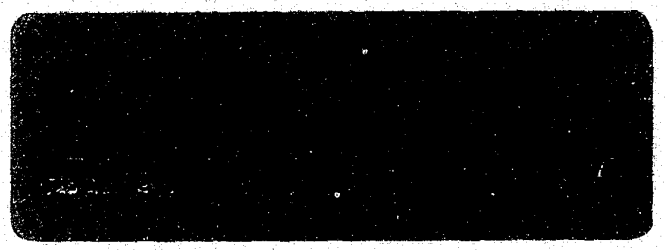
A SPECIAL REQUEST PAPER

THE REFORM OF JUVENILE PROBATION: ISSUES IN AN AGENDA FOR CHANGE

by
Troy L. Armstrong
Charles R. Tremper
Albert J. Lipson
and
Peter R. Schneider

SUBMITTED TO THE
U.S. OFFICE OF JUVENILE JUSTICE AND
DELINQUENCY PREVENTION



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Note that there is an error in pagination; page 50 consecutively follows page 48.

FOREWORD

The National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP) of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) established an Assessment Center Program in 1976 to partially fulfill the mandate of the 1974 Juvenile Justice and Delinquency Prevention Act. NIJJDP currently maintains two Assessment Centers: The National Center for the Assessment of Delinquent Behavior and Its Prevention located at the University of Washington, Seattle, Washington; and the Center for the Assessment of the Juvenile Justice System, which is administered at the American Justice Institute in Sacramento, California. The purpose of the Assessment Center is to collect, synthesize, and disseminate knowledge and information on all aspects of juvenile delinquency.

At the American Justice Institute, the Center for the Assessment of the Juvenile Justice System continually reviews areas of topical interest and importance to meet juvenile justice issues. Methodology includes: search of general and fugitive literature from national, State, and local sources; surveys; secondary statistical analysis; and use of consultants with specialized expertise.

These assessments are not designed to be complete statements in a particular area; instead, they are intended to reflect the state-of-knowledge at a particular time, including gaps in available information or understanding. Our assessments, we believe, will result in a better understanding of the juvenile justice system, both in theory and practice.

This assessment, The Reform of Juvenile Probation: Issues in an Agenda for Change, discusses a number of factors which have spurred efforts to reform current juvenile probation philosophy and practice. These factors are shown to have generated a set of recommended changes crucial for transforming probation into a more effective, efficient, and responsible correctional tool. The more promising recommendations explored in this report include reorientation toward a "just deserts" approach, wider use of classification for treatment and surveillance, the deployment of intensive probation programs to provide higher levels of supervision and/or services, and the incorporation of reparative sanctions as a standard part of probation dispositions. Emphasis is placed on suggesting how these various elements could be molded into a single, internally consistent model of juvenile probation.

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Chapter 1

INTRODUCTION

REPEATED CALLS HAVE been issued from many quarters of the justice community over the past decade urging a major overhaul of juvenile probation philosophy and practice. Probation, as structured and used in juvenile courts across this country since the turn of the present century, appears no longer acceptable to most individuals involved directly with this sanctioning approach (e.g., judges, prosecutors, probation officers, victims, probationers). A number of reasons which will be delineated below lie behind this disenchantment.

Expectedly, the list of factors identified as contributing to the current malaise of probation is lengthy. Depending upon which expert is consulted, the major underlying source of difficulty might be attributed to anything from an angry public's demand for more effective juvenile crime control to the inherently incompatible goals of probation officers: social control and individual rehabilitation. These possible reasons constitute a litany of emerging problems, inherent contradictions, lingering shortcomings, promising new directions, and misguided intentions. For example, Fitzharris (1981:9) has suggested, "probation finds itself exposed and susceptible to attack (for a variety of reasons including:) an underclear mission; overstated, unspecified and unmeasurable objectives; undemonstrated expertise and inadequate standards and training; unsubstantiated results; a history of inadequate funding; isolation from the public and a lack of public awareness; lack of strategic planning and effective management techniques; and a weak constituency." (Quoted in Brown, 1982:4).

Gable (1983:39-40), in focusing on a reassessment of the role of the probation officer, has added to this list the following factors for increased scrutiny of and experimentation with probation:

- Probation is an existing resource which provides the greatest flexibility for experimentation within a court.
- The relatively recent emphasis on community-based treatment, as an alternative to institutionalization, directed attention to the probation officer as a means for providing in-home care and community protection.
- Overcrowding, and the cost of detention and institutionalization in a time of shrinking fiscal resources, forced a re-examination of the less expensive probation option.
- Probation officers and the probation field reached a new level of professionalism which demanded increased attention and produced changes in the self-perceived role of the probation officer as well as suggestions for improving probation practice.
- A gradual shift in the treatment versus just deserts model of juvenile justice sanctions brought the role and obligation of probation as a sanction into focus.

- Due process requirements shifted the work of probation from treatment in the offenders' best interests to one which involved substantial investigative and fact finding functions.

The problems with probation are compounded by the fact that this community sanction is, far and away, the most common sentencing response of the courts to criminal activity (Brown, 1982; Gemiganani, 1983). The number of adult and juvenile offenders under probation supervision nationwide exceeds 1.3 million annually (Fogel, 1981:2). This frequently cited statistic highlights the need for making probation a reliable and manageable disposition for the courts if it is to be used as a meaningful sanction for criminal conduct.

This report examines approaches probation might take to meet the present challenges. The major theme, explicitly addressed in Chapter 2, is reorientation toward a "just deserts" theory of sanctioning. The analysis considers the extent to which adopting this approach might resolve some of the current operative tensions in probation and exacerbate others. Chapters 3, 4, and 5 are devoted to particular practices which hold promise for revamping probation. Chapter 3 on classification looks at the potential advantages of systematically grouping offenders according to risk of recidivism, need for treatment or other management considerations. Properly implemented, classification could contribute to decision making for either intensive supervision or reparative sanctioning, the topics for Chapters 4 and 5. Intensive supervision might contribute to a better probation system by providing an acceptably "tough" sanction for serious juvenile offenders. Reparative sanctions could add an element of offender responsibility to probation sentences. Moreover, reparative sanctions may increase victim and general community support for probation. In combination, classification, intensive supervision, and reparative sanctions could be used to recast probation so that it satisfies current correctional needs and community demands.

Before exploring the set of specific reform measures which hold promise for producing a more streamlined, responsible version of probation, the report briefly reviews those factors having a direct bearing upon our analysis of proposed changes.

"GET TOUGH" POLICIES

Over the past decade a widespread reaction has emerged among some elected officials, certain representatives of the justice system, and a sizeable segment of the general public in response to the perceived failures and inadequacies of a national juvenile justice policy emphasizing diversion and deinstitutionalization. Proposed measures for restoring a more punitive orientation to the system have included: (1) increasing the rate at which delinquent youths are transferred to criminal court jurisdiction; (2) lowering the age at which any juvenile offender can come under the jurisdiction of the criminal court; and (3) imposing mandatory periods of incarceration upon conviction for specific offenses (Armstrong and Altschuler, 1982a:18).

Proponents of this position have argued strenuously for the adoption of much more punitive procedures for intervening with juvenile offenders. They cite the need to "get tough" with these youngsters, to turn away from a "permissive," rehabilitative approach to the problem, and to rely more upon a control/punishment model closely resembling the harsher set of methods traditionally employed in the adult justice system. A theme common to all of these recommendations is that such actions will

better protect the general public and reduce the rate at which future serious crimes will be committed.

One of the major repercussions of this growing movement has been to force a reassessment of policies and practices at each stage in the processing of offenders through the juvenile justice system (e.g., police contact, court intake, adjudication, probation, commitment, and parole). Probation has been criticized for being purely a paper sanction with no true powers of enforcement. Suggestions for change have centered on making it more punitive and imposing a higher level of accountability.

THE CHANGING PROFILE OF PROBATIONERS

One widely suspected trend yet to be fully confirmed is that many of the juvenile offenders who are today being placed on probation differ in a significant fashion from those youngsters who were being given this disposition 25 years ago. The major change seems to be the greatly increased number of youths currently being assigned probation for having committed "adult-like" crimes. Much of the evidence supporting this contention comes from statistical analyses of patterns of serious crime among adolescent offenders (Armstrong and Altschuler, 1982b; Smith and Alexander, 1980; Snyder and Hutzler, 1981; Zimring, 1976, 1979). Beyond doubt, there has been a large increase in the total number of serious crimes committed by adolescent offenders over the past three decades and violent crimes continue to increase (Athey and Tremper, 1983). Strasburg (1978:13) has noted that, "between 1960 and 1975, juvenile arrests for violent crime have risen 293%." Although part of that increase is attributable to a 52 percent expansion of the adolescent population in the United States during that period, the total number of serious crimes reaching the juvenile courts for adjudication is still a cause for concern in determining how best to dispose of the vast numbers of teenage felony cases.

A substantial number of these youngsters will not be sent to secure facilities, and, in fact, will be retained in the community under various forms of supervision. Even if a decision for secure correctional commitment is made, the impending crisis in custodial overcrowding would require a massive diversion or early release of many of these serious juvenile offenders at some point in the near future. In a significant recent study by Utne and McIntyre (1982) of violent juvenile offenders on probation in Cook County, Illinois (Chicago), it was discovered that approximately one-third of all dispositions leading to probation involved adjudication for crimes against persons. These crimes ranged from simple robbery and battery to armed robbery and aggravated assault. Given the reported patterns of adolescent criminality in large metropolitan areas and the enormous volume of cases being processed through their juvenile courts each day, this finding is not surprising and is probably characteristic of most courts located in large cities throughout the country.

The discernible decline in size of the youth population in the United States over the next few decades has been viewed by law enforcement, court and correctional officials as a hopeful sign for a reduction in serious adolescent crime. This sense of optimism, however, needs to be tempered by attention to subpopulation trends. Although the total youth population is predicted to decrease during the 1980's, "recent birthrate trends in urban nonwhite subcommunities suggest little if any drop in this youth population by 1990" (Rubin, 1979:8). Zimring (1975:41-42) has noted the following critical implication of this fact for the future distribution of serious juvenile crime in this country:

> The most serious forms of youth crime--homicide, rape, armed robbery, and serious assault--will be the least responsive to declines in the general youth population. These are the offenses concentrated in center-city poor minority populations, and the number of youth from these backgrounds will not have been reduced by 1990, unless class mobility supplements trends in birth.

The most important repercussion of having large numbers of serious offenders in the overall delinquent population, concentrated especially in large metropolitan areas, is that acceptable ways will have to be devised for supervising a substantial proportion of these high risk youths in noninstitutional, community-based settings unless the decision is made to allocate enormous resources to maintaining these individuals in secure placements. Probation is likely to be given a major role in responding to this problem.

INCARCERATION TRENDS

Although the rate of incidence of all juvenile crime has leveled off and even declined slightly over the past several years (Athey and Tremper, 1983), the trend toward committing larger numbers of young offenders to correctional facilities has again surfaced in a number of jurisdictions throughout this country (U.S. Department of Justice, 1980a and 1980b; Krisberg and Schwartz, 1983). The current public concern about youth violence and crime in the streets has generated an official reaction characterized by a greater reliance on secure correctional placements. As Morris (1974) has noted, the phenomenon of declining rates of crime and accelerating rates of incarceration is a common occurrence if the right political circumstances are present.

The end result of this emerging trend will be rapid overcrowding of juvenile correctional facilities. For example, a 130 percent increase in juvenile commitments from Cook County Courts to the Illinois Department of Corrections was documented in 1981 (John Howard Association, 1982). This dramatic increase in commitments mostly involved youngsters who had been adjudicated for crimes against property, not violent crimes against persons. Similar patterns of an accelerated level of incarceration of juvenile offenders have been detected in many other jurisdictions throughout this country.

Only two solutions appear to be available for resolving this problem of overcrowding which currently is besieging juvenile correctional officials: namely, the construction of additional facilities, or the wider use of community-based alternatives. If the decision is made to build new secure facilities or to renovate existing ones in order to increase correctional capacity, an enormous expense must be faced. Estimates range from $50,000 to $200,000 per secure bed. In addition, the cost of maintaining a youth in this kind of setting on a yearly basis ranges from $20,000 to $50,000, depending upon what services are provided. If the decision is made to rely more extensively on community corrections, the major option is a greatly increased use of probation as a disposition for adjudicated delinquents. Here, however, the indication is that if probation is to be considered a viable alternative, strong assurances must be made that this response will represent a meaningful sanction and will guarantee a high level of accountability.

DIMINUTION OF RESOURCES

A major problem which has increasingly confronted probation and has greatly complicated efforts to fulfill its traditional mission is a dramatic reduction in available resources. The expanded use of this sanction has occurred during a national economic decline. This dilemma has been especially painful in those jurisdictions where taxpayer revolts have led to the imposition of limitations on taxation and expenditure targeted for human services (Brown, 1982).

The negative impact of resource reduction is compounded by several other factors: (1) probation has no natural constituency to come to its rescue in lean economic times; (2) public support for the criminal justice system and especially with community correctional approaches has declined; and (3) correctional expenditures for functions other than probation are usually either mandated or fixed (Harlow and Nelson, 1982). In addition, at a time of fiscal cutback, the question of what constitutes the legitimate objectives and goals of probation are raised. What can be discarded? What must be retained as essential? This process of critical self-examination further intensifies the identity crisis currently plaguing probation.

DISENCHANTMENT WITH THE REHABILITATION IDEAL

As a prominent component of the juvenile justice system, probation has suffered as practitioners, policymakers, and the general public have become increasingly disenchanted with the rehabilitative ideal underlying the entire system. Throughout the 1970's, the perception grew that giving juvenile offenders a "second chance" by placing them on probation amounted to little more than providing them with an opportunity to commit more offenses. Failure of research to convincingly prove that rehabilitation was effective encouraged its opponents to malign rehabilitation in general and probation in particular.

