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## This Issue in Brief

**Euphoria on the Rocks: Understanding Crack Addiction.**—A certain mystique surrounds crack cocaine and makes supervision of crack addicts a real challenge for even the most seasoned probation officer. Stressing the importance of knowing the facts about this drug, author Edward M. Read focuses on helping the officer understand the drug itself, the dynamics of addiction to it, and how to assess a person's dependence on it.

**The Costs and Effects of Intensive Supervision for Drug Offenders.**—Authors Joan Petersilia, Susan Turner, and Elizabeth Piper Deschenes report the results of a randomized field experiment testing the effects of an intensive supervision probation/parole project for drug-involved offenders. Among the findings were that intensive supervision apparently did not affect drug use, did not reduce recidivism, and cost more than routine supervision.

**A Day in the Life of a Federal Probation Officer—Revisited.**—Six United States probation officers update an article published in *Federal Probation* more than 20 years ago by describing what might come up in a typical workday. The authors—E. Jane Pierson, Thomas L. Densmore, John M. Shevlin, Omar Madruga, Jay F. Meyer, and Terry D. Childers—all of whom serve in specialist positions—offer commentaries about their work that range from philosophical to highly creative.

**Personality Types of Probation Officers.**—Are there personality characteristics common to probation officers? Authors Richard D. Sluder and Robert A. Shearer address the question, reporting findings from a study of 202 probation officers using the Myers-Briggs Type Indicator (MBTI). The authors discuss the patterns of MBTI personality characteristics among the officers studied, reviewing the strengths and potential weaknesses of the personality types.

**When Do Probation and Parole Officers Enjoy the Same Immunity as Judges?**—Authors Mark Jones and Rolando V. del Carmen examine the types of defenses a probation or parole officer enjoys in civil liability suits, focusing on the concepts of absolute, quasi-judicial, and qualified immunity. The authors

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# Habilitation of the Retarded Offender in Cuyahoga County

BY ARTHUR L. BOWKER AND ROBERT E. SCHWEID, PH.D.\*

## *Background*

**I**N THE late 1970's, the Common Pleas Court of Cuyahoga County, Ohio,<sup>1</sup> became concerned over the increasing numbers of retarded offenders. Through the concerted efforts of numerous individuals and agencies an attempt was made to identify these offenders and develop appropriate alternatives to imprisonment.

One of the first steps was to develop a profile of the mentally retarded offender (MRO) under adult probation supervision in Cuyahoga County. The adult probation department identified 144 cases as retarded from active caseloads during the period November 1977 to November 1978. Only 37 of these cases met the criteria of having a documented intelligence quotient (IQ) of 70 or below or a history of institutionalization in mental retardation facilities. These 37 cases revealed the typical retarded offender was a young black male with a 9th grade education who had committed a nonviolent offense.

Several limitations of this first study were evident. First, probation officers untrained in retardation identified the retarded offenders selected for the study. Second, history of institutionalization was not proof of retardation since some individuals were warehoused in retardation facilities without adequate testing.

Nevertheless, with these limitations in mind, the department concluded the study appeared accurate based on other studies. The study made the following recommendations: 1) train the entire staff on retardation; 2) develop a means of identifying retarded offenders; and 3) develop a special probation caseload to supervise retarded offenders (Federation for Community Planning, 1979).

The following developments resulted from this study: the creation of a Mentally Retarded Offender Unit (MRO Unit) within the probation department; the creation of a clinical director of the MRO Unit within the court psychiatric clinic (clinic); and the separation of MROs from the general jail population into 10 inmate pods in the Cuyahoga County Correction Center. All three of these components work together to habilitate the retarded offender.

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## *MRO Unit*

The MRO Unit, which began supervising retarded offenders in October 1980, had supervised over 300 offenders by 1992. The monthly caseload size is between 55 to 65 compared to a regular caseload of over 200. The reduced caseload is designed to provide high intensity supervision.

