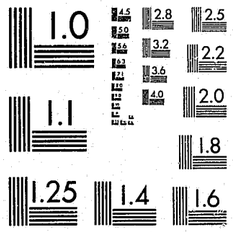

FOURTH SYMPOSIUM ON RESTITUTION
AND COMMUNTIY SERVICE SENTENCING

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THE BRONX COMMUNITY SERVICE SENTENCING PROJECT

-- Experiences of a Pilot Project --

Michael Smith

From the end of February, 1979, through September, 1980, the Vera Institute has operated a pilot project out of the Bronx County Criminal Court, in which 240 offenders were sentenced to conditional discharge with the sole condition being satisfactory performance of 70 hours of unpaid service for the benefit of the community. The pilot project was a deliberately developmental effort, as the Institute did not begin with confidence either that community service sentences could be introduced in a way that would lead to their use in appropriate cases, or that the methods were very clear by which the sentence could be successfully introduced and administered.

The pilot has gone well enough for the City of New York, Vera, and the Edna McConnell Clark Foundation to join now in a three-borough demonstration which grows directly out of the Bronx experience and makes use of some of the approaches used there. The body of this paper focuses in some detail on several key elements of the program and on the strategies through which the effort

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aimed to ensure that, in at least half the cases disposed of by community service sentence, a short jail term would otherwise have been the result.

Before opening that narrative, it may be helpful to provide some summary data. All those sentenced in this pilot project had at least one prior conviction; prior convictions ranged up to more than 25 and averaged 2.5 (more than half had two or more prior convictions). Almost half had at least one prior felony conviction, and more than half received the community service sentence in a prosecution commenced by arrest on felony charges. They ranged in age from 16 to 45, averaging in their mid-20's. Ninety-five percent were black or Hispanic; all but a handful were unemployed and few had any prior history of steady employment; many had no resources of their own and no one outside the project staff on whom they could make any claim for help; some had no place to sleep and no way to get food when they left the court after sentencing. All who completed the 70-hour community service sentence and requested assistance from the project got it; as a result, two-thirds of all who came to the project were referred to at least one appointment with a potential employer, a stipended job training program, an educational program, or treatment service (e.g., for alcoholism or drug abuse). Two-thirds of these were given more than one such referral; but only half of all the appointments were actually kept. Just over 10 percent failed to complete the 70 hours of service; some did as many as eight of the required ten 7-hour days of service before absconding; some never appeared, and some were re-arrested during the sentence or before they could begin it. Of those who have been brought back to court for resentencing (not, however,

enough for much meaning to be attached to the resentencing data), over half have gone to jail.

Although these data suggest to us that the pilot has met with some success in reaching a jail-bound group of offenders, that effort must be a continuing one and the lack of resources to date for more rigorous research prohibits any claims to confidence on this score.

After presenting the briefest sort of summary of the pilot project's objectives and operations (Section II), this paper presents narrative, in varying degrees of detail, under the following headings:

III: Developing Eligibility Criteria and Intake Procedures

IV: Waiting for the Jail-Bound Cases

V: Providing Suitable Tasks for Community Service Participants

VI: Coming to Grips with Participants' Needs -- Support Services

VII: Supervision and Enforcement -- the Basis for Credibility in an Alternative Sentence

VIII: Background

Appendix: Agreement between Participant and Project, and Project Rules

II. SUMMARY OF PILOT PROJECT OBJECTIVES AND OPERATIONS

The primary objective of the Community Service Sentencing Project is to introduce to regular use a new sanction that is more positive and less burdensome than jail time, but more burdensome and more likely to be enforced and to be credible than the present alternatives to jail. Secondary objectives indude: giving offenders an opportunity to do something positive, and, if they respond to that, helping them build on this experence to order other aspects of their lives; restoring some balance to the criminal justice system by a form of restitution that is workable in an improvished community; and providing needy citizens of the community with services.