Faith in rehabilitation may have reached its nadir following the proclamation of Robert Martinson and his colleagues in the mid-70's that "nothing works." (Lipton, Martinson, and Wilks, 1975; Martinson, 1974.) Subsequently, point by point defenses of the programs Martinson criticized have not overcome the effects of his condemnation (Palmer, 1978). Certainly, treatment has not lived up to promises of its optimistic proponents. As observed in a landmark article entitled "'What Works' Revisited," however, demonstrating conclusively that "something works" is considerably more difficult than concluding that "nothing works."

Responding to criticisms of their rehabilitative endeavors, some probation departments have sought to minimize their role in assuming responsibility for permanently improving offenders' behavior. By either transferring the rehabilitative function to another agency or abnegating the responsibility altogether, they minimize their accountability for performing a task that many deem impossible. The unitary function of probation becomes offender surveillance. While this response has the surface plausibility of reducing dissonance between the social work and law enforcement aspects of probation, it also has its disadvantages.

Undoubtedly, the major problem with shifting juvenile probation practice solely towards surveillance activities is the ongoing commitment of juvenile court personnel to the principle of rehabilitation. Juvenile probation officers have traditionally envisioned their role primarily as providing help to troubled youths

(Ryerson, 1978). To date, a law enforcement/punishment self-image has not replaced this more beneficent conceptualization. Such a step would require nothing less than a fundamental reordering of juvenile court philosophy and priorities. The decision to impose a law enforcement model on juvenile probation and, as a consequence, to focus attention on the incompatibility between social control and treatment may only intensify this dilemma of practitioners. Their struggle with the problem of trying to reconcile both duties as essential to the successful completion of the job may only create more confusion for probation departments.

Chapter 2

"JUST DESERTS" AS A FRAMEWORK FOR PROBATION

IN RESPONSE TO perceived pressures for a radical change in the mission of probation have come suggestions for reconceptualizing its structure, role, and objectives. Recommendations for a fundamental overhauling of this part of the justice system emanate from many sources. Proponents of both the rehabilitative and punishment schools of thought have voiced their dissatisfaction with the way in which probation is currently organized and administered. Regardless of what set of specific changes are introduced, the most important battle will be waged over what the primary philosophical orientation of juvenile probation will be. To what extent will this framework of assumptions, priorities, and goals be altered from the traditional commitment of the juvenile court movement to the rehabilitative ideal?

A PROPOSAL FOR REFORM

In a recent issue of Change (1983), Gemignani and others suggest a set of reforms based on the principles of "just deserts". Further elaborated under the rubric of the "Justice Model," emphasizing uniformity, fairness and accountability, these reforms recently were explored in Probation and Justice (1982), a volume edited by McAnany, Thomson, and Fogel.

Justice Model proposals focus on three central themes:

- Probation should be viewed as a punitive sanction for committing a crime.
- Probation should be viewed as one option in the available set of sanctions proportionate to the offense and ranging from the least restrictive intervention to the most severe punishment.
- Probation practice should reflect a concern for the interests of both the victim and society at large.

Fully implementing these changes in probation philosophy and practice will require nothing less than a fundamental shift in the objectives of the juvenile court law in most states as well as major reforms in the role of juvenile probation in most jurisdictions. In this chapter we review some of the changes that may be necessary and their implications for the juvenile justice system.

Rationales for Correctional Response

Probation could be oriented toward achieving any one or more of the four principal correctional objectives: deterrence, incapacitation, rehabilitation, and retribution. In general, the debate over the proper role of probation centers on the latter two objectives because it is not particularly well suited for either of the former two objectives. Probation has little deterrent value because, even if applied stringently, it is a relatively light sanction. Even harsh sanctions may

have little deterrent effect (Blumstein, Cohen, and Magin, 1978). Probation also works poorly for incapacitation because it does not render offenders incapable of committing crimes. Adequate justification for probation, therefore, must be grounded in either rehabilitation or retribution. These justifications are discussed here before considering their implications for probation.

Rehabilitation

Rehabilitation has traditionally been the primary goal of juvenile court law and the fundamental objective of probation. Juvenile codes have long been couched in the child saving philosophy of parens patriae, a doctrine moving the court to act as a substitute parent providing for the "care, custody, and discipline" of delinquent and dependent minors. One direct consequence has been for the court to offer services in "the best interest of the minor," especially designed to treat and rehabilitate those under its jurisdiction. In theory, minors are not to be subjected to the sanctions of the criminal law because they are not responsible adults. Delinquency is a status to be remedied, not an act to be punished. Juveniles are placed in facilities for their "training and treatment" for indeterminate periods and remain there until they are found to be rehabilitated. Under constitutional law, the juvenile court treatment philosophy has been cited as a reason for withholding certain due process rights from juvenile defendants.

The basic principles of juvenile court law have come under attack from theorists dissatisfied with its treatment philosophy and from practical-minded writers who consider treatment ineffective. The basic targets have been the indeterminate sentence, the efficacy of individualized treatment, and the use of rehabilitation as a "cover" for other, less salutary and sometimes punitive actions (Allen, 1981).

Accompanying the debate over the effectiveness of treatment has been a rethinking of due process issues as they relate to the juvenile offender. The Task Force on Juvenile Delinquency and Youth Crime of President Johnson's Commission on Law Enforcement and the Administration of Justice (1967) recognized the unfulfilled promise of the juvenile court and leveled criticism against the practice of relying too much on the rhetoric of rehabilitation and too little on procedural protections. In a similar vein, Justice Fortas had, one year earlier, bemoaned the fact that in the juvenile court process, "the child receives the worst of both worlds: that he gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children" (Kent vs. United States, 383 U.S., 541 (1966)). Shortly thereafter, the In re Gault decision by the Supreme Court established guidelines for juvenile courts to adopt in assuring adult-like procedural protections.

More recently, the juvenile court has come under attack from one side for its alleged leniency and from the other side for its continued denial of certain due process protections (e.g., right to bail and jury trial). While a number of piecemeal changes have been initiated to enable the system to respond to the problems posed by specialized populations such as serious/chronic/violent offenders, status offenders, and mentally disordered offenders, the basic legal framework of the juvenile court remains intact and largely unchanged in most states. Rehabilitation of the juvenile offender and protection of the community remain the two primary goals of the juvenile court, and usually stated in that order of priority. Probation functions as an integral part of this rehabilitative system.

Retribution

The principal basis for most current sentencing practices in the criminal, as opposed to the juvenile, justice system is retribution, or "just deserts." In most jurisdictions the nature and severity of the offense are the most influential, though not the exclusive factors in determining a sanction. In the juvenile justice system especially, other factors substantially influence sanctions. Advocates of the Justice Model, however, have criticized all existing sentencing practices as being unequal, inconsistent, and overly dependent on the nature of the offender rather than on the offense. They would implement practices based on the Justice Model to reorient sentencing practices. The following description of the Justice Model and its possible application to probation is based primarily on the work of von Hirsch (1976), Fogel (1975; 1982), Singer (1979), McAnany (1982), Harris (1982), and Thomson and McAnany (1983).

As with any "just deserts" approach, the Justice Model focuses on the nature of the offense, not the offender, as the principal basis for sentencing. Penalties are determined by the harm done and the culpability of the offender. It looks backward to the criminal act and not toward the offender's future reform. It punishes by "deliberate infliction of unpleasantness" (von Hirsch, 1976). The sanction is proportionate to the crime and no greater since the concept of "deserts" places a limit on sentence severity. Sanctions are also presumptive, explicit, and highly predictable. The Justice Model concept of equity demands that similar offenses receive similar sentences and that variations be severely limited. Underlying these procedures is the assumption that offenders are responsible for their acts, capable of making responsible choices, and not being manipulated or controlled by external forces.

"Just deserts" theorists are primarily concerned with establishing limited sanctions, controlled discretion and overall "justice as fairness," as opposed to focusing on the youth's interests or community protection. In general, they view current sentencing practices as too harsh and subject to abuse. Instead, greater accountability with reviewable standards of fairness is urged for judges and court services. Once probation is acknowledged to be a sanction in itself, then "just deserts" limits may be imposed in determining its appropriate use. In this regard, Harris (1982:34) has stated:

> It is only through full recognition of the punitive aspects of nonincarcerative penalties that they can be expected to be employed as real alternatives to the extremely punitive sanctions of incarceration.

The move toward "toughening up" probation could readily lead to an increased public acceptance of community correctional alternatives for a wide range of criminal offenses. As Thomson (1982) suggests:

> If the justice model for sentencing is taken seriously and understood correctly, there will be substantial decreases in institutional populations as incarceration comes to be perceived as a punishment to be reserved only for those who commit acts of major violence against persons and those who frequently are convicted of other serious crimes.

Critics of the Justice Model argue, however, that there are several major problems with the whole approach. First, no rational method has been identified for deciding

which penalty fits what crime. Second, the lack of standardized sentencing guidelines impedes the achievement of consistency in sanctioning. These critics suggest that sentencing decisions will be no less subjective than before and hard to review. Further, they argue that focusing solely on past behavior neglects the important linkage between sentencing and crime control, a relationship considered by some to be of paramount importance (Greenwood, 1982; Heinz and Senderowitz quoted in Singer, 1979:29). Accepting punishment as a primary sentencing objective may also result in harsher sentencing practices because legislators responding to public concern about the latest "heinous crime" tend to increase penalties, thereby distorting the penalty structure. The end result could be "widening the net" to sanction more offenders and to impose excessive punishment (McAnany, 1982).

PROBATION AND THE REHABILITATIVE IDEA

With the rehabilitative/treatment model the probationer is placed under the jurisdiction of the court "for his own best interest." In theory, the probation officer has a diagnosis of the offender's needs and develops an individualized treatment plan designed to meet those needs. This procedure should help to prevent future delinquent acts. The probation officer may provide counseling himself. Other services such as education, job training and placement, or psychological counseling are usually provided by other agencies. Sometimes, the court may order family counseling, require regular attendance at school or make referral to a drug or alcohol treatment program, as well as impose various behavioral restrictions (e.g., curfew and non-association with "undesirables"). The conditions of probation may vary depending upon whether the judge views this sanction as simply a "second chance" or feels that this experience is crucial for "turning the kid around." If the offender fails to pursue the prescribed course of treatment, he may be subject to a set of graduated sanctions possibly culminating in detention or further court action.

The treatment model has been criticized by many as both unfair and ineffective. These complaints derive from the following arguments:

(1) the offender is being manipulated on the basis of unproven assumptions about the relationship between treatment and crime reduction;

(2) similar offenders are receiving different treatments purely on the subjective whims of individual judges and probation officers; and

(3) treatment is simply a coercive experience when backed up by the threat of probation revocation.

Another potential danger is that treatment may be used to justify and mask punitive practices:

> The principal problem with the concept of rehabilitation as it is used in juvenile justice today is that it has become a meaningless euphemism, a smokescreen for more punitive custodial purposes. (Greenwood, Lipson, Abrahamse, and Zimring, 1983:XV.)

According to von Hirsch (1976), vague probation conditions give the probation officer authority "tantamount to a power to imprison at will." As a result, the offender is subject to undue anxiety and continuing uncertainty.

Probation practice is clearly departing from the intentions of the rehabilitative ideal. In an era of fiscal constraint, services available in many areas of the country are limited and declining. Currently, substantial resources are being channeled into other activities such as intensive surveillance of serious offenders. With faith in the rehabilitative ideal waning, punishment and incapacitation have become the driving forces dominating the interests of both academicians and practitioners.

PROBATION AND THE JUSTICE MODEL

Harris (1982) has outlined four basic options for probation operating under the Justice Model. It could be (1) abolished; (2) redefined as the agency mandated to administer community sanctions; (3) shorn of its treatment role but left to perform supervision; or (4) shorn of its sanctioning role and rededicated to providing treatment. Of these options, the second appears to be the most promising since it would not entail major disruption of current probation structure and practice and could readily be meshed with existing court resources and skills. However, some difficulty might be encountered in redefining the role of probation officers and in retraining these individuals. One key question is whether probation officers would be willing to accept the role of policing offenders in the community.

On a conceptual level, probation is basically inconsistent with pure "just deserts" principles when viewed as a "second chance" or an alternative to incarceration. This results from the fact that a "just deserts" approach is predicated solely on the nature of the offense, not the future behavior of the offender. When viewed as an appropriate sanction for lesser offenses, however, probation is compatible with "just deserts" principles. In these instances, the length of the probation term and its specific conditions will depend on the seriousness of the offense. Violations of the conditions of probation should be subject to a formal hearing at which graduated back-up sanctions are available. New offenses should be tried separately.

Under a "just deserts" approach, a lesser offender could either be released with censure or placed on probation for a determinate period. When used in this fashion, the sanctions must be amenable to equitable administration in order to set reasonable bounds on arbitrary actions and to conform to due process requirements.

What types of conditions are appropriate to probation when employed as a "just deserts" sanction? Clearly, the sanction must be coercive and involve some deprivation of liberty commensurate with the nature of the criminal act. But, what about the inclusion of conditions of probation for the purpose of rehabilitation? "Just deserts" theorists generally reject mandatory treatment as a legitimate probation condition on several grounds. They argue that treatment should not be granted to offenders since it can easily be construed as a reward for criminal conduct. Moreover, they claim that it is unfair to make treatment available to one offender and not offer it to another. The contention is also made that tying treatment to court-enforced sanctions will inevitably result in questionable practices such as forcing offenders to conform to prevailing norms. Treatment could be a very value-laden endeavor characterized by extreme social and cultural biases. Conducting treatment as part of probation may also be poor management. According to Harris (1982), "the difficulty of completely severing the sanction from services is so great that it may be wiser to pursue other avenues in trying to see that people can obtain the services they want."

Community service and victim assistance may be compatible with "just deserts" principles since the criminal act is being redressed through the making of amends, but these sanctioning measures also may be subject to abuse. Von Hirsch (1976) observes:

> There are dangers in compelling an offender to do good works as punishment. Once criminal sanctions are given a semblance of beneficence, they have a tendency to escalate: if, in punishing, one is (supposedly) doing good, why not do more?

