and that's because, in our business, which I'll talk about later, we do a lot of punishing and then take it back. We say you have to pay restitution and then we say don't worry about it. We say you have one hundred forty hours of community service, and when we get twenty, we feel happy. And, yet, we wouldn't let a person who's been sentenced to five years in prison say, this year I'd rather not do it your honor. Yet, we allow people all the time to say, well I'd rather not do community service, or not pay my restitution, and so on. The reason we are doing that is, in fact, to punish. It seems to me that the enforcement of this punishment is an obligation upon us. Our problem, of course, is that we take on obligations to punish that we cannot possibly deliver. In the State of New York, you hand out sentences all the time that you have no intention of imposing. We do that in New Jersey. Every state in the Union I have visited, even states with determinate sentencing codes, do that. Judges are given the grandiose ability to say one thing at the time of sentencing that has no relationship to reality. In Oregon, for example, a 90 day jail sentence is longer than a two year prison sentence. People beg the judge, "please Judge, have lenience on me. Send me to prison, don't put me in jail. I can't afford that amount of time away from my family." So, these are the rules that govern us when we impose retributive and punitive pains upon others.

I'd like to talk about the rules that apply to the risk control function that may contrast with the six rules I just reviewed. When we are imposing some painful experience on somebody out of our addiction to it for purposes of controlling their risk, the main purpose of our activity is to change or control that person's behavior. Pain is really inconsequential.

As a matter of fact, by analogy you can recognize that you are supposed to keep the pain as limited as possible. So, the main purpose of risk control is only to change or control behavior. Pain is inconsequential. In order to do this control, whatever you do must be related to the nature and the content of the risk. For example, for a person who is addicted to heroin, you don't have him control that risk by having him stop drinking coffee. We would do things that relate to the specific notion that leads that case to be a risk to us.

The third criterion is burden of proof. The State faces a special obligation in the area of risk control. As you remember, in the area of punishment, you just had to prove that the crime was serious enough to deserve some kind of punishment. In the area of risk control, the State has to prove first that the risk is present, that there is some reason to believe that the person is a risk in the community, and secondly, that the particular kind of control that is being proposed is appropriate to that risk. By that I mean you have to recognize your obligations to say that there is some reason that the State should be able to intervene with this person's life to control risk. We all know there are plenty of people placed on probation and alternatives for whom there is very little probability of new crime in the community. Engaging in risk control activities with those people is inappropriate. We also know that for many people put on probation, we give a standard across-the-board risk control probation, for example, urinalysis, and so on. But, there is no evidence in a situation that urinalysis is necessary given the nature that any individual circumstance is a risk. I did a study in New York a few years ago of probation conditions asking probation officers to rate the appropriateness of certain conditions applied to their offenders. Only one-fourth were considered to be highly appropriate by the probation officer, because most of the time the court just handed out conditions hand-over-fist with little regard to whether they related to the actual reasons if the case was a risk to the community, or whether or not the case was a risk to the community in the first place.

The fourth criterion is the least drastic intervention. Another way of saying it is that you have to eliminate gratuitous pain. You have no right to use risk control as a rationalization for imposing painful experiences because you wanted to get somebody. I hear people making this kind of confusion all the time. I'm going to make this person do X Y Z because I'm afraid of him, because he's a risk to the community. If I'm wrong, it doesn't matter because he was guilty anyway. If you're doing something to somebody because that person's a risk, you're imposing some kind of painful consequences on that person because of the risk. You are obligated to show that the risk is present and that your action is necessary to control that risk. By definition that means that you are also obligated to show that some lesser intrusive action would not do equally well to control that risk. The burden of proof is on you to show that some kind of intervention is necessary and that intervention at this level of significance is necessary.

That relates to my fifth point, which is that you cannot use risk control as a cover-up for punishment. We do this all the time in sentencing. For example, people who talk about sentencing according to retribution, then include prior records, and so on, as parts of a consideration. Often included are variables that relate to risk in their sentencing decisions. Then they are covered up with retribution analogies. The reverse is also true here. We often say that just because a person committed a crime means we get to do anything to him that we want, and if we're afraid of him and do things to him because we're afraid of him, it doesn't matter because he committed a crime, as though he is not a human being and is not a citizen of the United States.

The final point is the enforcement of risk control conditions that scale. It's a process. What you do is that you begin with a particular risk control intervention, and if it doesn't work, you move to the next most intrusive intervention. You keep becoming more intrusive until you find something that actually controls the risk, because your purpose is to control the risk. Whereas with punishment, you have no choice about enforcing it. It is, in fact, something that society is requiring us to enforce. With risk control, we don't really have a great deal of choice and the offender has a great deal of involvement because what we're trying to do is to do something that controls risk and we're accountable for that. We're accountable for doing it in the least intrusive way we possibly can.

What are some of the implications of these two sets of rules? First of all, I'd ask the question in the probation business and the community alternatives business — do we punish? The answer is clearly yes. Restitution, community service and home detention are commonly used as punishments. The reason I would suggest to you that they are punishments rather than risk control intervention, is that we don't ask ourselves the question, are they going to work for this individual at this time? If we said that you owe somebody restitution, but we don't think it's going to change your attitude for crime to pay it, and we don't, therefore, make make you pay it, that sounds ludicrous to us. You have to pay restitution whether it's going to change your attitude or not. Now, it is true that we like paying restitution to change your attitude. We like doing community service to change your attitude and, if it does, all the better. But if it doesn't, it doesn't mean that you still don't owe that obligation to society for your crime. Those types of intervention are clearly punitive, and so the question I would ask is, are they actually enforced by our system? You don't answer that because you are the ones that are not enforcing it.

Secondly, are they scaled to the seriousness of crime? Many programs already get the same amount of community service regardless of what the crime is. People have to pay restitution that relates to the amount of crime, but restitution is often not enforced for a wide variety of offenders.

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And the third thing I would ask is in the area of punitive aspects of our work. Do we make promises on which we do not deliver? As a matter of fact, what we have is the habit of what I call a line drawing model of setting conditions of punishment. If we say that when you cross this line then something bad is going to happen, the person crosses the line, and we say let me tell you what it is. We're going to draw another line.

I would suggest to you that the key to being able to deliver on our promises in the punishment area is not to get tougher. Actually, you should promise less and actually deliver on it. Maybe we need to de-escalate the entire punitive sanction process to the point where we can make promises that we mean, and that applies not only to the community corrections segment, but also to incarceration, as well. But, when we say this crime is worth this amount of pain, because of retribution we often would be willing and able to impose it, or stop talking. Now there are two ways to do that — one is to build huge new expansive prisons, and so forth. The other alternative is to start being realistic about what we actually can deliver. I think that's facing our addiction head-on. It's like saying we no longer are going to suffer from this addiction to punishment.

The second set of implications has to do with controlling risk — do we control risk? The answer to that is clearly yes. We do all kinds of things to try to control risk — electronic surveillance, random home visits, treatment programs, urinalysis, curfews, intensive supervision — they're all risk control. In fact, most of the things that we do in the community in alternatives programs and probation are designed to control. In fact, the main justification of our business, it seems to me, is that we can control risk effectively and more cheaply by doing the things that we do instead of the much more expensive alternative of incarceration. Now, a lot of people say we do this because the person deserves it, because its punishment. But, that's clearly not true. In fact, if I were a probation officer and I were told this person committed a crime and if that person's punishment is to have to talk to you twice a week instead of once a week, I'd be offended. I am not the retribution for anybody's crime — that's something else. I may be the vehicle by which the community feels comfortable keeping that person in the community because I help control that person's risk. The other question is, do my behaviors fit these criteria? Do we really demonstrate the real risk of the folks in which we intervene? I am a member of the advisory board to Georgia's intensive probation supervision program. I think that they have done a marvelous job there with their project. It's an exemplary piece of action from top to bottom. But nearly one-third of the offenders in the Georgia Intensive Probation Program, who are seen daily for the first few weeks, have a basic expectancy. That expectancy is the risk score. Less than seven percent of them will be expected to commit a crime. I don't think Georgia's met the obligation of demonstrating real risk. In New Jersey, what we do is slightly different.

We take the very best risks out of prisons and we put them on intensive supervision and see them twice a week, and sometimes on the weekend. The worse risk in the whole system is that we have to wait for Parole to come out with caseloads of 100. The risk control resources in New Jersey are not being used well, and I would suggest to you that everytime you impose a risk control sanction onto somebody when it is not needed, or when it is not demonstrated as a real risk, you are wasting resources and you are doing an injustice. What you are doing is using risk control as a rationale to impose other kinds of goals. In New Jersey and Georgia, those goals are very clear. They deal with our addiction to punishment in those States — prison overcrowding. We use risk control as a rationalization to deal with a different problem; that is, we cannot control our desire to punish. Do we scale our enforcement of our conditions? Well, I think that enforcement of risk control conditions is probably the most irrational side of what we do. Do we actually begin at the lowest level and try to move through and add more restrictions as the person demonstrates that it is necessary? Do we start at the top and pull them off as the person seems to demonstrate that we were wrong in imposing the strict conditions in the first place? The answer is more the latter than the former, and to the degree that we do that, we are wasting resources.

When you put these two concerns together — concern for risk control and the concern for punishment — the two reasons why we are able to be in the pain giving business — there are four kinds of implications. One is that often our need to impose effective risk controls result in activities that are intrusive enough that additional punishments are simply unnecessary.

In Georgia, for weeks at a time, people will be seen sometimes twice daily by two different people. I don't see my wife twice daily. That kind of arming for control is a tremendous addition to our arsenal as community protection function areas. But, to use it on people for which it is inappropriate, or to use it in situations for which it is inappropriate, is a waste of resources. To add punishment onto all that intrusion is gratuitous.

A second implication is that we clearly need to de-escalate, we need to scale down. If everybody in community placement gets 60 hours of community service, then the amount of community service time has no value as a punishment. That's the bottom line. It's my way of saying, if I gave you all a ten dollar raise, and then said I like you all, the ten dollars wouldn't mean much because everybody else got it. To be able to do something to somebody and have meaning, we have to be willing to do less with other people. And that's when our punishment to addiction gets in our way.

A third thing we need to do is that we need to be clear that we are in the pain giving business and that we're not really the nice guys of the world. I think the work we do is very important and I think it

is laudible, and I'm still in it. I don't buy the "government is the problem, not the solution" handle that we hear in the 1980's. I do believe that we have to face realistically the fact that most of what we do is not wanted by those we do it with. We have to have good reasons, therefore, for doing it. The good reasons are why we justify painful experiences.

The final thing I haven't had a chance to talk about very much, but I think it's very important, is that we have to think about the consequences of our errors. Our errors are both types — errors when we give punishment to people who don't deserve it — errors when we impose risk controls on folks that they don't need — and errors when we don't impose enough risk control, or when we impose more than is necessary. We have to face the fact that we will make mistakes. We are human beings and errors will occur. We have to think about what the policy implications are of the kinds of errors we choose, how we choose to distribute those errors, and why we have to do this in the area of community alternatives. What I am saying is just as applicable to institutional corrections as it is to alternatives. For one reason, I think that in the community we have more flexibility than the prisons to actually make these kinds of rules come alive. Once a person is incarcerated, some of the degrees of freedom that you can use to manipulate the amount of intrusion is eliminated. In the community, we can literally go from not seeing anybody ever and having a person on probation, which is very common, to seeing a person twice a day, once at home, once at work, and following-up with a phone call. That's a tremendous range that we have. That kind of range is not available once you lock somebody up. So, if you really want to make these principles about what allows us to do the work we do come alive, the community is the correct place to try that.

A second reason I think the community is important is our past history in corrections, generally, and community corrections, in particular. We have engaged in a tremendous cycle of making promises and then making excuses. Give us money, we'll make things well and then excuse us, let me tell you why we weren't able to use the money to make things well. I think that if we are more realistic about what we can do with the kinds of resources that we have, then the credibility that we deserve will begin to grow.

The third reason that I believe is important is to think about community corrections as a place for making principles come alive is that there is no other place for us to really deal forthrightly and directly with our addictions. If we try to deal with the fact that we have an irrational attachment to punishment in this culture, then in the institutional side of corrections we will fail. If there is a place for us to succeed in coming free of our attachment to the self-harming principle of giving pain, it is in the business you all are in that we will experience that freedom.

Thank you very much.

**LUNCHEON ADDRESS**  
of the  
**SECOND ANNUAL CONFERENCE ON PROBATION  
AND CORRECTIONAL ALTERNATIVES**

Delivered by  
**KENNETH F. SCHOEN**  
Director, Program for Justice  
Edna McConnell Clark Foundation  
on  
**November 17, 1986**

Recorded by  
**CHARLES S. CADWALLADER**  
Senior Budgeting Analyst, DPCA

Ed, Larry, distinguished guests at the head table, and distinguished guests at all the tables, it's a real pleasure to be here and a real surprise. I had no idea that probation and parole could assemble a group as big as the group we have here today. It's a real event and, hopefully, I will be able to add to what appears to be already a very strong program which will permit you to return to your respective communities and jobs and be more effective.

It's a tough time in corrections in this country at this time. It could also be a time of opportunity. I was reminded that Governor Cuomo was here a year ago at the first meeting and talked about the death penalty. I'm not going to talk about the death penalty today, but I'm going to talk about what we might do about probation services and our penal system in this country.

The thing that the Governor is doing is taking a strong stance on capital punishment. That's not only important for itself, it is also important to teach politicians, those who have to run for office, that you can take what appears to be, and in fact indeed is, an unpopular position. Most people would simply support capital punishment. Yet, the Governor has taken that strong stance and stood eloquently behind it. And I feel like I sound like his campaign manager — I don't mean that at all. It's been impressive, and I think of the likelihood of that man being available for the presidency. He was at this podium a year ago. I'm doing the same talk in the same amount of time, but I'm not running for the presidency, I can assure you.

If a visitor dropped into this country, on the corner let's say, during the past two months, and had no idea of what the criminal justice policy



of the United States is here, that visitor would have learned quickly because he would have seen politicians running for office. Even though crime and crime control is relatively low today on the list of priorities, you would have heard them taking tough stands on crime and delinquency; trying to help each other; going over things that they've done, mandatory this, mandatory that, increase this sanction, and so on. And so clearly, the policy is that if we put more people in prison, we'll have less crime. At the same time, this visitor would see the drug bill signed in which \$1.7 billion was dedicated to stomping out drugs in this country as quickly as possible. Most of that went to drug law enforcement, police activities and to prison construction. At one point, there was even a death penalty, if you recall, attached to that bill to get some sense of the approach the law was taking. Now, again, because it would only be tough on people, we will eliminate the problem.

So the crime control policy is clear and simple. The primary goal, through the enforcement of tough statutes, is to deter crime by a fear of punishment, retribution and incapacitation. And clearly, in the penal system; that is, probation, parole and incarceration, prisons get the lion's share of the money. Today, we are adding an incredible number of people to our prisons — about a thousand a week. California is the leader, I think. We have three-quarters of a million people in prison and jails across the country, which is about the size of San Francisco. With this policy, one that every politician is worshipping at the "altar of let's get tougher on crime", anything less than imprisonment is viewed as a compromise of the strategy. Therefore, alternatives, probation, and community corrections is something less than the best. But because we can't always afford the best, we will put up with these alternatives. Probation administrators, and you people here in community corrections, are quite aware and try to emulate the virtues of the prisons. Those new terms that we're hearing — intensive probation augmented by risk assessments, house arrests, electronic monitoring, testing for drugs — are being espoused by politicians.

The rhetoric from probation and community corrections is different than it was when I began this work in the late fifties where we talked about rehabilitation and restoration. Today, it's punishment and control. Well, how effective is this get tough policy? Certainly, the doubling of our prison population in the past decade has had some effect on crime and delinquency. We look at the state of the prisons here in New York — not too many inmates are in the place for minor crimes. Indeed, they are all very serious crimes. So, it suggests that the prisons are being properly used. That's true pretty much across the country, although some states incarcerate at a much higher rate. Texas, for example. California is more like New York.

But, nonetheless, the results, as far as crime control, is that "we enjoy" one of the highest crime rates in this world. Almost no country, a civilized country that is, reaches the crime levels that we have. Some

say it's leveling off. Well, I don't know. I'm not terribly hopeful on that, even if it has leveled off, that's a very high rate. You look at the FBI crime statistics in the past year or year and a half, it shows crime going up again. Those who are supporters of the notion that if you incarcerate more people, you have less crime, no longer look at those statistics. Now, we get those statistics on supporting the proposition that after fifteen years, we indeed have more crime, so now we look at victim surveys and say, well, those look like they're leveling off. They have always been more agreeable to those who suggest that crime is quite serious. Either way, the prison population is going to go up. It's going to go up because the laws that are put in place put more people in prison for a longer period of time. We say longer periods of time because, someone who was there for one year or two years before, are now there for two years or three years. They're going to be in that bed for a much longer period of time, and therefore, the prison population is going to go up. It's predicted that by 1990, which is only four years from now, we'll have one billion in our prisons across this country. Here, in New York State, it will go to 45,000 people and, instead of spending \$1 billion on the prison industry, as we have throughout 1985, it will increase to \$2 billion.

I wouldn't expect the drug bill, that was passed recently with \$1.7 billion, is going to have an awful lot of effect on drugs. Telling people in New York, who are quite familiar with the Rockefeller drug laws, that we're going to solve the problem on Friday, wouldn't listen. I wouldn't be surprised of that. There's just too many people that make huge profits from drugs and we want the benefits of whatever drugs provide.

So, why can't we pursue this policy of toughness? Afterall, Miron Wolfgang has told us over the years in repeated studies that there's a small number of young people who represent the high crime population; who commit a disproportionate amount of crime. And, if we could identify those people and put them in prisons, why can't we control our crime through attrition? And, indeed, the Rand Corporation came up with a new concept called selective incapacitation. And that was the great hope you recall a couple of years ago. In fact, that theory added that we could identify the higher rate offenders, we could put them in prison, and not only could we reduce crime, we could also reduce prison overcrowding. It appeared on the Today Show; it was written up in the Reader's Digest, in Time Magazine and Newsweek, and all the popular places. But like Creon, which got big publicity a few weeks ago as the solution to cancer, selected incapacitation has begun to go this way also. Indeed, if you recall how selected incapacitation was developed, they went to offenders in prison and asked them how many crimes they committed. Then they began to link up characteristics with the high crime rate offender, and said that now we can tell who the real "sluggos" are and, if we put those in prison, we're going to be safe. The trouble is that they followed the "sluggos" afterwards to see what they did. They said here's what they did, and now they've got to identify

what did they in fact do, and they concluded that, for the high rate offenders, that they can predict future criminal behavior. So the selected incapacitation that Rand reported wasn't what it had hoped to be.

So, we are left with what do we do with what we have? The fact is that the current policies end up doing the same thing because high rate offenders want to get caught and they go to prison. And that's what we have in our prisons in this state and most states across the country. But in spite of the bulging prisons, crime and the fear of crime, remains high. I think we're going to have to face the fact the way that politicians face the fact that the approach of more prisons, and more offenders in prisons, is not the pot of gold in terms of making this country safe. In fact, it's pretty much, I suppose, like when I sail my boat. When I take it to Minnesota, over to one of the islands, it is filled with flies, biting black wretched flies. When I get over there, I close the boat up and teach those flies a lesson. I fill the boat with insecticide and a half hour later I come back, and behind every pillow and can of beans, there is a fly carcass. I eliminated those flies — but the problem is, when I go back to the mainland, the boat is full of flies again. So as long as there's as many out there, the notion that we're going to incapacitate them by either slapping them, or killing them, or somehow eliminating their availability, there still are too many. The point that I am making here is that, unless we deal with the source of crime, we are going to continue to have crime far beyond what the incapacitative approach will take.

We end up spending enormous amounts of money, now it is one percent of our entire tax expenditure in this country. On the federal, state and local level, one percent is spent on operating our penal system. One percent doesn't sound like very much money, but when you think of it, it has to buy everything, including fixed costs, like retirement of the debt. It is enormous. There is one penny out of every dollar that goes to education, roads and bridges, and social security. Everything has to come out of that same dollar. Worse than that, it also denies us the opportunity to apply the other strategies, if we think we have the correct one.

Television is a constant reminder of the crimes that are going on around us, and there are plenty. It's a horror every evening at 6 o'clock and 7 o'clock on the news when we see the crimes that took place. Crime makes us mad and frightened, and it's hardly the mental condition for rational deliberation. We are developing a prison industry that is an economic constituency for the support of prisons. In the public sector, as more prisons are built, the more people are going to be working there and there's going to be very little desire to close these down. We are very much aware that, in small communities, we are willing to bring prisons in because they become a shot in the arm economically.

Are we safer today than we were fifteen years ago? We embarked on this big increase in the number of people in prisons. Can we worry

about our priorities? This is the fastest growing budget, and the greatest allocation is going to prisons. We are going to see some interesting constituents. I might add, we are going to see them in the form of educators, and people interested in conservation and the environment because their funds are going to be reallocated to the State prisons. Are we concerned about the fact that there are increasing numbers of so many young people between the ages of 18 and 25, who are spending their formative years in the prisons versus the healthy, private schools where the well-to-do send their children?

Another recent Rand Study, where they compared probation with imprisonment in California, found that the prisons do not do as well as probation in terms of cost, which we pretty well knew. But, in fact, those who went to the prisons, versus those who were under probation, came out and committed more crimes than those who were on probation. That did not get a lot of attention because the study was supported by the National Institute of Justice, who is pretty clear about the direction in which they are pushing. That's more in prisons. When the study pointed out how probation was failing in California, that got a lot of attention. It is a terribly important piece of information when somebody says that people who are on probation are committing more crimes. Indeed, but they also went on to say, well, now how long does it take before we can catch up. That is, for those people who come out of prisons after they spend a couple of years, and commit crimes at a higher rate, at what point do we have less crime? Crime overall begins to drop when you compare the two interventions. So there is something criminogenic about the prison expanse that we need to make known to the people who are policymakers. The emphasis of resources have to be directed to the local community, where the problems originate, for a combined effort of strengthening local criminal justice institutions, as well as those institutions that we know are the ones that socialize people — the family, the school and the church. Each community has its unique character and problems, and is in the best position of altering the factors that direct people into crime. It is done with the members of the community, by the members of the community, for the community. The communities of the South Bronx are quite different from Albany County. Every State has that. And therefore, what's appropriate in New York City, and what's appropriate Upstate, and also throughout the State is quite different. We have to be in a position to be able to respond to what is appropriate.

Today, the incentives are the wrong way. The incentives are to send criminals to the institutions because they are irritants and the community reacts, much like an amoeba reacts when it comes upon an irritant. It wants to exclude it from the environment. There are models, and I'm not going to give you a lesson on Minnesota's Community Corrections Act. I'm not going to suggest that this Act is the thing that would be appropriate here in New York State. But New York State needs to look at that kind of legislation that sets up incentives to the

local community and develops programs for most of the offenders. There has to be a negative incentive for the use of the state prison system. Not for all offenders — this I want to make clear to you. I don't want anybody to go away with the impression that Shoen believes that prisons have no role. Indeed, they do have a role. They have an important role. But it has to be a more limited role. It will be a more limited role if the capability to strengthen communities is increased. Then, the need for prisons for the intermediate offender, the one where you are not quite sure should go to prison or not, can be handled in that context. Is there support for this? Isn't the public saying over and over that it wants to be tougher?. The fact is that the polls show quite the opposite. The public is primarily concerned about being safe, but it is also concerned about seeing offenders rehabilitated, restored, and improved. It isn't just let's see how tough we can be on criminals. As a matter of fact, those people, other polls show, who are misperceiving the public, are the politicians. And again, while the polls indicate that Governor Cuomo is going contrary to what the public feels with respect to capital punishment, he contrives very well with a strong, well defined, strident and articulated position. I think it's important for us, when we deal with our politicians throughout the state, to make it known to them that the public is not saying that we have to have more people in our prisons. What we need to have is programs that begin to deal with the problems that these people bring to us in the first place. It isn't happenstance that there are a disproportionate number of poor people, a disproportionate number of minorities in our prisons today. It's something that's going on in the context of the community. And we must deal with that. The problem can be like those flies that get gassed.

We are seeing some tangible evidence of a lessening of this tough reaction in some areas of this country, particularly, in the area of human rights. Massachusetts, as you know, closed their training schools back in 1972 and ended up with a small number of small-sized institutions for their tough juveniles. The timing, as well as social workers, worked against this. You may recall the story well that the closings were not done elegantly. They were not always well planned. We had this crazy phenomenon, this crazy situation of employees going to the training school to go to work and there are no kids there. It went on for about a year and a half to two years, and finally the legislature said well, I guess we have to stop this. But, what's happened in Massachusetts? The training schools have not reopened. Juvenile crime has gone down. The kids are not being certified, you know that term certified through the adult courts. It has worked and, in fact, I would say that Massachusetts is in a much stronger position to deal with delinquency, with the strong network of local programs that have developed as a result of the de-institutionalization and the reallocation of the money in the communities. The States of Utah and Oregon are moving in this direction.

Now, today's juveniles. Many people work with juveniles and understand them. Most crime is committed by young people and, if pragmatism tells us that informed corrections, versus expedient corrections, is more durable with juveniles than with adults, then let's begin to define the age of adults as higher. You recall the time that we had these intermediate sanctions, the youthful offenders. We just passed laws throughout the country saying that age 21 is the proper drinking age. Why is it the proper drinking age? Because, with people under that age, which is statistically supported and it makes good sense, there isn't the intelligence, the maturity, nor the ability to make the decisions and to raise the votes. People are not as mature and as wise until age 21. It is statistically proven. But, for heavens sake, why can't we say the same thing about those young criminals? There should be a different kind of approach for people under the age of 21. Let's take advantage of what appears to be. I heard two legislators from Utah getting up and talking about what they said to the public when they supported the deinstitutionalization and closing of the juvenile institutions in Utah. They supported the idea that young people are a resource of this State that we must preserve, not simply put on ice.

So I'm leaving you with two things to think about. One is, let's talk about that bulk of people that get into our prison system, who are under the age of 21, let's talk about the people who need to be preserved and be given the opportunity that they all need, and let's also think about how we can rearrange our funding so that the incentive is not moving in the direction of imprisonment, but moving in the direction of local programs that can be responsive to what the locality requires and needs to deal with what is an awful crime problem that is very likely going to get worse. It's going to get worse because of the numbers in the population that are related to the demographics of the baby boom. And now we've got what we call the "children of the baby boom". And I don't think there's any question, unless we do something, that we're going to see an increase in crime and we're not prepared to deal with it. Ultimately, the best approach to crime control is to think of the criminal as one of us. "That there by the grace of God go I." It's a relationship of the fellow human being whose behavior we don't like, nor tolerate. When we think about what should be done in terms of what we can do, rather than what you can do to him or her, we're going to be in a stronger position to deal with the problem. And I say to you here today, this takes leadership. You are the leadership. Remember, there isn't much of a constituency for people in prisons because those are the people who make others mad. The constituency comes from professionals and citizens who are concerned about the quality of life in this country and the quality of justice. So, I ask you to join me in dealing with this problem in a way where knowledge will direct us, and be willing to speak against what appears to be political expediency.

Thank you.







Session #1

## **COCAINE AND CRACK**

*A presentation on the use of cocaine, from its introduction in modern society to the current widespread abuse and addiction, and a discussion of the health hazards, economic impact and negative influence on individuals and families.*

**PRESENTER**

**DR. RONALD J. DOUGHERTY**

Chief, Drug & Alcoholism Rehabilitation Unit  
Benjamin Rush Center, Syracuse, New York

**MODERATOR**

**RONALD HILL**

Director, Special Defender Services Unit  
Legal Aid Society, New York, New York

**RECORDER**

**NICHOLAS MARCHIONNE**

Probation Program Consultant  
Bureau of Field Operations, DPCA

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In his opening remarks, Dr. Ronald J. Dougherty, Chief of the Drug and Alcoholism Rehabilitation Unit, Benjamin Rush Center in Syracuse, New York, described several laboratory drug testing methods including TLC (thin-layer chromatography), EMIT (enzyme multiplied immune assay technique), and HPLC (high pressure liquid chromatography). He cautioned that the great majority of laboratories, which test for drug usage, report findings that are deemed inaccurate in 10 to 20 percent of the specimens examined. Dr. Dougherty is an advocate of confirmatory testing whenever any urine is found to be positive. This procedure calls for the re-testing of a urine sample employing a different technique than was used in the original test. Referring to the subjects of inaccurate findings, Dr. Dougherty stated that "it's a terrible thing to say its positive when it's not".

Dr. Dougherty presented an historical account of cocaine use in America. The first epidemic (1886-1914) resulted from the sale of cocaine-laced products, such as toothache drops and wine. By 1914, one out of four Americans was addicted. The drug was popularized by Sigmund Freud who believed that everyone could be a recreational user.

Today's epidemic is traced to the significant reduction of available marijuana, resulting from the use of the chemical paraquat. Cocaine

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evolved as the drug of choice because of its availability through major exportation efforts from Columbia, Peru and Bolivia.

Dr. Dougherty addressed the medical consequences resulting from the use of cocaine and "crack", and shared his experiences in the treatment of cocaine abusers.

- Sixty (60) percent of his patients are cocaine abusers.
- In his survey of 600 cocaine users, it was established that the drug is used in a variety of ways: forty (40) percent snort; thirty (30) percent freebase; twenty (20) percent administer the drug through the *needle*; and ten (10) percent find other ways to ingest the substance.
- Intravenous use of cocaine is steadily increasing.
- Once a person moves from snorting, to freebasing, to intravenous use, he cannot revert back.
- "Once a person's habit costs him \$300 or more per week, I can't get them better through outpatient treatment."
- The proposal by certain New York City officials to supply clean needles to addicts as a means to control the AIDS problem is indicative of their lack of knowledge about a sub-cultural ritual of passing the needle to your friends.
- Cocaine is a powerful vasoconstrictor which acts on the blood vessels in the lungs, the heart, and the brain. Acute deaths from cardiac arrest, pulmonary failure, and stroke are well documented.
- The use of "coke" over a period of time lowers one's threshold for a seizure event or a fatal cardiac arrest. This phenomenon is known as kindling. The real danger is that this fatal threshold can be reached during the individual's 300th drug ingestion episode or his first.
- The introduction of "crack", the alkaloid or freebase form of cocaine, was marketed by cocaine suppliers. These suppliers realized that they could sell an affordable product to a large number of individuals who, once addicted, would eventually come back to the more expensive "coke". Dr. Dougherty related that cocaine addicts do not want "crack" since "it doesn't do anything for them".
- The use of cocaine produces a forty (40) percent decrease in job productivity; the likelihood of stealing from family members

## COCAINE AND CRACK

to support the habit; and produces ten (10) percent of all automobile accidents.

- Cocaine users prefer "coke" to:
  - a) Food — 71%
  - b) Friends — 64%
  - c) Recreation — 76%
  - d) Sex — 50%
  - e) Family — 72%
- The study of 600 cocaine addicts revealed that the great majority are cross addicted to alcohol and/or marijuana.
- Patients will relapse into their "coke" habit if they continue to use other drugs.
- There is a correlation (53%) between a strong alcoholism history and cocaine addiction.
- The effects of the chronic use of cocaine include blackouts, craving, psychosis, depression, anxiety, hypertension, impotence, insomnia, fatigue, lack of sexual interests, hallucinations, weight loss, and the inability to concentrate.
- Treatment for the abuser of crack should be in-patient. A six (6) week commitment to in-patient treatment is preferable to short term de-toxification.
- There will be twenty (20) million cocaine addicts by the year 1990.

Session #2

# **SEX OFFENDERS: ASSESSMENT, TREATMENT, AND COMMUNITY PROTECTION**

*A discussion of the sex offender and the  
assessment and treatment processes necessary to  
provide the community with reasonable protection.*

## **PANELISTS**

**SYLVIA SKINNER-DeFRANCISCO**

Supervisor

Madison County Probation Department

**STUART JOSEPH**

Probation Officer

Madison County Probation Department

## **MODERATOR**

**BERNARD M. MAROSEK**

Supervisor

Onondaga County Probation Department

## **RECORDER**

**JAMES E. CREIGHTON**

Senior Probation Program Analyst

Bureau of Planning, Policy and Information, DPCA

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Ms. Sylvia Skinner-DeFrancisco, Supervisor, Madison County Probation Department, initiated the session by explaining the sex offender program that she and Mr. Stuart Joseph have been coordinating in Madison County. Ms. DeFrancisco provided a profile of the sex offenders in the program as follows:

Number of offenders	—	44
juveniles	—	4
misdemeanants	—	23
felons	—	17
females	—	1
Age groups		
12 - 16	—	4
17 - 25	—	15
26 - 35	—	9
36 - 45	—	10

## SEX OFFENDERS: ASSESSMENT, TREATMENT, AND COMMUNITY PROTECTION

46 - 55	—	3
over 55	—	3

Forty-three (43) percent of the offenders reported that they had been sexually assaulted as juveniles, while sixty-seven (67) percent reported they were physically abused as juveniles. Fifty-two (52) percent reported they were drinking in an abusive manner during the time of the sexual abuse activity.