The unit's admission criteria have changed several times since the unit's inception. At the beginning the admission criteria were merely evidence of a low IQ based upon "observations," school records, and/or actual psychological testing. It soon became apparent a more objective standard was needed because some offenders placed on the unit based upon "observations" were not retarded.

A measured IQ of 80 or lower was then imposed as an admission criterion. However, this did not eliminate the inappropriate placement of offenders; the unit soon became too large to be adequately handled by one probation officer. To create a manageable size and to ensure appropriate placement, the unit criterion was again changed to 75 or lower IQ<sup>2</sup> on the Weschler Adult Intelligence Scale (Revised) (WAIS-R). The WAIS-R also had to be administered by a licensed psychologist from the clinic, usually the clinical director of the MRO Unit.

Prior to 1988, offenders placed on the unit were supervised in one of four different supervision levels. The decision about level of supervision was based on a standard "risk/needs" instrument used by the probation department. The instrument objectively measures the risk a probationer has of recidivating. Examples of specific areas factored into the instrument are: prior criminal record, substance abuse, mental health, mental ability, and employment record.

The four supervision levels are: 1) High, requires office contacts twice a month; 2) Medium, requires office contacts once a month; 3) Low, requires office contacts once every 3 months, with mail contacts on the months with no office contacts; and 4) Extended, requires only monthly mail contacts. As a probationer completes his probation he is reevaluated to determine the appropriate level.

In 1988 an additional supervision level, Super High, was added for use on the MRO Unit. The Super High level was created to increase MRO Unit contacts for those cases demanding the most time. Specifically, new probationers and probationers who were in some crisis are placed on the Super High level. Probationers

on Super High level are required to report to the probation officer once a week for at least 4 weeks. Probationers may remain on Super High level longer depending on their situation as determined by the probation officer and the officer's supervisor. After the probationer leaves the Super High level he is reassigned to the High level and to subsequent levels based upon the risk/needs instrument.

Interaction takes place between the three MRO components in several important ways. First, the probation officer in charge of the MRO Unit is provided with the names of potential MROs from both the clinical director of the MRO Unit and the MRO Pod in the Correctional Center. The probation officer then "tracks" these potential MROs through the criminal justice process. Second, if the offender has an IQ of 75 or lower on the WAIS-R, the sentencing judge is advised by the MRO Unit that the offender is appropriate for supervision in the unit. Third, the MRO Unit acts as a source of information about MROs to both the clinical director of the MRO Unit and the MRO Pod.

The clinical director of the MRO Unit may receive a request from a probation officer of a general caseload for IQ testing on one of the officer's probationers to determine eligibility for the unit. These requests are coordinated by the MRO Unit to ensure that all collateral information such as medical and school records are obtained for a complete evaluation; that the supervising probation officer is informed if a probationer misses his or her appointment for testing; and that probationers determined by the clinical director of the MRO Unit to be appropriate for the unit are transferred expeditiously. Fourth, the MRO Unit contacts the MRO Pod when a retarded offender is arrested on a probation violation or new case to ensure that the offender is separated from the general inmate population. The MRO Unit also contacts the pod to keep the retarded offenders advised of their status with regard to such things as probation violation hearings, sentencing, or placement in a substance abuse program.

The MRO Unit operates on a case management model. Each probationer's needs are evaluated by the probation officer, the clinical director of the MRO Unit, and others. The probationer is then referred to an appropriate agency to receive services.

Probationers on the unit may receive "informal counseling," depending upon the skills, expertise, and time constraints of the probation officer. Unfortunately, "high quality counseling," such as psychotherapy or group counseling, is not available from the unit itself. Such services are obtained by referral to the appropriate agencies in the community. It is highly unlikely that the unit will ever be able to provide all the counseling needs of the retarded offender population because of the diversity of these offenders' needs.