Another potential problem for reparative sanctioning has been identified by McAnany (1977) who points out the danger that:

> The sentencing process could begin to take on the aspect of a collection agency and lose its ability to convey a moral message.

Other concerns include the possibility that restitution might be unequally administered. For example, indigent offenders might be at a marked disadvantage under this system since more affluent offenders would be able to pay and thereby totally avoid any significant hardship. Despite these problems, "just deserts" theorists are generally supportive of reparative sanctioning.

Once probation has been structured to be a punitive sanction ensuring high levels of offender accountability, it logically follows that this disposition would not be appropriate for non-criminals (status offenders). As Gemignani (1983) has suggested, this group might still fall under the jurisdiction of the juvenile court but should be supervised by some agency other than probation.

While Justice Model proponents adhere to the essential "just deserts" principles that sanctions must be proportionate and retrospective, differing proposals have been set forth for how they might best be applied to probation. McAnany (1982) supports a rather "pure," retributive version while Thomson (1982) argues for a limited, voluntary role for treatment, and Fogel (1982) focuses on the value of victim services. The latter two positions appear to violate the retrospectivity principle in that concern is shown for influencing the future behavior of the offender. In noting these philosophical disjunctions, Thomson (1982) observes:

> This reveals a fundamental paradox of the justice model: if it is to be internally consistent, it will be evaluated as unrealistic and impractical while if it is fashioned in a conventionally acceptable form, it will lose its moral cogency as a corrective for the abuses of the pathology model.

JUVENILE COURT LAW AND THE JUSTICE MODEL

Shifting to the Justice Model approach in probation probably cannot be accomplished without a fundamental change in the spirit, dictates and practices of juvenile court law. If probation is to become part of a prescribed system of sanctions ranging from reprimand to incarceration, "just deserts" principles must be incorporated into juvenile codes.

These codes would have to explicitly recognize punishment as a major objective of the juvenile court. This step would require a basic redefinition of the court's

role in seeking the goals of treatment and deterrence. Application of a pure "just deserts" model would require elimination of mandatory rehabilitative services from all dispositions.* The exact role of reparative sanctions in this scheme would have to be defined. A system of proportionate sanctions would be instituted. Sentencing guidelines could be developed to facilitate the dispositional process. In line with the argument that probation should begin immediately following adjudication, the activities of probation officials would be confined to "investigating, monitoring, and administering the community sentence" (Dinsmore, 1983:6). On "due process" grounds, adjudicatory and dispositional hearings would be held separately. The most important consequence of this bifurcation is that adequate time would be provided between hearings to develop a comprehensive community sentencing plan.

THE ROLE OF PROBATION UNDER "JUST DESERTS"

Although probation is legally a sanction or status resulting from a specific offense, it also describes both what probation officers do and the organizations which they serve. As part of their agenda for change, proponents of "just deserts" would substantially restructure the tasks now performed by probation officers. They would be assigned much more limited roles, directed largely toward supervising those offenders ordered to meet the specific conditions of this community-based, proportionate sanction. Further recommendations for limiting probation duties include eliminating the responsibility of handling court intake and transferring the management of detention facilities to another agency. These tasks are considered inappropriate for probation under the Justice Model since they are peripheral to the central role of community sanctioning.

Ending probation involvement in intake and diversion would greatly reduce opportunities for inconsistent application of the law. Several studies (Arnold, 1971; Cohen, 1975; Thornberry, 1973) suggest that intake decisions often rest on extralegal factors. Limiting probation services to postadjudication activities would also eliminate fairness problems arising when probation officers gather information for use at trial.

In criticizing the scope of the average probation officer's role, Thomson (1982) describes the profession as a "marginal occupation" which straddles the legal and social service systems. Implementation of the Justice Model would result in this role being defined as a "public service," not a "human service" occupation. The probation officer would be much more an agent of the legal system than of the social service system.

Although there are essentially no operational examples to serve as guides for the transformation of probation responsibilities and roles under this approach, some major tendencies can be described. Table 1 offers a hypothetical case of how traditional juvenile probation might translate into a Justice Model system. Intake and screening responsibilities would be eliminated from probation and transferred in

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*Transforming the juvenile justice system to a punitive orientation could raise a constitutional issue regarding the adequacy of its procedures to guarantee due process.

TABLE 1

THE STRUCTURE OF PROBATION

	TRADITIONAL JUVENILE PROBATION	JUSTICE MODEL PROBATION
Intake and Screening	. investigate cases referred . release (with or without referral to community agency) . release (with or without informal supervision and conditions) . detain for violation of court order, protection of minor or other person, or because juvenile might flee . release on home supervision in lieu of detention . request prosecutor to file petition . refer all felony cases to prosecutor for screening	. no probation role; function transferred to prosecutor or "court officer" . no informal probation
Social Investigation	. investigate circumstances of the crime, family, and social background; psychiatric and psychological evaluations . recommend disposition	. social study would become presentence investigation--function could be abolished or revised - the following functions have been suggestioned: investigate culpability, harm to victim (victim impact) . recommend disposition focused on deprivation of liberty and reparative sanction
Placement	. find suitable placement and supervise minor in placement	. probably same (unclear)
Supervision and Services	. monitor conditions of probation, possibly including school attendance, counseling, detention, restitution, community work program, curfew, travel restrictions, fines, drug testing, search and seizure, no drinking or weapons, ban on association with delinquent peers . intensive surveillance of gang and burglary offenders . counseling . referral to community service	. focus on monitoring and assisting offender to comply with probation conditions, victim services, victim-offender mediation . typically no mandatory "services" (counseling, etc.) . probation might perform referral, service brokerage, victim assistance and community service or some or all of these functions could be performed by another agency
Facility Management	. operation of detention center, treatment center and boys' ranch	. no probation role; function transferred to corrections agency
Staff Development	. training in legal and counseling skills, substance abuse	. training re legal, mediation, dispute resolution and perhaps resource brokerage

most cases to the prosecutor who would use legal sufficiency as the primary criterion for acting on referrals. Intake investigation might also be performed by a specially appointed "court officer."

Following the precepts of this model, the probation "social study" would become a presentence investigation focusing on nature of the offense, harm to the victim, culpability of the offender and possible alternative dispositions. This inquiry would also gather information on prior record, family social and economic circumstances, education, and basic capability of the offender to comply with the conditions of probation. The probation officer would consult with the victim to assess loss or harm, prepare a "victim impact statement" and also examine the appropriateness of sanctions entailing loss of liberty, restitution, or community service. A strategy for monitoring case progress to completion would then be devised.

The supervision or case-monitoring role would focus on helping the offender comply with the conditions of probation. The central task would be making sure the probationer understood the requirements of the sentence; this might include carefully explaining responsibilities necessary to complete restitution and community service orders. Daily activities of the probation officer might extend over the following range of duties: monitoring restrictions on liberty, supervising the performance of offender responsibilities, mediating between the victim and the offender, and making periodic progress reports to the court, the victim and the offender's family.

While the focus of supervision under the Justice Model approach is on compliance with the terms of the sanction rather than on reforming the offender, Thomson (1982) advocates a more rehabilitative/reintegrative role for probation services. This position is justified on the grounds of both humanitarian concerns (offenders generally not being able to get service elsewhere) and crime control (treatment being effective to reduce recidivism for some offenders). He further argues that if probation officers are oriented toward counseling, this skill can be extremely helpful in establishing rapport with probationers and thereby helping them to comply with the conditions of their probation. Under this version of the Justice Model approach, probation would be limited, however, to providing voluntary services; treatment would not be mandated by the court nor coerced by the staff. Probation officers would provide direct services only when they or their agency had the capability and were directed by the court to do so. Priority would always be given to referring offenders to services provided by other agencies.

Pursuing the notion of referring offenders to other agencies for services, Barclay (1983) suggests that probation has the opportunity to meet some of the special needs of offenders through "brokerage" and if necessary through advocacy. Under this model of service provision, the probation officer helps to identify resources in the community, refers the offender to the appropriate vendor, and monitors the delivery of this service. Barclay further suggests that due to resource constraints on the court, the brokerage role itself might more appropriately be handled by an outside community agency. In this situation, the probation officer would simply have to link the offender to the community agency which would, in turn, handle all details of the referral for services.

While just deserts-based proposals for reform portend a major restructuring of probation functions and goals, proponents of this approach claim that overall probation workload will not be reduced. The reduction of staff activities caused by the

elimination of probation responsibilities in intake, screening, and detention will be offset by expanding roles in handling the presentence investigation, monitoring the community sentence, brokering volunteer services for the offender, and supervising community service/restitution orders. In apparent reference to the developing trend toward more punitive sanctions, Thomson and McAnany (1983) suggest that applying "just deserts" principles may, in fact, help to smooth the way as these anticipated changes occur in juvenile justice philosophy and practice.

Chapter 3

CLASSIFICATION

BACKGROUND OF THE ISSUE

The current status of classification depends greatly on the use to which it is put. Two articles advocating classification, both written by practitioners and appearing in the literature almost simultaneously, offer very different views. One article contains the assertion that:

> In recent years, interest in classification has increased dramatically in both correctional institutions and in probation and parole agencies. (Solomon and Baird, 1981:4.)

The other article presents the opposite view. The extent of classification's demise is implied by the following observation:

> It is not that we (classification proponents) are above reproach, it is that in 1981 we are so far from the mainstream of correctional trends and the public awareness that criticism is not warranted. (Johnson, 1982:8.)

The difference of opinion reflected in the above statements stems from the types of classification the authors had in mind. "Classification" has come to have many meanings in juvenile probation. In one sense, classification is and always has been popular. Corrections has almost universally distinguished between males and females, and commonly between chronic and first time offenders. For other purposes, such as classifying offenders for differential treatment programs, classification has achieved much less acceptance. Differences among the major classification functions are discussed below.

CLASSIFICATION FUNCTIONS

Any distinction between individuals could provide a basis for classification. Relatively few, however, serve any useful purpose in corrections. This report discusses the three major uses of formal classification in juvenile probation: treatment, resource allocation, and supervision level.

Treatment

Classification in juvenile probation has most often been used for purposes of treatment. The traditional medical model of rehabilitation in juvenile probation posits a relationship between the nature of offenders' "defects" and appropriate interventions to "cure" them (Fox, 1970; Ryerson, 1978). According to this theory, maximal treatment effectiveness requires classifying offenders according to treatment-relevant characteristics and then matching treatment modalities to the differentially classified groups. Most of the systems based on this approach classify offenders according to psychological traits. The I-Level System, used in the

California Youth Authority for many years, classifies by maturity level with subclassifications into groups such as "manipulators" and "cultural conformists" (Jesness, 1973; Wedge, White and Palmer, 1980; Warren, 1971). Members of each group are supposed to exhibit common psychological responses that proper counseling or other behavior modification strategies can influence.

Resource Allocation

Using classification to improve resource allocation has become increasingly popular as the resources available to probation have become more scarce (Brundage, n.d.; Holt, Ducat and Eakles, 1981; Oberhelman, 1983). Probation officers can reduce waste if they have some way to ascertain what an offender needs. If a youth already has good work habits, efforts to teach promptness and responsibility may be unnecessary. Frugality dictates their elimination. Resources saved by reducing services to offenders who do not need them become available for offsetting budget reductions or serving offenders with greater needs. Classification systems used for resource allocation typically incorporate several "needs" scales to measure each characteristic deemed significant (National Institute of Corrections, n.d.). The rating protocol may include items on job skills, schooling, home environment, and physical handicaps. Along with these factors, some systems incorporate abbreviated versions of the psychological variables more commonly found in treatment classification instruments. The rationale for using psychological criteria in this context is to determine who has need for specialized services.

Supervision Level

Concommitant with the increasing popularity of classification for resource allocation is a rise in the use of classification to assign the proper level of supervision for an offender (Fowler, 1981; Schumacher, 1983). These risk-based systems rest upon prediction of which offenders will violate terms of their probation orders (Alumbaugh, Crigler, and Dightman, 1978; Chess, n.d.; Hemple, Webb, and Reynolds, 1976). Offenders judged as high risks are supervised more closely than low risk offenders. Classification schemes for this purpose generally use risk assessment scales based on behavioral factors because these factors have proven most satisfactory in identifying offenders likely to violate their sentences (McGurk, McEwan, and Graham, 1981). Although none of the systems is completely accurate, the better ones do identify groups of offenders with significantly different average violation rates.

The major classification effort of the last decade, the National Institute of Corrections (NIC) Classification Project, has sought to combine all three classification purposes into an integrated system (National Institute of Corrections, n.d.; Solomon and Baird, 1981). Because it has become the dominant model for all offender classification, it warrants elaboration here even though it was developed for adults.* The NIC guidelines state that "a classification system should, at a minimum:

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*Efforts are currently underway to adapt the model to the unique needs of juvenile probation (Orange County Probation Department, 1983).

- provide a rationale for deploying agency resources;
- enable administrators to make efficient use of available staff;
- avoid providing services to offenders who do not require them;
- assist probation and parole agents in identifying the needs and problems of clients; and
- provide a basis for more effective case planning." (National Institute of Corrections, n.d.:3).

The complete system consists of a risk assessment scale, a needs assessment scale, a workload budgeting and deployment system, a management information system, and a standard reclassification process. With all these coordinated elements operating properly, classification will serve multiple juvenile probation functions simultaneously.

In addition to the purposes discussed above, probation departments have experimented with several other uses of classification that will not be discussed in this report (Levinson, 1982). Some departments responsible for intake have used classification to recommend diverting a youth rather than filing a petition. Other departments have been involved in creating sentencing guidelines (Bailey and Peterson, 1981; Cohen and Klugel, 1979). Although a judge alone can impose sentences, probation officers' recommendations in many jurisdictions can heavily influence judges' decisions (Smith, Black, and Campbell, 1979; Teitelbaum, 1967).