### The age groups of the crime victims:

1 - 6	—	5
7 - 12	—	26
13 - 17	—	25
adult male	—	1
adult female	—	6

### The relationship of the victim to the offender:

daughter	—	13
step-daughter	—	3
grand-daughter	—	3
niece	—	2
sister	—	2
step-sister	—	2
neighbor or friend	—	15
unrelated female	—	6
unrelated male	—	1
under age 17 and unknown to offender	—	2
dog	—	1
calf	—	2

### The sentences imposed on the offender:

local time	—	6
state time	—	6
probation	—	3
probation & community service	—	10
split sentence	—	16
conditional discharge	—	2
DFY commitment	—	1

Mr. Stuart Joseph, Probation Officer, Madison County Probation Department, then presented an analysis of these offenders, and their victims, with some suggestions for supervising these types of cases. He emphasized that the training program they usually present is a three day event. This presentation represents a shortened version of that program.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

After analyzing the data Mr. Joseph and Ms. DeFrancisco have maintained on these cases, they have concluded that sex offenders, as a group, are not much different from other people, except that they have sexual problems with which they have not been able to deal. Mr. Joseph suggested that probation officers look for good things about these offenders.

He stated that adolescent sex offenders are the most neglected of this group, and recommended that treatment of these cases be improved. Over fifty (50) percent of the sexual abusers have engaged in sex crimes by age 15. By the time they come to the attention of probation, they have committed hundreds of sex offenses. He suggested that probation officers look for the following characteristics: the offenders have, themselves, been sexually abused; physically abused; neglected by their parents; come from dysfunctional families (family violence, alcohol abuse); have poor social skills; have limited knowledge about sex; project low self-esteem, are loners, have low impulse control and low frustration tolerance; and exhibit other acting out behavior; e.g. fire setting. Access to the offender at an earlier age should lead to a higher rate of success.

When reviewing the relationship between the offender and the victim, Mr. Joseph suggested that the following factors are important: the difference in age — the wider the range, the more likely the crime is sexual abuse. What is the social relationship? Is it a power or control situation? Was the sexual act "normal" for the age of the offender? How did the sexual act take place; e.g., bribe, threat, enticement, manipulation, cooperation, abuse? How frequent did the act take place over time? Was it progressive?

Rapists constitute eighty (80) percent of all sexual offenders, while child molesters constitute the remaining twenty (20) percent. Mr. Joseph suggested that, if the crime was rape, one should look for threats and/or violence. Molesters tend not to use force. They tend to use authority, bribery and enticement.

He identified three types of rapists as described by Dr. Nicholas Froth, in his book, "The Incest Offender". They are:

- Power rapist - uses only enough force to overcome the victim's resistance.
- Anger rapist - uses more force than necessary; is angry toward women.
- Sadistic rapist - causes physical harm to victim; seems to need this for his own sexual arousal.

He also identified two types of child molesters:

## SEX OFFENDERS: ASSESSMENT, TREATMENT, AND COMMUNITY PROTECTION

- Fixated child molesters or pedifiles who prefer sex with children. They do not have any history of adult sex, are immature, insecure, stuck in a child-like maturation, are uncomfortable in adult relationships, and use the least amount of force.
- Regressed child molesters prefer adults as sex partners, but tend to engage in sex with children when under stress, and when other coping mechanisms break down.

Power, control and anger tend to be used to help the offender cope with a feeling of powerlessness and a lack of self control.

Mr. Joseph stated that the presentence report assessment is very important in these cases because it can determine whether the offender should remain in the community. The assessment should include: the ability of the offender to talk about crime, including the engagement strategy, the extent of the violence, the selection of the victim, the offenders relationship with the victim, the degree of premeditation, and the kinds of thoughts and feelings the offender had before, during and after the offense; e.g., anger, hate, depression and powerlessness. In addition, the presentence report should identify the specific act(s) involved and assess the level of responsibility the offender is willing to take, as well as the offender's stress level at the time of the incident, and the resources that are available to assist the offender in coping with stress. Finally, the report should also reflect the presence of psychopathology, anti-social behavior, degree of remorse, the extent of drug or alcohol dependency and the presence of mental retardation.

The assessment of the offender's sexual habits should include the types of sex in which he has engaged; sexual dysfunctioning; history of sexual abuse of the offender, as well as others in his/her family; and, the level of sexual development. It is essential to verify information by interviewing significant others, such as the offender's wife.

Mr. Joseph continued to say that the probation officer's recommendation to the court should be the result of an assessment as to whether the offender is a safe risk for the community. Individuals who can be considered appropriate for probation and a treatment program are those offenders who did not use force or violence; whose offense was a regression to prior sex under stress; who have been responsible individuals other than for the sexual abuse; who accept responsibility for their actions (a person who will not acknowledge responsibility for the crime is a poor probation risk); who have the skills to deal with the community and life problems; who have no serious psychopathology; and who show concern for the victim, and have life skills that will help reduce stress.

Ms. DeFrancisco then provided some suggestions for supervising the sex offender. Conditions of probation should include:

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

- an evaluation by an approved therapist of a mental health clinic, and the willingness of the offender to follow recommendations of the therapist;
- no contact with victim;
- no contact with persons under age 17;
- no employment in recreational jobs where there is contact with persons under age 17; and
- advanced approval of any residence by the probation officer.

If the offender was under the influence of alcohol when the crime occurred, he/she must agree to alcohol treatment.

Recommended treatment components, which are also used as discharge criteria, include:

- getting the offender to accept responsibility for the sexual abuse;
- helping the offender manage his/her feelings about the offense;
- helping the offender recognize the offense syndrome — the sequence of thoughts, feelings, events, circumstances, and arousal stimuli that led to the offense;
- helping the offender recognize warning signs of regression;
- assisting the offender in developing procedures to control, stop and manage their behavior;
- helping the offender to obtain social skills, sex education, and assertiveness training; and
- helping the offender understand the victimization of both the offender and the victim.

Group therapy is preferred for the sex offender since offenders tend to hold each other accountable for their behavior.

In analyzing the information collected for the presentence report, the probation officer must choose between treatment and community protection. Incarceration may protect the community temporarily, but there is little incentive for the offender to engage in therapy when confined to an institution. Probation may provide that incentive for some offenders.



Session #3

# **THE DESIGNATED ASSESSMENT SERVICE: A NEW STRATEGY FOR PINS DIVERSION**

*A presentation of the experience of localities, which have completed the PINS planning process, in developing a designated assessment service as part of New York State's recently enacted PINS Adjustment Services Act.*

## **PANELISTS**

**LINDA DEVIN-SHEEHAN**

Principal Planner  
Suffolk County Youth Bureau

**HELEN NEUBORNE**

Director of Program Planning  
New York City Criminal Justice Coordinating Office

**TERRY FUNK-ALTMAN**

Executive Director  
Dutchess County Mediation Center

**PATRICIA RESCH**

Deputy Director  
Dutchess County Probation Department

**ALLEN BELMONT**

Deputy Director  
Oneida County Probation Department

## **MODERATOR**

**MARY McCARTHY**

Assistant in Education  
New York State Education Department

## **RECORDER**

**JANET ROTHACKER**

Program Research Specialist  
Bureau of Planning, Policy and Information, DPCA

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Ms. Mary McCarthy, session moderator and Assistant in Education, New York State Education Department, opened the session by describing New York State's recently enacted "PINS Adjustment Services Act", which requires localities to establish a designated assessment service to identify non-judicial remedies for the resolution of matters involving persons in need of supervision (PINS).

Ms. Linda Devin-Sheehan, Principal Planner for the Suffolk County Youth Bureau, described the process by which the Designated Assessment

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

Service Team was formed in Suffolk County. Representatives from the County Youth Board, the Department of Probation, county school systems, BOCES, the Department of Social Services, the Mental Health Division, the Division for Youth, and various county youth organizations, were involved in designing the service. Surveys were sent to all youth serving agencies (including school systems) for the purpose of soliciting information about the service. At an early meeting of the representatives, three primary needs were established: the need for collaboration among agencies, the need for counseling services, and the need for involving the school systems. On the basis of the information garnered from the surveys, and in conjunction with the three identified needs, a five-member Designated Assessment Service (DAS) Team was constituted. The DAS Team in Suffolk County consists of a psychiatric social worker, a senior education counselor, a senior case worker, a psychologist, and a supervising probation officer, who serves as team leader. The team operates three levels of assessment services, with each successive level requiring more resources. Individual cases are assigned to an assessment level based on resource needs.

Ms. Devin-Sheehan concluded her remarks by describing the strengths and weaknesses of the process used to create a designated assessment service in the county. Among the strengths were a history of interagency collaboration, and an excellent data collection procedure which resulted in a rich database. Among the weaknesses of the process were the short time-frames (given the size of the county), and the fact that they were dealing with "unknowns"; e.g., the number of cases that could be expected.

Ms. Helen Neuborne, Director of Program Planning, New York City Criminal Justice Coordinating Office, described the designated assessment service process in New York City. An immediate issue facing the City in designing a diversion program is the magnitude of the situation. Each year, two thousand PINS petitions are filed in one borough alone (Brooklyn), while fifty-two hundred PINS petitions are filed in the city, as a whole. Additionally, the range of family problems characteristic of PINS cases, coupled with resource constraints, makes the process even more difficult. In a study of four hundred such families, it was found that seventy (70) percent of the children had serious educational problems, fifty (50) percent had been suspended at least once, twenty-five (25) percent were in special education classes, sixty (60) percent had varying degrees of mental health problems, and between ten (10) and fifteen (15) percent had been victims of child abuse. To design a designated assessment service team which could address such problems, representatives of forty public and private agencies established an advisory board, which meets monthly. Among the facets of the process in the City are:

- the recognition that families will have varying degrees of "need" — some may need only mediation;
- the availability of education specialists;
- the availability of a substance abuse counselor in each borough;
- a program at Kings County Hospital which provides specialized drug assessments; and,

## THE DESIGNATED ASSESSMENT SERVICE: A NEW STRATEGY FOR PINS DIVERSION

- the Attendance Improvement Dropout Project (AIDP) with the Board of Education in the Bronx.

Ms. Neuborne concluded by stressing that the focus in New York City is on families, not just children.

Ms. Patricia Resch, Deputy Director of the Dutchess County Probation Department, and Ms. Terry Funk-Altman, Executive Director, Dutchess County Mediation Center, emphasized the process issues involved in developing a designated assessment service. Ms. Resch explained that Dutchess County's DAS planning team is comprised of representatives of every agency that provides services to children. A "core" group consists of a mediator, a clinical psychologist, a social worker, an educator, and a senior probation officer. Ms. Funk-Altman elaborated on the role of the mediator in the process. She was pleased that the Mediation Center, a relatively new organization in the county, was involved in the process from the very beginning. The "team" attitude was very helpful in accomplishing the task of developing a designated assessment service, and it was clear from the beginning that the entire team was willing "to go out on a limb" in order to complete the process.

Ms. Resch discussed the process used by the planning team in developing the DAS. She stated that the Dutchess County planning team found it very helpful to rely on a "facilitator" (as opposed to a chairperson) to orchestrate their meetings. She explained that this type of approach will work only if the facilitator does not have a vested interest in the outcome of the group. The planning team recognized that the assessment team would require a variety of disciplines. In addition to the establishment of a multi-disciplinary assessment team, the planning team came to the conclusion that group interviews of families; that is, interviews of families by more than one assessment team member, were desirable for a number of reasons. Among those reasons were the transportation issue (families would only have to make one trip), and the fact that the client family would only have to "tell their story" once. Ms. Resch concluded her remarks with some advice for counties facing the development of a designated assessment service: "let go of the content, and focus on the process".

Mr. Belmont, Deputy Director of the Oneida County Probation Department, described the designated assessment service planning process in Oneida County. The Oneida County Probation Department is the coordinating agency. He stressed the importance of obtaining the early approval of the county executive, and the early involvement of the school systems. Oneida County is focusing not only on treatment, but also on prevention. Mr. Belmont ended with the statement that the planning process was a valuable vehicle for agency interaction at both the state and local level.

Session #4

# **ELECTRONIC SURVEILLANCE AND HOME DETENTION: A STATE OF THE ART REPORT**

*A presentation of the electronic surveillance and home  
detention programs and equipment currently in operation in  
New York State, as well as other areas of the country.*

**PANELISTS**

**RICHARD A. ANGULO**

Director, Marketing-Sales  
HITEK Community Control Corp.  
Ft. Lauderdale, Florida

**MICHAEL GOSS**

Boulder Industries, Colorado

**ALEX KILISZEWSKI**

Probation Officer  
Erie County Probation Department

**RICHARD PANICCIA**

Coordinator, Public Safety Information Systems  
Schenectady County Probation Department

**DONALD RICHTBERG**

Coordinator, Electronic Home Detention Program  
Nassau County Probation Department

**GLEN ROTHBART**

Director, Corrections Services, Inc.  
West Palm Beach, Florida

**MODERATOR**

**JOSEPH SCIARROTTA**

Deputy Director  
Nassau County Probation Department

**RECORDER**

**DAVID AGLER**

Criminal Justice Program Representative  
Bureau of Alternatives to Incarceration, DCPA

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Mr. Joseph Sciarrotta, session moderator and Deputy Director, Nassau County Probation Department, opened the session with some background information about the sentence of probation. The sentence of probation has increased dramatically in the last decade, and probation departments are currently handling more serious offenders than in the past. He indicated

## ELECTRONIC SURVEILLANCE AND HOME DETENTION

that the use of electronically-monitored home confinement devices enable the local probation department to expand supervision capabilities. While these electronic devices are not for every type of offender, it may eventually serve as an adjunct to early release, or to Intensive Supervision Program (ISP) efforts. He also stated that home detention offenders generally serve longer sentences than those sentenced to jail; e.g., 1 day jail  $\times$  3 days home detention.

Mr. Alex Killiszewski, Probation Officer, Erie County Probation Department, stated that Erie County uses house arrest to help alleviate overcrowding in the local jail. However, at the outset it was necessary to convince local judges and legislators that house arrest could be effective and could provide for public safety. Also, in many high-crime areas in which probation officers had to venture, their safety became a key issue. Consequently, the officers underwent firearms training.

Since local judges wanted to be sure that offenders were in their homes during restricted hours, random calls were made, usually from 10:00 pm to 1:00 am. Mr. Killiszewski also maintained that it was still necessary to have probation officers seen in the community. Initial resistance by judges was overcome by returning probation violators promptly to court for re-sentencing. A liability of the program is the inability of the probation officer to make contacts during night-time hours and on weekends due to the overtime costs that are involved. Although the program is still in its infancy stage, it has shown to be a viable one in a metropolitan area.

Michael Goss of Boulder Industries in Colorado identified himself as the first person to set up a home incarceration monitoring system. The development of his electronic monitoring device grew out of a request by an Albuquerque, New Mexico judge in 1982, who was concerned about conditions in the state prison. The judge requested companies to develop some kind of monitoring system.

The newly developed electronic monitoring system was first used in 1983. According to Mr. Goss, he encountered two unexpected events with the implementation of the device; the American Civil Liberties Union (ACLU) failed to condemn the project, but advocates of the "right-wing" did. The ACLU did not condemn it because it had the potential to keep people out of jail, while the "right wing" was dismayed since it resulted in less jail time.

Mr. Goss stated that the system consists of a central processor which holds the data and curfew requirements for an offender, and which also enables the probation officer to change monitoring conditions. Also involved is a receiver, or field monitoring device (in the offender's home), which automatically dials the central processor to check for location and any possible tampering. Lastly, a transmitter worn on the offender's ankle is used, in which the strap can detect removal.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

One of the benefits of this system, according to Mr. Goss, is that, during power outages or telephone failures, the computer continues to store transactions. Also, in the event of a breakdown of the central processor, it can be repaired on-site within 24 hours. However, he stated that the use of these devices should not be used for serious offenders, and it will not do the whole job for probation officers. Equipment costs fall below \$8 per day per offender.

Mr. Richard Angulo of Hitek Community Control Corporation in Florida reported that a typical Florida community control program has approximately twenty (20) offenders per officer. Since the statewide program began in 1983, there have been approximately 500 offenders involved.

In the development of their system, Mr. Angulo stated that active participation between officer and offender was a benefit that encouraged compliance. He explained that there are three components to the system: a wristlet verifier that does not have a battery or an AC connection; an on-guard computer that determines when to make random phone calls; and, lastly, the actual "caller", which is a separate piece of equipment.

Some benefits, as stated by Mr. Angulo, include the fact that daily contact with an offender frees the probation officer's time to deal with non-compliance, and that the wristlet provides positive identification. All that is required of the offender is a working telephone.

Presently, the system is primarily used as an enhancement to ISP programs. Finally, Mr. Angulo stressed that the system and product technology are continually changing and that the system is not yet perfected.

Mr. Richard Paniccia, Coordinator, Public Safety Information Systems, Schenectady County Probation Department, related that the county's system is used to deal with overcrowding in the county jail. Currently, there are 14 individuals on the system, of whom seventy-five (75) percent are felons. It is viewed as an alternative to incarceration for non-violent offenders who cannot make bail. In addition to pretrial use, electronic detention devices are used with the split-sentenced individual, as well as probation violators.

Mr. Paniccia noted that a benefit of the system is its cost in relation to "farming out" an individual. He also stated that follow-up by a probation officer is essential to the meaningful use of electronic home detention devices.

Mr. Glen Rothbart, Director of Corrections Services, Inc. in Florida, indicated that his system began operation in 1984. There are several requirements that must be satisfied before an offender is eligible for this in-house arrest program. These prerequisites require an offender to have a job. The program must also be used on a voluntary basis, and offenders must be able to bear the costs. Drivers convicted of DWI can be accepted

## ELECTRONIC SURVEILLANCE AND HOME DETENTION

as a condition of probation. Mr. Rothbart also stated that the program selects people who are going to serve a 90 day rather than a 30 day jail term.

Currently, in Palm Beach County, there are 35 defendants on work release and 25-30 probation cases per day serving in-house arrest. It is hoped that the program will expand to pretrial work next year. Approximately seventy (70) percent of offenders being monitored are felons. Among the product's features are that the transmitter is sealed to protect against moisture and the monitor works continuously on battery power in the event of AC power loss.

Mr. Donald Richtberg, Coordinator of the Electronic Home Detention Program for the Nassau County Probation Department, stated that he foresaw problems with other jurisdictions which may have a real interest in utilizing these electronic monitoring devices, but wish to conduct studies before implementing them. He reported that Nassau County avoided the endless cautiousness. He also stated that, the more you delay implementing the use of these devices, the more costly it becomes. He cited a figure of approximately \$70 per day for prison vs. \$3 per day for home detention.

Mr. Richtberg stated, however, that home detention devices are not a panacea. The program is not designed for all offenders. Nassau County uses a set of criteria in selecting appropriate cases. These include low-level crimes (D and E felonies, misdemeanors); offenders must have telephones; only county residents are eligible, with the exception of vagrants and DWI's. Cases to be accepted are decided on the basis of presentence reports submitted to the court.

Nassau County scheduled meetings with district court judges initially, but then broadened the scope to include county court judges. The probation department also met with legislators, obtained funding, and developed an operations manual.

Mr. Richtberg added that the electronic devices were assisting the probation officer in doing his job. In Nassau County, for every individual on electronic house-arrest, there are two probation officers involved; one who handles regular supervision duties, and the other who is assigned to the electronic monitoring system.

Session #5

# **COMMUNITY CORRECTIONS: DOLLARS AND SENSE ISSUES**

*An exploration of the fiscal and political  
implications of creating a comprehensive  
community corrections system in New York State*

## **PANELISTS**

**KENNETH F. SCHOEN**

Director, Program for Justice  
Edna McConnell Clark Foundation

**BRIAN STENSON**

Principal Budget Examiner  
NYS Division of the Budget

**VAN ZWISOHN**

Executive Director  
NYS Coalition for Criminal Justice

## **MODERATOR**

**FRANCIS N. SMITH**

Probation Program Administrator  
Bureau of Field Operations, DPCA

## **RECORDER**

**RICHARD CUSTER**

Probation Program Consultant  
Bureau of Field Operations, DPCA

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Mr. Brian T. Stenson, Principal Budget Examiner, NYS Division of the Budget, introduced the problems of statewide budgeting for community corrections in the context of some general budgetary problems, particularly the forecasting of committed expenditures and expected revenues. Regardless of the economy's prosperity, there are always pressures for addressing needs and pursuing new program initiatives. Hence, in the budgeting process, money is always tight, difficult choices must always be made.

Using the example of the NYS Division of Parole's budget two years ago, Mr. Stenson illustrated the process of budgetary analysis. This task can be approached by raising a few simple questions.

- Will the increase in funding actually achieve the desired result, or are there problems endemic to the structure of the agency or program that will damage, or even destroy, the potential benefit of program expansion?



## COMMUNITY CORRECTIONS: DOLLARS AND SENSE ISSUES

In citing the example of Parole's budget, Mr. Stenson indicated that simply adding line staff would not have achieved the desired result. More and more effective service rested on the need for strengthened middle management and decentralized decisionmaking.

- What level of resources are needed?

This question was addressed through a time study of parole officer tasks in conjunction with the recognized standards for caseloads and supervisory span of control.

- What is the direct and indirect impact on other agencies and programs?

The impact of Parole's ability to effectively supervise more parolees will obviously reduce pressure to create additional bed space for the Department of Correctional Services.

- Are there opportunities for internal offsets to save dollars?

Mr. Stenson used the example of employing para-professionals to perform selected activities that require less skills.

- Does the proposal incorporate management control? Do the management controls focus on items that have impact?

Mr. Stenson added that, in the competition for public dollars, new, expanded, or innovative programs need not demonstrate that they are perfect, just better than most of the others.

Mr. Van Zwisohn, Executive Director, NYS Coalition for Criminal Justice, noted that the definition of community corrections is evolving and emerging. Whatever community corrections is, it is not a prison sentence. He emphasized that using prison sentences routinely as an approach to crime control makes as little sense as routing every hospital patient through the intensive care unit. Prison is the harshest and most expensive sanction, and is not particularly effective.

The national average rate of recidivism for those released from prison is about thirty-five (35) percent. A most recent study indicated that New York State reflected a forty-one (41) percent rate of recidivism. This dismal result is from a system that spends \$26,500 per inmate per year. Space for a new prison bed costs \$160,000 - \$165,000. New York State now spends \$1.3 billion a year in operating costs. New York is obviously willing to spend heavily on corrections because it is doing precisely that.

Other approaches to dealing with offenders show far better results. For example, the State of Delaware is operating a phased re-entry program, built around a supervised inmate work program. The inmates work their way from maximum to medium to minimum security — all the way to community halfway houses. This program is achieving a

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

ten (10) percent recidivism rate. Correctional centers, of which there are few, average 2.2 percent recidivism; extended furlough programs achieve 5.3 percent; and residential halfway houses achieve 1.9 percent. Yet, we continue to spend our money on prisons. At the grandest scale of public policy choices, for every person who goes to prison, we have expended an amount of money that could have sent two people to college.

We, as community corrections professionals, must assertively state our case, because the facts are overwhelmingly on our side. Critical as the Rand study of probation was in California, it still showed that probationers were re-arrested thirteen (13) percent less than released prisoners. The public is clearly willing to spend tax dollars on corrections. The public is also aware that spending on corrections means prisons. We need to clearly state the fact that the public is not getting its money's worth from prison spending.

Mr. Kenneth Schoen, Director of Justice Programs for the Edna McConnell Clark Foundation in New York, addressed the question, "What are the incentives?" He noted the interest of the private sector in corrections and the example of the Corrections Corporation of America which is operating in Tennessee. He expressed real concern about developing an economic constituency with a vested interest in prisons.

Mr. Schoen proceeded to illustrate possible incentives by imagining that all of those in the workshop might form a corporation to provide correctional care to all the offenders in Albany County. The income would include funds currently spent on all forms of corrections, including the costs of housing state prisoners, supervising parolees, running the jail, and providing probation services. The profit potential would be purely in potential savings. Mr. Schoen predicted that profits would be handsome.

With these incentives, this fictitious corporation would examine every activity and process to find out what really works, not just what sounds good in the media. Community corrections and its ability to produce would be marketed in a sophisticated public education effort, in the same way that pizza, cameras, and other consumer goods are marketed.

Mr. Schoen continued to explain that these processes of service delivery, evaluation, and public education would work because they would be decentralized to the local level. As the Minnesota Community Corrections Act provided, the state's role would be limited to funding, standard setting, and maintaining custody of those few offenders who really belong in prison.

Session #6

# **THE GROWING LIABILITY INSURANCE CRISIS: NEW YORK STATE'S RESPONSE**

*An examination of recently enacted state  
legislation designed to address the liability  
crisis and its impact on not-for-profit and  
local government community corrections programs.*

## **PANELISTS**

**PETER BOYLE**

Director

Nassau County Community Service Agency

**JAMES W. RANDOLPH**

Deputy Superintendent

New York State Insurance Department

**JAY SIMSON**

Executive Director

Law, Order and Justice Center

## **MODERATOR**

**ELEANOR SEIDMAN**

Director

Suffolk County Community Service Program

## **RECORDER**

**JEROME BUKIEWICZ**

Probation Program Consultant

Bureau of Field Operations, DPCA

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Mr. Peter Boyle, Director of the Nassau County Community Service Agency, opened the session by stating that insurance is one of those things we never think about until we need it. This should not be the case, and New York State needs to take the lead in answering questions like, "What does insurance mean for community service programs?" As we look at this area, it is important to keep in mind that there is little written information on insurance matters in the field of corrections, and that there are few statutes and no case law to guide us.

Mr. Boyle reviewed some related civil and criminal issues in both State and Federal law. There are seven specific acts or non-acts for which community service workers can be held liable under New York State law:

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

- Negligent failure to train;
- Negligent hiring;
- Negligent assignment;
- Negligent failure to supervise;
- Negligent entrustment;
- Negligent failure to direct; and
- Negligent retention.

We need to do what we can to prevent or reduce the impact of liability on community corrections. One important way to do this is to deal specifically with the above seven areas in our policy manuals, as we develop them for our programs.

Two important principles in third party liability are foreseeable risk and reliance. Again, these need to be addressed by developing good policy manuals, by quality training for volunteers and offenders, and by knowing your worksite. There are several "tests" that can be applied to determine liability for private agencies:

- Public Function Test — private agencies engaged in governmental functions are subject to constitutional limitations.
- Nexus Test — there can be a close link between the actions of private agencies and public officials. Consequently, there is similar liability.
- State Compulsion Test — the State is compelled by duty or statute to provide certain services. Contract agencies with the State have similar duties.
- Joint Action Test — private agencies can often work jointly with State officials and so incur similar liability.

There is a great deal of work yet to be done by community corrections in the area of insurance and liability, and we in the local programs and in the State agencies need to work together on this.

Mr. James W. Randolph, Deputy Superintendent of the New York State Insurance Department, said that there are two major areas affected by insurance. One is the liability issue covered by Mr. Boyle. The other area is the issue of from where do the criminals come. The "red lining" practice of many insurance companies leads to decaying communities and to sociological problems, including crime. In doing this, the insurance companies fail to recognize the right of everyone to get insurance. All of us contribute to this problem. Corrections can display a lax attitude toward crime. When a car thief does not get convicted, that can contribute to an increase in insurance premiums which, in turn, simply continues the spiral.

## THE GROWING LIABILITY INSURANCE CRISIS

According to Mr. Randolph, there has been a terrible liability crunch in this State in the past two years. Many social agencies cannot get their workers insured; they cannot get *affordable* insurance. As a result, the State Department of Insurance has created various Market Assistance Programs (MAPS) to help with this problem. MAPS currently exist for aftercare centers, police, local governments and social programs.

In closing, Mr. Randolph related a piece of advice: the professionals involved in social programs think and act differently than insurance people and so, when you need to deal with insurance professionals, know your program and be ready!

Mr. Jay Simson, Executive Director of Law, Order and Justice in Schenectady, New York, stated that his organization tries to practice the principles mentioned by Mr. Boyle. They have a professional staff liability policy so that staff members do not need to worry about personal liability. Much of our involvement in insurance comes down to two words, "COMMON SENSE". There is not a whole lot of case law in this area as it applies to community corrections. Consequently, law suits will have to be filed and decisions made to guide us. A National Institute of Corrections pamphlet entitled "Questions and Answers on Legal Liability Issues in Probation and Parole" is a good source for questions on liability, but a caution; it is very difficult to give hard answers that will apply in all situations.

# **COMMUNITY SUPERVISION OF THE POLY-SUBSTANCE ABUSER**

*An historical overview of poly-substance use and a  
discussion on the coordination of three systems —  
Criminal Justice, Substance Abuse and Alcohol  
Abuse — in treating the poly-substance abuser.*

## **PANELISTS**

### **MATTHEW A. CASSIDY**

Division Director  
Treatment Alternatives to Street Crime  
Nassau County Education Center of Long Island

### **DR. ROBERT MILLMAN**

Professor of Clinical Public Health & Psychiatry  
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### **STEVEN SCHWARTZ**

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Treatment Center, Buffalo

## **MODERATOR**

### **JOHN W. RUSSELL, JR.**

Deputy Director, Program Development  
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## **RECORDER**

### **JOHN J. MACERI**

Probation Program Administrator  
Bureau of Field Operations, DPCA

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Mr. John W. Russell, Jr., session moderator and Deputy Director for Program Development, New York State Division of Substance Abuse Services, offered a few remarks that focused on the poly-substance abusers' impact on the criminal justice system. He stated that most abusers abuse more than one drug, and that the variety of abused substances is expensive, including the classic opium and its derivatives; the newly rediscovered cocaine and its variations; and, over-the-counter drug prescriptions.

Mr. Russell added that all drugs may fade in popularity only to be revived in new ways of abusing them. There is an increasing realization that the use of drugs is combined with alcohol. In the late nineteenth and early twentieth centuries, drugs were used to cure alcoholism.

Recent research, however, has revealed that alcohol abuse accompanies cocaine abuse. The effects of alcohol are said to calm

## COMMUNITY SUPERVISION OF THE POLY-SUBSTANCE ABUSER

the negative effects of cocaine. In the first quarter of 1986, twenty (20) percent of 2,576 individuals admitted for treatment as primary cocaine abusers indicated that alcohol was the secondary drug that was abused.

In a study of career criminals, a majority of the most violent criminals were heroin users. Furthermore, three-quarters of the nation's prison inmates have used drugs. The daily high cost drug abusers averaged 100 to 300 crimes per year. Over a period of time, drug abusers are responsible for thousands of criminal acts and amass thousands of dollars in the drug economy distribution.

Mr. Russell further pointed out that criminal justice agencies have few strategies to routinely detect and intervene in this drug dilemma. A vast majority of heroin and cocaine abusers are at liberty within three months of arrests. He pointed out that little evidence exists to support the claim that criminal justice sanctions are as effective as drug treatment in reducing the criminality of heroin and cocaine abusers. Evidence, while limited, does suggest that two-thirds of arrested heroin abusers quickly return to drug abuse within three months of release, regardless of case disposition or sentence. In contrast, however, the weight of evidence suggests that the criminality of drug abusers is substantially decreased while receiving drug treatment.

Dr. Robert Millman, Professor of Clinical Public Health and Clinical Psychiatry, New York Hospital/Cornell University Medical College, provided an overview of drug abuse in our society. He stated that there is nothing new under the sun in wrestling with drug abuse. Evidence provided through art form suggests that the use of drugs existed over 2000 years ago when the alkaline solution and cocoa leaves were mixed and orally ingested. There is evidence that drugs were used in pre-recorded time. In the sixteenth century, it was used heavily by the Incas, principally by the priests and the rich classes. About five hundred years ago, when the Spaniards took control of South America, the Church made an initial decision to ban the use of cocoa leaves because it was believed that its use would retard efforts toward salvation. Later, they realized that cocoa chewing increased energy and reduced food requirements and appetites. Consequently, the Church reversed itself and encouraged its use. Today, alkaline substances and cocoa leaves are still used in the Andes. This may be construed as a form of free-basing.

What might be realized as new, according to Dr. Millman, is that drugs were used from the beginning of recorded time and will continue to the end of recorded time; that there is no such thing as preventing drug abuse. The only society that did not use drugs from the beginning of time is the Eskimo. However, when we introduced alcohol, its abuse became the Eskimos number one health problem.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

The use of drugs is historically documented for medical, religious, or recreational purposes. In Southeast Asia, for example, opium is utilized by opium smokers according to certain rituals. This is not thought of as bad, but wise, wherein individuals remove themselves and contemplate.

Marijuana is another drug substance integrated into various societies around the world, where its use is socially sanctioned. Alcohol, for example, is a socially sanctioned drug in America. Approximately 120 million Americans who drink it can control it. However, about 4 or 5 million who use it get into trouble.

The problem presently in our society is the introduction of and accessibility to a wide variety of drugs and instruments. Dr. Millman stated that it is impossible to think how people could control all of the varied and multiple methods of using drugs, especially since this melee of drugs doesn't fit into the social sanctions and rituals of our society, as does alcohol.

At the turn of the nineteenth century, and in the very early part of the twentieth century, there was a higher percentage of cocaine and heroin use than today. It was legally available in a variety of elixirs, which were sold in drug stores for such things as hair growth and physical ailments. Thus, criminal behavior was precluded. However, as a result of the Harrison Narcotics Act, heroin, cocaine, and marijuana became illegal. Most people stopped using these drugs but, likewise, the law forced the drug users and dealers underground. This status remained until the 1960's when drug use became evident among inner city areas/minority groups, and among the very rich. The middle class remained on the periphery.