From 7 a.m. until midafternoon, Monday through Friday, project staff review the prosecutor's file, the Criminal Justice Agency's ROR interview and history record, and the NYSIID Sheet (criminal record), for each misdemeanor and felony arrest coming into Bronx Criminal Court. When a case appears to meet the eligibility criteria (discussed below), a staff member seeks out the Assistant District Attorney (ADA) and the defense attorney responsible for the case. (The latter would already have discussed with the defendant whether to contest the charge or enter plea negotiations.) If the two lawyers consider the project's 70-hour community service sentence to be an appropriate disposition of the case, a member of staff interviews the defendant. If this interview turns up no bar to the likelihood that the defendant could successfully complete such a sentence, the ADA asks the

court (usually at arraignment) to sentence the defendant to conditional discharge, with 70 hours of service under project supervision as the sole condition.[1] The judge usually tells the offender, on the record, what the sentence would otherwise have been, and what he or she should expect if brought back to court for re-sentencing upon failure to satisfy the community service obligation.

If the court accepts the defendant's plea and imposes the community service sentence, a written agreement specifying the terms and conditions of the sentence is executed immediately by the offender and by a project representative. (This agreement, which appears as an Appendix, would have been discussed in detail with the offender during the pre-plea interview.) Project staff tells the offender when and where to report the next day, and hands him or her $1.20 to cover public transit home that day and to the community service site the next morning. Each day, the

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[1] From the start, Project staff viewed the sentences of conditional discharge as the most desirable vehicle for imposing the obligations of a community service sentence, for several reasons. Because it is a sentence, it makes clear to the offender the connection between the actions against the community, which brought him into court, and the obligations to the community which the court is requiring him to meet. Because it is a sentence, it helps avoid the confusions, which arise when sentence is deferred (as in the classical models of pretrial or preplea "diversion" programs), about the nature of the obligations and the consequences of failing to meet them. In short, by eschewing the trappings of diversion and by insisting on the formal process of conviction and sentence, the project aims to insure that community service is performed as punishment and reparation for the crime, not to persuade a judge that the offender is a good guy who should therefore be treated leniently when the question of punishment arises. (Indeed, it is difficult to imagine a constitutionally cognizable basis for imposing unpaid community service obligations except as punishment--albeit, a hopeful form of punishment--after conviction for a crime.) Further, by formalizing the community service sanction as a sentence, the offender is statutorily assured of a hearing if those monitoring compliance with the obligations report back to the court that the court ordered conditions have not been met. Finally, the imposition of community service obligations as a condition of a conditional discharge sentence is how explicitly authorized by statue.

participant is reimbursed for the round trip and for lunch ($2.80).

The service period is characterized by close staff supervision of participants at the community agency site where the service is to be performed, and by assignment of tasks that are clearly useful to the beneficiaries of the service and that the participants are capable of performing well. (Illustrations of how project staff put these general principles into practice may be found in sections V, VI, and VII of the paper.) It is also characterized by an insistence that the court-imposed 70-hours of service actually be done, and that the case be restored to the court calendar of re-sentencing when it is not done. Towards the end of the sentence period, project personnel provide assistance--often rather intensively -- to those offenders who want help finding jobs, training, education, and drug or alcohol treatment.

III. DEVELOPING ELIGIBILITY CRITERIA AND INTAKE PROCEDURES

The procedures for selecting candidates for the Community Service Sentencing project were designed with an eye on the English accomplishment (Section VII), where the non-custodial community service sentence was substituted for a jail sentence in roughly 50 percent of the cases sentenced to community service. Low though this substitution rate may seem to many who advocate greater use of "alternatives to incarceration", the track record of most American programs that aim to reduce reliance on incarceration is not nearly as good.