MERITS OF CLASSIFICATION IN JUVENILE PROBATION

If all probationers were identical and probation officers treated all clients the same, juvenile probation would not need classification. Because diversity exists, classification will occur; the only question is how it will be done. Which forms of classification thrive and which disappear depends upon their relative merits. Advantages and disadvantages are considered in this section. Where appropriate, distinctions are made among different types of classification.

Advantages

Strong reasons support classification use. Proponents of using formalized systems based on research into offender psychology and behavior cite the prospects of better decision making and superior resource allocation (Megargee, 1977; Schumacher, 1983; Solomon and Baird, 1981). Properly implementing a well-constructed system may produce the following benefits, each of which is discussed in more detail below.

Better Decision-Making

- Uniformity in placement decisions
- Fair decisions with an unimpeachable rationale
- Defense against law suits alleging improper placements

Correctly functioning classification systems should improve decision making regarding placement of probationers. In place of subjective, ad hoc judgments, probation departments will have formally rendered assessments based on application of research findings to the particular circumstances of each case.

Systematic classification produces uniformity in placement decisions. When operating according to plan, formal classification provides a mechanism for ensuring that offenders with identical classification scores receive the same placement (Clements, 1981; Holt, Ducat and Eakles, 1983). Biases of the person performing the classification should not be able to taint the outcome. Ideally, this result would place probation department operations in compliance with the constitutional imperative that government agencies treat similarly situated individuals similarly. Depending on the criteria used in the system, though, the appearance of equality may exceed the reality. Very different offenders may score similarly on scales designed to measure either psychological attributes or probability of probation violation (Hemple, Webb, and Reynolds, 1976). Since all scales include numerous elements, compositions of identical scores can vary substantially. A classification system could assign identical scores to one offender with a long arrest record and a stable home life, and another offender with few arrests but no family. Their equal scores mask the actual differences. At a minimum, identical decisions should always flow from identical inputs, an improvement over traditional probation department functioning.

Beyond improving decision-making consistency, classification can supply the basis for **fair decisions with an unimpeachable rationale.** Decisions will be fair to the extent the criteria undergirding the system reasonably relate placements to offender characteristics (Solomon and Baird, 1981). A rationale developed for the entire system will apply in individual cases as long as probation officers properly administer the system. Decisions need not be justified on a case by case system as they must if the department does not use a formalized system.

A further benefit flowing from uniform application of a fair system is **protection against lawsuits alleging improper placements** (Palmigiano vs. Garrahy, 443 F. Supp. 956 (D.R.I. 1977)). The orderliness of the placement process, coupled with its manifest reasonableness, would tend to discourage lawsuits (Bohnstedt, 1979b; Levinson, 1982). The "paper trail" created as a by-product of classification would serve the ancillary purpose of automatically documenting the basis for placement decisions. If an allegedly aggrieved offender were to file suit, the department would have available a complete file of information to support its case.

Superior Resource Allocation

- Improved supervision
- More appropriate treatment
- Reduced officer frustration
- More coordinated procedures

Perhaps the major advantage of using any classification system in juvenile probation is the prospect of allocating scarce resources more effectively. Identifying which offenders require particular services should enable departments to decrease waste while improving performance.

Any classification system satisfying the following two requirements should produce **improved supervision:** (1) the classification process must group offenders having similar supervision needs; and (2) procedures must operate to provide the type of supervision the system indicates. Low risk offenders might be placed on summary probation while high risk offenders are placed on intensive surveillance. Using a classification system that effectively identifies high and low risk offenders enables a probation department to apply its most costly programs to the probationers most likely to need them (Brundage, n.d.; Levinson, 1982; Schumacher, 1983). If the system operated perfectly, waste from providing services unnecessarily would decrease dramatically. Any improvement over informal methods of selecting high and low risk offenders will produce some savings.

Similarly, in departments offering treatment programs, classification can lead to **more appropriate treatment** (Megargee, 1977; Warren, 1969). Only those offenders likely to benefit from a particular program, e.g., family counseling, would receive that service. Since providing certain types of treatment to the wrong offenders can adversely affect them, correct classification is fundamentally important to departments offering many forms of treatment.

Improved operations, a substantial benefit irrespective of any other result, carries with it a number of related advantages. Perhaps most importantly from the perspective of administrators who manage beleaguered probation departments is **reduced officer frustration.** Once offenders are classified, they can be matched with probation officers having appropriate supervision styles and personality traits (Brill, 1978; Palmer, 1973; Reitsma-Street. 1982). A shy, fatherless burglar might be matched with a sensitive probation officer who can act as a role model. An aggressive mugger, on the other hand, might benefit more from matching with a strong disciplinarian. At the same time, giving officers opportunities to work with their preferred types of offenders improves their job satisfaction.

In addition to its limited function in offender placement, a classification system can serve as an organizational tool for achieving **more coordinated procedures.** Client management and information management integrated with the classification system improves all aspects of departmental functioning as well as interagency activities (National Institute of Corrections, n.d.; Baird, 1981). The classification system provides a structure for processing essential information about offenders. Having that information readily available and using it in all aspects of probation creates a consistent, integrated approach to handling cases.

Disadvantages

Though it has many potential benefits, classification also has serious disadvantages. Some critics go so far as to reject the premise that classification is theoretically justifiable. They contend that the complexity of human beings and

their environments precludes ever using systematic classification effectively. More moderate detractors accept the theoretical plausibility of classification, but assert that operational systems do more harm than good. The following disadvantages of classification in juvenile probation are discussed below.

Operations Difficulties

- Too expensive
- Lack of necessary expertise
- Dominated by resource considerations
- Staff subversion of any "logical" system
- Ongoing need for reclassification
- Ongoing need for revalidation

Years of experimenting with classification have produced a considerable litany of problems for practitioners. Regardless of how well designed systems have been, implementation has been problematic.

Expense of the classification process deters departments from implementing it. Major expenses are of two types: costs of developing a system and costs of operating one. To reduce agency costs of the former, the National Institute of Corrections has undertaken an effort to distribute a standardized system (National Institute of Corrections, n.d.). Even agencies accepting the NIC model, however, must adapt elements of it to their particular circumstances. Adaptation typically involves a certain amount of research to determine whether the classification criteria are appropriate and requires modification to reflect locally available services. After an agency meets these startup expenses, it will continuously incur operation expenses. Classification usually requires extra time and paperwork (Smith, Black, and Campbell, 1979). Many sytems also increase the demand for high priced experts. Potentially, cost savings from improved resource allocations may more than offset these additional expenses. For probation departments considering classification, the certainty of cost may outweigh the prospect of benefit.

Providing money for payment to professional personnel assumes the availability of qualified experts. In metropolitan probation departments, trained employees or consultants are generally available for the assignments if the department can afford them. Smaller departments may face an even more severe **lack of necessary expertise.** Without the proper personnel, some classification systems cannot operate properly (Gibbons, 1970). Psychologically-based systems are especially vulnerable to this problem because they rest upon the judgment of specialists in making assessments (Palmer, 1978). Behavioral systems, on the other hand, generally require less expertise (Clements, 1981; Schumacher, 1983). Although experts will need to oversee operations, probation officers can conduct the classifications without receiving extensive training. Anyone can assign points to items in offenders' records. For systems dependent upon experts, however, acquiring the necessary expertise may create a substantial hurdle, especially in small, rural departments. Using psychologists from the community is unsatisfactory both because smaller agencies are generally located in communities with inadequate professional services and because these private contractors would break the close link desired between classification and supervision personnel. Probation would lose much of the insight gained during the classification process. Centralized classification, operated by correctional systems in some states, does not work well within the relatively informal structure of probation (Oberhelman, 1983).

Classification systems of any type are subject to the criticism that they can become **dominated by resource considerations.** Ideally, the classification should determine the ensuing placement. Quite often, though, the ideal placement is unavailable, or extraneous considerations favor some other outcome (Holt, Ducat, and Eakles, 1981). In those circumstances, the theoretical purity of the classificaiton system may be sacrificed to practical necessity. The literature abounds with stories about professionals who have carefully classified offenders and created detailed treatment plans only to have the classifications ignored and the plans shelved (Bohnstedt, 1979a; Clements, 1980; Megargee and Bohn, 1979). Non-use of classification results has been especially prevalent in institutional settings since the first-level classification--assignment to a facility--may preclude the second-level--provision of appropriate services. Although the greater flexibility of probation may maximize the potential for appropriate use of classification, resource constraints will always impose some degree of limitation.

Modifying classification decisions to account for resource availability is not the only abberation to frustrate attempts at systematic classification. Operation can also suffer from **staff subversion of any "logical" system.** Probation officers who understand the classification process will be able to subvert that process by appropriately tailoring information about an offender. With proper manipulation, almost any system can be used to assign any offender to any placement (Clements, 1981). The tradition of individual autonomy among officers virtually assures subversion of any rigid system curtailing their discretion.

Operation of most classification systems is complicated, perhaps beyond the ability of probation departments to cope, by the **ongoing need for reclassification.** Youths do not remain within the confines of any category for long (Alumbaugh, 1978). As their behaviors, environments, and psyches change, they may lose the characteristics they previously exhibited. A low risk offender who begins skipping school and moves away from home, for example, might meet the criteria for the high risk category. Design of the low risk program, however, could prevent a probation officer from becoming aware of the change in circumstances warranting reclassification. In correctional settings, staff can account for changes by closely monitoring offenders and modifying placements. Probation affords much less opportunity for oversight and response.

Because the community itself constantly changes, and certain other important societal alterations occur, there is an **ongoing need for revalidation** of the entire system (Megargee, 1977; Palmer, 1975). Elements of the model become outdated, needing replacement. A system might have been predicated upon an empirically tested correlation between single-parent families and probation violations. If the proportion of single parent families were to substantially increase, the power of that variable as a violation predictor would diminish. Unless the system was adjusted to reflect this change, some offenders from single parent families would be considered high risk unnecessarily. The system must change to reflect the societal trend. Despite the theoretical necessity of updating, difficulty and inconvenience of the process may prevent sufficiently frequent modifications.

Image Problems

- Inordinately complicated
- Confusing
- Tainted by previous failures

In addition to having substantive problems, classification suffers from a bad image. Attempts to implement classification today typically encounter resistance from probation officers who developed their views of probation based on the failures and frustrations of the past.

Early classification systems had the reputation of being **inordinately complicated.** The systems typically relied upon complex psychological evaluations of offenders. Computer programs analyzed dozens of factors to generate classification decisions unintelligible to the human mind. "As a result, the field is shrouded in jargon, suffers from unrealistic expectations, and (became) inundated with overly complex systems" (Solomon and Baird, 1981:4). The enormous information needs of these systems drained resources from other probation functions. When funding became scarce, resentment rose and the rebellion against complexity purged those systems (Clements, 1981; Oberhelman, 1983). Classification is now being conducted with far simpler models than had been implemented previously.

Owing in part to their complexity, classification systems can be very **confusing.** Since most of the early systems emerged from studies to determine whether identifiable characteristics distinguish criminal "types" (McGurk, McEwan, and Graham, 1981; Hunt and Hardt, 1975), researchers dominated the implementation efforts. With their inveterate use of social science jargon, e.g., "false positives," "base predictancy level," and their minimal concern for management problems, they confused and alienated practical-minded probation officers. Inadequate explanation of the theory underlying the entire procedure compounded the confusion. Moreover, to avoid the feared harm attributable to labeling youths, some systems substituted neutral descriptors for more accurate, though value laden, terms (Hirschi, 1975; Wellford, 1975). Anxious neurotics might be referred to as the "ABLE" group. Though noble in purpose, the chief result of this practice was to cause even more confusion.

Even in probation departments that have never used classification, the concept is still **tainted by past failures.** Books, articles, and speeches lambasting classification and the treatment programs frequently associated with it (Lerman, 1975; Lipton, Martinson, and Wilkes, 1975; Martinson, 1974) have created an extremely negative impression among practitioners and policymakers (Johnson, 1982; Palmer, 1983). The mid-70's proclamation that "nothing works" (Martinson, 1974) has been slow in yielding to convincing evidence that it badly overstates the case (Palmer, 1983; Wilson, 1980). Having once been characterized as ineffective, classification must overcome not only its actual deficiencies, but those that have been attributed to it.

Design Deficiencies

- No adequate system
- Difficulty of predicting behavior
- Special problems of classifying youthful offenders

To be useful in juvenile probation, a classification system, at a minimum, must be conceptually adequate. An ill-conceived system cannot possibly produce desired results. Despite the obvious importance of this requirement, not all classification systems satisfy it. Problematically, some experts contend that a suitable system cannot be devised.

Classification will obviously fail if there is **no adequate system.** Martinson, a major proponent of this view, compares the search for offender "types" to the

theological conjecture about angels on the head of a pin (Martinson, 1976)--it may be fascinating intellectual exercise, but it has no practical implications. Perhaps, offenders simply do not fall into identifiable groups (Monahan, 1981).*

Some researchers who accept the possibility of recognizing "types" nonetheless question the adequacy of existing systems (Lerman, 1975, Megargee, 1977). They point out, for example, that not only do two clinicians sometimes classify offenders differently, the same clinician or procedure may classify an offender differently on different occasions. Moreover, attempts to predict criminal behavior have usually produced abysmal results (Simmons, Jonsons, Gouvier, and Muzyezka, 1981; Albanese, Fiore, Powell, and Storti, 1981; Lerman, 1975). Though these criticisms are generally accurate for treatment classification systems, they are less telling when applied to management classification. With their more limited objectives and more objective criteria, management classification systems may be adequate for their express purposes. That question is now being debated in the literature (Clear, n.d.; Holt, Ducat, and Eakles, 1981; Solomon and Baird, 1981).