Dr. Millman emphatically and descriptively pointed out that, while drug abuse was decreasing, the major media gave an opposing impression, based on misleading data, for the principal purpose of creating major productions for sales. He stated that, while we were supposedly in the throes of a drug abuse epidemic, the media made the use of drugs exciting.

Finally, Dr. Millman gave a perspective on drug abuse from a research level that described the whole essence of cocaine usage. Whether ingesting, snorting, or injecting cocaine, an individual's blood pressure rises rapidly and then slowly comes down. Meanwhile, the feeling effect is high but drops instantly until more cocaine is ingested into the system. The effects of constant use is an increased energy level and increased paranoia, which eventually rises to the level of a psychosis. To "cool" the paranoia and anxiety levels accompanying cocaine, an individual resorts to alcohol, marijuana, valium, etc.



## COMMUNITY SUPERVISION OF THE POLY-SUBSTANCE ABUSER

Dr. Millman concluded his remarks indicating that, in a treatment status, a drug abuser experiences a "down period" which may last from one to several months.

Mr. Steven Schwartz, Director of the Margaret A. Stutzman Alcoholism Treatment Center in Buffalo, New York, presented a perspective on the client and service provider; the goals of treatment; and some problems encountered by mandatory treatment. He focused on the consumer in alcohol and drug treatment by introducing the concept of chemical dependency. The result of chemical dependency is characterized by its need for usage; by an inability to stop; and by an impairment of social, psychological and occupational functioning. All cocaine addicts enter treatment virtually alcoholic. This combination of concurrent use of drugs and alcohol is serious business. A study from the Institute of Social Research at Michigan reported that eleven (11) percent of all children are using a combination of cocaine and alcohol. In this regard, most treatment agencies are reporting similar concurrent use.

Mr. Schwartz further stated that alcohol is probably the greatest problem among methadone clients. In recent years, cooperative efforts have emerged between the New York State Division of Substance Abuse and the New York State Division of Alcoholism in providing mutual training in alcohol and methadone across New York State; and in admitting methadone clients, on an experimental basis, to the alcohol treatment center at Middletown, New York.

He cited a survey-study that was conducted jointly by both agencies in 1983 in New York State. The study revealed that, of the 27,400 high school students surveyed in the last six months of 1983, twenty-five (25) percent of the students in grades 7 thru 12 admitted the combined use of alcohol and cocaine; eleven (11) percent of this group were heavy users. The students were not depicted as drug addicts or alcoholics, but who were responding to billions of dollars of advertising via the media (prime time TV, magazines, etc.) He pointed out that more dollars were spent in alcohol advertising than in all of the combined advertising of General Motors, and of all beer commercials.

Mr. Schwartz referenced a document entitled "Diagnostic and Statistical Manual", which provides a distinction between abuse and dependency in drug-alcohol usage. The former is characterized by a patterned pathological use and an impairment of social or occupational functioning. The latter includes the addition of a severe level of tolerance withdrawal. All drugs are now considered to have tolerant withdrawal dependence. Historically, alcohol and drugs were on different tracks. In large part, alcohol was considered a health problem and thereby handled by a variety of community health systems, which provided a focus on positive alternatives such as abstinence programs. Drug abuse

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

was viewed as a criminal activity, and the goal of the criminal justice system was to stop its use by imposing criminal sanctions. In recognition of the poly-abuse phenomenon, the Divisions of Substance Abuse and Alcoholism have developed an Alcohol/Drug Abuse Treatment Program.

Mr. Schwartz concluded his presentation by examining levels of care. Criminal justice agencies should serve to diagnose and to identify the appropriate cases for alcohol/drug abuse treatment. The agency which provides the chemical dependency program will then determine the in-patient or out-patient program needed. A client should be sentenced to a treatment program, but never mandated to a specific program or center.

Mr. Schwartz cited three basic goals that should constitute all chemical dependence treatment programs: (1) abstinence, enforced by technical equipment, such as a breathalyzer; (2) self-help; and (3) family involvement.

Mr. Matthew A. Cassidy, Division Director of TASC, Nassau County Education Center of Long Island, offered a perspective on the role of the TASC Treatment Program in dealing with alcohol and substance abusing offenders.

Mr. Cassidy introduced a concept which integrates the criminal justice system agencies and the agencies of alcohol/drug abuse treatment programs. It is called TASC (Treatment Alternatives to Street Crime). He proceeded to describe the program as containing three basic steps. The first step involves the screening process, wherein non-violent offenders awaiting trial in jail are interviewed regarding alcohol and/or drug use. It is also ascertained whether or not the individual is interested in treatment and is willing to participate voluntarily in a program. Two essential facts are elicited from the potential client: recognition that a drug or alcohol problem exists, and a commitment to be in a treatment program for twelve months.

The second step in the program is the diagnostic process, which is conducted by a unit of qualified professionals who interview the offender in great detail. A needs assessment is formulated and a referral is made to one of the one hundred treatment programs with which TASC has contract service agreements.

The third and final step is the monitoring process conducted by a unit of case managers, each of which has a caseload of approximately fifty cases. Each unit monitors the progress of each case and provides support for a client to remain in the treatment program. A monthly report is drafted and submitted to the criminal justice agency which initiated the referral. Mr. Cassidy indicated that fifty (50) percent of the offenders manage to complete the highly structured treatment program.

## **ADOLESCENT SEXUALITY: WHAT'S LOVE GOT TO DO WITH IT?**

*A presentation of sexuality as a major issue  
in adolescence and when, how and under what  
circumstances should sexuality be discussed  
and addressed with clients and their parents.*

**PRESENTER**

**JUNE PERNICE**

Prevention Counselor

Champlain Valley Family Center, Plattsburgh, NY

**MODERATOR**

**LOIS HELLMAN**

Probation Program Consultant

Bureau of Field Operations, DPCA

**RECORDER**

**PAMELA V. DERRICK**

Program Research Specialist

Bureau of Planning, Policy and Information, DPCA

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Ms. June Pernice, Prevention Counselor, Champlain Valley Family Center for Drug Treatment and Youth Services in Plattsburgh, led a discussion on the issues surrounding adolescent sexuality, and requested that participants air their concerns and observations. Subsequent to this interchange, the film entitled, *Shelley, Peter and Carol*, was reviewed and discussed.

The first series of concerns involved questions of what is considered "normalcy" in adolescent behavior. Probation officers must often intervene between parent and child and, therefore, need to know what is appropriate behavior for this very complex age group, as well as what is appropriate behavior for themselves.

The average age of menarche is 12.8 years, while the average age of marriage is 22 years. Adolescence is the ten year time period between these two benchmarks. Sexual experimentation often begins at ages 12 or 13. It is extremely important that professionals, who work with this age group, feel comfortable with the whole issue of sexuality. Counseling must be open and candid. There are resources like Planned Parenthood that may be used to gather information and provide services. This community service assists both adolescents and their parents. It is a resource that provides factual information and, of equal importance, it can enhance the awareness of the consequences of sexually active

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

behavior. Often the professional's role is significant since both parties may require objective support and understanding. A most effective approach is to manage joint discussions between parent and child.

It is also important to look for patterns within the family. Often the older children's behaviors are very reinforcing. For example, if an older adolescent has been pregnant, the younger sibling may view this as appropriate behavior.

Family Court Intake workers must also deal with child molestation cases involving 14 and 15 year olds and younger children. While sexual *exploration* is expected; child molestation is *exploitation* and is not appropriate.

There are some basic "givens" in the thinking of adolescents who are struggling with sexuality. Often the young girls want to have a baby. It is the only identity they have. Since they think they know how to make decisions and that they're "mature", they see only the positive consequences of childbirth. Coupled with other "givens", like "they'll live forever and that love is forever", it is often more difficult for the adolescent to recognize and accept the negative consequences of childbirth. As a caseworker, it is extremely important to talk reality with the youths.

Several suggestions were provided regarding the types of services available. Some of the possible starting places include the local social services network, Child Welfare Services and Catholic Family Services.

The pregnant woman who is incarcerated presents an even more complex dilemma. One organization serving this need is Women for Human Rights and Dignity, located in the Buffalo area in upstate New York. In addition, sexually abused children, who are now acting out themselves, need specially trained professionals. As a reference for services to meet this need, Ms. Pernice cited the Commission on Domestic Violence, and the New York State Council on Children and Families.

A common pitfall facing probation officers is that parents have become all too familiar with the system. The result is that the parents can't or won't take responsibility for their families; rather, they expect the case worker to act as the heavy. There is often constant pressure from the parents to seek out-of-home placement for their children. It is necessary here to work with the parents to help them understand how to take responsibility, notwithstanding the difficulties that are involved.

A final issue addressed sexual identity problems in adolescence. This sensitive problem may require some probing before the real problem emerges. Homosexual experimentation can and does occur during this period. Often, however, these behaviors result in self-hatred. If this problem does surface, it's important for the counselor to make a

## ADOLESCENT SEXUALITY: WHAT'S LOVE GOT TO DO WITH IT?

distinction between exploring one's sexual identity and choosing homosexuality as a preference.

Ms. Pernice closed the session with the poem entitled, "Knots", by R.D. Laing. It reflects the sheer confusion most adolescents feel about sex. Although they may appear to be very sophisticated, they don't know much.

### KNOTS

There is something I can't know  
that I am supposed to know.  
I don't know what it is I don't know,  
and yet am supposed to know,  
and I feel I look stupid  
if I seem both not to know it  
and not know what it is I don't know.  
Therefore I pretend I know it.  
This is nerve-racking  
since I don't know what I must pretend to know.  
Therefore I pretend to know everything.  
I feel you know what I am supposed to know  
but you can't tell me what it is  
because you don't know that I don't know what it is.  
You may know what I don't know, but not  
that I don't know it,  
and I can't tell you. So you will have to tell me everything.

R. D. Laing

Session #9

## **AIDS: POLICY AND PRACTICE**

*A brief medical overview of AIDS and its implications for community corrections, and a discussion of the newly developed AIDS policies of the State Division of Probation and Correctional Alternatives and the State Division of Parole, including legal interpretations.*

**PANELISTS**

**SEAN BYRNE**

Senior Attorney  
NYS Division of Parole

**GERALD MIGLIORE**

Executive Assistant to the Commissioner  
New York City Department of Probation

**DR. BENEDICT TRUMAN**

Director of AIDS Epidemiology  
NYS Department of Health

**LINDA J. VALENTI**

Counsel, DPCA

**TERRI WURMSER**

Parole Client Specialist  
NYS Division of Parole

**MODERATOR**

**BERNARD M. MAROSEK**

Supervisor  
Onondaga County Probation Department

**RECORDER**

**CHARLES J. TESTO**

Probation Program Administrator  
Bureau of Field Operations, DPCA

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Dr. Benedict Truman, Director of AIDS Epidemiology, New York State Department of Health, presented a series of highly technical slides on the causes of AIDS, the various methods of transmission, the number and geographical location of high risk cases, the current methods of diagnosis and treatment, and methods of preventing the spread of the virus.

Dr. Truman stated that, up until now, an effective vaccine or cure has yet to be developed by any medical establishment. The data presented to date projects over the next four or five years that the disease will

reach epidemic proportions if a vaccine or cure is not developed. Currently, the only vaccine we have is education.

Sean Byrne, Senior Attorney for the New York State Division of Parole, and Linda Valenti, Counsel for the New York State Division of Probation and Correctional Alternatives, identified several human rights issues that have surfaced during the parole and probation investigation stage and supervisory period that, at this time, cannot be satisfactorily answered.

Questions emerged concerning AIDS offenders' rights to privacy, such as testing for the virus, sharing medical information with other agencies, setting conditions relating to supervision and rehabilitation, and involving the offender and his family in the supervision program. Mr. Byrne and Ms. Valenti reviewed a number of policy statements prepared by their respective agencies, which are intended to provide local and state probation and parole officials with guidelines and values for working with AIDS offenders and their families. Policy statements by parole and probation agencies tend to lean towards individual rather than societal rights, as it is felt, in the absence of legislation, it is a more ethical and humane way to serve and treat this type of offender. Of course, many of the issues relating to privacy will be resolved through court decisions. In this regard, agency policy statements relating to privacy should be considered tentative. They will, undoubtedly, need further refinement as we learn more about the disease and its impact on society. Hopefully, future court decisions will result in some well thought out legislation; the kind that will fairly balance the rights of AIDS offenders with the rights of our society.

Terri Wurmser, Parole Client Specialist, New York State Division of Parole, and Gerald Migliore, Executive Assistant to the Commissioner of the New York City Department of Probation, focused their presentation on the ability of management and line officers to deal with the immediate needs of AIDS offenders. Ms. Wurmser stated that, currently, there is no community corrections organization that is designed, staffed and managed to deal with the myriad of difficult medical, legal, social and ethical problems confronting AIDS victims involved in the criminal justice system. Historically, criminal justice has been, and still is to some degree, philosophically and organizationally designed to punish and to cause discomfort. Obviously, this approach is inappropriate and totally ineffective in dealing with offenders whose immediate needs are medical, psychological, and social.

Mr. Migliori found much of the material for his presentation in New York City, where AIDS is slowly but surely developing into epidemic proportions. Mr. Migliori related that the staid structure of the probation organization, with its traditional approach to supervising caseloads in New York City, is only part of the reason why probation officers avoid AIDS offenders. Fear of contracting the virus has caused officers to respond

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

in ways that result in their avoidance of the AIDS offender, leaving untouched their immediate medical, psychological and social needs.

Mr. Migliori stated that parole is linked closely to the AIDS problem, and consequently, it has designed a number of training modules that are currently in place. These modules help officers overcome their fear of contracting AIDS, which enable them to work more effectively with AIDS offenders. Mr. Migliori added that, while education for officers is absolutely necessary, our first priority is to counsel and help officers to deal with their fears about AIDS. He believed that their problem is rooted in attitude, and thus, will not be changed quickly or easily. He felt that officers were not emotionally ready to deal with AIDS offenders. Many cannot accept much of the new information available to them. He stressed the importance of the initial interview, the relationship, selecting the proper time and place for counseling, the sensitive handling of the family's attitude, and the involvement of the support system in the community. The fact that victims have little or no real hope, or have any long range solution to their situation places the offender and the community in a dilemma. The result is inertia, little or no action. Mr. Migliori believes that some probation officers' reaction to AIDS offenders is the clearest and simplest example of how fear can paralyze.

Ms. Wurmser stated that community corrections agencies have a responsibility to redefine their role in working with AIDS offenders and other special offenders. The Division of Parole, through the implementation of its intensive and extensive training and public relations program, has made a good start in developing an effective way to service specialized caseloads. What is needed, she believes, is a well prepared diagnosis that is based on observation and selected data, followed with the synthesis of this data with other up-to-date information. Ms. Wurmser expects that this new training effort will not only change the way in which organizations and line officers provide service to AIDS victims, but more importantly, it will change the way community corrections manage and service other specific caseloads.

Ms. Wurmser emphasized that selected data and accurate information are basic components for any kind of valid change, although she recognized that any change with respect to AIDS will be slow because the disease is unpredictable, pervasive and deadly.

Education about the disease is being promoted by a growing consciousness that is changing the feelings and fears of workers about the disease. Obviously, this will require time. Attitudes are not changed easily or quickly. As Ms. Wurmser stated, there is a question of just how much time we have before the disease is completely out of control. New York City may well be the testing ground, as the conditions are conducive for the disease to grow to epidemic proportions, especially in the criminal justice population. Our challenge lies ahead.



## **PROTECTING THE COMMUNITY: CONTROL vs SERVICES?**

*An examination of the supervision models that emphasize community protection through surveillance and monitoring vs. service and treatment, and a discussion of the control vs. services "dichotomy".*

### **PANELISTS**

#### **DR. TODD R. CLEAR**

Associate Professor of Criminal Justice  
Rutgers University

#### **BART LUBOW**

Deputy Director  
Bureau of Alternatives to Incarceration, DPCA

#### **RICHARD ROBERTS**

Associate Commissioner for Planning  
New York City Department of Probation

### **MODERATOR**

#### **THEODORE T. KUSNIERZ**

Deputy Director  
Bureau of Field Operations, DPCA

### **RECORDER**

#### **HERBERT COHEN**

Probation Program Administrator  
Bureau of Field Operations, DPCA

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The panelists presented somewhat divergent views on the issue of whether probation supervision should focus on service or control. Mr. Richard Roberts, Associate Commissioner for Planning, New York City Department of Probation, stressed control models as imperative to public assurance of its security and safety, not discounting commitment to services. Mr. Bart Lubow, Deputy Director for Alternatives to Incarceration, DPCA, emphasized that control modalities could only be ineffective absent service provision. Dr. Todd Clear, Associate Professor of Criminal Justice, Rutgers University, noted that the bifurcation of supervision into service and control models is only a contemporary academic and practice development. He underscored that the "reason for being" of community supervision authorities is that these authorities are "risk governing agents" of the State. Control, he stated, is the bottom line.

In detailing his view, Mr. Roberts pointed to the continuously increasing caseloads in his agency, including felons, while public attitudes have

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

toughened toward the perceived lax of supervision. When caseloads were at half the current levels of over two hundred, doing more with less, or the same, was still considered possible, with the emphasis still on service. The Department's Differential Supervision Program represented its response to the change influences of the time, as well as its commitment to service. Caseloads, however, are currently at levels where probation officers are unable to manage basic contacts, compliance with conditions, and violations processing. Increases in serious felony offenders in the caseloads further aggravate case management problems.

The Department's response to these factors has been to refocus on control issues. Two programs have been developed and are in operation which reflect this effort — the Violation Enforcement Program and the Field Services Unit. The Violation Enforcement Program employs attorneys to adequately prepare violations, to screen cases for presentations to the court, and to appear at hearings, when appropriate, to respond to the court with information. The program has resulted in substantially increased violations presented to the court, three thousand more in 1986 than in 1985.

The Field Services Unit employs specially selected, trained, and armed probation officers who make field checks on probationers, and who make arrests on violations warrants. This program and the Violation Enforcement Program are intended to send the message of toughness to offenders, and of a function that is worth public support.

From his perspective, Mr. Lubow saw the control model as an elusive and improbable wish. He provided a brief presentation of his view of the dichotomization of correctional supervision into services and control models. He traced the historical rehabilitation roots through the impact of R. Martinson's findings that rehabilitation does not work, and the "just desserts" schools of criminal justice. Mr. Lubow critically analyzed what he saw as the latter's failings. Such a model would require an accounting of all of the offender's time spent in the community. There would have to be "monitorable" structuring of his activities accounting for a substantial portion of his time. Time which is not thus structured with legitimate activities allows for unlawful conduct to escape notice. Programs alleged to address the control issue, such as New York City's Violation Enforcement Program and Field Services Unit, are not monitoring probationer compliance. They respond to new criminal behavior after the fact. Probation does not have and never will have the resources to control offender behavior in the same way that prisons do it.

High caseloads, scarce resources, and community protection, Mr. Lubow declared, are not resolved by dichotomizing the supervision functions and focusing on control features. Effective program staff and the elimination of "soft cases" from caseloads would contribute more to public safety.

## PROTECTING THE COMMUNITY: CONTROL vs SERVICES?

In summarizing, Mr. Lubow proposed that a thorough and aggressive approach was needed to get better information to the courts in presentence reports, detailing a supervision plan, and a whole range of conditions for probationers which can be monitored. Such an approach is reflected in the State's Intensive Supervision Program model.

Dr. Clear presented a viewpoint which spanned some of the elements of the observations of the other presentors. Beginning with the 1951 study of Daniel Glazier, which measured parole officers' attitudes towards the use of services and authority in their work with offenders, Professor Clear sketched out his thoughts about modeling supervision practice which is narrowly limited to one or the other. The Glazier study, he noted, concluded that both elements entered the working concern of the officers in high or low levels of each, or equal levels. A study of probation and parole officers, conducted by John Whitehead, concluded that the source of "burnout" was goal ambiguity. Officers were torn between service objectives and control practices.

Professor Clear stated that studies of the issue are faced with the difficulty of predicting what clients will do, and what officers will do with clients, with certainty. There is no clear indication in research that would support the institutionalization of either a control or a service model.

His conclusion is that supervision goals should be realistically deliverable; that the supervision objectives be limited and carried out. The field needs to be accountable for what it says it will deliver. However, control is basic.

Session #11

## **PRETRIAL STANDARDS: ONE SIZE FITS ALL?**

*A presentation on the newly developed state eligibility and management performance standards for pretrial release, the key issues of local implementation, and the criteria for determining defendants' eligibility for release, the interviewing and recommendation process, and management and performance objectives.*

### **PANELISTS**

**JAMES GOLBIN**

Chief Planner

Suffolk County Probation Department

**JANE HANFT**

Supervisor

Rensselaer County Probation Department

**BART LUBOW**

Deputy Director

Bureau of Alternatives to Incarceration, DPCA

**LEE WOOD**

Executive Director

NYS Association of Pretrial Services Agencies

### **MODERATOR**

**MARJORIE RIFKIN**

Director of Operations Planning

New York City Criminal Justice Agency

### **RECORDER**

**BETH ALEXANDER**

Criminal Justice Program Representative

Bureau of Alternatives to Incarceration, DPCA



Mr. Bart Lubow, Deputy Director for Alternatives to Incarceration, DPCA, presented an overview of DPCA's proposed pretrial standards, and a brief history of the development of pretrial release programs, beginning with the Manhattan Bail Project in the early 1960's. He discussed the mandate and the work of the committee which was responsible for developing the proposed pretrial standards. Mr. Lubow made it clear that the session panelists envisioned this workshop as an opportunity for participants to provide feedback. He portrayed the

## PRETRIAL STANDARDS: ONE SIZE FITS ALL?

aim of the standards as providing uniformity and equity across the State in matters of pretrial release. He indicated that there are considerable numbers of people in jail in New York State for want of low amounts of bail, and many of them constitute a low risk to appear in court.

Mr. Lubow highlighted some basic principles of pretrial release: (1) Pretrial release programs do not release people. They are information processing types of programs which in no way usurp the role of the judiciary; (2) Defendants are considered innocent at the time of pretrial intervention and are entitled to be treated as such; (3) A pretrial recommendation by a program should be concerned only with the likelihood of appearance in court. He outlined two expectations of the standards - universal interviewing and the use of an objective point scale. Mr. Lubow announced that there would be regional meetings around the State which will provide an opportunity for all concerned individuals to comment on the standards. He stated that DPCA would send out notification of these meetings later in the year.

Ms. Lee Wood, Executive Director, and President-Elect of the New York State Association of Pretrial Services Agencies, described how pretrial release operates in Monroe County. She discussed dangerousness and indicated that we have no way to predict it. In Ms. Wood's description of the operation of the large pretrial services agency she oversees in Rochester, she was able to provide many anecdotes of a practical nature, and described how 9,000 interviews a year can be conducted with only four interviewers.

Mr. James Golbin, Chief Planner, Suffolk County Probation Department, focused primarily on the use of an objective, statistically validated point scale in interviewing, as recommended in the proposed pretrial standards. He noted that it was important to understand what a "predictive point scale" is. It categorizes individuals into a group and then predicts how an individual in that group would behave. The behavior that is predicted is the likelihood of the individual's return to court. Mr. Golbin outlined the following reasons for the use of a statistically validated point scale: (1) It is a convenient and accurate way of predicting return to court. What we want is to maximize releases and minimize "Failures to Appear"; (2) Needed information is standardized; (3) An increase in successful release occurs when one uses a predictive point scale and a jurisdiction understands it. There is more willingness to release individuals in that jurisdiction; (4) Only essential information should be included in a structured overview; (5) It helps to categorize individuals into different groups, to avoid the overuse of conditions at the time of release.

Mr. Golbin went on to describe some of the limitations of point scales: (1) They do not predict individual behavior. They predict group behavior based upon statistical probability; (2) Point scales should be

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

seen as an objective aid to assist in the recommendation for release. There has to be an "escape hatch". He cautioned, however, that the mechanism to override a point scale should be carefully documented to avoid misuse.

Ms. Jane Hanft, Supervisor, Rensselaer County Probation Department, discussed the standards from the perspective of a county probation department. She stated that "universal screening in Rensselaer County is a totally foreign concept". Persons held on A and B felony charges are never interviewed. However, timely intervention, standardization of the interview and verification procedures are fairly close to the standards. The point scale, however, is not being employed in any form, at this time, in Rensselaer County. Although most judges in the county use Release on Recognizance (ROR) liberally, Release Under Supervision (RUS) and the supervision it entails has become a "way of life". Also, alcohol treatment as a condition of release has become very common. Ms. Hanft believes that it will take "gentle weaning" to bring about the necessary changes in practice for her department to adhere to the proposed standards.

Subsequent to the presentations, the panelists entertained questions and engaged in discussions with the audience.

- What is the difference between a standard and a rule?

Mr. Lubow described standards as being advisory in nature and rules as having the force of law.

- Will there be a review process, and will counties be held accountable (to the standards)?

Mr. Lubow replied that the standards will make it possible for us to judge compliance more adequately. Standards will be the basis on which requests for funding will be considered.

- One conference participant described his county as performing pretrial release work *only* if conditions are attached to the release. "Preventive detention is the law in my county". Lee Wood reassured him that he was not alone and that the education process could well be long and arduous. She suggested that, perhaps, the Bar Association in his county might be of some help, and that he could look to the county court judge for help. She also suggested working with the prosecutor for acceptance of the standards, and added that county sheriffs should be good allies.
- What kind of time frame can be expected for adoption of the standards?

Mr. Lubow responded by outlining the Division's intention of holding public meetings in various regions of the State, at which time discussion and feedback will be encouraged. He

## PRETRIAL STANDARDS: ONE SIZE FITS ALL?

explained that this is to be a "flexible process" which will help move us towards a more efficient and equitable system.

- A conference participant from New York City commented that if a program had a ninety-five (95) percent success rate in the return of cases to court, the level of risk that was being taken would be insufficient to get the maximum number of people released from pretrial detention. She believed that eighty (80) percent was a better figure.
- Another conference participant inquired about the access to rap sheets in the mornings, and said that it was sometimes a problem. Lee Wood stated that securing rap sheets was the prosecutor's job.
- Mr. Golbin pointed out that universal interviewing was essential and that just because a person had a bad rap sheet should not exclude him. He related a story about a defendant who satisfactorily explained that the rap sheet in question belonged to his brother and not to him. The point that Mr. Golbin made was that people who are being held on serious charges with a bad rap sheet should, at a minimum, be provided with a face-to-face interview and not be excluded from the interview process when their very liberty is at stake.
- Should drug or alcohol treatment be conditions for pretrial releases?

Mr. Golbin responded that conditions not related to return to court should not be imposed. However, he explained that, if his program people know that someone had been in a treatment program for drugs and alcohol, they might consider requesting such a condition in relation to the prospect of the defendant returning to court.

- A probation director brought up the "difference between public agencies' view of these things and the view that we in Probation hold". Ms. Wood, in responding, indicated that her agency was a public not-for-profit agency and "we view ourselves as a service to the court". She said that "secondarily, we see ourselves as an advocate. We are not doing social work". With this, Mr. Golbin described the situation in his county. He ended by saying that the bottom line was not the different approaches in probation and private not-for-profit agencies, but rather what the needs are of the jurisdiction and whether a program will increase the release of individuals without jeopardizing the success rate. He explained that, in his county, everyone is offered the first level of service, the initial interview. Those not released after that interview get expedited release intervention. Then, those

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

individuals still remaining receive consideration for monitored release.

- A probation program person asked what her responsibility was to the courts. Ms. Wood indicated that a recommendation should be based on the point scale but that, certainly, individual judgement was important. She provided the example of a person who might score well on a point scale, but whose suitcases were packed at home. Naturally, you would not recommend that person for release.



Session #12

## **MINORITY ISSUES IN COMMUNITY CORRECTIONS**

*An examination of the current imbalance in the  
representation of minorities in the State's  
incarcerated offender population as compared  
to its community corrections client population.*

PANELISTS

**WILLIAM BENJAMIN**

Deputy Director

Suffolk County Probation Department

**DR. ALICE GREEN**

Deputy Director

Bureau of Planning, Policy and Information, DPCA

**THOMAS F. MITCHELL**

Associate Probation Program Analyst

Bureau of Planning, Policy and Information, DPCA

MODERATOR

**ELEANOR SEIDMAN**

Director

Suffolk County Community Service Program

RECORDER

**WILSON (ED) REED**

Criminal Justice Program Representative

Bureau of Alternatives to Incarceration, DPCA

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Dr. Alice Green, Deputy Director for Planning, Policy and Information, DPCA, addressed the current over-representation of minorities in New York State's incarcerated population as compared to its community corrections client population. She highlighted the presentation by framing three salient issues and, in summary, explored the implications for the State's community corrections system.

### **INCARCERATION/ALTERNATIVES PROGRAMS:**

Dr. Green informed the session participants that the imprisonment of minorities in the U.S. is at an alarming rate. Blacks and hispanics are ten times more likely to be incarcerated than whites. In New York State, the disparity is growing, and the latter group currently make up close to eighty (80) percent of the State's prison population. Furthermore, by the year 2000, the State's correctional institutions will be inhabited by nearly 56,000 inmates. The Project 2000 report predicts that ninety (90) percent of them will be black and hispanic. According

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

to Dr. Green, this situation can be attributed to a growing minority youth population, the State's criminal justice policy, and the existence of racism throughout key points in the system.

Dr. Green indicated that the proportion of minorities among those sentenced to probation and ATI programs, historically, has been much lower than the proportion of whites. However, the proportion of minorities in the New York City community corrections population has been considerably higher than the rest of the State. From 1980 through 1985, in New York City, the majority of probationers continued to be minority group members. In upstate New York, they remained predominately white. The data showed that during the same period, from 1980 to 1985, the number of probationers increased by sixty-five (65) percent, from 61,090 in 1980 to 100,918 at the end of 1985. At the end of that year, the probationer population was fifty-two (52) percent white, thirty-two (32) percent black, and thirteen (13) percent hispanic. According to Dr. Green, during fiscal year 1985-86, of a total of 6,028 clients in alternatives to incarceration programs, 3,747 or sixty-two (62) percent were reported to be minority group members.

The contrasting involvement of minorities in prison and in community corrections has advanced minority perceptions that imprisonment is a sentence largely reserved for them, while probation and alternative programs are reserved for whites.

She indicated that there are some encouraging signs that the disparity of minority participation in community corrections will be reduced. Three positive areas were cited:

- (1) The trend towards the increased use of felony probation and alternative sentences can mean the increased likelihood of minorities receiving such sentences;
- (2) The efforts of the Division of Probation and Correctional Alternatives in developing true probation programs for the State, and its sensitivity and commitment to increase the representation of minorities in community-based programs; and
- (3) The trend towards the development of standards such as those recently developed for pretrial and electronic monitoring. The development, adoption and use of such standards help in reducing disparities in the delivery of services and in promoting equity in treatment.

## **THE IMPACT OF SENTENCING PRACTICES AND COMMUNITY CORRECTIONS PROGRAMS:**

Dr. Green informed the conference participants that increased minority participation is one thing, but their successful participation is quite another issue, one that needs examination. Increased minority

## MINORITY ISSUES IN COMMUNITY CORRECTIONS

representation in community corrections will not address the quality of their experience in such programs.

She argued that there exists a serious need to empirically examine how effectively we deliver services to clients to determine whether such programs serve as a true alternative to incarceration for certain groups.

One of her main concerns regarding sentencing practices and community corrections programs is that minorities seemingly experience the revocation of their probation sentence at a higher rate than whites in New York State. Without empirical data, Dr. Green speculated that a number of structural factors, organizational practices, and human barriers exist within probation and alternative programs, and operate to deny minorities entry into some programs, hamper the delivery of services to them, and block opportunities for minorities to successfully complete their sentenced programs. She identified several barriers to the development of good relationships between staff and minority clients.

- Racism (individual and institutional)
- Cultural differences
- Powerlessness

Dr. Green argues that we must begin to address these problems through training and through affirmative action programs designed to enhance the employment and economic status of minorities, and to enhance the service delivery goals of minority clients. We must also develop an effective mechanism to handle client complaints.

### **THE SPECIAL SIGNIFICANCE OF COMMUNITY-BASED PROGRAMS FOR MINORITIES:**

Community-based programs operate from a different philosophical base — one that offers some hope, trust, and belief that offenders are worthy of support:

- Placement in these programs could continue the linkage of the minority offender with the community from which he/she comes.
- Community-based programs could more easily permit greater participation of minorities as staff, consultants and administrators than could prisons, which are usually located in rural upstate settings.
- Minorities are more often victimized. Hence, programs of restitution and community service would do much to relieve the suffering which crime causes these communities.

In summary, Dr. Green stated that imprisonment does not offer benefits to the communities of those offenders, but it greatly influences their destruction. Furthermore, we must reverse the trend of imprisonment and demand alternative sentences, and money to make them work.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

Mr. Thomas F. Mitchell, Associate Probation Program Analyst, DPCA, presented the efforts taken by the DPCA to promote affirmative action in localities. He indicated that these efforts have been undertaken for several reasons:

- Affirmative action in public employment is a clear and fundamental policy of the Governor, which has been promulgated through the State Director of the Division of Probation and Correctional Alternatives;
- A recent consent decree in the Federal Court in Syracuse requires the State to devise methods for increasing the number of minority probation officers; and
- It is generally believed that service delivery to minority clients could be enhanced if the numbers of minority staff were increased.