In 1988, an interdisciplinary team was formed to coordinate services with MRO. The team consists of representatives from: the Association of Retarded Citizens of Cuyahoga County (ARC); the Cuyahoga County Correction Center; Case Western Reserve University Mental Development Center; the Cuyahoga County Board of Mental Retardation and Developmental Disabilities; the Ohio Bureau of Vocational Rehabilitation; the Cuyahoga County Public Defender's Office; and the clinical director of the MRO Unit. The team is chaired by the probation officer supervising the MRO Unit. The members meet monthly and discuss new assignments to the unit and problem cases. If a community agency is already involved with a probationer, a representative of that agency is asked by the probation officer to attend the meeting.

During these meetings, habilitation plans are designed to address the following areas: substance abuse; psychological needs; vocational/education needs; and any other serious problems that are identified. The plans then are implemented by the probation officer with the assistance of different team representatives. The plan's success or failure is discussed at each meeting, and the plans are modified as needed. Early intervention is designed to prevent further criminal behavior.

The MRO Unit also has special rules designed to assist the probation officer in ensuring the offender comprehends his or her rules of probation. These rules were designed by the probation department, the clinical director of the MRO Unit, the Ohio Department of Mental Retardation and Developmental Disabilities, and ARC.

The rules are the same as the general rules of probation for a nonretarded offender but are written in a manner that retarded offenders find easier to comprehend. These rules are read and explained in detail by the probation officer to all retarded offenders placed on the MRO Unit. In addition to the rules, the unit has probation violation and probable cause hearing rights which also are written in a manner that a retarded offender would find easier to comprehend. These rights are also read and explained to those probationers on the unit who are facing violation hearings.

Finally, the probation officer of the unit sets up a special appointment with probationers whose terms of probation are about to expire. During this appointment, a "closure interview" is held with the probationer to discuss the probationer's successes while on probation and any areas the probationer still may need to work on. During the closure interview, the probation officer discusses 10 specific behaviors the probationer needs to avoid in the future to stay out of

trouble. Finally, the probationer is given a list of telephone numbers to obtain assistance if needed after probation in the following areas: residence; substance abuse; health care; psychological needs; and vocational training.

### *Clinical Evaluation of MRO's*

Individuals whom the court or probation department suspect are mentally retarded are referred to the clinic. Judicial referrals of retarded offenders include: Competence to Stand Trial, Sanity at the Time of the Act, Mitigation of the Penalty, or Drug Dependency Evaluations. It was determined at the outset that coordination of these evaluations required a clinical director who is trained in mental retardation, developmental disabilities, and forensic psychology. Specific evaluations may include: gathering developmental, school, and social history/information about the individual; intelligence testing; adaptive behavior evaluations; psychological and/or psychiatric evaluations; and neuropsychological evaluations. Some evaluations are performed by the clinical director.

Other evaluations are reviewed by the clinical director to aid evaluators in making specific habitation recommendations for the MRO. The clinical director then communicates with the other team members so that the individual is tracked while going through the court system to see that appropriate assistance is given from the public defender's office, the correction center, and the probation department.

### *MRO Pod*

The MRO Pod in the Cuyahoga County Corrections Center was started to prevent more intelligent inmates from victimizing retarded offenders during their incarceration. The pod held 10 inmates in an area separate from the general population.

While retarded offenders are held in the MRO Pod, a counselor from the Case Western Reserve University Mental Development Center provides group counseling to them once a week to facilitate their adjustment in the new environment of the jail. (For an indepth look at the counseling sessions, see "Group Counseling with Retarded Offenders" by Joseph Steiner in *Social Work*, March-April 1984.)

The MRO Pod counselor maintains contact with the MRO Unit on new retarded inmates and is a member of the interdisciplinary team. As a member of the interdisciplinary team, the counselor provides valuable insight into the retarded offender's adjustment to jail.

Unfortunately, in 1989 the separation of the retarded inmates from the regular population was curtailed because of overcrowding. Retarded inmates are

now housed with inmates in the medical/psychological units of the Cuyahoga County Correction Center. More jail space is now being built, and it is hoped the special pod for retarded inmates will return.