Systems designed to assess the risk that an offender will violate probation must overcome the **difficulty of predicting behavior.** Virtually every systematic attempt to predict an individual's future criminal activities has failed (Alumbaugh, Crigler, and Dightman, 1978; Monahan, 1981). As the specificity of the behavior to be predicted increases, e.g., violent acts, and the probability of concurrence decreases, prediction in the individual case becomes even more difficult. The newer management systems allow for this limitation by keying on aggregate probabilities of group behavior rather than on specific estimates of individuals' behavior (Solomon and Baird, 1981). For management purposes, knowing that the likelihood of recidivism is five times higher for Group A than for Group B suffices without predicting which individuals will recidivate.

Classifying humans and predicting their behavior, difficult enough with adult subjects, is an even more formidable task with youths. Systems for juvenile classification must overcome two **special problems of classifying youthful offenders.** Criteria useful for predicting the behavior of adult offenders, e.g., age at time of first offense, and number of prior arrests, have much less utility when applied to juveniles (Lefkowitz, 1977; Monahan, 1980). Rarely have youths accumulated enough criminal experience to permit meaningful differentiation on those factors.

Moreover, youths' lifestyles and habits are less established than are those of adults, and juveniles do not adhere to the kinds of set patterns that facilitate prediction. In combination, the relative brevity of juveniles' lives and their relatively unstable, unsettled nature seriously confound attempts to classify them.

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*Several reviews of the literature conclude that the evidence supports existence of identifiable types (Gendreau and Ross, 1979; McGurk, McEwan, and Graham, 1981).

Ideological Objections

- o Unreasonably invades offenders' privacy
- o Provides a noncriminological basis for curtailing liberty

Regardless of whether classification works, it offends certain notions of justice. Although both of the objections discussed below pertain especially to classification for treatment, applications to other purposes invoke similar logic. Extensions of the arguments will be noted.

Advocates of the minimum necessary intervention in offenders' lives contend that classification **unreasonably invades offender's privacy.** Psychological testing and the collection of sensitive personal information about an offender is thought to go beyond the scope of intrusiveness appropriate for probation (Schur, 1973; Sussman, 1974). Especially for minimal supervision cases, the classification process may constitute a substantial infringement of liberty that undercuts the theory of limited involvement.

A very different line of reasoning contends that classification is inappropriate because it **provides a noncriminological basis for curtailing liberty.** According to the justice model characterization of probation as a distinct sanction, any modification of that sentence for reasons unrelated to an offenders' criminal record is improper (Von Hirsh, 1976). Only those sentence adjustments based on offense criteria should be permitted. Offenders should receive neither more nor less attention from the probation department simply because they have certain psychological characteristics or unconventional lifestyles.

CURRENT CLASSIFICATION PROSPECTS

The present role of classification in juvenile probation has emerged from a history of high expectations and disappointing results. During the last half of the 1970's, formal classification seemed destined to die out completely. Instead, it re-emerged in forms better attuned to management functions. Progress has also been made toward developing standards for assessing the quality of available systems. One set of criteria that has gained a measure of acceptance in the research community (Clements, 1981) stipulates that an adequate classification system should:

(1) be sufficiently **complete** so that most of the offenders or clients in the agency or setting can be classified;

(2) have **clear operational definitions** of the various types so that each person can be classified with a minimum of ambiguity;

(3) be **reliable** so that two different raters will arrive at the same classification of a given individual;

(4) be **valid** in the sense that the individuals falling within a given classification actually have the attributes they are hypothesized to possess;

(5) be **dynamic** so that changes in an individual will be reflected by a change in his or her classification;

(6) carry implications for treatment; and

(7) be economical (Megargee, 1977:108).

These criteria account for the conceptual inadequacies that have plagued the field. Beyond adequate design, though, lie the implementation difficulties that have bedeviled all systems.

Prospects for implementing classification in large part turn on solving these practical problems. To facilitate implementation, the National Institute of Corrections has developed a set of management-oriented criteria for evaluation systems. According to NIC, a classifications system should:

(1) provide a rationale for deploying agency resources;

(2) enable administrators to make efficient use of available staff;

(3) avoid providing services to offenders who do not require them;

(4) assist probation and parole agents in identifying the needs and problems of clients; and

(5) Provide a basis for more effective case planning. (National Institute of Corrections, n.d.:3)

Five additional factors are suggested as critical to successful implementation:

(1) the scoring procedure should be simple. . .

(2) the classification rationale must be readily apparent and accepted by probation and parole staff. . .

(3) consideration of probation and parole officers' subjective judgment ought to be maintained. . .

(4) periodic reassessments should be an integral part of any classification process. . .

(5) classification should be incorporated into the agency's record-keeping system. . .(National Institute of Corrections, n.d.: 3-4)

Results from adult corrections indicate these recommendations could go a long way toward solving many of the problems discussed above. At this date though, juvenile probation departments are just beginning to experiment wth management classification systems like the NIC Model. Several conditions beyond those contained in the NIC implementation suggestions will be necessary for classification to operate satisfactorily in juvenile probation. Funding is perhaps the major item. Juvenile probation serves fewer clients than does adult probation. Yet, developing a juvenile classification system would cost no less than an adult version. Consequently, the cost per client would be higher. A national classification project could help departments to get started by creating a readily-adaptable standard model.

A juvenile model would need to account for the special circumstances of youth that make classification problematic. Substitutes for factors such as work history and

marital status need to be developed. Procedures for frequent reclassification would also be desirable, if not essential, because juveniles are more subject to change than adults. If these problems are overcome, classification may achieve its long sought potential.

Chapter 4

INTENSIVE PROBATION

INTENSIVE PROBATION IS, in the minds of many, what probation always was meant to be: a comprehensive program tailored to the unique needs of the client, providing an acceptable level of public safety, and serving as a true alternative to incarceration. Typically, such programs are designed for serious and/or chronic offenders, who otherwise would have been committed to correctional facilities, but through an objective system of diagnosis and classification have been identified as amenable to community sentencing. The programs are characterized by small caseloads, individualized community sentencing plans, intensive surveillance, and, frequently, specialized roles for probation officers. The major difference between intensive and regular probation lies, however, in the toughness of the sanction; it is widely perceived as a layer between normal probation and full imprisonment (Gettinger, 1983).

Intensive probation programs are not new. In fact, a wide variety of such programs have been implemented in numerous jurisdictions over the past 25 years (Banks, Porter, Rardin, Siler, and Unger, 1977). Recently, there has been a resurgence of interest in these programs as a result of prison overcrowding, the skyrocketing cost of new construction, and, concurrently, a loss of confidence by judges, law enforcement, and the general public in traditional probation. Two dominant factors are driving the current efforts to develop new programs of this type: the search for viable and meaningful sentencing options to relieve the awesome burden being placed on correctional institutions, and the attempt to satisfy public demands for harsher and more accountable forms of punishment.

Although use of intensive probation is relatively widespread, most of what is known about it is descriptive and subjective rather than evaluative and quantitative. In recognition of the limitations of intensive probation research, this review will focus primarily on policy implications. The brief description of intensive probation characteristics below precedes discussions of theoretical, methodological, and cost issues.

CHARACTERISTICS OF INTENSIVE PROBATION

Intensive probation may be used to bolster surveillance, treatment, or both. The key element in either form is heightened intervention techniques. Intensive treatment, essentially increased or enhanced social services, is a longstanding function of juvenile probation. Intensive surveillance, which refers to frequency of visitations and/or investigations as well as limitations on the offender's liberty, can be a function of probation, but might also be a role for law enforcement. Departments may accomplish both goals by assigning some officers to manage surveillance activities and assigning others to provide substantial treatment services.

Process elements of intensive probation are listed in Figure 4.1. This figure lists the resources that might be available to an intensive probation program; the activities these resources support; the short-term effects, or outputs of those

Figure 1

A PROCESS ANALYSIS OF INTENSIVE PROBATION

RESOURCES	ACTIVITIES	OUTPUTS	OUTCOMES
1. Higher Staff/Client Ratio	1. More Client Contact	1. Greater Client Accountability	1. More Effective Normalization of Clients
2. Client Classification	2. Differential Interaction With Clients	2. Improved Client Attitudes	2. Lower Rates of Recidivism
3. Legally-Binding Treatment Plans	3. Increased Surveillance	3. More Effective Treatment	3. Improved Resource Allocation
4. Specialized Services	4. Restrictions on Liberty	4. Reaffirmation of Public Trust in Probation	
	5. Specialized Probation Officer Roles		

Figure constructed by the CENTER FOR THE ASSESSMENT OF THE JUVENILE JUSTICE SYSTEM (Sacramento, Calif., American Justice Institute, 1984).

activities; and, finally, the long-term, socially-desirable outcomes which may result. This model is adapted from an analytic framework originally proposed by Banks, Porter, Rardin, Siler, and Unger (1977).

Any number of theoretical linkages can be traced through this diagram. For example, an increased staff/client ratio (as a result of more professional staff, more volunteer staff, smaller caseloads, etc.) would permit specialization of roles and more case contact on the part of probation officers. This, in turn, could improve the attitudes of probationers resulting in lower recidivism rates. By the same token, proper classification could lead to differential interaction with clients, effective treatment, and ultimately, more effective normalization.

INTENSIVE PROBATION ISSUES

Theoretical Issues

The surveillance model of intensive probation adheres closely to the requirements of the "just deserts" philosophy for sanctioning offenders. With increased surveillance and the requirement that probation officers revoke probation for technical violations, intensive probation ensures that clients will be held tightly accountable for their behavior. Since the client population is highly specialized and treatment plans are specific rather than general, the sentences tend to be uniform across offenders. Intensive probation creates a "tough" dispositional rung on the ladder between regular probation and incarceration. If used for minor offenders, this approach might draw fire from civil libertarions objecting to the spector of "Big Brother" implied by frequent, intrusive visitation and investigation.

Operational Issues

A number of important issues arise with respect to the operation of intensive probation programs. One concerns variation in caseload size and the effect this has, if any, on program performance. Although a number of studies have been conducted on the impact of varying caseload size, none have yielded clear findings (Neithercutt and Gottfredson, 1975)

In general, these studies have examined reductions in caseload size carried out across the board rather than small caseloads designated only for certain offenders. Effects on the target group (e.g., high-risk offenders) may be masked by the lack of any effect on the other probationers. The one bright note is that research focusing on juveniles tends to be more positive, especially with caseloads in the 10-20 client range (Banks, Porter, Rardin, Siler, and Unger, 1977; Lipton, Martinson, and Wilks, 1975).

Perhaps the best review of caseload size studies was prepared by Neithercutt and Gottfredson (1975). The authors examined nine studies involving adult probationers and parolees, and five studies involving juveniles. In general, there were no statistically significant differences in recidivism or other types of probationer/parolee failures which could be attributed to differential caseload size alone. However, the methodological problems with all of the studies (e.g., poor research design, lack of appropriate control or comparison groups, inadequate sampling, poor data collection, poor statistical analysis, failure to define treatment, and a tendency to rely upon subjective reporting) were sufficiently severe to render any conclusions questionable.

Other reviews of caseload research yield similar conclusions: either no significant differences in recidivism rates among offenders in caseloads of different sizes, or methodological problems which negate the validity of any generalizations. Measuring, or even specifying something as nebulous as "intensity" is especially difficult for intensive treatment. For example, the intensive treatment for one probationer may consist of counseling and job training, while another is provided treatment for substance abuse. Not only must probation departments be able to supply these services they must also be able to ascertain the unique needs of the client. If the departments classify probationers incorrectly, the program will appear unsuccessful.

Another crucial treatment issue is the extent to which the client is motivated to accept the delivery of these services. One solution is to make the treatment plan a legally-binding condition of probation. The call for mandated treatment for particular kinds of offender needs (e.g., drug and alcohol abuse problems) is currently receiving considerable attention by judges and court service personnel. In addition, treatment should be delivered in a way to reduce the client's hostility toward the probation experience. According to Banks et al. (1977:27), this process may be facilitated by reducing the level of authoritarianism, increasing interaction between offender and probation staff, and decentralizing probation offices to move the staff closer to clients' neighborhoods.

Efforts to increase the "intensity" of surveillance are especially controversial in juvenile probation. As mentioned previously, some authorities say juvenile courts cannot constitutionally abandon treatment in favor of increased surveillance. Others see surveillance responsibility as a job for the police rather than probation departments. John Conrad (1981), for example, urges that the function of surveillance be "beefed up" by turning it over to law enforcement. This suggestion has been the subject of considerable criticism.

> It is one thing (for a probationer) to accept an occasional home call from a harassed and over-worked probation officer, or to appear in his office on a Saturday morning. It is quite another to make a regular trip to a police station for a report to a uniformed or juvenile officer and to be subject to periodic visitation and investigation by the police. (Gettinger, 1983.)

There is clearly tension between the functions of treatment and surveillance in juvenile probation. Some of that strain may be reduced by dividing the roles between two persons and relying upon a team approach.

Much of the research linking intensive probation to recidivisim focuses more on surveillance than on treatment, since the independent variable can be measured in easily quantifiable terms such as number of contacts or length of visits. A common finding of these studies is that the number of technical violations is greater in the intensive probation groups, while the rates of recidivism are about the same as those of the control groups (Banks, 1977). However, other studies indicate that increases in technical probation violations may be associated with subsequent reductions in recidivism (Kaput and Santese, 1972; Wiersum and Largo, 1973). The authors suggest that the willingness of the probation officer to take action on technical violations sends a message to the offender to refrain from the kinds of negative behavior that might result in rearrest. In this light, Martinson (1974:47) has argued that when intensive supervision positively affects outcome, "it does so not through the mechanism of treatment or rehabilitation; but instead through. . .deterrence."

Cost Issues

The cost of intensive probation may be assessed according to several standards. Clearly, these programs, with their smaller caseloads, increased surveillance of probationers, and improved social services, are more expensive than regular probation. If they are successful in diverting offenders from secure placement, however, then the savings are obvious. An intensive probation program in Georgia is estimated to be one-tenth as costly as incarceration. A similar project in Texas is credited with eliminating the need to build a new prison which would have between $50 million and $75 million (Gettinger, 1983).