Mr. Mitchell stated that, in an effort to increase minority staffing, DPCA established a "Six-County Project", involving the counties of Erie, Monroe, Onondaga, Westchester, Nassau and Suffolk. These counties were selected for the project because they have the largest numbers of minority clients, and employ the majority of probation officers, outside of New York City. He said that the Six-County Project consists of the following specific elements:

- Staff from local departments and State level staff from DPCA and Civil Service meet collectively to establish policies and directions.
- Each county was asked to assign an affirmative action officer to the project.
- The departments have agreed to set voluntary goals and timetables for increasing the number of minority staff according to the federal system of comparing the actual workforce and the available labor force.
- Special recruitment efforts have been initiated to increase the number of minority candidates for available tests and positions.
- New civil service methods are being developed such as zone scoring, examination review, and the development of unique positions, such as a Probation Officer (Minority Specialist), to improve a department's ability to appoint qualified minorities.

Mr. Mitchell concluded by saying that there are several problems which continually thwart efforts at change within the system:

- The effectiveness of parenthetic items, such as a "Minority Specialist", is reduced because non-minorities often have the qualifications.

## MINORITY ISSUES IN COMMUNITY CORRECTIONS

- Even among the six large departments participating in the project, there is a very low turnover rate. Therefore, a workforce change will be a long process.
- The cost of alternative testing methods, such as orals or the rating of training and experience, is often prohibitive.
- Notwithstanding the belief that an increase in minority staff would be beneficial, there is no intention of encouraging racially segregated caseloads.

Mr. Bill Benjamin, Deputy Director, Suffolk County Probation Department, provided a local perspective on affirmative action focusing on the Suffolk County Probation Department, and drawing on his 24 years of experience. He informed the participants that:

- Approximately 1.3 million people reside in the county and that six (6) percent of the population is black.
- Of the department's total adult caseload, eighteen (18) percent are black, while hispanics comprise seven (7) percent. The juvenile caseload is twenty-one (21) percent black and four (4) percent hispanic.
- In terms of minority staffing within the department, Mr. Benjamin indicated that, of the total of 202 employees, 105 are females; 5 blacks are in staff positions; and 2 are serving as assistant probation officers, out of a total of 19 assistant probation officers in the department. Finally, there is one black administrator and one black clerk typist.

According to Mr. Benjamin, the first attempt at affirmative action and/or minority hiring came about in 1971. The department obtained a \$1 million grant from the Law Enforcement Assistance Administration to bring offenders back into the community. The department created, for the first time, assistant probation positions. Furthermore, a civil service test was not needed to qualify for the available positions. Consequently, a high percent of minorities were hired. However, when these individuals were tested by Civil Service, they failed to pass the probation officer examination. He indicated that this experience helped shape his perception regarding minorities and the criminal justice system. Specifically:

- Attitudes can only be changed if minorities are placed on staff.
- Minorities never voluntarily go to the criminal justice system for help because there is no confidence that they will receive help.
- Blacks and other minorities should be represented in the "Big 6 Project".

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

Mr. Benjamin questioned the credibility of those black leaders who are in positions of responsibility. He suggested that minorities serving on committees, such as the "Big 6 Project", are those minority people who will say what white people want to be said.

In conclusion, Mr. Benjamin stated that those in the majority say "look what we're doing!" He indicated to the participants that his response is "look what we have!"

Session #13

## **PROBATION AND MENTAL HEALTH TEAMWORK: A MODEL FOR IMPROVING SERVICES TO JUVENILES**

*A presentation of the impact of assigning a mental health professional in four rural probation departments, including cost effectiveness, probation/mental health service issues, and the potential of replicating this unique project in other rural localities.*

### **PANELISTS**

#### **MICHAEL BIGLEY**

Director of Family Court Services Project  
NYS Office of Mental Health

#### **MICHAEL RICKETTS**

Director  
Chautauqua County Probation Department

#### **THOMAS RIGOLI**

Staff Psychologist  
Western New York Childrens Psychiatric Center

### **MODERATOR**

#### **DAVID J. SINGER**

Probation Program Administrator  
Bureau of Field Operations, DPCA

### **RECORDER**

#### **DEAN MAURO**

Program Research Specialist  
Bureau of Planning, Policy and Information, DPCA

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The panelists discussed the development, implementation and results of a pilot project designed to provide specialized mental health services to juveniles in collaboration with the probation departments in Chautauqua, Cattaraugus, Allegany and Wyoming Counties.

Mr. Michael Bigley, Director of the Family Court Services Project, New York State Office of Mental Health, initiated the session by stating that mental health professionals and juvenile justice professionals often use different terminology when discussing the same issue. This, he said, can create communications problems which result in less than effective service delivery. The primary goal of the program, he said, was to improve communications and, thereby, improve service delivery.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

Mr. Bigley also outlined the project's five specific objectives:

- Increase mental health interaction with the juvenile justice system.
- Decrease the number and length of delays in mental health service provision.
- Increase the percent of mental health referrals accepted by local mental health agencies.
- Decrease the number of missed appointments by clients at local mental health agencies.
- Increase the ability of probation officers to identify clients with needs for mental health services.

Mr. Bigley explained that the project plan called for one mental health professional to provide services to several probation departments. The mental health specialist would serve as a liaison with the local probation departments and county mental health agencies, and work to improve both communication and coordination between the two agencies in each county.

The counties of Cattaraugus, Chautauqua, Allegany and Wyoming were selected to participate in the pilot project. These counties were chosen, Mr. Bigley explained, because of the geographical proximity to each other, the relatively small number of cases in each of the counties, the lack of any major problems, and the interest expressed by county probation officials in the project.

The mental health professional selected for the pilot project was Dr. Thomas Rigoli, Staff Psychologist, Western New York Children Psychiatric Center in West Seneca, New York.

The project model requires Dr. Rigoli to spend one day a week at each of the four county probation departments (a portion of the fifth day each week is spent at the Chautauqua County Probation Department's satellite office in Dunkirk, New York).

Dr. Rigoli explained that this arrangement improved accessibility and efficiency. Additionally, he noted that his presence in the probation departments on a regularly scheduled basis improved his visibility and allowed him to become part of each department's office routine.

Dr. Rigoli described his use of both formal and informal measures to improve communications between probation department staff members and mental health professionals.

He also noted the importance of setting up the project on a county-by-county basis. He explained that a county specific plan was needed due to the unique needs of each county. Such a procedure allows the structuring of a plan to meet the specific needs of local probation departments.



## PROBATION AND MENTAL HEALTH TEAMWORK

Mr. Michael Ricketts, Director, Chautauqua County Probation Department, said that he viewed the program as a means to improve services not only to youths, but to the families of young people who come into contact with the probation department. He expressed his hope that the program would allow staff members of the Chautauqua County Probation Department to receive timely mental health evaluations on clients for use during the predisposition stages of the juvenile justice proceeding.

Mr. Ricketts stated that the availability of Dr. Rigoli to consult with probation officers, both formally and informally, helped the program achieve these goals. He believed that it is very important for the mental health professional to be physically located at the probation department. This allows the mental health professional to be viewed as part of the probation department staff.

Mr. Bigley concluded the session by describing the preliminary results of a study to determine if the project was indeed accomplishing its objectives. This initial evaluation, Mr. Bigley related, demonstrated that the project was successful in accomplishing its goals.

In providing on-site mental health services, the number and length of the delays had actually decreased. The number of missed appointments by clients had also decreased. These improvements, he said, were accomplished by better screening and referral practices on the part of the probation departments due to the presence of Dr. Rigoli.

Session #14  
**COMPUTERS AND  
THE SERVICE PROVIDER**

*An in-depth review of how computers have assisted actual programs, and a discussion of the future use of computers by community corrections staff.*

**PANELISTS**

**CABELL CROPPER**

Management Specialist  
National Center for the Prosecution of  
Child Abuse, Alexandria, Virginia

**WARREN W. CROW**

Chief of Management Information Systems  
Bureau of Planning, Policy and Information, DPCA

**ELAINE LAWLOR**

Data Manager  
Monroe County Bar Association  
Pretrial Services Corporation

**DWIGHT STECKER**

Jail Education Coordinator  
The Re-Rout Program, Suffolk County

**MODERATOR**

**GARY CLARK**

Probation Director  
Genesee County Probation Department

**RECORDER**

**JAMES SEYMOUR**

Program Research Specialist  
Bureau of Planning, Policy and Information, DPCA

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Mr. Gary Clark, session moderator and Director of the Genesee County Probation Department, opened the session by indicating that, during the 1980's, the criminal justice field has witnessed computerization in the work place. He noted, however, that the dynamics of this computerization have been such that the service provider has been handed the computer hardware and instructed to "go to work". An apparent lack of providing software support to service providers has been Mr. Clark's recent experience with computerization.

Ms. Elaine Lawlor, Data Manager, Monroe County Bar Association Pretrial Services Corporation, mentioned that criminal justice service providers are moving to acquire automated data/ information systems to ease staff workloads. Automated systems allow for faster storage

## COMPUTERS AND THE SERVICE PROVIDER

and retrieval of data/information for each user project. The new technologies in computerization are also affordable for most offices to acquire.

She added that there are several guidelines of which to be cognizant when developing automated systems in the office.

Automation begins with planning of how automation will solve data/information problems in your office. Finding the appropriate software and/or programmer to execute your applications is next in the developmental stage. Seeking input from end-users is imperative to successful automation development. Within pretrial services, we found experience in both microcomputers and criminal justice to be necessary for the development of an automated database management system. Developing a database management system should encompass a three-fold design:

- (1) operate the database on a personal computer since they are affordable and flexible;
- (2) purchase off-the-shelf software since they are affordable and the supplier will provide software support; and
- (3) avoid using a programming language.

The Pretrial Services Corporation is utilizing a database management system that operates in RBase 4000 and runs on an IBM-AT with a 30MB hard disk. This system will, in the near future, network with other personal computer systems for a multi-user environment.

Ms. Lawlor proceeded to identify some of the negative aspects of automated systems development. She related that the switch to automated systems is difficult in the face of resistance to computers by personnel.

There is an initial training lag of about two years. This takes into account the fact that no new personnel with computer skills enter the office. Furthermore, consideration must be given to future training needs to maintain knowledge of new technologies.

Automation may require the operation of a dual manual/ automated system for a period of time.

"Downtime" is a fact of life with an automated system. Periods when the computer hardware will not function are inevitable. Backing up copies of floppy disks is necessary.

The initial cost may be seen as a negative aspect of automating, as well as the need to hire data entry personnel. Certainly, future resources will be required. Please anticipate growth in your system — it will happen.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

From a positive perspective, PC's are an affordable and flexible tool for storing and retrieving data/information, as well as report generation.

Pretrial Services Corporation now undertakes research as a result of computerization. Storage and retrieval of statistical data, employee performance analysis, pretrial release client monitoring, and policy development are areas in which the personal computer has aided our program.

Ms. Lawlor indicated that networking is a major development in our future. Many users of the automated system have come to understand the desire and need for multi-user environments. In addition, she related that more staff will become familiar with personal computers and their applications, thereby reducing the paper workload in the office.

Mr. Warren Crow, Chief, Management Information Systems, DPCA, informed session participants that the future for computers and service providers is really unknown. Developments in the past five years have been largely unanticipated in scope.

First, computers will not replace people but will change the way in which we work. This is due in part to A.I. (Artificial Intelligence). However, we must understand where we have been before we can look where we are going.

Expectations have been met with respect to enhancing the clerical functions in producing reports for management. Management reports were seen as good tools and led to further development. Management wanted more reports and automated systems were designed around this function. Unfortunately, we neglected the needs of clerical staff and other users of the system.

Mr. Crow indicated that feedback must be provided to the data providers (service providers), or we will experience a deterioration of the system. There is a direct relationship between the usefulness of an automated system and the quality of the data provided to the system. There is a need to undertake both activities of management reports, and providing feedback to providers.

In terms of the future, Mr. Crow said that computers utilized by service providers will have an impact on the work place as a productivity tool. Word processing and management reports are examples of productivity enhancement.

Offender status checking systems provide access to information by line officers. Providing support for line officers can be found through the NYSPIN system, which is available for probation officer's use. Other systems, such as the Interstate Identification Index (I.I.I.) and NYS

## COMPUTERS AND THE SERVICE PROVIDER

CRIMNET are examples of computer networks that share data with all criminal justice agencies.

Artificial intelligence can provide expert assistance for line officers. Probation officers, with the aid of A.I., might develop program plans for clients. However, it must be remembered that computers will not replace people.

Mr. Dwight Stecker, Jail Education Coordinator, Suffolk County Re-Rout Program, provided a slide presentation which depicted the Re-Rout Program. Re-Rout was described as a joint program operating through the Suffolk County Sheriff's Department in conjunction with Suffolk Community College, BOCES, and the U.S. Labor Department. The program provides educational, vocational and transitional services for individuals exiting the jail. Their approach incorporates the following:

- educational and vocational training while the inmate is in the jail; and
- counseling and testing for career planning.

Also available in the program are basic and high school G.E.D.; computing and word processing courses; college courses; and courses in carpentry and landscaping.

Mr. Stecker views Re-Rout as a bridge to the future for those individuals in the jail who use the program.

Recordkeeping is support work that allows program workers to service clients. Recordkeeping consists of data collection, data recording, report generation and report analysis.

In the Re-Rout Program, data from the program is transmitted to the Suffolk County Community College and the Labor Department. The Re-Rout client is the source of data. Forms for collecting the data include new student report, need evaluation form, time sheet, attendance sheet, service sheet, and PFS file form.

Mr. Stecker said that an Apple IIe with a hard disk produces reports from recordkeeping data. Such reports include a Tutoring Report and a Quarterly Report to DPCA. Re-Rout uses the reports to monitor delivery of services.

Mr. Stecker reminded the audience that, in collecting data, ensure its accuracy and make it available to the client.

Mr. Cabell Cropper, Management Specialist, National Center for the Prosecution of Child Abuse in Alexandria, Virginia, mentioned that service providers should be familiar with personal computers and use them. Unfamiliar non-users may not be aware of their needs. He suggested to think in terms of communication of data bases through

2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES  
personal computers. Examples include Dialog and the National Criminal Justice Reference Service (NCJRS).

Communication with each other through personal computers, with electronic networks for information and idea exchanges, can replace the telephone.

Mr. Cropper stated that the National Center for the Prosecution of Child Abuse utilizes such an information exchange. His organization provides technical assistance to prosecutors in child abuse cases. He added that, in using communication technology with a directory of available prosecutors, we aid prosecutors in small jurisdictions by accessing an on-line directory of prosecutors with experience in the field. Information data bases for prosecutors are being developed to document statutes, case-law information, library material on child abuse, and training programs.

Mr. Cropper concluded his remarks by indicating that there are unlimited applications that can be made through the expansion of information networks.

Session #15

# **MADE IN NEW YORK: THE MARKETING OF COMMUNITY CORRECTIONS**

*An overview of the principles of marketing, successful marketing strategies, and the application of these principles and strategies to the creation and maintenance of community corrections programs.*

**PRESENTER**

**NEIL TILOW**

Executive Director

Talbert House, Cincinnati, Ohio

**MODERATOR**

**MARGARET HENDERSON**

Supervisor

Monroe County Probation Department

**RECORDER**

**RICHARD F. McDONALD**

Criminal Justice Program Representative

Bureau of Alternatives to Incarceration, DPCA

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Mr. Neil Tilow, Executive Director of Talbert House in Cincinnati, Ohio, initiated his presentation with an overview of the principles and strategies of marketing as they apply to community corrections. Mr. Tilow indicated that the key to marketing is planning and recognizing that "everything is an opportunity". He added that not-for-profits have been much more aggressive in marketing than have public agencies. His remarks covered three basic areas:

- o Distinctions between public agencies and private organizations as they relate to marketing;
- o Steps in the marketing process; and
- o Public relations and its impact on marketing.

He noted that marketing is neither selling nor public relations, but rather the meeting of client/consumer needs. In a sense, effective marketing makes selling unnecessary. Within the criminal justice community, marketing must address the needs of the clients, the courts and the community. Mr. Tilow defined marketing as that field of study which looks and listens to the marketplace, and then meets the needs of that marketplace.

He also noted that, while it may be inappropriate for not-for-profit agencies to make a profit, they should strive to "make money"; that

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

is, to generate funds to sustain the work of the agency. In the past, such agencies have been oriented toward "social profit" rather than economic profit. Both are essential. The private not-for-profit agency needs to recognize the existence of various constituents, including the public politicians, third party reimbursement entities and others.

Numerous suggestions for improving the marketing effectiveness of both private and not-for-profit, as well as public agencies included:

- Program self-auditing;
- Identification of short and long range objectives;
- Formulation of agency action plans; and
- Public relations.



Session #16

# **DETERMINING CLIENT FAILURE: STRATEGIES FOR AVOIDING OR JUSTIFYING REMOVAL FROM THE COMMUNITY**

*A discussion of the issues and the methods for dealing with client failure. To "return the client to court" or to "persevere with alternative programming and community supervision" is an issue confronting probation and parole officers and ATI workers as they encounter technical violations of court ordered conditions of supervision.*

## **PANELISTS**

**LOUIS CALI**

Director of Transitional Living Program  
NYS Division of Parole

**FRED COHEN**

Professor of Law and Criminal Justice  
State University of New York at Albany

**STEPHEN FESH**

Senior Probation Officer  
Chemung County Probation Department

**HONORABLE JOSEPH HARRIS**

Albany County Court Judge

## **MODERATOR**

**ROBERT BURNS**

Deputy Director  
Albany County Probation Department

## **RECORDER**

**JOHN BONGIOVANNI**

Probation Program Administrator  
Bureau of Field Operations, DPCA



In his opening remarks, Mr. Robert Burns, session moderator and Deputy Director for Albany County Probation Department, acknowledged the fact that various personal values, as well as legal requirements can cause consternation in determining client failure; and, initiating violation of probation proceedings against a probationer was seen as the "ultimate action" by a probation officer, which impacts upon the probationer, the community and the credibility of probation, as a profession.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

Dr. Fred Cohen, Professor of Law and Criminal Justice, State University of New York at Albany, stated that the philosophy of the court, Probation and the community will determine the various types of enforcement practices. The criminal justice system is within the "rule of law", but in a highly discretionary way. Thus, it is difficult to clearly identify the norms in enforcement practice. An observation was made that, in Albany, the sentencing judges have high regard for prison/incarceration as a punishment value.

Dr. Cohen added that emphasis must be placed on the need to change the public's current perception that Probation is a weak "act of mercy service", to an understanding that Probation is an appropriate court sentence, which does entail accountability and a loss of certain liberties.

The Honorable Joseph Harris, Albany County Court Judge, addressed the subject matter from his experience with felony offenders. The importance of prompt clarification of probation conditions, including the probationer's behavioral expectations were stressed. In addition, he underscored the need to raise the probationer's level of awareness regarding the potential consequences of committing another crime.

Regarding the appropriate time to initiate violation proceedings, comments were made to the effect that the court should be promptly informed of the probationer's "first transgression" of probation conditions. This would enable the court to take appropriate corrective action, and also impress upon the probationer that he, as a part of society, must learn to live in a socially responsible manner.

Mr. Stephen Fesh, Senior Probation Officer, Chemung County Probation Department, indicated that determining client failure, as well as strategies for dealing with clients is dependent upon how we in Probation envision our role. In addition, there are judicial practices, state laws, and state rules and regulations, which mandate certain activities when the probationer violates conditions of probation, that must be considered. However, with regard to technical violations, the discretion of the probation officer and probation supervisor was seen as essential in making a decision to initiate formal violations of probation proceedings. The probation officer's skills and overall knowledge of the client's adjustment were also noted as key factors in the decision-making process.

Mr. Louis Cali, Director of the Transitional Living Program, New York State Division of Parole, described the role of the parole officer in the community, and Parole's "Transition Facilities Program". The parole officer's basic responsibilities are to protect the community and to assist the parolee in making a positive community adjustment.

## DETERMINING CLIENT FAILURE

The Transition Facilities Program, a half-way house, offers a "twenty-four hour, seven day structured environment" in the community for parolees who have primarily committed technical violations of their parole conditions. During the violation proceedings, parolees are screened and only those parolees with problems that can "reasonably" be addressed are admitted into this program. Specific services provided to the parolee include individual and group counselling; drug and/or alcohol treatment, academic remediation; vocational services and job readiness/ placement assistance.

Mr. Cali related that the Transition Facilities Program has been operational for only a few years. The results, thus far, indicate that it is a cost-effective and viable alternative to prison.

Session #17  
**FAMILY VIOLENCE:  
A SYSTEMS RESPONSE**

*An examination of the effects of family violence on victims and perpetrators, and a discussion of treatment strategies that address the needs of each family member, as well as the family system and community.*

**PANELISTS**

**LISA FRISCH**

Special Project Assistant  
NYS Council on Children and Families

**ROBERT GOLDEN**

Director  
Orleans County Probation Department

**CHRISTOPHER YOUNG**

Sergeant  
Albany City Police Department

**PHYLLIS FRANK**

Director, Domestic Violence Project  
Volunteer Counseling Service of Rockland County

**PATRICIA FOSCATO**

Sex Abuse Training Consultant  
St. Anne Institute, Albany

**MODERATOR**

**ALLEN BELMONT**

Deputy Director  
Oneida County Probation Department

**RECORDER**

**KATHI PALLOTTA**

State Probation Officer  
Montgomery District Office, DPCA

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Ms. Lisa Frisch, Special Project Assistant for the New York State Council on Children and Families, began the workshop by pointing out that domestic violence incorporates physical, psychological and sexual violence. She noted that the Governor's Commission on Domestic Violence is seeking to develop a better statewide response to the problem of domestic violence. Historically, the problem was seen as a "family problem", something that occurred behind closed doors. Now, however, it has become more evident this type of violence is a social problem and, as such, is being considered a crime.

## FAMILY VIOLENCE: A SYSTEMS RESPONSE

Ms. Frisch provided statistics that document the extent of the problem. Domestic violence results in six million victims a year, primarily women and children. Battering is the single most cause of injury to women; twenty (20) to forty (40) percent of all homicides are believed to involve family members. She indicated that seventy-five (75) percent of the batterers were themselves abused or had witnessed abuse, suggesting that domestic violence is an intergenerational problem.

Mr. Robert Golden, Director of the Orleans County Probation Department, detailed what his department has done to deal with this serious issue. He stated that his department works under the assumption that arrest is the best way to deal with the batterer. The department places an incident of battering as a priority and will see the victim immediately and anonymously, if desired. Mr. Golden noted that, historically, victims did not seek help because they were afraid of reprisals; they were discouraged by the criminal justice approach; they felt responsible for the battering and, finally, they did not know where to go for help.

Mr. Golden mentioned that there are aspects of the program in Orleans County that must be kept in mind. Probation officers do not give advice to the victims, but rather encourage the victims to draw on their own strength. It is important to have patience with the victim's vacillation and never do anything unless the woman actually wants it to be done.

Mr. Golden concluded that his department encourages the courts to order presentence investigations in domestic violence cases. In these reports, incidents of domestic violence are considered part of the prior criminal history for the purpose of accentuating the point that this is a high risk individual. During the investigation and supervision process, his officers are directed to be cognizant of the existence of any domestic violence. If violence does occur while the individual is serving a probation term, a violation should be filed even if no arrest or conviction results. This act of violence, in and of itself, is a new crime.

Sgt. Christopher Young, Police Officer, Albany City Police Department, presented the police officer's response to domestic violence. Sgt. Young indicated that police are more experienced in dealing with the Vehicle and Traffic Law and the Penal Law, than they are with the Family Court Act. Notwithstanding, he stated that officers are keenly aware of their civil liability in these matters, and if a particular officer's response to an incident of violence seems inappropriate, he should be reminded of this liability. However, for long term improvement, it is incumbent on each police department to develop police policy with clear-cut directives for its officers. In addition, heightened training of new police recruits is essential in this area.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

Sgt. Young noted his support for the arrest of the batterer in that it represents a significant deterrent. He also supported the victim's obtaining an order of protection from the court. He acknowledged, however, that, at times, a police officer is reluctant to make an arrest or to enforce an order of protection. If this occurs, he recommends that the individual should persist, through the chain of command, until an appropriate response is received.

Ms. Phyllis Frank, Director of the Domestic Violence Project, Volunteer Counseling Service of Rockland County, pointed out that historically society has taken a stance of "blaming the victim". She noted that it is important to understand why wife abuse exists, and to understand that it is a social problem, not an individual problem. Ms. Frank also related that men have traditionally been responsible for the behavior of women and children and for controlling this behavior. Physical force was accepted as a sanction in controlling this behavior. She emphasized that no one has the right to beat another individual to force that other individual to behave in a certain way.

Ms. Frank continued to say that one of the primary problems in stopping the cycle of violence involves the woman's perception that she is responsible for the battering. Women must realize that the person who commits the violent act is solely responsible for this act. It is important, therefore, to empower the battered women and, in turn, to arrest the batterer. She supported the belief that arrest does lower the recidivism rate of battering.

Ms. Frank devoted some time describing her program's approach to domestic violence. She explained that the program's focus is similar to that used with DWI individuals. Staff attempt to educate the batterer regarding the consequences of violence and the effect it has on the children and the family. The program operates from the philosophical perspective that violence is a learned behavior which, through service and support, can become unlearned. To be effective, the program requires the support of other community agencies, including police, courts, probation and district attorneys. Finally, it is also necessary for all service personnel to coordinate their training and their procedures in dealing with domestic violence, and to utilize appropriate enforcements against those not adhering to the established standards.

Ms. Patricia Foscatto, Sex Abuse Training Consultant at St. Anne's Institute in Albany, noted that sexual abuse has the highest recidivism rate of any type of violence. She pointed out that ninety-eight (98) percent of the time, case histories reflect that there is more than one victim and more than one episode of sex abuse. She also indicated that it is unrealistic to expect a sex abuser to be completely cured. Moreover, approximately five (5) percent of these abusers are simply not amenable to treatment.

## FAMILY VIOLENCE: A SYSTEMS RESPONSE

Ms. Foscatto stated that there is still some reluctance to report this type of offense, and that many perpetrators continue to deny their actions. Her focus in treating sex offenders is to have perpetrators assume responsibility for their own behavior. She also noted that, in working with these offenders, it is important to remain aware that all children are victims unless clearly known otherwise. Ms. Foscatto added that many perpetrators are actually in love with their victims and, through the actual seduction process, attempt to have their victims reciprocate this love. Ms. Foscatto concluded that society's response to this type of abuse should be shaped with the knowledge that sex abuse will affect the family for its lifetime.

Session #18

## **LEARNING AND DEVELOPMENTALLY DISABLED OFFENDERS: ISSUES FOR COMMUNITY-BASED SUPERVISION**

*An overview of current theories and findings on the  
relationship between criminality and learning and  
developmental disabilities, and approaches to  
supervising offenders with those disabilities.*

### **PANELISTS**

**DR. NORMAN BRIER**

Director, Adolescent Division  
Albert Einstein College of Medicine, New York City

**SUE ROSE**

Probation Officer  
Monroe County Probation Department

### **MODERATOR**

**NATALIE BIMEL**

Project Director  
Osborne Association, Inc., Bronx, NY

### **RECORDER**

**LOIS HELLMAN**

Probation Program Consultant  
Bureau of Field Operations, DPCA

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In the initial presentation, Ms. Sue Rose, Probation Officer, Monroe County Probation Department, described her department's Mental Retardation/Developmental Disabilities (MR/DD) Screening and Case Management Project. Identifying the developmental disabilities offender as the "least appropriate minor in the criminal justice system", Ms. Rose described developmental disability as a severe, chronic disability which is manifested before the age of eighteen; is likely to continue indefinitely; and results in substantial functional limitations in three or more of a number of areas of major life activities. Mental retardation is one of the main syndromes within the category of developmental disabilities.

Dr. Norman Brier, Director of the Adolescent Division, Albert Einstein College of Medicine in New York City, acknowledged the existence of "political" definitions of LD (related to eligibility for services), but prefers a descriptive definition. LD and DD individuals have some common characteristics — chronicity, neurological impairment and a discrepancy between general ability and performance in specific areas. Learning disability is not synonymous with mental retardation or emotional disturbance. It does not result from sensory impairment or



## LEARNING AND DEVELOPMENTALLY DISABLED OFFENDERS

cultural deprivation. These individuals are described as those who, even if they did go to school and try their best, just would not succeed.

Ms. Rose continued with her description of the Monroe County Project indicating that it has two distinct phases. In year one, the focus was upon screening. The goals were to train probation officers to screen for DD, to know the differences between DD and mental illness, and to be able to recommend realistic terms of probation based upon an understanding of the limitations and capabilities of DD offenders. The majority of screened DD offenders had been identified as such at an earlier age; however, the project did identify some developmental disabilities for the first time among the 16-20 year old group.

The project was able to develop a profile of the 16-20 year old DD offender and to compare it with a non-DD offender population in the same age group.

Criteria	% of DD Offenders	% of non-DD Offenders
Prior Criminal Justice History	70	51
Prior Juvenile Justice History	55	37
Unemployed	75	47
Non-White	65	35
Need for Day Program	58	10
Need for Residential Program	16	2
Need for Special Services	100	56

Despite the documented need for services, it was reported that probation is the only service provider to most of the DD offenders screened. Services are limited by a number of factors, including difficulty of locating appropriate services, probation officers' limited knowledge of available services, difficulty in coordinating referrals, complexities of serving the multihandicapped, and the amount of effort needed to effectuate a successful referral. These findings set improved service delivery as the focus for the second year of the program.

In the second year, a group of professionals established an interagency case conference system comprised of all public and private agencies which are involved with DD individuals. Although the program has formally ended, the group continued to meet once every three weeks to network and to improve access to services for the developmentally disabled offender. Together, they are seeking funding to ensure their continuation. The participants found that their collaboration resulted in more creative service solutions, more efficient referrals and improved intragroup understanding and tolerance.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

In her concluding remarks, Ms. Rose recommended smaller probation caseloads comprised solely for developmentally disabled probationers; service networks to ensure continued support for DD individuals after their involvement with probation ends; and recognition that delayed punishment for DD offenders is inappropriate and ineffective.

Providing an historical perspective to the study of the link between criminal justice and learning disabilities, Dr. Brier cited a study conducted by the National Center for State Courts in the late 1970's. This study reported that thirty-six (36) percent of offenders in the juvenile justice system had learning disabilities, while only three to ten (3-10) percent of their non-offender peers did. Over time, it was reported that LD individuals were 220 percent more likely than the non-LD peers to have charges brought against them.

There are three hypotheses which are often used to explain these statistics. The susceptibility hypothesis blames neurological problems for making people with LD's too active and impulsive and, therefore, more inclined to get into trouble. Dr. Brier disputes this as a learning disability — criminal justice link. It is a fact that only nine out of every one-hundred LD individuals will have charges brought against them. If this hypothesis were valid, we would find more LD individuals charged with offenses.

According to the school failure hypothesis, individuals with learning disabilities try, but get discouraged; they discount themselves, drop out of school and associate with undesirable peer groups. They view themselves critically, are easily humiliated, and are quick to accept responsibility for failure, but not for success. The fact is that most juvenile justice clients are drop-outs, but they are not all learning disabled.

The third hypothesis is that LD offenders get treated differently. When they enter the criminal justice system, they penetrate more deeply. They get caught more and because of social skills deficits, they antagonize others more. For example, they do not understand subtle facial clues to others' emotional states, and they say the wrong things at the wrong time. When apprehended, they are less likely to get off with a reprimand, and more likely to have the judicial process end in an adjudication.

Dr. Brier indicated that a major problem with criminal justice/learning disability theories is that they are not based upon an understanding of learning disabilities. The theories are too general and, actually, are applicable to all individuals in a criminal justice caseload. Any theory linking criminal behavior and learning disabilities must be more complex, and must consider other factors which would draw others to crime as well.

## LEARNING AND DEVELOPMENTALLY DISABLED OFFENDERS

Many of the characteristics attributed to the LD offender are actually descriptive of anti-social personalities — chronicity, inability to accept blame, inability to learn from experience, lack of insight, and unable to be scared. In addition, a family history of incarceration, lack of parental supervision, and cruel or inconsistent parents, are thought to produce a tendency toward illegal behavior. Dr. Brier proposed that learning disabilities are potentiated by these and other factors.

In his conclusion, Dr. Brier turned his thoughts to the effect which the LD label has upon service delivery to these offenders. The lower I.Q., which is subject to a 15 point margin of error in most intelligence tests, is frequently used as an excuse to exclude from services. In addition, there seems to be a bias against individuals with more than one problem. These are the clients who do not receive appropriate services because no one system is willing to accept responsibility.