### *Study of the Retarded Offender*

A 1989 study reviewed the case files of 67 probationers under active supervision in the MRO Unit through March 31, 1988. A structured data collection instrument was used to obtain information in the following areas: social background; psychological/physiological traits; criminal history; present offense history; and present probation supervision. Most of the information was obtained from presentence/postsentence investigation reports and probationer monthly report forms. These reports were available on all 67 cases because the reports are legally mandated. Court psychiatric clinic reports were the next major source of information. Ninety-nine percent of the cases had clinic evaluations.

Nineteen percent of the cases had both Sanity at the Time of Act and Competence to Stand Trial evaluations done by the clinic. Eight percent of the cases had only Competence to Stand Trial evaluations. The other cases had one or more of the other types of clinic evaluations.

From the study, a profile of the retarded probationer in Cuyahoga County emerged. Ninety-one percent were male; 57 percent were black. Forty-eight percent fell in the 20- to 24-year-old age group. Seventy-three percent were single, and 66 percent had no children.

Fifty-two percent resided in their parents' homes, and 48 percent of the caseload resided in high crime rate areas of Cleveland, Ohio. In 24 percent of the cases there was a problem at the residence which could have lead to a probation violation hearing (e.g., substance-abusing probationer placed in a residence where ongoing substance abuse is prevalent).

The average highest completed grade was 10th. Only 13 percent had completed high school. Forty-eight percent had no employment for an 18-month period prior to the study. Sixty-six percent had incomes below \$300 a month.

The mean full scale IQ was 68. Fifty-one percent were diagnosed as Borderline Intellectual Functioning. Forty-nine percent were mentally retarded. Seventy-one percent were dual diagnosed with mental retardation and substance abuse, mental illness, and/or character disorder. Thirty-nine percent had special physical difficulties, such as seizures. Twenty-four percent of the cases had been abused as children.

Sixty-seven percent had prior criminal records; 43 percent were for nonviolent offenses. Thirty-six percent had juvenile records. Twenty-one percent of the cases had previously been on adult probation. Only 7 percent had served time in prison.

Twenty-four percent of the defendants were in jail during the pretrial phase; 60 percent were on bail and 12 percent in the Court Supervised Release Program of the probation department. Ninety-seven percent of the offenders had pled guilty, with 83 percent pleading guilty to a "lesser included offense."

Seventy-eight percent were on probation for only one class of crime. The top three crimes were: 1) auto theft offenses; 2) other theft offenses; and 3) burglary/breaking and entering offenses. These three types of crimes accounted for 45 percent of the probation offenses. Sex offenses had the highest percentage (9 percent) in the violent offense category.

Seventy-three percent were given probation sentences of 1 to 3 years. Thirty-four percent had a probation violation hearing for a new conviction and/or violation of probation rules. Ninety-one percent of the hearings resulted in a finding of guilt. In 32 percent of these cases, the probationer received only a verbal warning.

### *Problems*

One problem which has become evident recently relates to diagnosing MRO's and obtaining school records. School districts are allowed to destroy records 5 years after a student has left the system or within 5 years after notification and permission from the parent or guardian. Cleveland public schools, where 75 percent of the cases last attended school, have been destroying these records, making it impossible to substantiate any special programs or needs as well as documentation of disabilities. This has not only been problematic for diagnosis, but agencies such as the Cuyahoga County Board of Mental Retardation and Developmental Disabilities and the Ohio Bureau of Vocational Rehabilitation require these records prior to providing services and financial assistance. This policy will make the difficult task of getting services for the MRO much harder in the future.

A second problem that has quite often plagued the MRO Unit has been a hesitation by some community agencies to service the MRO. Some community agencies specializing in servicing the mentally retarded have been reluctant to serve MRO's because of their probation status. Other agencies that service nonretarded offenders hesitate to serve MRO's because of their retardation. The MRO Unit has found the best way to overcome these hesitations is to educate the respective agencies regarding probation and retardation.