Studies which attempt to assess the cost-effectiveness of intensive probation programs have provided little insight. Most deal only with direct operating costs and focus exclusively on the comparison between the costs of probation and the costs of incarceration (Banks, Porter, Rardin, Siler and Unger, 1977). Such comparisons rarely stand up under close scrutiny, primarily because they ignore the fact that most of the costs of incarceration are fixed and vary slightly, if at all, with changes in the prison population. On the other side of the ledger, they also ignore the social and human costs of confining men and women in institutions.

Critics contend that intensive probation--like many other programs in community-based corrections--cannot be justified on the basis of costs alone. The argument is made that the approach is not cost effective since intensive probation has achieved no better results than less expensive, normal probation programs. Proponents counter that while intensive probation programs may do no better than normal probation in terms of reducing recidivism for all offenders, it might do better for some. They further state that it fulfills several important societal needs: restoring faith in community sentencing by being a tougher, more accountable sanction; and providing certain types of offenders with badly-needed social services.

Chapter 5

REPARATIVE SANCTIONING

BACKGROUND

One theme which has surfaced repeatedly over the past decade in the continuing debate about the most promising steps to take in restructuring and redefining the mission of juvenile probation has been the call for wider use of reparative sanctioning. On the basis of recent experience there is strong evidence that this approach represents an innovative response to many of the demands for reform being placed on probation (e.g., increased accountability on the part of the offender, new and diversified resources in the community, more proportionate sanctioning, and tangible consequences for criminal conduct). Another hopeful aspect of this sentencing alternative has been the consistent finding of a number of independent evaluations which indicate extremely high rates of successful completion for offenders assigned this sanction (Hudson, Galaway, and Novack, 1980:58; Schneider, Schneider, Griffith, and Wilson, 1982).

In spite of its apparent popularity and widespread acceptance, a certain level of confusion continues to persist over several key conceptual issues:

(1) What is a generally acceptable definition of the term?

(2) What are its essential underlying elements?

(3) How can one best conceptualize its role as a mechanism for achieving justice?

(4) What range of practices should be included under its wider rubric?

Before turning to an examination of the details of program design, implementaion, management and evaluation, we want to quickly explore these conceptual and definitional concerns. They have created confusion in the correctional field and should be clarified before proceeding to apply this approach with juvenile offenders.

First, reparative sanctioning is a concept which has been defined in a variety of ways in relation to the fields of criminal and juvenile justice. Attempts to define it have ranged from rather broad, theoretically-oriented interpretations to quite narrow, practical ones. For the purposes of our discussion the concept will be defined as **a process by which offenders are held accountable for their crimes by being required to make amends to those victims who have suffered losses, damages, and/or injuries as a result of these crimes.** Under this system offenders are deemed responsible, or accountable, for their acts and are required to repair, in some way, the harm they have done.

Care should be taken to distinguish this approach from another compensatory system, "victim compensation." Victim compensation involves a monetary payment by the State to victims of criminal conduct. As Galaway and Hudson (1975:256-257) point out,

"While (victim) compensation can be a part of the criminal justice system, it is more likely to be provided by an agency outside of this system, and payments are usually not contingent on the conviction of an offender." This basic dichotomy between the two approaches reflects the differing goals and objectives of each system. If the overall aim is simply to provide financial aid to as many victims of crime as possible, victim compensation is a more suitable approach since these programs provide payment whether or not the offender is apprehended, convicted and sentenced. In contrast, the reparative approach is based on the idea of bringing the offender to justice by involving him/her in the compensatory act and is used on a selective basis as a tool for achieving the goals of punishment, deterrence and rehabilitation within the justice system.

Second, the elements of amends and accountability are essential requirements and must be present if a particular practice is to be designated reparative sanctioning (Armstrong, 1983a). Under this system, amends to victims are required whenever criminal damages, losses or injuries have occurred. Further, the offender is held accountable for his/her crime by being coerced to assume responsiblity for this violative behavior through the act of making amends. The precise manner in which these two elements will be administered will vary considerably, depending upon the nature of the criminal act, but should reflect the amount of harm done and the culpability of the offender. The extent to which the offender is required to make reparations will reflect the goals of those authorities imposing the sanction. Depending upon the goals of the court, repayment may be partial, full, or excessive.

Third, reparation is best viewed as constituting a distinct principle of justice just as punishment, incapacitation, deterrence and rehabilitation do. Supporting this position is Barnett's (1977) contention that reparation should be viewed as an entirely new paradigm of justice. His point is that this approach possesses those sanctioning powers necessary for it to serve as a sufficient mechanism to guarantee that all offenders will be adequately dealt with and victims will be fairly compensated for their ordeals. Underlying this proposition is the idea that:

> . . .reparative justice is ultimately a common sense expression of the idea that all human interaction is grounded in the presumption of balanced exchange between individuals and groups. It is this sense of reciprocation which seems to qualify (reparation) as an ideal mechanism for restoring equity to criminally disrupted settings. (Armstrong 1982:3.)

Fourth, reparative sanctioning has generally assumed three principal forms: monetary restitution, community service, and direct service to victims. Typically, programs employ a mixture of these forms of compensation depending upon the circumstances, abilities, and illegal behavior of the individual offender. These three forms exhibit the following characteristics:

- Monetary restitution: Offenders repay their victims with funds which are in their possession, are being earned at jobs they already hold, or will be earned at jobs obtained for them. Once the amount of loss or damage suffered by the victims has been assessed, offenders are ordered to pay a designated amount by the judge or other court personnel.

- Community service: Offenders work without pay at a public or private nonprofit agency for a designated number of hours. Placement in this kind of assignment is usually made when a judge decides there are good reasons (age

of offender, non-availability of salaried job, nature of the offense, etc.) for selecting voluntary public service instead of monetary restitution. Statutory constraints may occasionally require such a placement. Since no direct victim is involved in this reparative process, this activity is often referred to as "symbolic restitution."

- Direct service to victims: Offenders work without pay for those individuals or corporate entities such as businesses against whom they have committed criminal acts. This form of reparation is usually made when the offense is a crime against property.

The application of any of these principal forms of reparative sanctioning has certain inherent advantages but also entails certain drawbacks and difficulties. For example, in those situations where individual citizens have been victimized and are adamant about receiving at least partial monetary compensation, it is logical to assign monetary restitution to the perpetrators of these crimes. This action would seem to guarantee a high level of victim satisfaction although there are some indications that victims are ultimately more concerned with simply being involved in the justice process and seeing a positive response from the court about their plight (Griffith, 1983). Several possible drawbacks in assigning monetary restitution are: (1) the difficulty for a juvenile offender with few work skills either to find employment on his own or to be placed in a salaried position; (2) the public perception of the offender being rewarded for his/her criminal behavior; and (3) the reduced significance of the sanction through delays both in placing offenders at work sites and in making repayments to the victims.

Community service orders seem to offer several clear advantages. First, the development of work sites is a relatively simple process since private, not-for-profit organizations and public agencies are always seeking to obtain volunteer labor to carry out a variety of tasks. Second, the extremely wide range of possible placements available in these settings allows considerable flexibility in matching offenders with activities which are interesting and may strike a positive chord in developing a positive attitude toward work. The prinicpal drawback is that there is no tangible, financial compensation for the victim, whether an individual citizen or a corporate entity.

When the circumstances of a particular offense suggest that the problem may best be resolved by encouraging some degree of personal contact between the offender and victim, the application of a sanction involving direct service to the victim may be indicated. In some circles it has been argued strongly that victim/offender interaction is basic to the spirit underlying this entire sanctioning approach. A theme common to this position has been the purported humanizing effect of such interaction, contrasting markedly with other highly impersonal, more bureaucratized procedures frequently found in criminal proceedings. Possible drawbacks include additional fear and anguish suffered by the victim through recontact with the offender, the victim's lingering hostility toward the offender exploding and disrupting the agreement, and offender intimidation of elderly or fearful victims.

PATTERNS OF USE

The growth of interest in reparative sanctioning as a community correctional tool reflects the convergence of a number of precipitating factors. These include its inherent appeal as a means of restoring equity to criminally disrupted situations, its widespread support by an ideologically mixed audience, renewed concern for victims of crime, public demands for increased offender accountability, the call for fairer and more proportionate sentencing practices, and the never-ending search for novel approaches to controlling and preventing juvenile crime (Armstrong and Coates, 1982). Experimentation has been conducted with all possible forms singularly and in various combinations, with its application to all kinds of offenders and offenses, and with its implementation at all principal stages in justice processing (e.g., police intake, juvenile court intake, and post-petition diversion).

Not surprisingly, this approach has long been known and employed in juvenile courts throughout the United States. It has until recently, however, been utilized largely on an informal basis by judges who felt the requirements of particular cases were best met by imposing monetary restitution or community service orders. This pattern of informal use has been well documented by the Schneiders (1977) in a survey of 133 randomly selected juvenile courts. They found over 85 percent of these courts employing some form of reparative justice. Undoubtedly, the most significant change over the past decade has been the shift from a pattern of informal use to a concerted effort to place the sanction in formal programming settings. The distinction between the two approaches is that formalized reparative sanctioning entails the systematic application of definite procedures in screening for appropriate cases, determining the amount of monetary repayment and/or the number of service hours, developing work sites to facilitate completion of the orders, and monitoring offender compliance by a professional staff (Hofrichter 1980:118).

In noting the proliferation of these kinds of programs, Hudson and Galaway (1981:58) observe that:

> . . .the last half dozen years have witnessed an exponential growth in the number and variety of financial restitution and community service projects operating around the country. Much of this has undoubtedly occurred because of Law Enforcement Assistance Administration funding, both through state block grants and through three national discretionary funding initiatives--financial restitution projects serving adults, financial or community service projects serving juveniles, and community service projects serving adults.

The juvenile restitution initiative mentioned in the above quote refers to the three-year, $?0 million effort announced by the Office of Juvenile Justice and Delinquency Prevention in 1978, designed to support and experiment with reparative sanctioning as an alternative to traditional dispositions in the juvenile court. The project involved the award of 41 separate grants to 26 states, Puerto Rico, and the District of Columbia including six to state agencies for implementation of programs on a state-wide basis at a total of 50 separate sites and 35 grants to local agencies. This represented the first large-scale, multi-jurisdictional attempt to test the appropriateness of reparative sanctioning for adjudicated juvenile offenders. It was characterized as an attempt to "support sound cost-effective projects which help to assure greater accountability on the part of convicted juveniles toward their victims and communities." (Law Enforcement Assistance Administration, 1978:i.)

The Institute of Policy Analysis (IPA) under the directorship of Peter and Anne Schneider was assigned the task of conducting the national evaluation of this initiative. Much of what is currently known about the reparative sanctioning of juvenile probationers has emerged from this evaluation. A wealth of information has been collected and analyzed concerning background characteristics of referred offenders, range and frequency of offenses, individual program characteristics, rates of successful completion and unsuccessful termination, total amount of monetary restitution ordered and collected, total number of community service hours ordered and completed, average cost of program referrals, etc. A number of separate research documents have been produced as part of this evaluation and have reported a variety of important findings which include: the rate of successful completion averaged over 86 percent across all programs (Griffith, Schneider, and Schneider 1982); only slightly over eight percent of referred youths reoffended during the time they were participating in the programs (Schneider, Schneider, and Bazemore, 1980); offenders assigned monetary restitution or community service orders as a sole sanction had substantially higher completion rates (Schneider, Griffith, and Schneider, 1982); and subsidized offenders had successful completion rates about six percent higher than unsubsidized offenders (Griffith, 1983).

The most concise statement of the evaluation and its findings can be found in Two-Year Report on the National Evaluation of the Juvenile Restitution Initiative: An Overview of Program Performance (Schneider, Schneider, Griffith, and Wilson, 1982). Among additional findings of considerable interest is the fact that the following background characteristics of offenders were moderately related in descending order of importance to the high rate of successful completion throughout the initiative: school attendance, income, race, and number of prior offenses. The severity of the referring offense was only weakly related; age and sex of the offender showed no relationship. Furthermore, youngsters who were reported to be attending school on a full-time basis at the time of referral exhibited an approximately 10 percent higher successful completion rate than youngsters who were not in school. Youngsters active in educational settings such as alternative schools, GED programs, or vocational schools exhibited successful completion rates only about 2.4 percent higher than youngsters who were not in school.

The factors of family income, racial background, and offense history were also explored in the evaluation. Youngsters from the lowest income group (less than $6,000) had the lowest level of successful completion (80.9 percent) while youngsters from the highest income category (over $20,000) had the highest successful completion rate (91.5 percent). With regard to race, white youngsters had successful completion rates slightly more than seven percent higher than nonwhites. However, income was shown to be strongly related to race. When income was controlled for, racial differences in the level of successful completion diminished for low income youths. With regard to the importance of previous offenses, the greater the number of priors, the lower the level of successful completion. Youngsters with no priors completed the requirements of their reparative sanctions in more than 90 percent of the cases. Each additional prior reduced the level of successful completions by an average of 2.2 percent. On a positive note, however, successful completion rates above 80 percent were common for offenders in spite of drawbacks such as having referred for very serious personal and property crimes, possessing an arrest history with up to five priors, and being from minority families with very low incomes.

THE DEBATE OVER TREATMENT VERSUS PUNISHMENT

Reparative sanctioning appears to hold a unique place in the debate which continues to rage over whether treatment or punishment constitutes a more appropriate response to juvenile criminality. Reparation can be readily tied to arguments favoring either of these two philosophies of correctional intervention. This unusual feature of the sanction arises from an exceptional quality which has been termed elsewhere (Armstrong 1981:2-4) as the "multi-faceted" nature of reparative sanctioning. The eyes of beholders can perceive many different things in this approach.

When viewed from the perspective of retribution, reparation can readily be perceived in terms of offenders being forced to fully compensate their victims and being made aware of the repercussions of their unlawful acts. This thrust of the sanction is most evident when offenders are required to make amends in excess of the amount of damages, losses, or injuries for which they are responsible. Such penalities are usually imposed in the form of unpaid service hours as symbolic gestures for harm inflicted upon the community at large.