Session #19

## **SUPERVISOR'S CHALLENGE: THE DEMOTIVATED AND BURNED-OUT WORKER**

*An identification of employee behavior that  
is indicative of demotivation, and a  
discussion of strategies to prevent burnout.*

### **PANELISTS**

**ROBERT RICE**

Supervisor

Schenectady County Probation Department

**JOHN TINELLI**

Supervisor

Oneida County Probation Department

**SUSAN HEIGEL**

Supervisor

Schenectady County Probation Department

**MARY LOLIK**

Supervisor

Schenectady County Probation Department

**SAMUEL SARDINA**

Supervisor

Oneida County Probation Department

**JOHN C. DOWLING**

Senior State Probation Officer

Montgomery District Office, DPCA

### **MODERATOR**

**RICHARD CUSTER**

Probation Program Consultant

Bureau of Field Operations, DPCA

### **RECORDER**

**JANE C. WYLEN**

Senior Probation Program Analyst

Bureau of Planning, Policy and Information, DPCA

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In his opening remarks, Mr. Richard Custer, session moderator and Probation Program Consultant, DPCA, indicated that a review of the literature on employee burnout has identified human service workers and police officers as particularly at risk of burnout. For community corrections workers, burnout can be viewed as an inherent risk of the work, something for both the employee and the organization to understand and manage.

## SUPERVISOR'S CHALLENGE: THE DEMOTIVATED AND BURNED-OUT WORKER

Mr. Custer explained that the panelists in the burnout workshop were members of the Northeast Regional Cluster, an *ad hoc* mutual support group, representing five probation departments (Schenectady, Oneida, Montgomery, Warren and Rensselaer). The cluster was formed subsequent to a supervisor development training program two years ago. As this group of supervisors met and explored their individual work problems, the common theme of burned-out employees at various levels in their organizations emerged.

Mr. Robert Rice, Supervisor, Schenectady County Probation Department, presented an overview of the symptoms of burnout and how to recognize them. Among these symptoms are anger, guilt, blame, discouragement, indifference, negativism, isolation, withdrawal, exhaustion, frequent clock-watching, loss of feeling for clients, stereotyping of clients, and postponement of client contacts. Physical symptoms may also develop, such as frequent colds and flus, headaches and gastrointestinal disturbances.

Burnout develops in four stages — enthusiasm, which often doesn't fit with real-world, practical goals; stagnation, when the probation officer begins to question the value of his or her work; frustration, which becomes generalized to the entire organization, clients, and even co-workers; and the final stage, apathy and alienation.

Mr. Rice's presentation was followed by short skits which demonstrated possible supervisory responses to probation officer burnout. These skits, which were interspersed throughout the remainder of the workshop, involved the remainder of the panelists: John Tinelli and Samuel Sardina, Supervisors from the Oneida County Probation Department; Mary Lolik and Susan Heigel, Supervisors from the Schenectady County Probation Department; and John C. Dowling, Senior Probation Officer from the Montgomery County District Office of DPCA.

John Tinelli presented a description of an effective mechanism for dealing with employee burnout, based on the concepts of *The One-Minute Manager*, a book authored by Drs. Kenneth Blanchard and Spencer Johnson. The first technique of one-minute managing is One Minute Goal Setting, which requires the following steps:

1. Agree on goals
2. Observe good behavior
3. Write out goals
4. Read/reread goals
5. Review job performance
6. Assess agreement of performance with goals

The second technique described by Mr. Tinelli was One Minute Praising, which consists of the following steps:

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

1. Tell people you will be checking on them
2. Praise immediately
3. Tell people what they did right
4. Tell them how good you feel about it
5. Pause for reflection
6. Encourage them to do more of the same
7. Give them a touch of support

Finally, there is the One Minute Reprimand:

1. Reprimand immediately
2. Tell people what they did wrong
3. Tell them how you feel about it
4. Stop for thirty seconds of uncomfortable silence
5. Touch — let them know you're on their side
6. Remind them of how much you value them
7. Reaffirm their value but not their performance in this case
8. Realize when the reprimand is over

Mr. Custer concluded the workshop by thanking the presenters for their explanation of activators (goal setting), behavior (job performance), and consequences (praise or reprimand). He noted that, traditionally, managers try to influence employee performance by focusing on activators such as instructions, training and manuals. What Blanchard and Lofer, authors of *Putting the Minute Manager to Work*, have shown is that attention to activators can, at best, influence twenty-five (25) percent of an employee's behavior. The manager's opportunity to influence the remaining seventy-five (75) percent of employee behavior comes from attention to consequences.

Current literature on managing often uses the phrase "managing by wandering around". When effective managers wander, they do so with two specific purposes: to listen, and to catch someone doing something right, so that positive behavior may be praised.

At the conclusion of the presentation, a short question and answer period followed. Several members of the audience questioned the limitation of the workshop to probation officer burnout. It was pointed out that it can be an agency-wide problem and is also common among supervisors and clerical staff.

Session #20

# **PRIOR CONSIDERATIONS: A CLOSER LOOK AT ELECTRONIC SURVEILLANCE AND HOUSE ARREST**

*An examination of the legal and ethical  
implications of the use of electronic surveillance  
equipment and house arrest programs.*

**PANELISTS**

**MICHAEL GOSS**

Boulder Industries, Inc., Boulder, Colorado

**WILLIAM D. O'LEARY, ESQ.**

Deputy Director

Crime and Justice Foundation, Boston, Massachusetts

**FRED COHEN**

Professor of Law and Criminal Justice

State University of New York at Albany

**MODERATOR**

**GARY CLARK**

Probation Director

Genesee County Probation Department

**RECORDER**

**JAMES E. STOTHERS**

Probation Program Consultant

Bureau of Field Operations, DPCA

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Mr. Gary Clark, session moderator and Director of the Genesee County Probation Department, opened by reflecting that this workshop would not have been possible six years ago. Since then, the technical development of electronic monitoring equipment and the increase in the prevalence of community supervision for high risk clients, with an emphasis on post-9 to 5 concern for supervision, has brought the issue to prominence.

Mr. Michael Goss of Boulder Industries, Inc. in Boulder, Colorado, is a producer of electronic surveillance equipment. He reviewed the background for the technological development and the general programmatic concerns effecting implementation of electronic surveillance initiatives, including core considerations, target populations, advantages and cautions.

The first equipment was developed following the New Mexico State Prison riots in 1985. Some of the murdered inmates, who were misdemeanants housed by the State because of the unavailability of

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

jail space, could have been supervised in the community if amplified and reliable surveillance mechanisms were present. In response to a judicial request, a proto-type electronic monitoring instrument was developed in 1983.

Key considerations that must attach to any program are that instruments should be cost-effective, meet "fail-safe" provisions, and be basically non-intrusive. Fail-safe requirements, geared to erring in favor of safety, were listed as: tamper resistant, need for quick knowledge of failure, and service availability on a 24 hour basis.

The target populations for equipment use were described as pretrial defendants and convicted, non-violent offenders. It was suggested that electronic surveillance is inappropriate for violent and compulsive offenders. Among sentence populations, monitoring equipment was seen as a highly effective strategy to use.

The basic advantages of such a program were seen as low-cost reliable surveillance, and the relief of jail space. Mr. Goss also noted some unexpected pro-social behavior by home bound participants.

Mr. Goss cautioned that while electronic monitoring looked like a promising "alternative", its very success could cause problems — a possible net-widening to inappropriate populations, and the use of more deeply evasive technology (audio/video) to supplement current equipment.

He suggested a pre-emptive study and recommendations by professional bodies to limit its overapplication.

Mr. William D. O'Leary, Esq., Deputy Director, Crime and Justice Foundation, Boston, Massachusetts, discussed issues of purpose, law and ethics surrounding the performance of electronic monitoring programs.

Critical questions in evaluating any system, proposed or established, should be related to the reasons why a community wants it, and to the match between performance and goals. The possible rationale for a system might be reduced prison populations, better societal protection, and lowered costs.

Where better protection is the end product, surveillance might make sense if not enough alternative resources are available to meet minimum standards. Surveillance would not meet its goals if there was unnecessary net-widening, if loss of reasonable supervision discretion resulted, or if treatment provision was discouraged.

Cost effectiveness and prison reduction goals would be met only if a true diversion strategy could be demonstrated. There is always a danger that electronic monitoring will be added as "just another condition" which defeats the purpose of diversion or cost-containment.



## PRIOR CONSIDERATIONS

Mr. O'Leary indicated that, legally, different standards of application are needed with sentenced and pretrial populations, with courts generally more tolerant of more intrusive restrictions for probationers and parolees. With pretrial participants, motives of punishment and rehabilitation surrounding electronic surveillance structures would be invalid.

The use of electronic gear raises 4th amendment (search without warrants), 5th amendment (self-incrimination), 8th amendment (excessive punishment) and 14th amendment (equal protection) issues. Where there has been a clear choice made between jail and community supervision, consent to a warrantless presence seem valid. Recent court rulings have suggested that physical evidence (the monitoring record) is different than testimony. The condition of electronic monitoring by itself does not seem excessive, but an inordinate length of imposition might be so. Inability to qualify for a program because of poverty might be a real basis for a legal challenge, though "non-fee" programs have avoided this challenge to date. So far, there has not been any case law in this area.

Mr. O'Leary concluded that, nevertheless, ethical considerations should be paramount. Are we weakening the concept of the home as castle? Are we widening the net and, in doing so, are we raising the general expectation of a more invasive presence? If this proves effective, are we preparing the way for broadened use to high-risk level clients? If so, who will or will not be eligible, and who will supervise them?

Mr. Fred Cohen, Professor of Law and Criminal Justice, State University of New York at Albany, focused on the legal and ethical issues previously raised. The key ethical issue was seen as the State's expansion of its base into the defendant/probationer-parolee's home, in an Orwellian nightmare.

The core legal issue is focused around the 4th amendment protections against search and seizure and the validity of the participants' consent to waive their rights. In *Katz vs New York*, the Court held that a reasonable expectation of privacy exists. In-home electronic monitoring diminishes that expectation and creates a predicate for the next, more intrusive technological step. Consent by individuals seem forced and artificial; the real issue is proportionality of punishment to crime.

Every "alternative to incarceration" to date has seen its use widened beyond its initial intent. The real question for electronic surveillance programming is whether or not this is a desirable step.

Session #21

## **PRE-PLEA INTERVENTION: ISSUES AND LIMITS**

*A legal perspective on issues specific to pre-plea defendants, including deferred sentencing, confidentiality, confessions, and the degree to which restrictions and obligations can be imposed on persons who are legally innocent until proven guilty.*

**PRESENTER**

**MICHELE MAXIAN**

Associate Attorney

Special Litigation Unit

Legal Aid Society, New York City

**MODERATOR**

**JoANNE PAGE**

Executive Director

Case Management Studies

Court Employment Program, New York City

**RECORDER**

**RICHARD V. SPINDLER**

Probation Program Consultant

Bureau of Field Operations, DPCA

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Ms. Michele Maxian, Associate Attorney, Special Litigation Unit, Legal Aid Society, New York, initiated the session with a scenario. She began with a situation wherein a career mother of several children was driving home after having one or two drinks, and struck a pedestrian with her automobile. The question was whether she should go to jail, since she was charged with negligent homicide, an E Felony. "After all, she probably only fell asleep at the wheel after an exhausting day". Without a past record, she was a likely candidate for probation. Should she be taken in and incarcerated?

In a variation of that theme, the situation involved a person, aged 16, unemployed, who had a prior arrest for shoplifting, and was found to use cocaine daily. She had stolen the car with which she had "run over the kid". She was a black female.

As the discussion went forward, the case at hand was changed to escalate the likelihood of incarceration. In essence, the purpose was to develop the threshold and limits of providing diversion. The purpose was apparently to develop the types of cases which could be eligible for diversion. Ms. Maxian's main point was that we should be on the alert for cases that are jail bound, but qualify within program parameters

## PRE-PLEA INTERVENTION: ISSUES AND LIMITS

for diversion. We do not want to expend more time than necessary in identifying candidates.

In looking for those acceptable cases, we should look at statistical offender backgrounds, results of previous community service and rehabilitation efforts, whether the District Attorney would entertain alternatives to incarceration, and whether appropriate community resources are available. A major point was made that the person evaluating offenders must avoid personal bias.

Confidentiality was explored. One major caveat was that the interviewer should positively avoid asking about or discussing the incident. However, there are instances, particularly with first offenders, wherein the offender needs to relieve himself of guilt, or simply must speak to someone about what happened. This is why it is essential that the District Attorney agrees in advance not to use the information developed during the preparation of a presentence report. This information must not be used against the client, even if the plea is withdrawn.

Clearly up front, the interviewer should advise the client that if he has a problem, he should not reveal it because it may be used against him. This should be an essential element in the program's ground rules. The warning must be given not only at the outset, but should be repeated as often as necessary throughout the process. Regardless, confidentiality problems will continue to arise. You may be the first person who has listened. Someone cares! The deeper you go, the more likely you may betray the defendant.

In selecting material to present to the court, remember that you are the expert. If you sense that, do you need to tell the court everything? Can you not evaluate the information you have gathered and decide that which is not relevant?

Once the person is accepted into the program, can you provide counseling while the defendant is in preplea status? This is where the issue of confidentiality becomes most important. Care should be an essential concern. Yet, in developing needs, the client should be cautioned especially about your requirement to report certain revelations.

For those who need services, probation officers should act as brokers. If a person is referred, just report to the court where he is going.

In ATI programs, these legal and ethical questions will arise continuously. There should be explicit guidelines on how to handle confidentiality questions. How much should be reported to the judge? Who should be given which kinds of reports? Of whom can we demand records? Exactly what can we promise in regard to confidentiality? How much information can we ask or demand of the defendant? How much intervention can, or should, we exercise?

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

Of those participants in attendance at this session, many represented diverse programs. Not all had full programs as we know them. Some only come into the picture at one stage of an operation. In the discussion, there developed the sense that probation personnel and those of other public and private agencies, have a "piece of the action", but their respective agenda varied considerably.

From the open-ended discussion, it was apparent that clear guidelines for ATI programs would be essential, especially for our probation actors. While probation personnel seemed most informed on the issues, there is still no uniformity in their approach, and some issues remain in doubt.

Session #22

## **MANAGING THE DEPRESSED/ SUICIDAL CLIENT**

*An overview of the symptoms and prevalence of depression and suicide among juvenile and adult probation and ATI clientele, and a highlight of some strategies for managing crisis episodes involving severe depression or suicidal gestures.*

**PRESENTER**

**DAVID A. NEVIN, Phd.**

Psychologist

Center for Human Growth, Albany

**MODERATOR**

**ROBERT BURNS**

Deputy Director

Albany County Probation Department

**RECORDER**

**LOUIS R. WEBSTER**

Probation Program Consultant

Bureau of Field Operations, DPCA

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Dr. David A. Nevin, Psychologist with the Center for Human Growth in Albany, New York, divided his presentation into three parts:

- (1) Types of suicidal behavior;
- (2) "Psychiatric" signs of suicidal risk; and
- (3) Options for talking with potential suicidal clients.

Dr. Nevin cited ten different kinds of suicide, and emphasized that a therapist would start counseling by considering the type of behavior the client was exhibiting relative to suicidal ideations.

- o Accidental: Dr. Nevin provided an example of this type of suicide in which a teenager plays "chicken" with automobiles.
- o Revenge: Dr. Nevin stated this to be the most common form of suicide. It reflects a manner of showing someone how much they didn't love them. "I'll show you, I'll get even."
- o Relief: This suicidal behavior is a way of escaping from life too painful to tolerate. The person escaping from a painful disease, and the stockbroker who mismanages funds were given as examples of this form of relief.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

- Martyr: Suicide is committed for a cause. The recent terrorist bombings in Lebanon is an example of the "martyr" form of suicide.
- Joining: Romeo and Juliet making the romantic suicidal pact to be together forever. This is a form commonly entered into by teenagers.
- Honorable: This is reflected in the behavior of the Japanese soldier who has lost the battle and kills himself as the "honorable thing to do".
- Heroic: This form of self destruction is not suicide, but is a reflection of training, such as the bodyguard who shields the employer with his body.
- Attempt: A message is delivered in this type of behavior. It may be a cry for help. This form is often seen in children whose parents talk only of college and the student is incapable of communicating, in an acceptable manner, that he feels incapable of college.
- Attempts — Manipulative: This is behavior intended to get someone to behave differently.
- Attempts — Self Punishing: Dr. Nevin cited the bulimic as one who characterizes this behavior.

Dr. Nevin presented nine indicators generally used by mental health professionals for assessing the risk of imminent suicidal behavior.

The therapist gathers background information relative to the client's history of perceived losses or failures, including the most recent loss or failure. In teenagers, this may be the loss of the first love, a parent, or being in trouble with the law.

Does the person exhibit psychotic thinking; i.e., is he or she experiencing delusions or hallucinations? Is the patient very suspicious? The suspicious individual may become very wary and stop talking about suicide, although the threat remains.

Does the person have a means to commit suicide?, and what is the lethality of the contemplated manner of self-destruction? Lethality is determined by the deadliness of the means, the quickness of the means, availability, chance of being saved, and the time or chance to call for help.

How bizarre is the suicidal ideation characterized by Dr. Nevin as a "Life Trust Violation"? The example given was "Romeo and Juliet" — "together forever in death".

A further indicator of the seriousness is "a trail". Does the person leave notes, suggest he may not be around?

## MANAGING THE DEPRESSED/SUICIDAL CLIENT

Dr. Nevin cited traditional depression and the period when the individual is just beginning to get better as a particularly dangerous period for the patient.

The third segment of Dr. Nevin's presentation concerned "options for talking with potential suicidal clients". He addressed counseling techniques that are helpful in getting the suicidal client, or for that matter any client, to participate in counseling and to clarify his or her position.

The options for the counselor which encourage participation are:

- Mirroring statements — "What you seem to be saying is . . ."
- Reflective statements — "It's ok to feel what you are expressing."
- Sharing statements — "I've had similar feelings."
- Open question — "Tell me more about it."

Some counseling questions which will lead to noncommunication are:

- Making judgmental or moralistic statements
- Asking close-ended questions; and
- Making threatening statements.

Dr. Nevin concluded the session by forming dyads of participants who practiced and demonstrated the different approaches used to encourage client communication.

Session #23

## **QUALITY SERVICES WITH INADEQUATE RESOURCES: DOING MORE WITH LESS**

*A presentation of the personal perspectives and experiences of community corrections managers and staff in maintaining program quality within an environment of fiscal instability and staff shortages.*

### **PANELISTS**

**LYNNE ORNSTEIN**

Education Director

Fortune Society, New York City

**MARJORIE RUSSELL**

Supervisor

New York City Department of Probation

### **MODERATOR**

**JoANNE PAGE**

Executive Director

Case Management Studies

Court Employment Project, New York City

### **RECORDER**

**THOMAS F. MITCHELL**

Associate Probation Program Analyst

Bureau of Planning, Policy and Information, DPCA

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Ms. JoAnne Page, session moderator and Executive Director of Case Management Studies for the Court Employment Program in New York City, opened the session with the observation that service delivery to criminal offenders is difficult enough when reasonably adequate resources are available. However, the current caseloads per staff require extraordinary coping measures if anything positive is to be achieved.

Ms. Marjorie Russell, Supervisor, New York City Department of Probation, observed that current caseloads require frequent triage processes in order to focus resources on the most critical situations. Probation officers have been forced to look beyond themselves and actively enlist external resources, including those of private industry, to provide the services needed by today's probationer. In addition, probation officers must rely more heavily on structured controls, such as classifications and reporting systems, to provide an increased capacity for case management.

Nevertheless, probation officers still must rely on skilled intervention as their most effective technique. Probationers are often in crisis and



## QUALITY SERVICES WITH INADEQUATE RESOURCES

it is up to probation officers to make accurate assessments and to skillfully involve themselves to promote positive change and to bolster that change with understanding and reinforcement. This type of an active treatment role is very difficult under current caseload conditions. However, with imagination and resourcefulness, much can be accomplished for those with the most critical needs.

Ms. Lynne Ornstein, Education Director of the Fortune Society in New York, related that the education program of the Fortune Society services some 2,000 ex-offenders with education and job development programming. The foundation of this service is a caring staff who are knowledgeable concerning the needs and conditions of their clients.

Ex-offenders bring many bad habits and problems with them into a program, and quality programs must survive these negative forces. Specifically, ex-offenders are often late, absent and restless. Consequently, the Fortune Society chose to provide services on a one-to-one basis which readily adjusts to the level of skill and participation of each client. One-to-one also provides for satisfaction of the ex-offender's usual need for attention.

Obviously, one-to-one education is costly and takes significant amounts of staff time. Volunteers are a critical part of the process and are used both as trainers and as program developers. It is also essential to continually build coalitions, which can generate funding.

According to Ms. Ornstein, one unique activity of the Fortune Society, at the moment, is to protect the ex-offender from being victimized by unscrupulous trade schools. These schools have been known to recruit vulnerable individuals, such as ex-offenders, with a promise of a good job after a small amount of training. These schools help the ex-offender to receive financial aid and then drop the student for poor performance, while keeping the tuition and fees.

Among the fundamental approaches used by the Fortune Society in providing services is a policy of responding quickly. Ex-offenders are always being told to wait and the Fortune Society tries hard to be responsive in a timely manner. The atmosphere of the Fortune Society is also a most important trait. The staff at the Society always try to be optimistic and accepting.

Following the formal presentations of Ms. Russell and Ms. Ornstein, several additional comments were offered during an open discussion period.

- o The current caseloads in some parts of New York City (250-300 cases per officer) are enough to completely overwhelm the most dedicated and creative probation officer, particularly since this volume of work often requires seeing 50 to 60 probationers per day.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

- Differential classification of supervision cases may help, especially if there is a large number of cases which could be monitored through mail-in reporting.
- Creativity in supervision is critical. The system must constantly look for new methods and be willing to discard inefficient ones, even if they are traditionally based.
- To secure needed funding, it is necessary to establish credibility with the funding sources and to emphasize cost offsets, such as the amount of jail time avoided.

Session #24

## **DRUG TESTING: MESSAGE IN A BOTTLE?**

*A discussion of federal and local initiatives for drug testing of defendants and public sector employees including the level of due process afforded, confidentiality, the impact of test results on sentencing, disposition supervision and the ongoing research efforts investigating the link between drugs and crime.*

### **PANELISTS**

#### **DR. ERIC WISH**

Narcotic and Drug Research, Inc.  
Washington, D.C.

#### **STEVEN BELENKO**

Associate Director for Research  
New York City Criminal Justice Agency

#### **THOMAS TERRIZZI**

Managing Attorney  
Prisoner's Legal Services, Ithaca, NY

### **MODERATOR**

#### **MARJORIE RIFKIN**

Director of Operations Planning  
New York City Criminal Justice Agency

### **RECORDER**

#### **JOHN C. DOWLING**

Senior State Probation Officer  
Montgomery District Office, DPCA

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Ms. Marjorie Rifkin, session moderator and Director of Operations Planning, New York City Criminal Justice Agency, opened the session by noting that drug testing has large implications, not only for those before the criminal justice system, but for all employees of the public sector, as well.

Dr. Eric Wish, Narcotic and Drug Research, Inc., Washington, D.C., cited the potential problems of urine testing at the pre-trial stage. He indicated that, at the pre-trial stage, you are dealing with individuals who have to be found guilty. When everyone is tested, you present the danger that they will be in contempt of Court for repeatedly being found positive for a drug test. In some instances, this could result in a person getting into more trouble than that resulting from the original charge.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

He mentioned that Washington, D.C. is the only jurisdiction which routinely tests all arrestees for drugs or drug addiction at the time of arrest. The judge, in turn, uses this information to subject people to drug surveillance or treatment during the pre-trial period.

Dr. Wish remarked that there appears to be fewer concerns about testing people who are already convicted of a crime, such as a probationer with a condition that he refrain from illicit drug use. He pointed out that, although there are some problems concerning the validity or accuracy of the drug test, they are far exaggerated in the media, and the problems that do exist involve false negatives (not finding the drug known to be in the urine specimen). Dr. Wish indicated that a way of getting around the issue of false positives is not to do anything to a person based on one test, but to administer repeated tests over time to identify the chronic abuser, the individual who uses two or more drugs.

Regarding the cost of drug testing, Dr. Wish stated that the real issue is the cost of not testing in the type of criminal justice system we have today. With an overburdened court system — the same people coming in over and over again — we know that much of their crime is criminogenic or related to drug use. Today, we live in a society where the focus of discussion is on the testing of civilian employees where the prevalence of drug use is considered very low. Yet, in the criminal justice system, we know that two-thirds of the people generally have drugs in their system when they are being processed. Little, if anything, is being done to identify them systematically, and to help them in some way to solve their drug problem.

Mr. Steven Belenko, Associate Director of Research, New York City Criminal Justice Agency, discussed some of the issues related to urine testing in the pre-trial setting, the results regarding what urine testing tells us about pre-trial behavior, and the policy issues it raises by moving too rapidly in instituting drug testing at the pre-trial stage. He cited research projects in Washington, D.C. and in New York City (Manhattan) which looked at the rate of drug use through urinalysis during the pre-trial stage.

He noted that self-reporting drug use was not very reliable, while urine testing allowed a more objective measure of recent drug use among arrestees. Urine testing, however, also presents some problems in that the testing detects drugs that have been used at different periods — oftentimes a day or month — depending on the type of drug. Mr. Belenko pointed out that urine test results are only suggestive of a drug problem, or indicative of drug use. Tests cannot identify the extent of drugs, the frequency of use, or the relationship between its use and the criminal event.

## DRUG TESTING: MESSAGE IN A BOTTLE?

Mr. Belenko also stated that urine testing is being used at the pre-trial setting to help judges at the time of arraignment to establish conditions for release, such as treatment and supervision. He added, however, that by specifying additional conditions for release, there is a potential to increase the level of supervision and to increase the risk of pre-trial detention on the basis of the urine test result. These circumstances set up the defendant for failure for testing positive.

Mr. Belenko indicated that one of the basic questions to be more carefully studied is the relationship between positive drug test and pre-trial release. He stated that much data in the literature suggest that drug use and crime are related in terms of association, and that people who use illicit drugs tend to be involved in illegal activity. In terms of causality, does crime or drug use come first?, or is the predisposition from childhood? The assumption many people have made is that drug use leads to crime, and that by implementing drug testing programs and identifying the drug user, drug use will be reduced, thereby diminishing the incidence of pre-trial crime and failure to appear in court.

In reference to policy issues, Mr. Belenko stated that, in comparing the findings of urine testing in pilot programs operating in Washington, D.C., New York City, and ten other jurisdictions throughout the country, one has to be very cautious in that the defendant populations and the types of crime differ in these jurisdictions. In smaller jurisdictions, the bulk of the jail population are DWI's and yet no one talks about alcohol and its relationship to crime, especially violent crime. In many jurisdictions, the drug problem is alcohol and DWI behavior, which is not addressed in the debate over drug testing.

In summary, Mr. Belenko reported there is much work and research to be done before we proceed with a degree of certainty in using drug testing in the pre-trial setting.

Mr. Thomas Terrizzi, Managing Attorney, Prisoners' Legal Services in Ithaca, New York, addressed the constitutional implications of drug testing, specifically how it affects the prison population, probationers, parolees and, to some extent, state employees and other employees.

In analyzing the constitutional implications of drug testing, Mr. Terrizzi stated that one has to refer to the "Bill of Rights". The Fourth Amendment to the Constitution, which is one of the great protectors of individual rights and liberties in our society today, specifies the right of the people to be secure against unreasonable searches and seizures, and that warrants shall not be issued but upon probable cause, supported by oath and affirmation, describing the place, persons or things to be searched. The Fourth Amendment affords individuals the right to be free from unreasonable governmental intrusion. This means that all unreasonable searches and seizures are prohibited.

## 2nd ANNUAL CONFERENCE--PROBATION & CORRECTIONAL ALTERNATIVES

The Courts, from time to time, have tried to establish rules to determine when searches and testing are proper. However, the only rule that has been established refers to the test of reasonableness under the Fourth Amendment; that this test is not capable of precise definition. Basically, what the Courts are saying is that this is a shifting standard which will change from time to time contingent upon the particular scheme involved and the pressures of the day. What this means, according to Mr. Terrizzi, is that the precedence that is established for drug testing in the criminal justice field will carry great weight and importance of drug testing in the private sector.

Mr. Terrizzi reported on a number of test cases already before the Court involving search and seizure and the intrusion of privacy. One such case, *Hudson vs. Palmer*, involves a prisoner's objection to the search of his cell for contraband, claiming the Fourth Amendment right to privacy in jail. The Courts have ruled that in a prison setting, inmates clearly do not have any expectations of privacy while incarcerated. However, the Courts have not been as clear in other cases in defining the rights of parolees, probationers and cases involving the rights of arrestees.

Mr. Terrizzi indicated that public employees have not fared as well either. He noted that drug testing for public employees started with corrections officers in the prison system, with transit workers and power plant workers at the Federal level, and with employees in other highly regulated industries including jockeys. Mr. Terrizzi pointed out that many of these testing schemes have been challenged in the Courts, and that many have been decided against the employees. He also indicated that when the Courts review testing schemes for public employees, they consult some of the cases from the institutional realm rather than from the criminal justice field. Thus, it follows that any case law that is developed in these areas will have a definite effect on how employees are treated in the future.

Session #25

# **JUVENILE JUSTICE IN CONFLICT: CHILDREN'S RIGHTS vs. THE RIGHTS OF PARENTS**

*A discussion of the recently enacted "PINS  
Adjustment Services Act"\* in New York State  
and its effect on the rights of parents.*

## **PANELISTS**

**DOROTHY HOLMGREN**

President

Parent Watch (formerly Tough Love)  
Melville, NY

**DAVID MORSE**

Attorney

Statewide Youth Advocacy  
Rochester, NY

## **MODERATOR**

**WILLIAM BENJAMIN**

Deputy Director

Suffolk County Probation Department

## **RECORDER**

**GENEVIEVE DAINACK**

Probation Officer

Sullivan County Probation Department

- \* Editor's Note: The PINS Adjustment Services Act of 1985 introduces several new requirements, which will result in significant changes in the processing of "persons in need of supervision" (PINS). One of these new requirements delays a parent's direct or immediate access to the family court.

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Parent Watch, Ltd., (formerly Tough Love), of which Ms. Dorothy J. Holmgren is President, is a self help support group for parents and children in crisis. The organization is concerned with the possible ramifications of the PINS Adjustment Services Act on the institutionalization of troubled youth, direct access to courts, the handling of emergency situations, and mandatory compliance by the youth of the recommendations of the Designated Assessment Service. How these issues are handled, while taking into consideration the rights of the parents, as well as the rights of the children, is of utmost concern to

## 2nd ANNUAL CONFERENCE---PROBATION & CORRECTIONAL ALTERNATIVES

this group. Ultimately, one of the organization's major goals is to reunite the child and the parents by improving the family environment through educational and counselling programs.

The population that Parent Watch, Ltd. is most interested in is the 9-20 age group. Within that age range there has been a rapidly increasing number of youths encountering serious problems such as truancy, school failure, drug and alcohol abuse, running away from home, suicide attempts and blatant disregard of authority and societal norms. Parents of such youth are oftentimes fighting a losing battle in trying to control such behavior. They eventually seek help from the courts in the form of PINS petitions.

Concerning the PINS Adjustment Services Act, Ms. Holmgren expressed her criticisms of some of its provisions, implying that the original PINS statute was more effective in serving the needs of both the child and the parents. For example, in reference to institutionalization, Ms. Holmgren indicated that since the implementation of the Act will result in the reduction in residential care as part of an overall attempt to cut down on costly services, youth with drug, alcohol and emotional problems will be returned to their families, where supervision has not been effective. Instead, youth need to be placed in residential treatment settings where immediate and intensive ongoing help is available. In addition, she challenged the tediousness of the procedures required by the new act, including the loss of the walkover petition for same day court access in emergencies, and the fact that, with extension and adjustments, the whole procedure might take as long as seven (7) months to process. This period of time may very well be crucial in the life of the youth who is suicidal, or otherwise disturbed or on drugs.

According to Ms. Holmgren, the law must be flexible to handle those cases that cannot wait for a fifteen (15) day intake, a thirty (30) day assessment, and a ninety (90) day adjustment. Losing the right to be heard by the Court is a crucial issue for Parent Watch. Moreover, there is also the question of cooperation by the youth and/or the parents after the Designated Assessment Service (DAS) has made its recommendations. Ms. Holmgren mentioned that, with the new law, the recommendations of the DAS are just that, recommendations which may or may not be complied with by the child. Since a majority of these youth are already hostile and uncooperative with parents, schools and the community, the chances for the DAS achieving a high rate of voluntary cooperation by these youth seem unlikely.

Lastly, Parent Watch Ltd. views the issue of parents' representation in court as very important. The legal rights of the children are protected by law guardians, who are lawyers hired by the court for that purpose. Parents do not have the same representation in court unless they hire an attorney, an expense not all can afford. Consequently, parents are



## JUVENILE JUSTICE IN CONFLICT

often confused by the court procedures, and are left with feelings of guilt about their child. In Ms. Holmgren's opinion, law guardians, at times, are too conscientious in protecting the rights of youth, acting as surrogate parents. This actually widens the gap in the conflict between parent and child.

With these considerations in mind, Parent Watch Ltd. offered several recommendations: (1) Institutionalization and residential treatment remain serious options for some youth, notwithstanding the costs involved. (2) Parents be permitted direct access to the court in an emergency situation. (3) The Designated Assessment Service have the power to shift a voluntary compliance of recommendations to a mandatory one subsequent to a period of time. (4) A balance in the representation and the protection of rights of both the youth and the parents be maintained by providing "parent advocates" for parents who cannot afford representation in such cases.