Specifically, those agencies which specialize in servicing the retarded are advised that the MRO's for the most part are nonviolent. It is pointed out that MRO's may be more motivated than their other clients because of their probation status and their concern over

going before a judge for not following through on treatment conditions. Finally, retardation service agencies are advised that the MRO Unit is an active agent for change and will assist them if any problem does arise. The MRO Unit frequently proves this statement by providing quick action when a service agency does encounter some difficulty with a MRO.

Agencies that do not normally service retarded offenders are advised that MRO's may take longer to service, but they are more motivated than many nonretarded offenders. Retarded offenders have a strong desire to be accepted, which in many cases translates into a strong motivation to please those who are trying to help them.

An example of MRO Unit assistance to an outpatient substance abuse program that did not normally service retarded individuals concerned the Twelve Steps of Recovery. The program director expressed concern over providing services to a MRO because the director thought the offender may have difficulty understanding the written Twelve Steps of Recovery. The MRO Unit was able to direct the program director to materials developed at Kent State University that explain the steps in a pictorial manner designed for mentally retarded individuals. The substance abuse program obtained the materials and began expanding its services to retarded substance abusers.

Another problem noted earlier is the loss of the MRO Pod in the Cuyahoga County Corrections Center due to overcrowding. MRO's in correctional institutions are frequently the victims of assaults and psychological and emotional abuses and are made "scapegoats" by the more intelligent inmates. These problems are aggravated by the present overcrowding situation. The short-term solution to this problem has been to house MRO's with inmates who are mentally ill and/or have medical problems, i.e., pregnant or HIV-positive. Obviously, this is not much of a solution. Some solutions might be return of the MRO Pod and increased pretrial release opportunities for nonviolent retarded offenders.

Identification of MRO's has been a problem. Individuals who have not been spotted as "unusual" in court or have not been observed by staff in the jail, the psychiatric clinic, or through the probation department may not be recognized as retarded.

Estimates of the retarded in correctional populations have ranged from 5 percent to 10 percent. (McDaniel, 1987; Santamour, 1986). A study completed in 1984 of the Ohio Correctional System found a retardation prevalence rate of 1.3 percent among the inmate population. (Denkowski, 1985). The MRO Unit supervises between 55 to 65 MRO's. The probation department as a whole supervises over 8,000 offenders. Based upon these estimates the MRO Unit should be supervising from about 80 to 800 offenders.

A possible explanation for the difference between the estimated level and the actual number of retarded offenders on the MRO Unit is the reluctance of some supervising probation officers to transfer a nonproblematic, frequently "eager to please" retarded offender when there is a strong probability that after the transfer the probation officer will get a "hard-core" offender to take the place of the MRO.

The only solution to the identification problem is the continued training of the entire probation department, the correctional center staff, and the court. They need to understand that the MRO Unit is best suited to serve the needs of both the problematic and nonproblematic retarded offender. To allow any mentally retarded offender to remain on a caseload of over 200 probationers is a disservice to that offender.

### *The Future*

The future of the MRO Unit is a bright one. Since the MRO Unit was created in 1980, it has developed contacts in the community for servicing the retarded offender. There is now a concerted effort by numerous community agencies, through the interdisciplinary team, to evaluate and serve the needs of the MRO. With the interdisciplinary team in place, the MRO Unit can find solutions to the problems of servicing the retarded offender and be an effective correctional agent.

### NOTES

<sup>1</sup>Cuyahoga County has the largest population of the 88 counties in Ohio and includes the City of Cleveland.

<sup>2</sup>The upper limit IQ of 75 was chosen to be consistent with guidelines recommended by the *Classification in Mental Retardation*, 1983 revision published by the American Association on Mental Deficiency (p. 23), and by the *Diagnostic and Statistical Manual III-R* published by the American Psychiatric Association (1987).

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