When viewed from the perspective of rehabilitation, reparation can as easily be perceived in terms of offenders not having to suffer the harmful effects of incarceration and instead being given opportunities to rehabilitate themselves in open community surroundings. Other possible rehabilitative effects include: (1) the relationship between the sanction and the crime being perceived as more just by the offender; (2) the clear sense of accomplishment for the offender in completing the order; (3) the involvement of the offender providing a socially appropriate and concrete way of expressing guilt and atonement; and (4) the sanction addressing the strengths of the offender and assuring that he/she has or can acquire the skills and abilities necessary to redress the wrongs done (Galaway 1977). With the exception of the last item on this list, this set of benefits are posited as being rehabilitative qualities inherent in reparative sanctioning and requiring the provision of no additional special services for the offender.

This apparent versatility causes reparation to have a remarkable attraction for adherents of quite different philosophies of justice, regardless of whether they espouse punishment, deterrence, or rehabilitation. This fact explains its seemingly paradoxical appeal to ideologically diverse audiences. Regardless of orientation, the one feature of reparation championed by adherents of all sanctioning perspectives is its requirement that offenders assume direct responsibility for their criminal conduct. Accountability has become the linchpin of contemporary reparative sanctioning practices in this country.

The multi-facetedness of reparative sanctioning has important implications for program practices, objectives and outcomes. Depending upon the intentions of those imposing this sanction, programs can be designed and implemented with an emphasis on achieving a variety of quite divergent goals, e.g., full victim compensation, victim assistance, victim/offender reconciliation, crime deterrence, and offender rehabilitation. In an exploratory discussion of model building, Anne L. and Peter R. Schneider (1979:9-14) delineated seven basic models representing the various arrangements of key organizational dimensions essential for accomplishing a specified set of aims. The group of reparative sanctioning models which have either been proposed on a theoretical level or been identified in the universe of operating programs reflect the fact that when conceptualized as a separate principle of justice, reparation can be tailored to fit into a number of sanctioning frameworks, depending upon which program goals and objectives have been chosen. These decisions directly

upon which program goals and objectives have been chosen. These decisions directly impact whether retribution or rehabilitation is being given top priority in the operation of these programs, or if some mix of these two goals is being sought simultaneously.

Reflecting the dichotomous goals of punishment and treatment, program design ranges from a very straightforward, no-frills approach in which stress is placed only on offender compliance and victim compensation, to a much more complexly-organized, multi-service approach in which treatment of the offender assumes an importance equal to compliance with the reparative sanction itself. In the former case, only those components which are absolutely necessary for ensuring that proper procedures are followed and offender orders are completed are present. In the latter case, expanding the number of components is accomplished through the addition of various ancillary services largely designed to meet the needs of the offender.

The effectiveness of reparative sanctioning on offenders has been assessed primarily in terms of three principal outcome measures: (1) successful completion rates; (2) in-program reoffense rates (both referred to as short-term outcomes); and (3) post-program recidivism rates (a long-term outcome). Each pertains to a somewhat different group of concerns about offender performance. The level of successful completion relates to how effective the sanction is in achieving its immediate desired effect of obtaining justice. The level of in-program reoffense rates relates to how effective the sanction is in deterring additional criminal conduct while the offender is still under supervision. The level of post-program recidivism relates to how effective the sanction is in reforming the offender in order that no future criminal behavior occurs.

Considerable attention has been focused on determining the significance of these outcomes as they have been measured in various, ongoing programs. In commenting on the two short-term outcome measures, vis-a-vis their rates of occurence in the juvenile restitution initiative, Schneider (1983:13) has insightfully observed:

> . . .the evidence strongly suggests that while particular "models" of restitution project--defined as mixes of organizational components--have some impact on the success of clients in those programs, the effect is, in most instances, slight. Even the most potent components included in this study appear to affect successful completion rates, for example, by less than 10 percent, and the impact on (in-program) reoffense rates is even less. Unless we have overlooked other components which have much greater influence, the obvious conclusion is that restitution is, in and of itself, a disposition that is likely to be heeded regardless of organizational arrangements. This information should be received with satisfaction by juvenile courts and other agencies, for it implies that they can shape their restitution programs to suit local conditions or preferences without fear of disadvantaging their clients.

A somewhat different picture has been painted, however, when the focus shifts to a consideration of long-term, or rehabilitative, outcomes. Although research indicates little if any long-term impact of reparative sanctioning on rates of recidivism (Schneider and Schneider, 1983), proponents of a treatment-oriented approach strongly support the position that certain steps can be taken in designing and operating these programs to enhance their rehabilitative effect.

Citing the research of Carkhuff (1969, 1972), Maloney (1983) has pointed out that a strong correlation has been shown to exist between skill development and the remediation of delinquent behavior. Maloney argues that the "enabling" potential of reparative activities for the offender holds promise of providing a rational route in moving these delinquent youths toward normalized community living. The basic premise underlying this position is that there is an ethical link between achieving justice and the offender's having the necessary skills to work effectively. This circumstance obligates the reparative sanctioning practitioner to take those steps which ensure that the offender has a reasonable chance of completing his part of the agreement through the acquisition of skills and knowledge requisite to performing satisfactorily at the work site.

Extending this discussion of rehabilitation into a consideration of actual program features and processes and their effect on treatment, Romig (n.d.) has asserted that there is nothing inherently rehabilitative in these programs. Instead, he maintains that positive long-term effects result from the quality of internal program components. Building upon earlier research about the relative effectiveness of various juvenile correctional programs (Romig 1978), he identifies six program components which serve as the basis for achieving internal program quality. These components are: referral/intake, quality worksites, rewards/sanctions, monitoring, program exit procedures, and effective management. Unfortunately, few hard data have been presented to support these claims.

ADDITIONAL ISSUES

Several other issues concerning the application of reparative sanctions should be addressed in assessing the possible utility of this approach for reforming probation philosophy and practice.

When monetary restitution or community service is imposed as a condition of probation, the physical location of the program managing the sanction is an important consideration. Within the National Juvenile Restitution Initiative most programs were part of some administrative unit in the juvenile court. Of the programs originally funded to operate as part of the court, 11 were part of court probation and three were part of the court administrative structure but not formally attached to probation (Armstrong 1981:18). In the latter case, for example, one program was housed in court intake. Here, potential participants could be identified very early in their contact with the court. Much of the social investigation concerning details of the crime, circumstances of the offender and his/her family, victim identification, and loss assessment (when required) could be initiated before the case reached the point of adjudication. This increased the chances that reparation would be imposed wherever appropriate.

When management of reparation is located within the probation department itself, several important considerations arise. Will each probation officer be given a number of cases where reparative sanctions have been imposed or will there be specially designated officers whose only responsibility is to handle these kinds of cases? Both arrangements have been tried with success. Other concerns to be addressed include whether (1) probation officers are prepared to assume these responsibilities without extensive, additional training; (2) their workloads will be markedly increased as a result of these assignments; and (3) standard operating procedures must be changed within the department to accomodate this new activity.

Several other organizational arrangements vis-a-vis the courts were also adopted in the National Juvenile Restitution Initiative. Among the independent programs, i.e., those housed outside the court, there was a roughly even division between those in private, not-for-profit agencies and programs embedded in governmental agencies other than the juvenile court. The decision to place a program outside the administrative apparatus of the court has both advantages and disadvantages. On one hand, it might complicate communication with key court personnel such as judges, prosecutors, public defenders, probation supervisors and staff. If not handled properly, this situation can lead to problems in the referral of clients and confusion over the details of assigning and developing reparative orders. On the other hand, a program operating outside the court tends to have greater flexibility in decision-making and can establish closer and more constant ties with the local community. In addition, being located physically in the midst of an area where services are actually being provided can be a great advantage both in terms of logistics and the visibility it gives to the justice system in operation.

In discussing the advantages and disadvantages of placing these programs either inside or outside the court (Gable, 1983:50) makes the following observation about their respective levels of successful completions:

> In courts around the country, restitution programs have developed either external to the formal court structure or as a part of an ongoing probation function. The final evidence is not yet in as to which of these options is to be preferred. ... (Schneider's) findings tend to indicate that court-operated restitution programs work slightly less well than independent programs, ... while (this) ... might suggest that courts should find someone else to operate a restitution program in their community, there may be reasons for the differences which courts could overcome.
>
> It is quite conceivable that independently operated restitution programs work well because their sole business is restitution. As such, the selection of staff, the organization of the agency and the motivation of the workers is specific to that program mode, rather than a part of a more general operation. The court, especially the large metropolitan court, could establish restitution as a dedicated, separate program entity and accomplish the same goal.

Two other closely-related issues commanding our attention arise from a concern with the community aspects of sanctioning offenders. First, probation along with other community correctional measures continues to suffer the impact of diminishing financial resources as the justice enterprise proceeds further into an era of fiscal constraints. One strategy emerging in response to this problem has been to pay much more attention to organizations, agencies, and individuals located in the outside community who control previously untapped resources of potential value for correctional purposes.

Mobilizing important community resources may range from using citizens as volunteers and contracting for ancillary services to locating job training and skill development for offenders. In the area of resource development a vast arena of opportunities have become available to practitioners of reparative sanctioning. Directors and line staff from these programs have taken advantage of this situation by being extremely innovative in identifying and marshalling community resources typically not available for correctional purposes. The focus of these activities has been related to offenders' work assignments; they include: (1) the development of work

sites both within the public and private sectors; (2) vocational and skill development opportunities available at no cost; and (3) volunteer labor to direct and monitor work performance. Notable examples include the "Earn-It Program" in Quincy, Massachusetts, which has obtained exemplary results in developing private sector jobs for probationers, and the Shelby County Community Service Program in Memphis, Tennessee, which has developed a cadre of volunteer workers to handle all aspects of program management and operations free of charge.

Second, the evolution of probation over most of the present century (especially following the end of the World War I) has been marked by an increasing bureaucratization in spirit as well as in practice (Nelson and Harlow, 1980). When one examines the history of this endeavor, a clear pattern of change emerges from what was originally a humanitarian undertaking, where the primary goal was to provide a helping hand, to a highly professionalized service where emphasis was placed on seeing the offender as a disturbed person (on those rare occasions when he actually was seen). Monetary restitution and community service appear to offer hope of returning probation to a more grass-roots, community-based orientation where the underlying value of the sanction lies in normalizing the offender in his own community through a system of coerced accountability and assumption of responsibility for criminal conduct.

Finally, given the high level of success being achieved and the generally positive response of all involved parties, a number of court jurisdictions are beginning to experiment with the use of reparative sanctions as a standard part of each court disposition resulting in probation. The broader use of these sanctioning measures portend a point in time at which any criminal case involving damage, loss, or injury will entail the assignment of some form of reparation. All other options will be viewed as exceptions to the general rule and the key issue will be determining what kinds of offenders/offenses are not amenable to a reparative intervention. This development will almost certainly occur if a just deserts model is implemented in probation.

REPARATIVE SANCTIONING AND A JUSTICE MODEL OF PROBATION

The basic principles of reparative sanctioning are quite compatible with many of the essential ingredients of a Justice Model approach. Among the major consequences identified in this report of applying the Justice Model to probation are:

(1) Probation being clearly identified as a punitive sanction;

(2) sentences being proportionate to the criminal act and uniform across similar cases;

(3) sentences being perceived by all parties as fair; and

(4) incarceration being reserved as a last resort for very serious crimes.

The application of reparative sanctions to probationers can readily be tailored to ensure that they actively contribute to this set of objectives being achieved. The ease with which this adaptation can be made almost suggests that the approach was specially designed to operate within a just deserts framework.

First, the punitive powers of reparative sanctioning have already been fully described earlier in this section of the report. The link between criminal conduct and the acceptance of responsibility for this behavior is eminently clear under this system. The fact that the sanction is tangible and easily perceived by all parties as requiring the expenditure of effort on the part of the offender qualifies reparation as automatically possessing punitive qualities.

Second, in any discussion of how reparation helps to facilitate the assignment of more proportionate sentences there is widespread agreement that any crime involving damages and losses can be readily adapted to a reparative system in a very precise fashion. Uniform sentences can be imposed across comparable crimes by incorporating he factors of culpability of offender, amount of harm done, and co-offender responsibility in the development of the reparative order. The major obstacle in extending these procedures across all categories of crime has arisen in cases involving pain and suffering. In this regard Galaway (1977:4) has argued:

> The future development of restitution programming should build on past experience and not attempt to include pain, suffering, and other nontangible losses in restitution agreements. If victims feel strongly that they should be reimbursed for these damages they should, of course, be free to pursue the matter in civil proceedings.

This argument can be readily countered by pointing out that the process for affixing monetary value in these cases should be theoretically no more complex than standard sentencing procedures which supposedly reflect the severity of the criminal act (Armstrong 1981). Obviously, some degree of arbitrariness and subjectivity will always accompany the judicial process of converting pain and suffering into time or money. Harland, Warren and Brown, (1979:20) have suggested establishing an appropriate reparative category, unliquidated damages, representing losses from "pain and suffering or other claims for which no common standard of value is used."

Third, research into the fairness issue has provided strong evidence that offenders, victims, and justice system actors all tend to respond quite favorably to the imposition of reparative sanctions. In commenting on these findings, Hudson and Galaway (1981:59) note:

> Research done in Britain and this country on offender attitudes to restitution and community service sanctions generally indicates that they are seen as fair and equitable. For example, research aimed at assessing attitudes held by offenders ordered to perform community service in Britain by Flegg (n.d.), Pease (1975), and Thorvaldson (1978), found that offenders overwhelmingly defined the sanction as fair. Similar findings were obtained from research completed in this country on financial restitution by Chesney (1977), and Galaway and Marsella (1976). Perhaps even more important for public policy is the research conducted on attitudes about the use of restitution and community service held by important interest groups. Judges, probation and parole officers, victims, attorneys, legislators, and corrections administrators are among the groups that have been surveyed (Bluestein et al 1977; Gandy 1975; Hudson, Chesney, and McLagen 1977; Schneider, Schneider, Reiter, and Cleary, 1977). In each case, restitution and community service were supported as fair and sensible sanctions.