In conclusion, Ms. Holmgren stated that Parent Watch Ltd. is not opposed to the PINS Adjustment Services Act. However, the organization does believe that some aspects of it should be amended, particularly in the area of access to the courts in an emergency, the length of the evaluation procedure, and in diverting appropriate youths from the more costly care of institutionalization or residential rehabilitation. Finally, she suggested that the implementation of this law proceed slowly and with careful planning to ensure better long term benefits.

In response to Ms. Holmgren's presentation, Mr. David Morse, Attorney for the Statewide Youth Advocacy in Rochester, New York, supported her desire for legal representation for parents if there were funds available. In addition to addressing issues raised by Ms. Holmgren, Mr. Morse pointed out another issue concerning the raising of the PINS age from 16 to 18 and the lowering of the age of parental support from 21 down to 18. There are bills to this effect pending in the State Legislature. However, he also pointed out that it is the child's liberty that is at stake, not the parents, and that the child should not be ordered through the court to accept conditions he or she might not like or understand unless there is some legal representation to protect and to explain these rights. He believes that whatever funds are available should first be diverted for that purpose.

Mr. Morse agreed that there is an urgent need to get help for troubled youth. However, he does not believe, as does Ms. Holmgren, that this help must be provided by the Family Court Judge and backed by the force of law. He indicated that the Family Court process is an inappropriate mechanism to render these determinations since the judge has only a half hour to hear the case and to decide. In addition, the judge, very often, is not the appropriate "expert" in the field to decide what is best for the youth involved. It is true that the judge can order

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

an out-of-home placement or order probation supervision, but these determinations do not always meet the needs of the child or the situation, nor do they always lead to voluntary compliance by the youth.

Mr. Morse believes that the PINS Adjustment Services Act has strong merit since it acknowledges the needs of the youth and the family through more individualized treatment plans that emerge from the Designated Assessment Service (DAS) recommendations. Social workers, psychologists, and other appropriate experts are better able to make those more finely tuned determinations. In the PINS Act, it is the role of the judge to settle only those cases that could not be resolved by probation and the DAS.

Concerning a youth's attitude toward the recommendations of the DAS, the youth has to project a positive attitude and be compliant in order for this program to work. A child cannot be locked up or restricted in an out-of-home placement on a PINS petition, nor can he be restricted if he violates probation supervision. The noncompliant PINS child quickly learns that he/she cannot really be touched by the sanctions imposed by the system. Mr. Morse argued that 16 and 17 year olds, in particular, are not easily intimidated by threats of out-of-home placement as punishment for a probation violation, and that youth within this age group often sabotage treatment plans set up for them. The PINS Act was developed as an attempt to reach more of these youth by streamlining and particularizing their treatment plans.

Mr. Morse concluded with the hope that, by transferring the responsibility of finding solutions from the Family Court Judge to the professionals in the field, who are expected to work directly with the child and family in arriving at a treatment plan, we will increase the chance for success with the youth and quite possibly help reunite the family as well. Mr. Morse ended with a call for new systems and more community-based services. He believes that, rather than invest more money in the court system for PINS cases, it would be put to more effective use by the community in expanding locally based services.

Session #26

## **CONSUMER'S REPORT: THE OFFENDER'S PERSPECTIVE OF COMMUNITY CORRECTIONS**

*A discussion of the consumer's personal experiences with probation supervision and services provided through alternatives to incarceration programs. Consumer perceptions of authority, interaction with professional service providers, the terms and conditions of supervision and the effect and outcome of supervision were presented.*

**PANELISTS**

**AKIL AL-JUNDI**

**VINCENT DeFRANCISCO**

**DENISE JONES**

**ALEYDA MONELL**

**MODERATOR**

**RONALD HILL**

Director, Special Defender Services Unit  
Legal Aid Society, New York City

**RECORDER**

**ROGER HUGHES**

Supervisor

Nassau County Probation Department

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The offenders' perspective of community corrections represented a probing account of their own personal experiences within the criminal justice system, as well as their perception of the system itself. The dominant themes expressed during this session centered on awareness, accountability and trust.

The participants, who were either former or current probationers, were involved in criminal activities without an initial awareness of the consequences of their actions. This initial involvement could be called the "adjustment phase". Their awareness of the system and it's awareness of them as individuals was just beginning. They were seeking help and looking for someone to be concerned about them as individuals. The professionals that they encountered were holding them accountable, hopefully with fairness, for their actions. It wasn't until some failures had occurred that it was realized that the accountability in the criminal justice system goes two ways. The offender is responsible under the law to act in a prescribed way. However, the professional is also responsible for providing, or for making accessible certain programs that will be helpful in the rehabilitation process.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

The relationship between the offender and the treatment provider must eventually deal with the dual nature of trust. That is the trust placed by both persons in their respective roles and the trust or confidence that develops from this relationship in terms of actions. A rapport should ideally develop wherein fairness and frankness will result in the end. The professional will conduct business fairly, but firmly, and the offender will develop himself or herself with an eye towards more rewarding goals and objectives. The offender's responsibility is to act in a mature, socially acceptable way and the responsibility of the professional is to see to it that services are provided to strengthen those positive intensions and actions.

Session #27

## **MEASURING UP: EFFICIENCY AND EFFECTIVENESS IN COMMUNITY CORRECTIONS**

*An examination of the definitions of efficiency  
and effectiveness, and the ways in which  
research can help program managers measure  
program operations and impact.*

### **PANELISTS**

#### **ROBERT CARNEY**

Assistant Commissioner  
New York City Department of Probation

#### **CABELL CROPPER**

Management Specialist  
National Center for the Prosecution  
of Child Abuse, Alexandria, Virginia

#### **NEIL TILOW**

Director  
Talbert House, Cincinnati, Ohio

#### **LAURA WINTERFIELD**

Project Director  
VERA Institute of Justice, New York City

### **MODERATOR**

#### **BARBARA O'BRIEN**

Deputy Commissioner for Adult Services  
New York City Department of Probation

### **RECORDER**

#### **HARVEY M. FRANKEL**

Associate Administrative Analyst  
Bureau of Planning, Policy and Information, DPCA

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Ms. Barbara O'Brien, session moderator and Deputy Commissioner for Adult Services, New York City Department of Probation, indicated that this session would review the way in which public and private sector agencies measure efficiency and effectiveness. Some approaches in the implementation of measurement techniques would also be provided.

Mr. Robert Carney, Assistant Commissioner, New York City Department of Probation, discussed some general perspectives on efficiency and effectiveness, relating them to specific applications,

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

implications and future directions when an agency adopts such measures.

Mr. Carney related that there is a great deal of confusion and an absence of acceptable standards for measuring service areas. Although much has been written in the past ten years, a consensus does not seem to be available.

People are willing to talk about it, and there is interest in something which will lend itself to computer use. Technology has crept in. Efficiency is typically defined as the ratio of inputs to outputs. Effectiveness is the ratio of outputs to some standard. This assumes that there are agreed upon standards.

Efficiency relates to things which can be quantified and made objective; e.g., the number of events, activities, PSIs. Mathematically, we can compute a ratio. With effectiveness, however, we deal with standards defined in qualitative and subjective terms. In criminal justice, it is typically defined in terms of justice or distribution of equity. We are much better at measuring efficiency because it is easier to count things. The problem emerges when you attempt to translate from one case to another. Not all PSIs are the same. What is a typical PSI? Another difficulty is that the range of services and activities vary with time over the life of a given case. This difficulty is compounded when individuals have a mix of cases, and non-standard events occur; e.g. violations.

With effectiveness, we are aiming at a construct which is not subject to direct observation. It cannot be seen; it is grounded in values of various constituencies and this changes over time.

Mr. Carney suggested that there is a conflict: If you must produce more, quality often suffers.

In New York City, we have tried to define some of these in the area of probation supervision. We have adopted, as policy, the National Institute of Corrections (NIC) risk/need differential supervision system. This specifies a process. A set of objectives is specified for each case. Later, the case is reassessed and new standards are developed.

Mr. Neil Tilow, Executive Director of Talbert House in Cincinnati, Ohio, indicated that two key issues must be addressed:

- (1) A quality assurance issue as to what the clients are receiving, and what they need to receive; and
- (2) Cost effectiveness.

Regarding quality assurance, one cannot decide after the fact to evaluate. Annual goals are important. We must decide what we want to do. But first, make sure all agree on the mission and purpose. Anticipate results. One must have a starting point, even if it's soft. Compare yourself

## EFFICIENCY AND EFFECTIVENESS IN COMMUNITY CORRECTIONS

to another program. Quality assurance can be judged by determining how you are doing. Think about the nature of the problems which get clients involved in the criminal justice system, and about the impact which you can have. Second, ask your clients. This is an excellent way to assess quality. Ask what their needs are. Taken with a grain of salt, it provides interesting data. Third, use a referral source questionnaire. Check with agencies in your network as to what you are doing. Use the things to improve your services. Do a focus group; find out what they think you need to be doing. Get input. Most important is a follow-up study. One can determine the percentage of improvement over a period of time by determining how people are doing after they leave supervision. Mr. Tilow suggested not to count on any one method completely.

With regard to cost effectiveness, Mr. Tilow stated that it is much easier to identify. Cost pertains to the "bottom line" and money. Many measures are based on units of service. Compare unit prices to other services. Then consider productivity standards, workload, etc. How many units of service does one expect to provide in a given period of time?

He suggested that techniques be developed to implement a comprehensive auditing program of key variables and expenditures within one's budget. For example, in some programs, energy may be the biggest cost outside of salaries. Costs can be monitored and reduced by taking certain measures.

Mr. Tilow concluded that measures such as these can tell the degree of a program's efficiency and effectiveness.

Mr. Cabell Cropper, Management Specialist with the National Center for the Prosecution of Child Abuse in Virginia, discussed concepts essential to any organization defining efficiency and effectiveness.

He offered another definition of efficiency: "the rate at which a process consumes raw materials or inputs". Effectiveness is how successfully a process accomplishes the purposes for which it was initiated. Efficiency and effectiveness tell the organization how well it is accomplishing its purpose.

To define its efficiency and effectiveness, an organization must have a mission statement. A mission statement is a broad statement of purpose. It states *why* an organization exists. A mission statement must meet the following criteria:

- (1) External organizations which are crucial for an organization's survival must support the mission.
- (2) Members of the organization must be committed to accomplishing the mission.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

- (3) The statement should be concise and understandable to outsiders.
- (4) A statement must be value-based.
- (5) The statement should be articulated and published.
- (6) The statement should be reviewed and changed periodically.

In concluding his remarks, Mr. Cropper stated that people from all parts of the organization should be involved in developing a mission statement. Input should be obtained from outsiders important to the success of the organization. In using a mission statement, specific goals and objectives can be defined and used to evaluate the organization's efficiency and effectiveness.

Ms. Laura Winterfield, Project Director for the Vera Institute of Justice in New York City, recommended that efficiency and effectiveness be grounded in what the program is doing. The mission statement is the general framework of what the program is trying to do. One then develops goals to accomplish the mission. From the general goals come more specific objectives. Then ask: What are the specific activities I need to do to accomplish those objectives? Then: What are the specific inputs, the resources needed for the activities? The first three become the effectiveness measures, while the last two (activities and inputs) are the efficiency measures. The goals are general statements of how the mission will be accomplished. The objectives are client-level factors. Activities are specific tasks. Inputs are resources (such as money, staff, facilities and equipment). All these allow one to track what one is doing. A sample efficiency measure would address how staff are allocated; e.g., proportion spent directly on client services. A sample effectiveness measure would address failure and success of outcome. A high failure rate might lead one to look back at the staff-time allocation as a possible reason. In this regard, one needs to interrelate the efficiency information with the effectiveness information.



Session #28

# **JAIL AND PRISON-BOUND INDICATORS: THE LATEST DEVELOPMENT IN CRIMINAL JUSTICE CLASSIFICATION INSTRUMENTS**

*A presentation on the issues surrounding the  
development of incarceration-bound instruments,  
from methodological considerations in their empirical  
derivation to practical implementation in the field.*

## **PANELISTS**

### **DEAN MAURO**

Program Research Specialist  
Bureau of Planning, Policy and Information, DPCA

### **JANET ROTHACKER**

Program Research Specialist  
Bureau of Planning, Policy and Information, DPCA

### **WILLIAM SULLIVAN**

Probation Director  
Franklin County Probation Department

## **MODERATOR**

### **BARBARA BRODERICK**

Director, Policy Analysis and Information  
NYS Division of Parole

## **RECORDER**

### **PATRICK GROSSI**

Probation Program Consultant  
Bureau of Field Operations, DPCA

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Ms. Barbara Broderick, session moderator and Director of Policy Analysis and Information for the New York State Division of Parole, defined the scope and parameters of the session and the subject matter to be covered by each of the speakers.

Ms. Janet Rothacker, Program Research Specialist, Bureau of Planning, Policy and Information, DPCA, initially described her involvement with DPCA's Intensive Supervision Program as it related to demonstrating that clients in ISP were prison-bound and alternatively sentenced. In effect, there was a need to statistically explain "an event that didn't happen" as opposed to an "event that happened". She stated that the issue of not only explaining or predicting behavior, but also of "explaining the behaviors of almost every actor in the criminal justice system", is a complex one. She indicated that DPCA is now in the process of developing instruments for use in determining whether ISP

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

offenders were actually jail-bound, and the indicators that would be applied to the process.

Ms. Rothacker addressed the definition, purpose, advantages and problems of classification instruments. She defined a classification instrument as any tool which helps sort people into groups for some purpose. The purpose serves as an evaluation on both the individual and program level. The purpose is also to determine placement and risk level, whether in the prison or probation setting. Moreover, classification instruments help in determining and providing specific types of treatment categories. Finally, classification instruments are used for re-evaluation on both the individual and program level.

Ms. Rothacker also discussed general procedures used in developing the classification instruments. An analysis of the instrument is conducted initially. This analysis addresses on whom, for what, and how the instrument is to be used. This is followed by developing data collection forms, collecting data, determining reliability of data and analyzing it. Once a positive final analysis is completed, the actual instrument is constructed, followed by a validation to make sure that it does what it is intended to do. The final step is to evaluate the success or failure of the instrument in meeting its stated purpose, or whether it accurately predicts risk.

The classification instrument is a time saving device; allows the concentration of resources where they are most needed; and provides for the development of services as it relates to what "needs" exist that are not addressed. Among problems in the use of classification instruments is statistical error, timeliness of placements, and inequity; that is, people who have committed the same crime can be treated differently.

Mr. William Sullivan, Director, Franklin County Probation Department, discussed the need in his department to address the excessive overriding in the application of the ISP classification instrument. He stated that Ms. Rothacker was assigned to assist the department with a view toward arriving at a solution to the problem. The staff initially identified data elements which were believed to be more indicative and measurable in terms of client success and failure. This kind of process finally led to the development and implementation of a new instrument. The instrument is expected to be in the validation stages early next year. At that time, the main task will be to compare the extent of overriding, and the degree to which the new instruments lend to the success or failure of the clients.

Mr. Dean Mauro, Program Research Specialist, Bureau of Planning, Policy and Information, DPCA, compared sentencing option programs to alternatives to incarceration programs from the point of view that additional sentencing options do not necessarily have an impact on

## JAIL AND PRISON-BOUND INDICATORS

reducing the prison population. He discussed the development of an incarceration-bound indicator, which could also be termed a model of the sentencing process. A sample of all probation eligible felons can be examined to determine which factors are associated with a sentence of incarceration. Essentially, these factors fall into three main categories: information about the criminal act, information about the person convicted of the offense, and a general description of the court process.

Jail-bound indicators tell one what was likely to happen and not what was the most appropriate or best sentence for the person. Advantages of incarceration-bound indicators help describe existing practices in jurisdictions. It also helps to provide an explanation of what the target population ought to be.

Mr. Mauro concluded his remarks by stating that incarceration-bound indicators help to identify eligible candidates and provide an evaluation capability, which ultimately leads to initiating the process again for further refinement.

Session #29

## **WOMEN OFFENDERS: RESPONDING TO SPECIFIC NEEDS**

*A sharing of experiences in handling the  
vocational, family, and institution  
difficulties that confront women offenders.*

### **PANELISTS**

**ELLENMARIE BEALE**

Project Director

Women's Opportunity Resource Center, Hempstead, NY

**MARY FOLLETT**

Executive Director

Fortune Society, New York City

**JACQUELINE ROSS-BROWN**

Executive Director

Women's Residential Resource Center, Buffalo, NY

### **MODERATOR**

**RENE FIECHTER**

Associate Executive Director/Chief Counsel  
Education Assistance Corporation, Mineola, NY

### **RECORDER**

**THOMAS F. MITCHELL**

Associate Probation Program Analyst  
Bureau of Planning, Policy and Information, DPCA

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Mr. Rene Fiechter, session moderator and Associate Executive Director/Chief Counsel of the Education Assistance Corporation in Mineola, New York, observed the fact that women offenders bring particular needs to the corrections process that is not generally noticed by the average practitioner and, yet, understanding these needs and coping with these unique problems is critical to effective service delivery.

Ms. Ellenmarie Beale, Project Director of the Women's Opportunity Resource Center in Hempstead, New York, described the Resource Center's job training program for women offenders. It is a day program which provides education services for up to six months. The program works closely with the Nassau County courts and the probation department, even to the extent of providing reports concerning their clients. When necessary, the program requires drug testing of its clients.

The typical program client is a single parent with little education, non-existent job skills, and a criminal record. Ms. Beale pointed out that a successful program in this area must provide day-to-day guidance,

## WOMEN OFFENDERS: RESPONDING TO SPECIFIC NEEDS

have clear but flexible rules, and be willing to help the participants with their court related problems.

Ms. Jacqueline Ross-Brown, Executive Director, Women's Residential Resource Center of Erie County, indicated that her program has four goals: to provide a transitional home as an alternative to incarceration for women offenders; to provide resources and referrals; to develop client-oriented plans for treatment and training; and to provide a model program for further development. The Center is a 24 hour residential program. The Center actively communicates with judges, prosecutors and public defenders in order to identify candidates for the program.

She mentioned that, to be accepted into the program, women offenders must satisfy the admission criteria regarding the criminal offense, age, absence of drug dependency, and demonstrate a willingness to remain crime free. Upon acceptance into the program, specific short and long term plans are established and the "total life needs" of each client are addressed. Clients receive such services as reality therapy, life skills development, parent effectiveness training, health care, vocational training and education. The program involves the family of the client, whenever possible, and provides aggressive follow-up services. Overall, the program is designed to develop the self-sufficient women, capable of remaining crime free.

Ms. Mary Follett, Executive Director of the Fortune Society in New York, described her program's problems in attempting to service both men and women. The Fortune Society is a predominantly male program (2,000 men and 100 women). Moreover, the services of the Society lend themselves more to the male clientele inasmuch as the male offender rarely has the number of simultaneous problems with which the female offender is often confronted.

Ms. Follett related that women offenders are usually single parents and very often their children are returned to them immediately upon their release from jail, regardless of their ability to provide for their needs. In addition, women who have just been released are extremely vulnerable, and have a tendency to become dependent upon a man who promises support or assistance. Quality post-incarceration programs must recognize this phenomenon and provide women with a means of becoming selfreliant.

In concluding, Ms. Follett expressed some interest in the idea of establishing a new Fortune Society for women.

Session #30

## **PROGRAM MODELS FOR MANAGING THE DWI OFFENDER**

*An examination of a variety of probation and alternative DWI programs currently in operation, including those that focus on early screenings, treatment service brokerage, violation procedures, and special jail programming.*

### **PANELISTS**

#### **JANE D'AMICO**

Coordinator, PASS Program  
Nassau County Probation Department

#### **ROBERT KRAMER**

Probation Officer, DWI/ATI Program  
Onondaga County Probation Department

#### **BARBARA MAURER**

Alcohol Program Coordinator  
Suffolk County Probation Department

#### **MARY PANE**

Senior Probation Officer, DWI Unit  
Monroe County Probation Department

#### **ANNE BERNAGOZZI**

Coordinator of Research and Evaluation  
Suffolk County Sheriff's Department

### **MODERATOR**

#### **STEPHEN J. POWERS**

Probation Program Administrator  
Bureau of Field Operations, DPCA

### **RECORDER**

#### **MARK T. CONNORS**

Probation Program Consultant  
Bureau of Field Operations, DPCA

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Mr. Stephen J. Powers, session moderator and Program Administrator, Probation Alcohol Unit, DPCA, began with an overview of Probation's involvement in the DWI area for the past seven years, noting the successes, the frustration, and the continued growth of the DWI probation caseload in New York State. He indicated that, today, DWI is the largest identified crime category on probation in the State. In New York State, probation's involvement with DWI cases is more than "a name on a piece of paper from a judge's court", as it is in several other states. He said that DWI probation supervision has been an add-on to probation's other supervision responsibilities over the past five years.

## PROGRAM MODELS FOR MANAGING THE DWI OFFENDER

Ms. Jane D'Amico, Coordinator of the PASS Program in the Nassau County Probation Department, stated that the goals of the PASS Program are designed to screen first-time DWI offenders for alcohol abuse/alcoholism, to engage the offender in treatment when a treatment need is identified, and to reduce recidivism and court congestion through early preventive intervention.

Ms. D'Amico outlined the procedures of the program, provided statistics about the number of offenders screened thus far, offered examples of screening evaluation results, and described some of the background efforts expended to establish this program.

According to Ms. D'Amico, it is too early to determine the level of achievement of the program goals, but she did note that the program is getting people involved in treatment, and that this preventive approach is unusual in a probation setting.

Ms. Mary Pane, Senior Probation Officer, DWI Unit, Monroe County Probation Department, highlighted the operations of her program, including the criteria for admission. To be eligible, the individual must be a felony DWI offender, between the ages of 21 and 60, with alcohol or drugs as the primary identified problem.

Supervision is primarily in the intensive level, with an emphasis on treatment and a team approach. Several specific conditions of probation are imposed, including total abstinence from alcohol, participation in treatment, alco-sensor breath testing, no driving, and refraining from applying for a driver's license until court approval is received.

Consistency in procedures, responses to violations, and the involvement of the family in treatment are all aspects of this Unit's activities. Ms. Pane added that significant support in the community, as well as from employers in the area, have benefited the program.

Mr. Robert Kramer, Probation Officer, DWI/ATI Program, Onondaga County Probation Department, stated that the program in his department involves the sentencing of jail-bound probation violators, who are alcohol abusers, to a local alcoholism treatment program where they are closely monitored. For this purpose, the department uses the Rescue Mission.

He indicated that probation violators reside at the Rescue Mission, but if they are employed, they are allowed to work and attend A.A. meetings. Unemployed participants work at the Mission and attend therapy sessions there on a daily basis.

Mr. Kramer stated that he does not co-lead any treatment groups to avoid a conflict between his role as a probation officer and as a group co-leader. He added that evening treatment programs are also available at the Mission for the participants who are employed.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

Ms. Barbara Maurer, Alcohol Program Coordinator, described the operations of the Probation Alcohol Treatment Unit (P.A.T.) of the Suffolk County Probation Department. The original and continuing goal of the P.A.T. program is to reduce recidivism through intensive supervision and treatment. An awareness of public safety and public protection is balanced with the implementation of a treatment model probation program.

In their perception, creation of a crisis in the life of the probationer opens the way for the Unit to intervene, which, if successful, will reduce recidivism.

The P.A.T. Unit operates on the premise of total abstinence from any mind altering substances, restrictive probation conditions regarding driving and licensing, and participation in the P.A.T. program.

The unique feature of the P.A.T. program is that the probation officers are trained alcoholism counselors, who co-lead modified closed group therapy sessions. There has been increased success in handling information, and the Unit has not experienced any communications problems or conflicts of interest in using the probation officer as co-leader.

Additionally, a team approach involving the probation officers and the external treatment agency is used for the purpose of sharing all information and of making all decisions collectively. The program meets all of the guidelines of an outpatient clinic. It requires all participants to receive a medical exam, attend education series and A.A. meetings, and to attend follow-up sessions after group therapy. Family members are also invited into treatment groups.

Ms. Maurer stated that participants are not subjected to jail threats. However, probationers are advised that, if a violation of probation occurs, the probationer will be returned to court with a recommendation for incarceration.

Finally, breath testing is conducted at every personal contact with the probationer. Positive tests require the probationer to face the consequences; i.e., more intensive treatment or a violation of probation.

Ms. Maurer concluded her remarks, indicating that upon completion of P.A.T., the team determines the type of follow-up treatment, and begins to plan for relapse prevention programming.

Ms. Anne Bernagozzi, Coordinator of Research and Evaluation for the Suffolk County Sheriff's Department, described the implementation and development of the DWI Alternative Jail Facility in the county.

The facility was developed to ease over-crowding in the Suffolk County Jail, targeting multiple DWI recidivists as the population. It is



## PROGRAM MODELS FOR MANAGING THE DWI OFFENDER

a 24 hour correctional treatment program, which is crisis oriented, and is followed-up by intensive P.A.T. supervision.

Correction officers, probation officers, and psychiatric social workers, all of whom have been specially trained to work with alcoholics, staff the facility and closely coordinate their efforts.

Repeat DWI offenders are screened at the presentence stage for a split sentencing option, which includes incarceration for a minimum of 60 days at the Alternative Facility and, upon release, intensive supervision by Probation's Alcohol Treatment Unit. Potential candidates must meet stringent criteria; i.e., minimum security eligibility and primary abuse of alcohol. During the incarceration phase, inmates participate in mandated counselling and AA meetings.

The DWI Alternative Project reduces traditional jail days at one end and increases the probation period at the other.

Since facility construction is on-going, inmates currently attend alcohol treatment programs on a daily basis. Upon completion of the construction, inmates will be held at the Alternative Facility for the incarceration phase of their sentence.

Mr. Powers noted that the National Highway Traffic Safety Administration has published booklets on this subject, and that these booklets are available.

Several questions from the floor were entertained. Ms. Maurer was asked to describe relapse prevention programming. She replied by indicating that relapse occurs among persons who have accepted their alcoholism but, due to the nature of the disease, will relapse. This programming, then, is a specific treatment regimen designed to manage these relapses.

Panelists were asked what methods of testing for alcohol use were employed in their programs. Suffolk County uses alco-sensors, with urine tests as a backup. Saliva test sticks are being tested, but a toxicologist's expertise is used in Violation of Probation hearings.

In Nassau County, DWI Unit probation officers are certified Breathalyzer operators, so that these, in addition to alco-sensors, are used.

Mr. Powers noted the lack of statute or case law pertaining to the evidentiary status of the alco-sensor. In light of this absence of direction, Mr. Powers noted that the DPCA encourages the consistent use of alco-sensors.

The issue of probation violations in DWI cases was raised, noting the range of judicial support, or lack of support of probation efforts in this area. In response, Mr. Kramer stated that all violations of probation

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

from his program have resulted in jail or prison sentences, although this was not the situation in other programs.

Ms. Maurer was asked about the length of time that a probation officer should allow for relapse, before attempting to have a probationer's sentence revoked. She responded that this is an individual decision, based upon guidelines of the Department and Unit, as well as case factors. However, community safety must be kept in mind.

Ms. D'Amico was asked if the intervention under the PASS program was allowed by law, and if it was governed by pre-plea investigation regulations. She indicated that this is a voluntary program, rather than a mandate, so that the intervention is allowed. This is not a pre-pleading investigation, so that it is not covered by those regulations.

Ms. D'Amico also indicated that significant others are encouraged to be involved in the PASS program, but they are not "mandated"; the screening instrument used is a compilation of questions from the Mortimer-Filkins test, the Minnesota Alcohol Screening Test, and other instruments, and is accompanied by a personal interview; and, that quarterly contact with the treatment program serves to provide for monitoring of compliance with treatment, and other conditions, on a conditionally discharged PASS program participant.

Session #31

## **KEEPING JUVENILES IN THE COMMUNITY**

*A presentation on model programs designed to  
avoid the unnecessary institutionalization of  
juveniles, including intensive supervision,  
foster care and family counseling.*

### **PANELISTS**

#### **ELEANOR WERTIMER**

Executive Director  
Family Service League of Greater Utica

#### **BEN JONES**

Deputy Commissioner  
New York City Department of Juvenile Justice

#### **DAWN DILLON**

Supervising Probation Officer  
Suffolk County Probation Department

#### **MICHAEL HORNE**

Supervisor, Juvenile Offender Parole Unit  
NYS Division of Parole

### **MODERATOR**

#### **WILLIAM BENJAMIN**

Deputy Director  
Suffolk County Probation Department

### **RECORDER**

#### **JAMES E. STOTHERS**

Probation Program Consultant  
Bureau of Field Operations, DPCA

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Ms. Eleanor Wertimer, Executive Director of the Family Service League of Greater Utica, described her organization's juvenile intensive supervision program. Funded in 1984 to reduce placement costs on JDs, PINS and voluntary placements, the program is expected to expand in 1987 to include PINS (pre-petition) diversion under the Oneida County PINS Adjustment Services Plan.

The program serves 20 youths and their families per year. It is staffed by two youth workers and a director. They see children and families on a daily basis in either their offices or the home. There is a 24 hour per day emergency service coverage to deal with family crisis. The program does not have any time limit for working with the family. Families are referred upon probation's recommendation, at disposition, or directly by the Court.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

Of the thirty-six (36) children referred to date, twenty (20) are still at home, and ten (10) are in institutional or foster care (usually after six months of supervision). Six (6) families have been seen for eighteen (18) months or longer, while seven (7) have been seen for a one year period.

Client profiles depict multiple family problems, and the focus of intervention has been as much with the family as with the child. Where the entire family has become involved, the child typically has made good progress.

Key program elements identified are staff commitment in responding to constant testing and intermittent crises, and the involvement of clinical backup to provide family therapy with the broader household.

Mr. Ben Jones, Deputy Commissioner, New York City Department of Juvenile Justice, indicated that his agency provides temporary out-of-home care for pre-adjudicated juvenile cases. He described its in-detention and after-care efforts to engage families and to provide youth with programming to reduce the likelihood of placement at disposition.

The Department of Juvenile Justice (DJJ) attempts to creatively use what normally is considered "down-time" for detainees. They routinely make home visits to families to engage parents, to review situations, and to develop broader program options. They support the development of a normal school program for in-court youth, including the use of a probation-run ATI program. DJJ continually feeds back information to Family Court concerning the necessity of continued placement, and advocate with parents to review their decisions about providing care.

When a youth is released from detention, DJJ attempts to match each family with a volunteer whose general focus is the brokering of services for the family. A particular emphasis is placed on the educational re-enrollment of the child in regular classes, through volunteer advocacy and support. Volunteers work intensively with the family for 2-4 months, and do an additional two month follow-up on a diminished contact level.

Ms. Dawn Dillon, Supervising Probation Officer in the Suffolk County Probation Department's Intensive Supervision and Foster Care Unit, related that the goal of the intensive supervision program is to reduce the danger of placement by diminishing acting-out behavior and linking clients with community resources. Its foster care goals are to maintain program use as the least restrictive placement, while preparing children and families for eventual return home.

Staff caseloads average 15 to 20 youths, who are referred by probation officers, or by the Court. These referrals are based upon eligibility guidelines reflecting danger of placement, and utilizing

## KEEPING JUVENILES IN THE COMMUNITY

elements, such as prior supervision history, family history and current functioning, prior shelter and placement history, current DSS involvement, special education needs, and current offense. Participants are personally seen weekly, including weekly collateral contacts with the family, school, and treatment agencies.

Non-suicidal, non-multiple count JD offenders are eligible for foster care placement. Probation supervises nine (9) long term foster homes, which are recertified yearly, providing recruitment and training for foster parents and offering crisis consultation to them.

Youths in foster care are supervised in the intensive supervision program with probation officers acting in an advocate role with education authorities and natural parents to effect a return to a normal home and school situation. This begins with weekend visits and ends in aftercare follow-up.

Ms. Dillon believes that the key elements of program success is related to the flexibility of committed staff to respond to off-hour crises, and the adoption of an advocacy position with community social service agencies, and with the natural family.

Mr. Michael Horne, Supervisor of the Juvenile Offender Parole Unit (PARJO), New York State Division of Parole, described the operations of its juvenile intensive supervision program, as well as its transitional facilities program for technical violators. The purpose of the PARJO Unit is to provide community protection, while linking paroled juvenile offenders to existing community resources.

PARJO officers handle 25-30 Juvenile Offender (JO) parolees at a time, seeing the child on a weekly basis and visiting the home a minimum of twice monthly. The Unit formulates the initial release plan for the youngster, and is responsible for alternate planning when release conditions have been violated.

Mr. Horne stated that most "violations" are for technical reasons, such as unauthorized changes of residence, school and employment. To minimize return-to-secure placements, the agency developed a "transitional facilities" option which involves short term crisis intervention in a residential setting. This option involves the youth, his parents, lawyer and parole officer who negotiate solutions to presenting problems with the development of alternative treatment plans.

## **NEW YORK STATE'S INTENSIVE SUPERVISION PROGRAM: MAXIMIZING THE PROBATION OPTION**

*A discussion of the impact of ISP program modifications, which will result in the increased diversion of felony offenders from state correctional facilities and local jails, and the potential impact of early intervention and case identification strategies under the Conditional Order of Probation Experiment (COPE).*

### **PANELISTS**

**HONORABLE JOHN CONNELL**

Monroe County Court Judge

**DIANE FEIT**

Supervisor

Albany County Probation Department

**MARGARET HENDERSON**

Supervisor

Monroe County Probation Department

**JOHN MARTORANA**

Project Director

New York City Department of Probation

**HOWARD RELIN**

District Attorney

Monroe County

### **MODERATOR**

**MARION GOLDBERG**

ISP Program Manager

Bureau of Alternatives to Incarceration, DPCA

### **RECORDER**

**JOHN R. PAQUIN**

Probation Program Consultant

Bureau of Field Operations, DPCA

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Ms. Margaret Henderson, Supervisor, Monroe County Probation Department, indicated that her department, in concert with the Monroe County District Attorney and County Judge, developed local criteria which identified jail/prison-bound defendants. Once identified, the cases are conferenced at a pretrial meeting attended by the probation officer,

## NEW YORK STATE'S INTENSIVE SUPERVISION PROGRAM

district attorney, judge and defense counsel. Ms. Henderson explained that, at this point, certain offenders are given the opportunity, through deferred sentencing, to demonstrate their willingness to cooperate with a community-based program. The offender is closely monitored by the probation department during this interim supervision period. Within a three month period, the offender reappears before the court for sentencing and, having complied with the special conditions, is sentenced to probation.

Honorable John Connell, Monroe County Court Judge, indicated that critical to the successful outcome of the process is that a pretrial conference be conducted with the involvement of the probation officer. He stated that, it is at this stage early on, that certain alternatives are identified and a program of supervision begins to take shape.

Judge Connell stressed the need to not only look at the guidelines, but to all actors in the criminal justice system for the purpose of setting up a successful program. Prior to implementing the program, the Bench/Bar Committee met and discussed the program and identified the practical problems each group might encounter. By identifying and addressing potential problems immediately, successful implementation of the program was assured.

Mr. Howard Relin, Monroe County District Attorney, was also very supportive of the program and underscored the need to properly promote the program up front, explaining where and why the program is beneficial. Facing jail overcrowding, he was pleased to be able to utilize a program that could impact on this problem in both pre- and post-conviction cases.

He noted that the process has improved two way communication and has not slowed the judicial process. During the pretrial conference, the defense attorney has access to the district attorney's file and, by the time they conclude the pretrial conference, all know the direction the case is going. Mr. Relin concluded his remarks by noting that the program is worthwhile and should be replicated throughout the State.

Ms. Diane Feit, Supervisor, Albany County Probation Department, noted that the program is not as widely used in her county as in other jurisdictions. To be a success, the program must have the full support of the Judiciary and the District Attorney's Office. She indicated that probation was beginning to have an impact since it is now participating in the plea-bargaining conference. Without input at this stage, Ms. Feit stated that the program could not succeed.

Ms. Feit discussed an additional program being initiated in her county called VORP (Victim Offender Reconciliation Program). Through this program, the victims and offenders are brought together, ideally between

2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES conviction and sentence. Ms. Feit indicated that the victim, through this process, can have an impact on sentencing.

Mr. John Martorana, Project Director, New York City Department of Probation, indicated that, although New York City did not participate in the COPE project, they were initiating the program through the use of the enhanced pre-plea/presentence report. This enhanced report would be used in those cases destined for jail or prison and in those cases which satisfy eligibility criteria for a potential probation sentence. Mr. Martorana also indicated that his agency should divert one out of five cases, with a potential for diverting approximately 400-500 cases per year from jail and prison.

The most difficult aspect in moving the program in New York City, according to Mr. Martorana, is the attempt to make contact with the tremendous number of judges, assistant district attorneys and defense counsels.

All of the featured panelists concluded the session with high praise for the COPE program.



Session #33

## **JOBS AND JUSTICE: COMMUNITY CORRECTIONS EMPLOYMENT PROGRAMMING**

*A discussion of various approaches to  
job development and the strategies for  
helping community corrections clients  
secure and maintain employment.*

### **PANELISTS**

#### **DEE HINTON**

Regional Director  
NYS Division of Parole

#### **RICHARD KREBS**

Labor Specialist  
Suffolk County Department of Labor

#### **JACK ROSS**

Director, Nova Ancora  
New York City Department of Probation

### **MODERATOR**

#### **NATALIE BIMEL**

Project Director  
Osborne Association, Inc., Bronx, NY

### **RECORDER**

#### **JANE C. WYLEN**

Senior Probation Program Analyst  
Bureau of Planning, Policy and Information, DPCA



Mr. Jack Ross, Director of Nova Ancora, New York City Department of Probation, described how his organization finds employment for probationers in the private sector. Nova Ancora started in 1983 as a private non-profit program, working with the New York City Department of Probation and centralizing job development, referral, and follow-up for the department. Nova Ancora prefers to work with small businesses, since probationers tend to get lost in a large, impersonal working environment. As an incentive for businesses to participate in the program, Nova Ancora commits its time to assist them in expanding their business, in conducting market research, in helping with sales opportunities, and in facilitating the securing of government contracts and low cost loans. The organization does a great deal of networking for job placement and job readiness training.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

Mr. Ross mentioned that probationers in the Nova Ancora program have a three (3) percent recidivism rate, compared to the overall department rate of thirty (30) percent.

Ms. Dee Hinton, Regional Director of the New York State Division of Parole, stated that her agency supervises 29,000 parolees statewide, 21,000 of whom are located in the metropolitan area of New York. Approximately ninety-six (96) percent are male and four (4) percent are female; fifty (50) percent are black, twenty-nine (29) percent are white, nineteen (19) percent are hispanic, and two (2) percent belong to other ethnic groups.

Parolees, in general, are a needy, young, powerless group with a low educational level. Twenty-three (23) percent have only a grade school education. Statewide, fifteen (15) percent of the parolees are unemployed. Of these parolees, sixty-one (61) percent are black, fifteen (15) percent are white, and twenty-four (24) percent are hispanic. Minorities, thus, are overrepresented among unemployed parolees. In a 1984 study conducted by the Division of Parole, eighty-two (82) percent of parole violators were unemployed at the time of their violation.

Ms. Hinton explained Parole's new supervision strategy — Differential Supervision. This program is based on research conducted by the Division, which has consistently shown that most offenders who violate parole do so during the first fifteen months of supervision. Under Differential Supervision, during the first fifteen months, all parolees receive intensive supervision, which requires a reduced caseload of approximately 38 parolees per officer. For the remainder of the supervision period, parolees are sustained on regular supervision, where caseload ratios are about 97:1.

Ms. Hinton proceeded to describe three programs currently in operation at the Division of Parole. First, parole resource centers offer a short-term structured environment for parolees who temporarily do not have a stable residence. Second, transitional facilities are semi-structured residential facilities that offer a stable setting and a variety of necessary services for parolees who have technically violated their parole, but do not need to be returned to prison. Third, Parole's Employment Bureau develops job opportunities for parolees.

Mr. Richard Krebs, Labor Specialist for the Suffolk County Department of Labor, described the Re-Rout (Recently Released Offenders Under Training) Program. The Re-Rout Program is based on two major premises: (1) that the first few weeks following release from incarceration are crucial in determining the ex-offender's future behavior; and (2) that most ex-offenders need help in overcoming the feelings of hostility that develop during incarceration.

## COMMUNITY CORRECTIONS EMPLOYMENT PROGRAMMING

The Labor Department initiates its involvement at the local jail during a pre-release interview. The program begins with a week long pre-release Life Skills seminar conducted by a BOCES instructor. Participants are encouraged to report to the Re-Rout office at the Suffolk County Community College, as soon as possible following release. Reading, writing, and math are provided to those persons seeking a GED equivalency diploma or admission to college.

According to Mr. Krebs, Re-Rout does not have a problem finding jobs for its graduates. However, the major problem is one of transportation.

During the question and answer period, there was a lengthy discussion of the "Catch-22" facing many ex-offenders; that is, if they state on their job application that they have been convicted of a crime, in all likelihood, they will not get the job. If they lie on the application and the employer finds out, they can be fired. In response, a parole officer in the audience stated that she prepares parolees to discuss their conviction record with prospective employers as a way of setting the proper tone for future employment.

Closing Session

## **COMMUNITY CORRECTIONS: MAKING IT WORK IN THE 21st CENTURY**

*In his 1985 State of the State address, Governor Mario M. Cuomo proposed a strategic planning initiative known as "New York State Project 2000". The purpose of the Project is to give thoughtful consideration to critical issues that will affect New York throughout the balance of the century and beyond. This closing session includes an overview of the recently released Project 2000 report on Corrections and Criminal Justice by David Nee, one of the Project's advisory panel members. A panel of representatives from local probation, ATI programs, and county government share their thoughts on the findings and recommendations of the report and on the future of community corrections in New York State.*

**SPEAKER:**

**DAVID NEE**

Executive Director

Florence Burden Foundation, New York, NY

**PANELISTS:**

**WILLIAM BENJAMIN**

Deputy Director

Suffolk County Probation Department

**GARY CLARK**

Director

Genesee County Probation Department

**RENE FIECHTER**

Associate Executive Director/Chief Counsel  
Education Assistance Corporation, Mineola, NY

**ELIZABETH GAYNES**

Deputy Director

Osborne Association, Inc., Bronx, NY

**ROBERT MACCARONE**

Director

Westchester County Office of Criminal Justice Planning

**MODERATOR:**

**DONALD F. GILBERT**

Chairman

Criminal Justice and Public Administration  
Hudson Valley Community College, Troy, NY

**RECORDER:**

**PATRICIA POULOPOULOS**

Director of Financial Administration  
NYS Division of Probation and Correctional Alternatives

## COMMUNITY CORRECTIONS: MAKING IT WORK IN THE 21st CENTURY

**Mr. Donald F. Gilbert:**

I am particularly pleased to be here today to moderate this panel. One of the things I have been attempting to do since becoming an educator is to integrate the academic community with the practice community and begin to really address public policy issues. This morning, the paper we are going to talk about is a real good step at beginning to use resources of the State's educators to address these kind of issues. We have a very fine panel this morning.

The first speaker, our main speaker, will be David Nee. David is a member of the panel that put together the Project 2000 Report on Corrections and Criminal Justice. Now, this is a little bit like being in the classroom in that, when I find important pieces of work like this I give my students the assignment. When I come to class, I ask how many read the assignment. So now, all those who read the assignment, raise your hand. That's what happens in the classroom. Someone will always say, I was working too hard, or the bookstore didn't have it in. So, to avoid that situation, David was invited here to give us a summary of the Project's report. David has been Director of the Florence Burden Foundation since 1981. He directed the Foundation's innovative programs in two areas: Crime and Justice, and Problems of the Elderly. He also has authored reports, "Grantmaking for the Elderly" and "Analysis of the Foundation Center's Library System". He graduated from Harvard College in 1968, holds a Masters Degree in English and a Masters in Business from Boston University.

I am going to introduce the rest of the members of the panel now and then I'll call them up in the order of their response. The first responder will be William Benjamin, who doesn't need any introduction because he's been doing "double duty". He's been on almost every panel that I've attended over the last two days. He has been with the Suffolk County Probation Department for 24 years. He's been Deputy Director of the Family Court Division for twelve years; graduated from Adelphi with an MSW, and from Manhattan with a BBA. He has taught criminal justice and social work at Farmingdale, CW Post Campus, Southamton College, and Adelphi University.

Our second panelist will be Gary Clark, who is one of our fellow Probation Administrators. He has been in Probation for 15 years and has been the Director of the Genesee County Probation Department for the last four years. Gary holds a Bachelors Degree from the University of Iowa and a Masters Degree in Counseling from Brockport. He is past president of Area I Council of Probation Administrators, and is currently a member of a number of professional associations.

Next, we have Rene Fiechter, who is the Associate Executive Director and Counsel, Education Assistance Corporation of Long Island, and Chief Counsel of the National Association of TASC Programs. Rene

2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES  
has also been pulling "double duty" since yesterday, so he doesn't need a lot of introduction.

Our fourth presenter is Elizabeth Gaynes, Deputy Director of the Osborne Association in New York City. The Osborne Association is a non-profit agency that has been providing services to offenders and ex-offenders for over 60 years. She has her law degree from Syracuse University and practiced law in criminal defense from 1973-1980. She was also an Associate in the Pre-Trial Services Resource Center in Washington, D.C. from 1980-1983.

Our last commenter will be Robert Maccarone. Bob is the Director of the Westchester County Office of Criminal Justice Planning, and is currently the Chair of the Westchester County Criminal Justice Advisory Board. He has his BS in Psychology and his MS in Criminology from Fordham, and a degree in Jurisprudence.

They are an impressive group. They will be giving you about 10-15 minutes of their views and hopefully will field questions

**Mr. David Nee:**

Thank you very much. I'm pleased to be here this morning. Project 2000 is an excellent overview of the issues facing New York in the next two decades. Project 2000 is a strategic planning initiative inspired by Mario Cuomo in his 1985 State of the State Address. He asked that we stretch our vision of the future of New York State and its citizens to the year 2000 and beyond. Project 2000 was administered by the Rockefeller Institute of Government, the State University of New York. As alluded to, it was also an attempt by State government to reach out more systematically to the knowledge and resources available to it in the university community, and I think the structure itself is interesting for that fact.

Project 2000 has five key inquiry areas: Economic Development; Water Resources; Electricity; Long Term Care; and Corrections and Criminal Justice. Parenthetically, my predecessor at the Burden Foundation was a man named Bob Higgins. Almost 15 years ago he was hired by Phil Burden who said: "We want to have a small foundation that has an impact disproportionate to its size — in what field should we invest?" Higgins said, "Look at the demographics of the population; do something about the problems of the elderly." Phil Burden said "That's fine; tell us where else we might invest." Higgins replied, "Look at the agenda of public concerns; crime never falls below number two. Let's find out what we can do about crime and justice." Fifteen years later, in a much more systematic approach, two of the five topics turn out to overlap with those initiatives. So, I think Mr. Higgins deserves a mention for his perspicacity. Underwriting those five areas, or cutting across

## COMMUNITY CORRECTIONS: MAKING IT WORK IN THE 21st CENTURY

them, I should also say there are three studies of a demographic nature: population, economic structure and science and technology.

The specific Corrections 2000 Project, "Corrections and Criminal Justice" (it's interesting to think about whether it would have been Corrections and Criminal Justice ten years ago or simply Criminal Justice — I think it tells you where the money is going), was written by Study Director Rick McGahey. Rick also deserves credit for a very loose and polished report. Rick is with the Urban Research Center of NYU. Of course, you can't have a report without an advisory panel. The panel did not spend a whole lot of time debating or monitoring. It didn't do any original research. We looked around at what existing work was out there, either from elements of the 2000 structure, or within the existing criminal justice community data sources. The panel met twice. McGahey came to the first meeting with a rather detailed outline. We had some good discussions about it. Obviously certain areas were dropped, others were enhanced. There were some suggestions. Rick wrote; the advisory panel met; an exchange of phone calls took place; and voila! — after the second meeting we had a report. The outline of the report is very straightforward. McGahey talks about trends and forecasts; he talks about strategic problems and challenges; and he talks about what he calls organizational and strategic planning issues. What did he find? Let me give you some highlights. As for trends, looking at the period 1981 to 1984, we found that crime itself was down and arrests were down, but all other measures of activity within the system were up. Indictments were up, convictions were up and prison sentences were given. We also found that the incarceration rate in New York is higher than any other state and, most alarmingly, it is rising much faster than the national average. We found that this is in part a result of policy choices, especially as to mandatory sentencing. Since crime is falling, it is more a product of demographics. On the other hand, we also found that there is no relief in sight from demographics. If we look at what the New York State population will be by the year 2000, the group that is most at risk of being committed to prison in the current system is the minority male between the ages of 20 and 29. This, in fact, is the population group that is increasing in size. Where that leads us to, I think, is an alarming picture by the year 2000.

We can expect, if nothing changes as to policy choices, that the population in our state prisons will reach or exceed 50,000, and ninety (90) percent of people confined will be black, hispanic, or other minorities. We also found out that nothing is free. There is no free lunch in the punishment business. We are trying to buy community protection through the correction system. It is not a particularly cost efficient approach. We hire more criminal justice employees per 100,000 people in our population than any other state. The national average is about 47 criminal justice employees per 100,000. In California, the State most equivalent,

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

the number is almost 49 employees per 100,000. In New York, the number is 64.

Within the justice system, corrections has become the leading area of expenditure, and if current trends continue, there will be tremendous upward pressure on expenditures. To accommodate the figures of 50,000 in the corrections population, it would require 15,000 new beds, and you know that its been taking 8,800 beds over the last half decade. This will lead to an increment of \$375,000,000 in current dollars per year in operating costs and, pick your projections, it would cost between 1 and 2 billion dollars per year in capital outlay. The worst news is this: Those current expenditure trends exceed any forecast in economic growth in the State to the year 2000. So, in terms of having invested in incarceration as the primary means of crime control, and in getting ready to pay the bill, we need to consider that spending at this rate can only be sustained by tax increases, or by taking revenue from other state activities. So, we need to consider that the cost of incarceration absolutely means, in the next two decades, foregone services in health, or social services, or education, or a tax increase, or both. Even if you could buy all the community protection you wanted through incarceration, you wouldn't get to the place that you want to be. Criminal justice policy is a pretty blunt instrument. It is not a fine scalpel; and it alone cannot provide community safety. Nobody knows that better than you, the professionals who work in the system. And, it would be ridiculous to think of that policy divorced from a social policy that works to strengthen impoverished families in communities. In making that statement, we defined three goals that we felt reflect the aspirations of New York State for its justice system: community safety; fiscal responsibility (meaning both efficiency and effectiveness, not simply cost consciousness); and finally, justice and equity. By that we mean a justice that includes a sense of the impact of crime on communities, particularly the impact on poor communities. It is, after all, poor people and minority people who are most often the victims of crime.

Well, all that's fine by way of analysis. What are the issues? A critical issue is, I think, that we've made a bad choice. And we've bought into some logic that, when examined closely, doesn't work. We've acted as if imprisonment yields something called incapacitation. Diminished capacity of someone to offend and that, in turn, yields public safety and that's an equation that just doesn't work. It's a debate for another arena, but if you care to pursue it farther, I suggest that you talk to George Kelling at Northeastern University who has just done a piece of research on community protection. The research is really directed at policing and police strategies for dealing with community groups. But in one chapter, it takes on the issue of incapacitation and, through simple arithmetic, shows you why it doesn't work. Where this becomes most clear, in the context of New York State, is in the area of mandatory sentencing. Forty-



## COMMUNITY CORRECTIONS: MAKING IT WORK IN THE 21st CENTURY

four (44) percent of the present population is sentenced under the second felony offender statute. That proportion is exceeded only in the State of Arkansas. If all mandatory sentences were considered, we would probably have more people doing time because of a legal formula mandating time than anywhere else. That leads to another question. Do we know of other means to control offenders outside of prison? And I think that the people sitting here, indeed, do know of other means. It also leads to the question of could there be a more graduated system? And finally, a critical issue, it leads to the question of could we afford to let it appear, with that kind of racial disparity in an incarcerated population, that the way to get access to services for minorities is through a prison door? Your conference is about community corrections. I think the link to community corrections is self-evident.

I think the challenge is to develop means to control and punish outside of prison. McGahey touched, and I do mean touched, on those options (This is a very brief report indeed. It is a framework for strategic planning. It is not a blueprint. It is a compass.) which, in the opinion of the advisory panel, require further investigation and implementation. These options are residential community corrections, community service sentencing, and alternatives to incarceration and probation. Finally, and I think most usefully, Rick talks about the need for an active reintegration policy, an understanding that the thought process doesn't stop with the opening of a prison door but, for the system itself, the thought process begins at that point. Regardless of how long the sentences are, more than ninety (90) percent of all offenders return to the community. And the system's ultimate effectiveness is how well that transition takes place. We need a reintegration policy, we need a sense between the system and the communities.

I'd like to step outside the report for a moment to bare some data that comes to me from other sources. First of all, as to residential community corrections and reintegration, it appalls me of the many myths that exist in this business. I'm sure that if you've been a probation officer for a while, we have all heard that nothing works, but we know better. Connecticut had a situation a few years ago in which their pre-release program had many more people eligible to go than there were slots in the community to receive them. Taking advantage of what became a natural experiment, they examined the experiences of the eligible population who returned to communities through pre-release programs against those who did not. Unsurprisingly, the recidivism rate was substantially less for those who went through the pre-release programs. The Massachusetts Department of Corrections has been collecting recidivism data, through its research division, on their community-based programs since 1972. And, like the steady drip of water from Chinese water torture, every year they find that being released through a pre-release center or a half-way house means that, for offenders of equal propensity to recidivism, they are twice

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

as likely to succeed going through a half-way house. I refer you to Daniel McClare, Director of Research. There are volumes of that stuff. With regard to community service sentencing, many of you have probably seen research done by Douglas McDonald on community service sentencing. When properly structured, it can save the system money; it can fulfill a punitive function; it's acceptable to the public; and, there is a real need for very close operational research on each community to determine that it actually exercises the effect of taking a population that would otherwise be jailbound.

We need more of that kind of hard-nosed operations research and I suggest that that's where this discussion needs to go. If one were to talk about what the local probation or alternatives programs might do, it would be not only to do your jobs, but to become a voice, alone or in concert, for bringing this kind of information to actors who need to know it. An example of that kind of active partnership among local probation and jail administrators, to pick one, is in San Mateo County in California. I was on a site visit out that way for other purposes and wanted to learn something about home confinement as it is practiced in California. I found a program near Contra Costa County, about which I heard much, and which is now defunct. But across the bay in San Mateo, two probation officers had begun a program on their own. You've heard a lot about electronic bracelets over the last two days. In San Mateo, one of their first insights was to decide not to use electronic monitoring devices because, they felt, it would make the staff lazy. Richard Donati, Chief Probation Officer, and one other probation officer, decided that they would take an active interest in helping the local jail manage its population. That may be unique to that district, but I think it's not a bad idea. They consulted with the jail people — the jail was extremely overcrowded. They were very concerned, as every jail administrator in this country needs to be about the possibility of law suits over conditions, and wanted to be in the position to assure the court that they were taking all reasonable steps to manage their population down. In about 24 months, they have gone into that institution; routinely screened within 120 days of release; put them on home confinement and monitored them closely. They claim, and the National Council on Crime and Delinquency will be checking this out, that in 377 cases to date, which have gone through that 120 days of home confinement, they have yet to have a second offense. They have returned people to higher custody, but there have been no new violations. I think that is an extremely useful model. It came from within probation ranks. They were skillful, and they were very open first, in taking on jail populations as part of their responsibility. But second, they were very shrewd in their internal marketing. They talked to every judge in the county beforehand, to let them know exactly what they were up to. I think that there is a lot of hopeful prospect in those kinds of back-end alternatives.

## COMMUNITY CORRECTIONS: MAKING IT WORK IN THE 21st CENTURY

The second example I bring to your attention is called a day-reporting center. It's originally a bridge model and the thought here is to control people in the community by having them report to a center where there can be a regimen of social controls. It might be as simple as having someone on home confinement. It might be as simple as having someone sign in on the way to a job; it could be raised appropriately given different situations. The new American version is coming together in Springfield, Massachusetts via the Hampton County Sheriff. I should say that, in England, where the day center concept originated, they are all run by you, the probation service, and they are well proliferated. The exact number escapes me, but there is on the order of 300 or 400 such centers throughout England. And they're a source for services, as well as control. In Hampton County, the first 20 offenders programmed through the day-reporting center will, in fact, be work release people who will be sent home; and put on home confinement, a very low-risk strategy by which the sheriff can test the operation. If that is successful then, in a second phase next spring, Sheriff Michael Ashe will begin to release short-term sentences under 120 days directly to home confinement, supervised through the day-reporting center. The final alternative is, and I know this is very close to home, you might want to read a report out this fall, "The Road Not Taken-Cost Effective Alternatives To Prison For Non-Violent Felony Offenders In New York State." It was done by Robert Mathias through the Correctional Association of New York. Corrections 2000 alludes to the second felony offender population, how mandatory sentences seem to drive our population upward, and also alludes to the possibility in ISP. This makes the case in a more dramatic and detailed manner. The assertion here is that, given the numbers of non-violent second felony offenders, and given the same changes in ISP that are well within the grasp of probation administrators following some practices in other states, you could take away the immediate need for an increment of beds. Probably, the range is about up to 2000 beds. Immediately — that's pretty powerful stuff. I cite these things not because I'm a program monitor. In the three that I've touched on, only one has Burden Center fingerprints on it, and that's the day-reporting center. We're happy to be involved in that experiment and promise to report on its outcome, whether it's a success or failure. But I touch on them because I think the world is coming to your door. You live in a very exciting time, and oppressed by caseloads as you are, that may not be clear to you. But it seems to me that you're in a position of what financiers call "high leverage". These are big problems — these are big populations, and what we've got isn't delivering on what we want. Public opinion is much more on the side of community corrections and alternatives than, generally, our legislators or justice system officials. And there is a section in the report that deals with this and I commend it to you. Big problems, big expenditures and disappointed expectations — along side of some public support of what you're doing — perhaps

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

more public support than is recognized within the professional ranks — that is nothing less than an opportunity.

I sat in on your awards banquet last night and I found that a very interesting experience. It was interesting to me to see the number of activities that individual probation officers or departments have generated; experiments in new service delivery; new means of social control. I think that the person who can solve this problem is in this room; the people who can solve this problem or make a substantial contribution to it — I don't know who you are — but I'm glad you're out there. The State Budget, if not the system, needs all the help it can get. One of the things I think this is going to require is public education. And I think you have to talk about educating many publics — you know something they don't, and you've got a vehicle that's really accessible. When one gets to the "so what" portion of this presentation, and I'm there, what's left to say about this. First, it presents a framework for planning and discussion; second, and these are definitely virtues, if you trip through reports in the criminal justice system as often as I do, you are really grateful to people who are lucid, brief, factual, and accessible to non-technical people, and that's this: This is not only something that you can take and use in your work, but I suspect that you can use with a lay audience; and give them a good one-time impression of what the system faces. It helps define the big picture for operating agency heads and for practitioners. It does tell us the costs and it tells the limits of how criminal justice policy can reasonably proceed. And when I think of it — and I'm so glad it snowed last night — this metaphor was forged about four this morning when I was looking out the window in disbelief; I think this report is like the ghost of Christmas future in Charles Dickens' "A Christmas Carol". You're looking at the Tombstone, Ebenezer, but it doesn't have to be that way. The picture is horrible, but it is changeable. And you are the agents of that change. I would encourage you to think about the public being both internal and external constituencies, and I would encourage you to think about lots of ways to communicate with them. A good place to start, if I was a local chief probation officer or head of an alternative program, is with my opposite member. As a probation chief, I might be going to see the head of the alternative program, or vice versa. And what I would try to sell that person on doing is being a co-presenter. And doing something modest, and do more on a local scale, perhaps a seminar at a local community college where you bring in a panel of other actors in the criminal justice system, a reaction panel — those things are not hard to put together. You need to educate the community and, of course in the process of doing it, you are educating yourselves as to what the possibilities are. Someone mentioned last night — it's another metaphor to which I relate in my life at this point very deeply — that she was a storyteller — so are we all. Here's the framework for the discussion. I hope you will all consider yourselves storytellers and I hope you go tell some doozies.

Thank you very much.

## COMMUNITY CORRECTIONS: MAKING IT WORK IN THE 21st CENTURY

### **Mr. William Benjamin:**

By the year 2000, fifty-thousand individuals will be in state prison, ninety (90) percent of whom will be minorities. That's a very unsettling report to read. It's unsettling, startling and it's grim. Can this be prevented?; can we do anything to stop it? What I found disturbing about this report was that there was no mention of juveniles, as if adult criminals just get there without ever being juveniles. I'm sure that a lot of effort and research was put into this report, but not enough. I want to thank the Division for giving me the opportunity to get up here and talk about juveniles because, otherwise, we might be here not realizing where adults come from. When we look at policy in New York, particularly where juveniles are concerned, it is very confusing to me. I've done this practically all my life but, nevertheless, I find it very confusing. I see some very good things happening in terms of policy formation, but at the same time, I find some very disturbing things taking place. We look at the new PINS Adjustment Law that is being implemented and we see a new start for juveniles, because it's a new mindset, a new attitude, a new thinking in terms of how we are going to deal with youth. Perhaps we can better serve youth outside the system, not in court, and the most important thing, let's try to keep them out of institutions. All research reveals that the more we institutionalize young people, the more likely they will wind up in institutions when they become adults. So, I am really encouraged by the new PINS Law since it sets a philosophical tone for New York State, one that I think is needed.

By the same token, when we look at how we treat those youngsters who commit criminal acts, who we call juvenile delinquents, we seem to be going in much of an opposite direction. There is a real get tough policy, a real lock 'em up policy, a real enforcement policy, and it really seems to be conflicting to me. If we are going to prevent what we read about in Project 2000, then we are going to have to start thinking about our policies regarding juveniles who commit crimes and the way we treat them.

One of the alarming pieces of information is the type of individual we will find in our jails or prisons, and what we will find will be a more disturbed individual. And the report goes on to say that, perhaps, one of the reasons for this is because of some other policies that are taking place in New York State with regard to how we handle our mentally ill. They no longer call it deinstitutionalization of the mentally ill because that meant "dumping", and no one wants to hear that. So mental health now calls it reconfiguration, which means "dumping" — they call it replanning, setting up community residences. There is a whole lot of other terminology that is used to describe how we are going to "consolidate" our mental institutions, close them in other words.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

What we see is a mentally ill population of about 20,000 people. Now they predict that, in ten years, it will be down to about 5000. Does that mean that the mentally ill will become well? We can look to states like California where practically all of their mental institutions are closed and now see that their jails are filled with the mentally ill. What does this mean where children are concerned? When we talk about mental health service, whether it be residential service or outpatient service, there is a dirth as far as juveniles are concerned. On Long Island, which includes Nassau and Suffolk counties, and which comprise about three million in population, we have one psychiatric facility with about 80 beds for children. What does that mean in terms of service these children are getting? It means they aren't getting any. And, if we're talking about our jails, are they going to be increased with the mentally ill in the future? And, yet, we are not addressing the mentally ill children in our state. What does this mean? It means some severe problems for probation and criminal justice, in general, because what we are talking about is a lot of policy formation that is beyond our control. And, yet, we have to ask: what is our responsibility to these other systems?, and should we be having an effect on these other systems? I'm not going to let our profession get away either, because if we look in our State, and within the Division, and in my own department with regard to our own policy formation, we find that we have a great state-supported system of intensive supervision for adults. Do we have one for juveniles? No! I ask you and your local departments that have ATI programs, how much of your resources go to juveniles? Do you see it as a priority? Do you see it as a means to prevention that, perhaps in years ahead, would cut down on that adult caseload? I think I know the answer and I think you know the answer. We don't treat it as a priority, we don't see it as completely necessary, because we have come to deal with the problems as they are and the symptoms as they are. And, if we continue to do that, we will have 50,000 in prisons by the year 2,000.

I would be remiss if I didn't touch on the minorities that will be in our prisons. To look at a ninety (90) percent minority prison population is unconscienable, and I have to ask, what are we doing to stop that? What are we doing to bring minorities into our workforce? What are we doing to provide opportunities to minority children in our communities? Those are questions both you and I have to answer, and I think the answers are that, perhaps, we are *not* doing enough. We are fortunate that we are at the *time*, and we are the *place* where we have the opportunity to prevent that from happening. But it is up to us.

Thank you.

## COMMUNITY CORRECTIONS: MAKING IT WORK IN THE 21st CENTURY

**Mr. Gary Clark:**

Good morning. I chuckled to myself when I heard Alan Henry during the opening session on Sunday refer to his remarks as merely an appetizer for the rest of the conference. Now, personally, having completed a seven course meal at various workshops, I know what he meant. Therefore, I would like you to consider our panel analogous to dessert. Sweet enough to come back for more. With that comment, what I would like you to do is try to get a hold of the Project 2000 paper. It is very interesting because it is going to outline for us our probable future in the next fourteen years. I've been asked to comment on Project 2000, both as a report and the challenges local probation departments may face in the next fourteen years. And, of course, I'm biased. I'm from probation; I've been there fifteen years; I've learned a lot and have a lot more to learn. But this Project 2000 has put things in perspective. I personally become very excited being able to review planning documents like this. It's almost like looking into a crystal ball. But there are a few caveats that I would like to expand on a little later. Project 2000 does indeed provide, not only a planning document for criminal justice, but also for the many individual components that make up this vast system. It establishes goals and direction that, if followed, could make criminal justice proactive rather than reactive as a system. It allows room to expand, to develop, and to test ideas, so that fads can be distinguished from trends, and trends from harbingers.

Project 2000 defines three broad policy goals. As David Nee mentioned, the first-community safety, the second-fiscal and program responsibility, and third, but not least-justice and equity. While these are very noble goals, so enters my first caveat. These goals have been generated from the top leaders in our respective fields. The problem we have is that these goals are liable to change in the next fourteen years without any principal change in the primary actors. Now think back a minute, have you ever experienced before — to have a plan, begin to implement it, and all of a sudden have someone change that plan. It sounds like someone grabbing that compass and saying we're not going that way — we're going this way. So beware of that, because it can happen.

The advisory panel and the others involved in Project 2000 have spent a great investment in time and effort to provide us with a snapshot view of the next fourteen years. Let's take advantage of what they offer us. While this report is viewed as a strategic plan as to be found in private business, I feel that private business has a better implementation record than we have experienced in the past in the public sector. Why?, one of the downfalls we have is constantly reacting to issues which detracts from our original plan goals. We sometimes do not have our hand on the pulse of the community to tell what is really happening. Rather, we are sometimes finding ourselves two steps behind and always trying to catch up.