Fourth, reparative sanctioning has been shown to be effective with wide range of offense categories. Successful completion rates above 80 percent were commonly achieved even with offenders who exhibited chronic histories of criminal involvement (Griffith, 1983). Although there are clearly limits on the extent to which the public at large will tolerate the sanctioning of high risk offenders in the community, the approach permits considerable flexibility in deciding what kind of offenders would benefit from this community sanction (Armstrong, 1983b). In addition, this wide applicability causes it to be an excellent candidate if circumstances dictate the need for alternatives to incarceration.

In the National Juvenile Restitution Initiative it was estimated that upwards of 30 percent of the youngsters referred to these programs would have, otherwise, been committed to correctional facilities (Schneider, Schneider, Griffith, and Wilson, 1982). This was true for youths who had been adjudicated delinquent for felonious crimes against either property or persons. There is evidence that large numbers of such juvenile offenders, even those responsible for violent crimes, are increasingly being placed on probation (Utne and McIntyre, 1982).

In addressing the possible role for reparative sanctioning in a Justice Model for corrections, Hudson and Galaway (1981:62) conclude:

> Both financial restitution and commuity service sentencing are potentially consistent with the justice model for corrections. They clearly involve more definite penalties imposed upon the offender and hold potential for reducing the severity of penalites, especially the use of incarceration. In addition, they potentially provide victims with an opportunity for meaningful involvement in the justice system.

Chapter 6

SUMMARY AND CONCLUSIONS

A VARIETY OF factors have compelled policymakers, practitioners, and researchers throughout this country to initiate a critical reexamination of the role and structure of juvenile probation. Among factors identified as responsible for spurring efforts to reform probation are: (1) the emergence and proliferation of "get tough" policies toward juvenile offenders; (2) the changing profile of probationers as perpetrators of more serious, "adult-like" crimes; (3) an increasing and inescapable dependence on community correctional alternatives to overcrowded correctional facilities; (4) the marked reduction in resources available for probation activities while the demand for its use steadily increases; and (5) the continuing disenchantment with the results of efforts to rehabilitate offenders. Collectively, these factors have led to development of several agendas for change, all advocating measures to insure that probation becomes a more effective, efficient, and responsible correctional tool.

This report has focused on several of the more promising recommendations. At the center of these proposed changes lies a concern for making probation a more reliable and forceful sanction by reorienting it toward a "just deserts" approach for obtaining justice. This framework easily incorporates a number of other techniques and procedures lending themselves to significant alterations in probation philosophy and practice. These suggested changes include adoption of classification systems for surveillance and treatment purposes, wider use of reparative sanctioning as a standard part of court dispositions, and development of intensive probation programs to provide high levels of supervision and/or services for more severely delinquent, high risk, juvenile offenders.

THE JUSTICE MODEL

The application of Justice Model principles to juvenile probation would require a major redirection in traditional practice and purpose. Emphasis on the themes of uniformity, fairness, and accountability which are inherent in this approach dictates paying closer attention to the nature of the offense, the amount of harm done, and the culpability of the offender. The penalty imposed upon the offender and reflected in the probation order would be directly related to the crime. In this way the message that a specific sanction was being imposed for a specific offense would be clear. Increased public confidence in the use of probation should result as "toughening up" the sanction negates the common view that it possesses no punitive powers and is intended only to give offenders a second chance.

Juveniles being placed on probation under a Justice Model arrangement would no longer find themselves subject to an indeterminate period of "treatment." In contrast to the open-ended dispositions juvenile courts currently impose, the assignment of probation under this approach would entail ordering a specific community sentence spanning a definite period of time. Such procedures would assure higher standards of fairness for judges, referees, and court staff.

Another important implication of imposing a Justice Model approach is the strong possibility that a major redefinition of probation staff roles and departmental structure would become necessary. All status and other non-criminal offenses probably should be removed from the jurisdiction of the probation department. The direct provision of treatment and other ancillary services for the offender would cease to be part of the probation officer's duties. Backing off from traditional rehabilitative practices would signal the preeminence of punishment in the juvenile court's overall mission. This reorientation would, of course, alarm and dismay many actors in the system.

Redefining roles and restructuring probation's basic framework under the Justice Model approach would result in the the core responsibility of probation staff being confined to investigating, monitoring, and administering the community sentence. One thoughtful suggestion for role redefinition has been to direct probation officers to respond to the special needs and problems of offenders through service brokerage and, if necessary, through advocacy. Another recommendation has been for a number of probation roles such as court intake, screening, and management of detention facilities to be transferred to other agencies since these activities are perceived as peripheral to the central responsibility of community sanctioning.

The salience of uniformity, fairness, and accountability in the Justice Model version of probation provides an excellent opportunity for integrating reparative sanctions into this community sentence. The major potential problem with this policy decision might be the resulting increase in the work load of the individual probation officer. However, if staff are removed from other areas of responsibility, additional time should become available for assigning and monitoring monetary restitution and community service orders.

CLASSIFICATION

The impetus for wider use of classification in juvenile probation might come from either efforts to improve treatment or the need for uniformity associated with the Justice Model. If classification systems were sufficiently refined and properly implemented, juvenile probation departments could receive substantial benefits from their deployment. The quality of probation work should increase markedly as a result of resources being allocated more efficiently. The degree of societal protection should also improve since probation officers could concentrate their surveillance efforts on those high risk offenders most likely to commit additional crimes. Moreover, offenders could be more accurately targeted to receive needed services. Multiple administrative benefits should follow from fully integrating a comprehensive classification system into the client management process.

If these goals are to be accomplished, three conditions must appertain. First, there must be some acceptable basis for clustering probationers into two or more groups. Second, the probation department must offer a range of intervention modalities (e.g., varying levels of surveillance, differential. treatment techniques, ancillary services) suited to the specific requirements of these different groups. Third, some formal system must be available for assigning offenders to the appropriate groups. The implications of requiring these three conditions will be discussed briefly below.

The ability to cluster probationers presumes the heterogeneity of juvenile offenders. They differ not only according to legal status (e.g., nature of the offense, number of priors) and psycho-social traits (e.g., I.Q., moral development, degree of socialization), but also according to physical attributes (e.g., handicaps, body maturation) and vocation/academic skills (e.g., grade level, work experience, job training). The critical issue is whether any of these differences justify the development of corresponding programmatic responses. Ultimately, a decision to respond to offender variation lies in the policy realm. The rehabilitative ideal justifies grouping offenders according to treatment needs. A Justice Model approach, on the other hand, would justify variation only on the basis of criminological factors.

Once the decision is made to recognize and act upon certain discernible differences among offenders, the key question becomes how do probation departments marshal their resources so that differential reponses can be initiated. Classifying offenders by risk of future violation serves no purpose unless the department has some convenient way to monitor high risk offenders. Furthermore, special programs must be designed to reflect the classification criteria and should be sufficiently flexible to allow modification if those criteria change. Ideally, the system should be structured in a way permitting periodic reclassification to occur and facilitating the sharing of information among classification, surveillance, and treatment staffs.

With regard to the third condition, the presence of a reliable system for conducting the classification process, there is no certainty that any classification systems function well enough to warrant their use in juvenile probation. Overly simple systems may cause harm through erroneous classifications. Systems sufficiently complex to classify offenders accurately may be too cumbersome for many probation departments to use. Experience with classification to date suggests that offenders can be usefully classified, but safeguards must be incorporated to ensure that the system operates properly.

Progress toward developing a suitable classification system has been stimulated recently by the National Institute of Corrections Classification Project (National Institute of Corrections, n.d.; Schumacher, 1983; Solomon and Baird, 1981). Since this effort is directed toward use in adult corrections, additional refinements will have to be made in adapting the model for juvenile probation. If the classification scales can be modified and validated for juvenile offenders, the NIC system could provide a model for departments across the country. A major obstacle, however, in adapting this or any other model for use in probation departments in jurisdictions with varying needs and circumstances is the negative image classification developed during the 1960's and '70's. Recasting this image in more favorable terms depends ultimately upon demonstrating the many benefits which classification systems can offer in making juvenile probation a more efficient, effective, and reliable operation.

INTENSIVE PROBATION

On the continuum of increasing levels of control and supervision, intensive probation provides an intermediate sanction between regular probation and incarceration. Originating from experiments to reduce the size of probation caseloads, intensive probation has evolved two distinct formats: intensive treatment, and intensive surveillance. In practice, intensive treatment is the most common form, especially for

juveniles. Offenders identified as exhibiting the greatest needs are targeted for the delivery of additional and enhanced services. In this form the "intensity" of probation results from the increased level of contact with the offender during counseling, job training, or other treatment activities. Recently, in response to the demand for getting tougher with juvenile offenders, program models for intensive surveillance have emerged. Offenders identified as being potentially high violation risks are monitored more closely than other probationers. Depending upon the structure and goals of the particular program, this monitoring process may be accomplished through various tracking techniques such as increased office visits, regular home visits, unannounced spot checks, telephone calls, etc.

In operation, intensive probation programs vary considerably. Although all involve smaller than normal caseloads, the probationer to probation officer ratios range from as low as 10 to one to upwards of 50 to one. Some programs have attempted to merge the treatment and surveillance functions by assigning some officers to manage the surveillance activities and having others perform treatment. In many instances, probation departments use classification systems to assign probationers to the designated levels of supervision.

Despite the widespread use of various forms of intensive probation for many years, few definitive research findings have emerged. In part, this dearth of information results from the poor research methodologies employed in earlier studies. The problem is also attributable, in part, to weaknesses in program design. Until recently, few programs applied intensive probation differentially to only those offenders deemed most in need of this service. Only as classification systems become capable of identifying these offenders who will benefit markedly from being placed on intensive probation will the full utility of the practice become known. Findings to date suggest that simply reducing caseload size across the board for all probationers has little effect on recidivism. However, some positive results have been documented for juveniles on intensive probation.

Likewise, findings regarding cost have been equivocal. Reliable investigations of operating costs have not been conducted. Nonetheless, two general conclusions about the relative costs can be made. Compared to the expense of incarcerating offenders, intensive probation is a very economical alternative. As a substitute for regular probation, it is quite expensive.

Regardless of the research, intensive probation has a major role to play in reorienting probation philosophy and practice. Intensive surveillance accords well with Justice Model notions of making probation a "tougher" penalty for certain offenders. The rigorous and frequent contact of intensive surveillance clearly represents a substantial imposition on offenders' liberty. The treatment form of intensive probation, while not fitting the Justice Model conception of community sentencing, does provide an opportunity for juvenile probation to more effectively accomplish that goal which it has long espoused, the rehabilitation of juvenile offenders.

REPARATIVE SANCTIONING

Given the current thrust of most efforts to reform probation, reparative sanctioning is an extremely attractive approach to aid in achieving these changes. Reparation offers the qualities of high accountability, tangible amends, and fairness to vic-

tims as well as offenders that accord with Justice Model theory without totally abandoning notions of treatment. The widespread support for movement toward a more "just deserts" orientation for juvenile probation, focusing upon the criminal offense itself, the amount of harm done, and the culpability of the offenders is quite compatible with the central precepts of reparative sanctioning. In addition, the calls for the return of probation to a more grassroots, community-based orientation fit easily with reparative concerns for normalizing the offender in his own community in an accountable and highly responsible fashion.

The continuing debate over the appropriateness of treatment versus punishment as a response to juvenile crime is likely to rage unabated for the foreseeable future. The resulting muddled state of affairs poses no great difficulty for the inclusion of a reparative approach regardless of the proposed agenda for change, since the versatility of reparative sanctioning permits it to be used effectively for pursuing the goals of either punishment or treatment. Furthermore, this sanction can be utilized with great confidence across a wide range of offenses and offender types. Successful completion rates are surprisingly high even for serious and chronic juvenile offenders. Given the increased number of severely delinquent youngsters currently being placed on probation, reparative sanctioning may be the best available option for holding these offenders accountable and maintaining high levels of control over them in the community without incurring enormous additional expense.

Perhaps the most challenging prospect for reparative sanctioning in these reform ventures is the opportunity for employing it on a much larger scale as a standard part of all probation dispositions. With its requisite elements of accountability and amends, reparative sanctioning should experience increased popularity as efforts are made to have probation function as a "toughened up" sanction. The only significant constraint on wider application would be the need to link the nature and circumstance of the particular crime to the monetary restitution/community service order. Whenever losses, damages, or injuries have occurred and been documented, reparative sanctioning should be ordered for probationers at a level commensurate with harm done and culpability of the offender.

Integrating reparative sanctions into a probation framework raises the management issues of how best to introduce reparation as a regular feature of the daily workload, and how the added responsibilities can be organized to minimize burdens on individual probation officers. If the Justice Model suggestion of removing probation staff from ancillary activities (e.g., intake, screening, and detention) is adopted, considerable time should be freed up and made available for administering reparative sanctions. Another key management concern is the physical location of the program. Experience suggests that very effective programs can be implemented and maintained both within the probation department and outside the formal court structure. Certain advantages accrue from locating programs in either of these two settings; the only essential requirements are that a formal program structure be imposed on these activities and a professional staff be available for overseeing the various tasks.

Finally, the reparative approach may ease the problem of dwindling resources by drawing upon previously untapped sources of community support. For example, much of the actual supervision of and personal contact with juvenile offenders under court order to make reparation can be provided free-of-charge by individuals at work sites who have responsibility for overseeing probationers' performance. This cadre of volunteer workers can be further enlarged to handle other important tasks in the

operation of these programs. Additional valuable resources which have been identified and mobilized for the purpose of reparative sanctioning include no-cost vocational and job training placements and salaried jobs in the private sector enabling offenders to repay their victims.

Appendix A

CENTER FOR THE ASSESSMENT OF THE JUVENILE JUSTICE SYSTEM

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Appendix B

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