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

In all fairness, let me return to the three goals of the project. Community safety is certainly an important goal to achieve in the next fourteen years. As Project 2000 points out, there will be an increased need to expand non-incarcerative punishments. Local communities which accept these as part of their community corrections will demand that their communities, above all else, remain safe. If we cannot keep this commitment, we will not be able to capitalize on the potential of community corrections. And last, but not least, the community must be actively involved in this process for it to be a success. This is a project and a plan that we just can't hand over to a community and say "Here it is" in a textbook fashion. It sets the general direction. We've got to start from the beginning and involve all the primary actors on our own community level in this endeavor.

Fiscal responsibility and program effectiveness is next, and I see that we are going to experience a tightening of the belt in programmatic spending for criminal justice; reduction of program grants for special projects. The best programs will survive. There will be a philosophical commitment to some programs, but they will be harder to defend in the next four years. Local municipal governments will be asked to contribute more direct monies for its share of the criminal justice system, and they may be in direct competition with the state in some areas.

The last goal is justice and equity. Now who can argue with this; it's like trying to argue against apple pie and the American flag. It is certainly a basic value to our criminal justice system that we should try to enhance. Each community, though, will have to redefine this goal in order to achieve it. Project 2000 certainly challenges us for the next fourteen years, but it does set the stage for what can happen. The rest is up to us as participants in the criminal justice system.

I would like now to change my focus and look at some impacts that I feel can be seen in the next fourteen years. When I reviewed Project 2000 for its component on probation, I was a little dismayed to see that probation only received three quarters of one page out of approximately 50. But those 21 lines of print said a lot if you want to read between them. In the next fourteen years, I feel probation is going to experience much more competition in the marketplace for the traditional services it has provided in the past. Private vendors are going to be offering the same job cheaper and allegedly better. There is going to be a vast duplication of services from which the courts will have to choose. As I mentioned before, only the best programs are going to survive due to the economy and the financial aid available. So, even more reason that we sit down and start this planning process — ATI, probation, community individuals ought to be picked. They certainly should be considered in this long process in which we are going to be involved.

Project 2000 points out, very clearly, that probation is in a period of rising caseloads, and which has experienced a stagnant rise in resources



## COMMUNITY CORRECTIONS: MAKING IT WORK IN THE 21st CENTURY

that provide supervision in the community which, in turn, may have resulted in less effective supervision. But talk to the line probation officers; talk to their supervisor; talk to their director. They are attempting to maximize every ounce of utility to provide supervision to their community. Project 2000 does a fairly accurate job of projecting prison costs for the year 2000, but no estimates can be given to the costs associated with probation in the year 2000. What causes this? I say it's perception. It's how probation has been perceived in the past by others, and that label will stick with us no matter what level of service we provide, or how innovative or creative probation is. But it is something we can overcome; we have to do it together.

Where is probation going in the next fourteen years? It must first seek out greater funding sources to bring it on par, so that it can be measured equally with other services for financial responsibility and effectiveness. Probation will continue to be a viable resource in the community, not only for services, but for planning and taking credit for that ability to initiate projects throughout the state in the next fourteen years. Probation will become more and more visible in the community and leading the way to non-incarcerative punishments. If probation can meet the challenge given it in the next fourteen years, it will certainly be a leader helping to pave the way into the 21st century.

Thank you.

### Mr. Rene Flechter:

Having to do a book report for this conference I really thought the vengeance of my second grade teacher was upon me who said one day, "Rene, you're going to get up and say you didn't read the book." Fortunately, it was only between 35-50 pages long and I was able to handle it. What was also good is that it has a pretty predictable plot — things are getting real bad and they are going to get worse. Whenever you try to figure out the future, you will usually be wrong. And it reminds me of the economist Lord Kane's statement when analyzing the short run — long run. I guess it depends on what shape you're in if it's a short run or long run. He basically said that, in the long run who cares, we're all dead. Actually, we do care because I was thinking about the year 2000. It is only fourteen years away. It dawned on me that if the crime-prone ages are between the ages of 16 and 25, then we're talking about the bad news for our 2 through 11 year olds. Those are the people who are going to be in the cages in fourteen years. So, what we are dealing with now — be it a good job or a bad job — is for them, and even though we don't take ourselves too seriously — for their sake, we ought to. Again, in reading about the planning piece in the year 2000, it reminds me about another group of planners that I had been dragooned into about thirteen years ago, which is the time period which this report looks at. The last

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

thirteen years where we took it, figuring if the arrow is going that way, we can figure where we are going in the next fourteen years. About that time it was a group of folks just out of school, there was hardly any money whatsoever, and they would trundle up to Albany to a church not too far from here; no politicians whatsoever; knew nobody; had recently read books in criminal justice; and set out on a plan to "reform the system." The system is always being reformed so it was nothing new. And the arrogance of the group was outrageous — we didn't care and I can recall traveling up in old Volkswagon busses with backpacks and Rex, the criminal justice dog. Rex had a lot to say. We sat around all day in the church, we gave ourselves a great name "The New York State Coalition for Criminal Justice." Whoa! You know, if we called ourselves a little tiny club of criminal justice nobody would listen. And we sat down to figure out how to make a recommendation to the criminal justice system. I think about how hard those folks worked — they divided the whole system: from community corrections through parole, and they were really thoughtful about it. And when I look at the recommendations — some of which happened — most of them put us in this really bad spot that we're in. And, yet, they meant so well. I think about some of them. At that time, the big issue was that jails were going to be very overcrowded; they were going to be all minority. Most important, at that time, was that sentences were unfair. Sentences were disproportionate. And everything was focused on making sentences even. So that, if you got busted in Monroe County or in Brooklyn, you got the same time and that would be great. And what happened from that logic flowed fixed sentences, eliminating discretion. Discretion, the whole thing that we're about — we want to convince judges "Why don't you do this more humane thing?" What the removal of discretion and that gravitation toward fixed sentences did was to fix it alright, way up here. So, as you see in the report, the arrest rate changed very significantly, but the incarceration rate is a mess. Thank you from us. It is unbelievable, we did that! We're the good guys, and we meant so well. The other great idea was parole — what a horrible organization. They don't let everybody out at the same time — they're cruel — they'll keep you in for the stupidest reason. So, what do we come up with — "Get rid of it." Now parole, probably one of the last possible places to get someone out of the can early, is fighting for its life. They don't dare release anybody early. At this point, they're waiting for someone to decide whether they're going to be around or not. That's us — we did that. So, I get a little nervous — here we are again. Rex isn't nervous though — he doesn't care.

But you know, it's funny, when you look at some of these people — what happened to them — this ragtag bunch. One of them is a guy who often talked about ballroom dancing, which has very little to do with this while we were talking about parole. He went on to write a book, being a fairly good researcher with Vera. He still talks about ballroom dancing. Another guy was this really strange legal aid attorney, a guy

## COMMUNITY CORRECTIONS: MAKING IT WORK IN THE 21st CENTURY

from Florida and from Yale who went on to run a thing called the Criminal Justice Agency in New York. His name is Clay Hiles. Another character who was a really wild-eyed attorney --- I don't think any bar association let him in --- eventually went on to form a group called the Defenders Association which is located here in Albany. His name is Jonathan Graddess. There was another very strange scraggly character who made good coffee. He went on to become head of ATI --- his name is Bart Lubow. He's here somewhere. And then there was me, who was wondering where we were going to stay that night. Father Jim Murphy would put us into the Wonderbus and we would take off to go find accommodations in the dead of winter and, as I saw the Hilton fading into the horizon, we went to Father Jim Murphy's Halfway Home for Alcoholics. And, since he liked me so much, I got to put my sleeping bag next to the pot-bellied stove. Out of all those crazy things there was, after all, some good in all this and a couple of things that happened here at the conference. For one thing, for what all those crazy people did, many of them wound up in places to say they're sorry and to make up for all those mistakes. And, more importantly, what occurred --- there were two really important things --- one was that the Division of Probation now became involved, not that they were never before, but they are now integrated with the ATI. And I see during this period a closing of these two strange worlds: the world of the scraggly crazy college student thinkers and the hard-working guys in the trenches from probation; and each needs each other very, very much. And I think the next fourteen years has something the last fourteen years didn't have, and that's alliance. And I think many of you have been to conferences before, but I felt something these last couple of days, of watching probation officers and community-based people realizing that it really is the same football field. And it really is the same hoop for the ball to go in. I think we are forging something together, and those I would like to talk about for just a second is what the ATI's --- I know them best --- can bring from that experience.

First and foremost, they had to survive during those fourteen years. That's why I joke about how broke everybody was. They had to go find their own survival. There are many people out of that group that I didn't mention that aren't here --- they didn't make it. Out of necessity, the ATI's --- they call us Alternatives to Incarceration --- but they are not supposed to be Alternatives to Incarceration --- that's supposed to be the last thing they do. We're supposed to be the main sanction. Anyway, the ATI groups had to struggle for funds. They wound up doing things they thought they would never have to do. They began to meet politicians, and to cultivate a political force. It was more difficult for government people because there are a lot of rules that prevented you from doing that. But ATI's didn't have that restriction. They began meeting people, like David Nee and other Foundation people, who would come in just when you needed them --- like the Calvary, to keep you chugging along. Through that, a certain strength emerged. And you do see a number

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

of groups out there now that know how to struggle for the buck; know the importance of the marketing; know the importance of the public relations aspect of what we do. They are more like privateers of the war. They are not the main army, they cannot be, but are absolutely critical and also may be a source of tremendous ingenuity of how to do things with less. And, what I hope we can do here is to forge an alliance between the government and the probation departments, specifically, so together the ATI's and the probation departments can get involved in joint projects, do things together, share the funding, and get more than one percent of the total criminal justice budget. That's the amount that's going to these alternatives. And I think that, more than anything else, is my message as far as the world of both probation and the alternatives working together; and I am really hoping, in many ways, that this would be the theme of our conference and that's it for my remarks. I'm looking forward to those next fourteen years.

Thank you.

### Ms. Elizabeth Gaynes:

That should be easy to follow. I've torn up my notes. Since everything else has been covered, I'm going to talk about physics. No kidding! Because, in physics, you can see large patterns over time that you can't see in our own field. Everyone knew that the world was flat. I mean that it was absolutely the way that it was. Well educated people believed that and the public believed that. And it wasn't like one day everyone knew that wasn't true. There were some physics majors, like Newton, struggling for a long time before Newtonian physics took over and everyone knew that the world wasn't flat. And, as the old idea was descending and the new idea was ascending, it looked for a while like a great deal of confusion. It looked a lot like it looks now for us in which it is not so clear as you look with overall trends. What really is coming and what is going. It looks as if prison is ascending, and that this notion of locking everyone up and our addiction to punishment is moving this way. And, it may not be so. We are coming from capital punishment for minor crimes hundreds of years ago, and even more recently than that, and corporal punishment — cutting people's limbs off, to prisons which were a humane alternative, to probation. Prison was put forward as a humane alternative and, if you look in terms of not just the year 2000, but in larger trends than that, it's possible that, although prison looks like the way everyone is moving, that's what rigormortis looks like. People, when they are committed to a system that is not the wave of the future, get overly committed to it. People, who have invested their lives, their energy, and their career decisions into certain fields don't want to let go. So, I put that out as a possibility.

## COMMUNITY CORRECTIONS: MAKING IT WORK IN THE 21st CENTURY

In physics, most equations are not accurate unless you take into account the observer. We don't do that. We think it's all out there, and how we look at it, and the context we put onto the content and the conditions that we look at, don't make any difference. In fact, we have a context in which we hold that crime is inevitable; that as long as we have people, you're going to have people ripping people off. And that's the way it is. And we really function like this is a growth industry and it must be true. Now, it is probably true that when you have homelessness and hunger and poverty and the conditions that we live with, that people that have less will want more. But, we have something that we never had in the history of the planet, which is sufficient resources to house, clothe, feed and provide health care and education for every man, woman and child on this planet. It doesn't look like that. There are 21 children who die every minute as a consequence of hunger, and that seems to invalidate that our lives could matter. Or, we talk about that we're going to have almost every black male born in this state going to prison at some point, or have an arrest record, and that kind of invalidates that our lives could matter. We spend as much money on arms in the world every two weeks as the \$17 billion which is what it would cost us to provide food, water, housing, health and education to every person on this planet. According to the report, we will spend as much on criminal justice in this country in a year as we could do for a whole planet. And we look at that in the context that, yes, it's going to be like that. Now, what's real interesting about the technology that's available that would do this is that we are very willing to take the high technologies, the scientific technologies, the bracelets and the drug tests that the private sector has come up with, and say that they are doing a great job out there. And we take those without questioning them. We've certainly computerized our workplace, and done a great job with the high technologies. What is extra-ordinary is that, in the space age, we are even going to waste \$300,000 on a little box inside a missile because we understand that experiments, in order to put a man on the moon or to put a man on Mars, wherever we're going to put the men . . . If you can put one man on the moon why can't you put all of them there . . . but we actually have this standard for science . . . that we are willing to do these experiments to figure out what it would take. But we don't give ourselves permission to experiment in the soft technologies. We expected job corps to prove that it worked before they took one person. Our technologies are such that we have to evaluate ourselves before we've done it. And, not only are we not willing to experiment the way they are in other sciences, we don't look at the soft technologies that those industries have made available to themselves.

While we're training ourselves on supervision and control, there are seventeen IBM executives who are sitting in a meeting room in San Francisco taking a course which costs the company \$50,000 per executive. This training takes 70 days per year of their time. And that course is

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

about leadership, commitment, integrity, about what the possibility is of "being" for a human being, about what it means to take a stand, have a vision or make a difference. They know that technology is what is going to make a difference for them, and put them on the cutting edge as we approach the year 2000. And we think that is something which will not do anything for us at all. And the truth is that, knowing what the "being" of a human being is about and making an inquiry, is fundamental to what we do.

If we are talking about a ninety (90) percent minority population, we're talking prisons, we're talking about something that is very uncomfortable; something that gets hardly mentioned, which is this word racism — that we don't want to talk about. But when you go to our program up in the Bronx and watch clients there, and it's not just in the Bronx, and these defendants with their hands behind their backs with a white lawyer, a white prosecutor, and a white judge, it looks like an auction block. And it sounds that way. And so, it is appropriate to make an inquiry as to what is the "being" of a human being, because we do not believe that the people that we are processing in the system are human beings.

We are moving toward an alternative. We're becoming less punitive toward our own children. The way we were raised, the way our parents were raised, is now considered child abuse. With those we identify as our own, this kind of violence is unacceptable to us. We don't lock children in closets, we don't lock them in cages, they're ours. But we see these young men as not ours — they're someone else's. And so, the technology that we could be looking at from the very successful private sector isn't just their bracelets. And we would be supported. The most interesting point to me in the report on Corrections in the year 2000 is that the perception of public policymakers in criminal justice is off the wall. We believe they are more punitive than they are. We believe that they are more vengeful; that they don't support alternatives; they don't understand the connection between race and poverty and homelessness and joblessness. We don't give people credit. It showed that the legislators, when they guessed at what their public's feelings were, was actually what many police and law enforcement people believed. But it was not what the public believed. So, we sell ourselves and the human beings, with whom we live, extremely short when we don't sort of step back and see what the possibility could be for human beings.

Thank you.

**Mr. Robert Maccarone:**

We've heard a lot today. We've heard about courses on human values for which we pay \$50,000. Sad state of affairs when we have to send executives of major corporations to learn human values. Perhaps that's

## COMMUNITY CORRECTIONS: MAKING IT WORK IN THE 21st CENTURY

revealing about our society. We also heard about putting our man on the moon, and about Volkswagen buses.

I've been asked to represent the local perspective and I was told this morning that I was going to be post cleanup, not cleanup, but post cleanup. Perhaps that is most appropriate, because in the end any change that's effective, I believe, happens at the local level. And that's you and me. I've been asked to comment on Project 2000 and the local perspective, and I asked myself, why is New York State thinking about the year 2000? I know that, in Westchester County, we started thinking about the year 2000 and the size of the endeavor that it spelled out in terms of dollars that would have to be spent by our community in effectuating change. And I asked, while I'm here this weekend, what can I tell these people about change in the year 2000? Are we enlightened? Is New York State enlightened and is that why we are considering these changes? Probably not. From the time before criminal justice theory to the present, we haven't changed a great deal. From the formation of the first Walnut Street jail in Philadelphia, we have been processing people through the criminal justice system in the very same manner, and we haven't made any changes despite the fact that we have failed. So you begin to wonder when we are going to think about making changes. What is the motivation to change? Quite frankly, dollars and cents — that's what motivates people to change. That's what is motivating New York State to take a look at change. Because New York State, you and I, can no longer afford to process criminals the way we have for the last 2000 years. We're here today and we're thinking about crime and we're thinking about changing the criminal justice system. But crime really, when you look at it, is just symptomatic of human behavior. It's a need just like a social need, any other social need.

When I think about crime, I think about it in two ways. It's usually on the way home from the office that I get into things in my own mind like criminal justice theory and what change there will be in the criminal justice system for the future. I think about problems in terms of causation; and I think about process in terms of reaction. What we do more often than not is to think reactively in the criminal justice system. Our whole thought is bent toward reacting to this problem of crime. But we do very little with all our other resources to answer the problem. Let me tell you something about the problem. In the 1950's, Americans shared in seventy (70) percent of the world's wealth. In the 1980's, it's now down to sixty (60) percent. And in the future, by the year 2000, it will be less. We have to learn to do with less and be satisfied with that. The reason for this change: the rest of the world is catching up. There is more stabilization, more uniformity of the world's available wealth. Let's look at the problem. Six out of ten minority children are going to come from single-parent families. And that's going to comprise the age group 2-11 that Rene is talking about. When we think about problems, we think

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

about poverty, education, and family structure. Family structure, back to the \$50,000 course on human values. I think what we are seeing is that, in some sense, America is becoming polarized in population. More of the rich, more of the poor, with a diminishing middle class. And it's going to be increasingly important for us to reassess our values; and certainly the State and Federal Governments are beginning to do that. I know the Governor has considered legislating ethics and values in the school systems. I think that's an important consideration. Let's look at criminal justice for a moment. In 1972, we only had 12,000 people in the correctional setting. In 1986, we've got 38,000 or 39,000; and by the year 2000, we're going to have 50,000 in the penal system. By the year 2000, it's going to cost New Yorkers \$2 billion to maintain the correctional system in New York State. And, we haven't solved the problem. We're reacting, we're always reacting.

The State, the Project 2000 Report, has really come up with three objectives: community safety; fiscal responsibility and policy effectiveness; and equity in justice. They're defining those as goals. When I think of goals, I think of lofty ideals; something for which we have to strive, but which we usually fall short. I think that this report is important because it's spelling out survival. And I think what it's telling us is that, if we're going to survive, we have to begin to think differently. We have to be willing to change. The formula for success. Well, let's think about the problem. Certainly, we have to begin to think about poverty, education, family structure. I know you've heard this a million times and I have too, but that's really where it's at. That's really where the answers lie, not in making our criminal justice system per se. What that's going to enable us to do is to better handle those populations. But what we can see is, if we continue on this route, we're not going to be able to do that. We're not going to be able to afford that. The formula for success, I think, is State leadership followed by local implementation. I think the ATI Program is a unique program, because it is exemplary of that formula. We need State involvement. We need State leadership. Think about the repercussions of the Emergency Dangerous Drug Act, the Rockefeller Drug Laws, and what a failure it has been. Look at the correctional setting. See the populations that are represented there in terms of drug arrests. Is that the most valuable use of a very costly alternative? Probably not. But what Legislator today would legislate for making the drug laws less serious than they are. Especially in today's climate of the drug crisis. But we need someone; and I think it's incumbent upon us to work with State officials in working toward change in things like drug laws, felony offenses, and trying to save this valuable resource of a correctional setting for the population that is most befitting. We need flexibility. Why is it that for 2000 years we have thought about simply two alternatives: Probation and Corrections? In my own mind Probation is the only answer for the future, because we know we can't afford corrections. So, what we have to do is develop a series of flexible alternatives to put in place. On a



## COMMUNITY CORRECTIONS: MAKING IT WORK IN THE 21st CENTURY

positive note, I think we have the ability. As someone said here, each of us holds in us the potential for change. We're going to be asked to think in unconventional ways in the future; we're going to be asked to change. I leave you the challenge of where we do it.

Thank you.

Mr. David Nee:

What you just saw played out was a natural experiment of a spontaneous nature, which I think is replicable in a variety of settings. I think the people's comments, in general, were very useful to me. As to the comment about juveniles, there was a conscious decision that the report had to have some boundaries so it could be done on time. With 20/20 hindsight that looks a little like triage. I think Bill Benjamin's point is well taken. I have two data points in my life that suggest that I know something about the correlation between juveniles and adults. Their names are Christopher, age 13, and Jonathan, age 11. In retrospect, I think the report should say more about juveniles, and I would hope that others begin this debate in their own communities.

As to community involvement, which is very much in the tone of the delegate from Genesee County, Gary Clark talked about survival thinking, and he was the first to inject that into the debate. That is important. In the context of the goal of community safety, I think it's appropriate to say that the report blends both aspirational qualities and a sense of survival. We can't pay for this — it's ludicrous to think so. But, I do want you to know that where we invested time was thinking a lot about what we really want the system to deliver. Community safety was chosen for a reason, as a set of words. We meant it to be much more provocative of what we think you and other citizens are looking for on the street than the traditional public safety. What we meant there is a sense of investment in community. Rene, it's hard to respond to Rene. As to the length of the report — it's 55 pages.

One of the things of which I am really proud in my life is when James Q. Wilson started this whole ball rolling by telling us in 1975 that it's simple — all you need to do is send every second felony offender to jail for three years. Working at the Suffolk County House of Correction, and without a great deal of sophistication, I laughed, got out my calculator and pencil, and said "We can't pay that price tag." I was just a snuffy in the House of Correction. The difference, of course, was that I didn't understand much about marketing. Among the most influential words in the English language are simple, easy, and free. We, of course, are complexifiers. We do need to learn something from the private sector. I think that Rene is right when he suggested that we really need the marketing piece. By the way, the last time I heard McDonald on the subject of mandatory sentencing, he seemed to be saying something

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

a little bit different than you give him credit for. The points about building alliances are well taken. Of course, that's what we meant about local implementation and, certainly, people in the political system should be part of that.

Liz Gaynes' comments, coming by way of human development and moral criticism, are astonishing and wonderful. She reminded me what Martin Luther King once said: "There is an arc in the affairs of human history and that arc is towards liberty." I hope he was right because, if Liz's historical thesis is right, and we are sort of hanging onto the last vestiges of a system, we are in good shape. But liberty itself is a precious commodity, and I don't choose to believe anything is much preordained. Perhaps the Athenians felt as secure in their liberty as we do now. But the consequences for their liberty were not increasing liberty. So, that's a precious commodity to all of us, I suspect. But I don't take it as a given that it will be there tomorrow. And I do prefer to think about those three ghosts. Is crime inevitable? That isn't even a future-oriented projection. If you look at other societies, they don't have the same epidemic levels of criminality that we do. And it's appropriate to go back to the social context and think about, perhaps, why they don't.

What Liz saw in IBM was a fundamental understanding that, in the private sector, people come first. If you invest in people, they'll generate the ideas. There is a true story about an IBM middle manager who was given his first big project and it blew up on him. The project went so bad that it resulted in about a six million dollar hit to IBM's bottom line. The guy walked in to see the Chief Executive Officer with his knees banging together, and said "I suppose you want my resignation." The Chief Executive Officer responded "After we've invested so much in your education?" I'd like you to put that in the context of the last time you had a phone call from a probation supervisor about someone who committed a new crime. We need to know how to make it respectable again being a government servant. We need to invest in you and your human development just as we would offenders. I had an opportunity to go and see the day reporting centers in Britain, and one of the things that astonished me was the incredibly high morale of their probation service. They believe that they are there first to care and befriend the offender. The group I was with were all Americans, and we kept trying to translate that into the political context in which we work which, by comparison, seemed about one inch wide. We tried to imagine a conversation that one would have with the head of a budget committee in the legislature. I won't bore you with the details, but I'm talking about people who make lunch, bake cakes, go on rock-climbing expeditions — it's just, by our standards, insane — which makes the case that, maybe, we ought to reflect on our standards.

Finally, Bob Maccarone talked about State leadership and local implementation. I quarrel with that. I think it needs local leadership as

## COMMUNITY CORRECTIONS: MAKING IT WORK IN THE 21st CENTURY

well. And I think, perhaps, you can instruct the State. I hope I'm not screwing up someone's organization chart, or flow process, but it's no accident that something pops up in San Mateo County that doesn't involve bracelets, and it seems to work. There is a lot of experimentation to be done.

I'd like to close with the thought that we really do know something about human development. We know more in the last twenty years than we have probably known in the history of the world up until then. And, we can no longer pretend that it doesn't apply to the way we treat offenders or the way we treat treaters.

Thank you again for inviting me here.

**Mr. Edmund B. Wutzer:**

When we put this conference together, we talked about putting together a good anchor team and I certainly think we had that today. I just had a few closing remarks and one of them is to thank you for coming and participating in this conference and giving us your strong contribution. I am particularly indebted to the awardees last night. I think the statement that they made was a very special message on which we should reflect. We talked about having a keynote speaker and we said no, let's focus on what people do in our business. What I listened to last night was a very strong personal commitment to humanity, service, and helping others. I am really indebted to them and I felt we really did the right thing in terms of an event. And again, I'd like to salute them.

With regards to the future, as the State Director of this agency, I'm very sensitive to this coalition, partnership, and what the future is all about. You can have my assurance that we will reach out to you at both the state and local government to seek your help in building the future. The document I have here is our budget. There are about four other corollary documents. This is policy advice — it's not to be distributed — it's submitted to the Executive Chamber. Many of the things that you've talked about throughout this conference are contained in this document in terms of direction. We don't have all the answers in this document. But we've digested the Report 2000, and we've looked at the Correctional Association's report on ISP. Our team is really attempting to take the information that's relevant and to use the bureaucratic, administrative, and legislative processes to bring about future change.

My strong position with you is that we are reaching out to you. We cannot do it alone. We're going to be developing standards, we're going to be developing programs, we will be out in the community. And that's the way we can build a future together. I have been remiss, I'll admit to that, when I took office, I agreed to visit every probation department — I did about 45 of them. But I also made the commitment to visit ATI

## 2nd ANNUAL CONFERENCE—PROBATION & CORRECTIONAL ALTERNATIVES

Programs and you have my assurance I will be out, my staff will be out visiting with you, so again we can improve communication.

I thank you for coming. I thank you for helping with this very splendid event.

# NOTES



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DPCA Management Information Systems Unit  
Gould Publications  
Law, Order and Justice Center  
Monroe County Probation Department  
Nassau County Probation Department  
National Center on Institutions and Alternatives  
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New York Association for Alternative Sentencing Programs  
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New York City Legal Aid Society-Criminal Defense Division  
NYS Coalition Against Domestic Violence  
NYS Commission of Correction  
NYS Council on Children and Families  
NYS Crime Victims Board  
NYS Department of Health AIDS Institute  
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NYS Probation Officers Association  
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Suffolk County Community Services Program  
Suffolk County Probation Officers Association  
Suffolk Re-Rout Program  
SUNYA Court Systems Management Program  
VAST Project, Inc.  
Westchester County Probation Officers Association

# INDEX OF PANELISTS, PRESENTERS, MODERATORS AND RECORDERS

Name	Session	Name	Session
AGLER, David	4	DOUGHERTY, Dr. Ronald J.	1
ALEXANDER, Beth	11	DOWLING, John C.	19, 24
AL-JUNDI, Akil	26		
ANGELL, Jean M.	KA*	FEIT, Diane	32
ANGULO, Richard A.	4	FESH, Stephen	16
		FIECHTER, Rene	29, CS*
BEALE, Ellenmarie	29	FOLLETT, Mary	29
BELENKO, Steven	24	FOSCATO, Patricia	17
BELMONT, Allen	3, 17	FRANK, Phyllis	17
BENJAMIN, William	12, 25, 31, CS*	FRANKEL, Harvey M.	27
BERNAGOZZI, Anne	30	FRISCH, Lisa	17
BIGLEY, Michael	13	FUNK-ALTMAN, Terry	3
BIMEL, Natalie	18, 33		
BONGIOVANNI, John	16	GAVIN, Robert R.	KA*
BOYLE, Peter	6	GAYNES, Elizabeth	CS*
BRIER, Dr. Norman	18	GILBERT, Donald F.	CS*
BRODERICK, Barbara	28	GOLBIN, James	11
BUKIEWICZ, Jerome	6	GOLDBERG, Marion	32
BURNS, Robert	16, 22	GOLDEN, Robert	17
BYRNE, Sean	9	GOSS, Michael	4, 20
		GREEN, Alice	12
CADWALLADER, Charles	CL*	GROSSI, Patrick	28
CALI, Louis	16		
CARNEY, Robert	27	HANFT, Jane	11
CASSIDY, Matthew A.	7	HARRIS, Hon. Joseph	16
CLARK, Gary	14, 20, CS*	HEIGEL, Susan	19
CLEAR, Todd R.	10, KA*	HELLMAN, Lois	8, 18
COHEN, Fred	16, 20	HENDERSON, Margaret	15, 32
COHEN, Herbert	10	HENRY, Alan	OS*
CONNELL, Hon. John	32	HILL, Ronald	1, 26
CONNERS, Mark T.	30	HINTON, Dee	33
CREIGHTON, James E.	2	HOLMGREN, Dorothy	25
CROPPER, Cabell	14, 27	HORNE, Michael	31
CROW, Warren W.	14	HUGHES, Roger	26
CUSTER, Richard	5, 19		
		JONES, Ben	31
DAINACK, Genevieve	25	JONES, Denise	26
D'AMICO, Jane	30	JOSEPH, Stuart	2
DeFRANCISCO, Sylvia Skinner	2		
DeFRANCISCO, Vincent	26	KILISZEWSKI, Alex	4
DERRICK, Pamela V.	8	KRAMER, Robert	30
DEVIN-SHEEHAN, Linda	3	KREBS, Richard	33
DILLON, Dawn	31	KUSNIERZ, Theodore, T.	10

\*KA --- Keynote Address; CS --- Closing Session;  
OS --- Opening Session; CL --- Conference Luncheon

Name	Session	Name	Session
LAWLOR, Elaine	14	RICKETTS, Michael	13
LOLIK, Mary	19	RIFKIN, Marjorie	11, 24
LUBOW, Bart	10, 11	RIGOLI, Thomas	13
		ROBERTS, Richard	10
MACCARONE, Robert	CS*	ROSE, Sue	18
MACERI, John J.	7	ROSS, Jack	33
MARCHIONNE, Nicholas	1	ROSS-BROWN, Jacqueline	29
MAROSEK, Bernard M.	2, 9	ROTHACKER, Janet	3, 28
MARTORANA, John	32	ROTHBART, Glen	4
MAURER, Barbara	30	RUSSELL, John W. Jr.	7
MAURO, Dean	13, 28	RUSSELL, Marjorie	23
MAXIAN, Michele	21	SARDINA, Samuel	19
McCARTHY, Mary	3	SCHOEN, Kenneth	5, CL*
McDONALD, Richard F.	15	SCHWARTZ, Steven	7
MIGLIORE, Gerald	9	SCIARROTTA, Joseph	4
MILLMAN, Dr. Robert	7	SEIDMAN, Eleanor	6, 12
MITCHELL, Thomas F.	12, 23, 29	SEYMOUR, James	14
MONELL, Aleyda	26	SIMSON, Jay	6
MORSE, David	25	SINGER, David J.	13
		SMITH, Francis N.	5
NEE, David	CS*	SPINDLER, Richard V.	21
NEUBORNE, Helen	3	STECKER, Dwight	14
NEVIN, Dr. David A.	22	STENSON, Brian	5
		STOTHERS, James E.	20, 31
O'BRIEN, Barbara	27	SULLIVAN, William	28
O'LEARY, William D., Esq.	20	TERRIZZI, Thomas	24
ORNSTEIN, Lynne	23	TESTO, Charles J.	9
PAGE, JoAnne	21, 23	TILOW, Neil	15, 27
PALLOTTA, Kathi	17	TINELLI, John	19
PANE, Mary	30	TRUMAN, Dr. Benedict	9
PANICCIA, Richard	4	VALENTI, Linda J.	9
PAQUIN, John R.	32	WEBSTER, Louis R.	22
PERNICE, June	8	WERTIMER, Eleanor	31
POULOPOULOS, Patricia	CS*	WINTERFIELD, Laura	27
POWERS, Stephen J.	30	WISH, Dr. Eric	24
		WOOD, Lee	11
RANDOLPH, James W.	6	WURMSER, Terri	9
REED, Wilson (Ed)	12	WYLEN, Jane C.	19, 33
RELIN, Howard	32	YOUNG, Sgt. Christopher	17
RESCH, Patricia	3	ZWISOHN, Van	5
RICE, Robert	19		
RICHTBERG, Donald	4		

\*KA — Keynote Address; CS — Closing Session;  
 OS — Opening Session; CL — Conference Luncheon

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