Getting sentencers to use an alternative to incarceration for offenders whom they would otherwise actually imprison has proved difficult, particulary where the dispositional process is as complex as it is in New York City's courts.[2/] By and large, sentences here are the product of agreements between the judge, the Assistant District Attorney (ADA), and the defense. Ordinarily, the sentence imposed is the sentence recommended by the ADA, who will have reached an agreement with

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[2]The Criminal Court caseload tends to consist of a few frequently recurring offense types--what David Sudnow refers to as "normal crimes." ("Normal Crimes: Sociological Factors of the Penal Code in a Public Defender's Office," Social Problems, 12 (1965):255.) Prosecutors and defense attorneys seem to learn the types of dispositions that the other side expects in these routine cases. One gets a sense that, over time, precedents get established that suggest what disposition will be viewed as an acceptable outcome of plea negotiation for each type of incident. These norms are what Arthur Rosett and Donald Cressey have termed "going rates." (Justice by Consent: Plea Bargains in the American Couthouse (New York: J. B. Lippincott Co., 1977.) To the extent that plea negotiations take place within such a frame-work, efforts to introduce a new disposition as an alternative to jail will face substantial difficulties until the parties mutually identify it as appropriate for cases where the going rate has been jail. And this necessary adjustment to the set of "going rates" must be worked out over time, in individual cases, no matter how vigorously any one policy-maker or program may argue for the principle that the new disposition ought to substitute for jail.

the defense attorney that the sentence to be recommended is a fair basis for disposition of the case upon a guilty plea. It oversimplifies practice to put it this way, but the prosecution can be characterized as seeking an onerous disposition (e.g., jail time) and the defense as looking for a "walk" (e.g., adjournment in contemplation of dismissal, unconditional discharge, conditional discharge with a condition that will not be enforced, or a small fine). The two sides usually settle on a sentence which seems reasonable, in light of the defendant's prior record, the severity of the charged offense, and the probabilities of conviction for the actual offense if the proseuction were forced to prove the case. Both sides negotiating the disposition are often working without real certainty about the provable facts in the particular case, but they are likely to know from experience what the "value" or "weight" of the case is in the particular court. When a new sentence -- 70 hours of volunteer work for the benefit of the community -- is introduced in such a setting, it is impossible to say, in advance, what "weight" will be attached to it by the parties to plea negotiations. Any sanction aiming to serve as an alternative to incarceration must be perceived, by dispositional decision-makers whose interests are almost diametrically opposed, to have a weight equivalent to jail.

Vera's approach, therefore, was to analyze the dispositions reached in the Criminal Court in a typical month, to identify by objective characteristics a band of cases, at least half of which were disposed of by short jail sentences (90 days or less),

and to obtain agreements from the prosecutors, defense attorneys and judges that sentencing to the proposed project would not be considered unless these eligibility criteria had been met. (While this would not guarantee 50 percent substitution for jail sentences, it would set appropriate limits and would permit regular monitoring of what weight is in fact being given to the new sentence.)

On the basis of the data-analysis the following criteria were established, after discussion with the District Attorney's Office and the Legal Aid Society, as preconditions to a community service sentence:

> "defendant must be charged with a crime (either felony or misdemeanor) other than a crime against the person;
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> "if charged with a felony, the circumstances must be such that application of District Attorney's Office policies permit disposition of the case by plea to a misdemeanor (because the New York Penal Law does not authorize use of the community service sentence after felony convictions);
>
> "defendant must have had a verifiable residence for at least three months; and
>
> "defendant must not have drug, alcohol or emotional problems (including history of violence) so serious that he or she appears to project staff as unlikely to be able to meet the obligations of the community service sentence."

The data-analysis suggested that defendants meeting these criteria in the Bronx Criminal Court were substantially more numerous than could be admitted to the project (whose size would be limited by projected budget and, consequently, projected manpower for supervision at the community sites). In order to ensure even-handedness in selecting between "paper-eligible" candidates, and to permit use of the expected

overflow as a control group for research purposes, the following pre-pleading procedures were also agreed:

"1. The ADA and Legal Aid (or appointed) defense attorney would not consider a defendant eligible for participation in the Bronx Community Service Project, except where:

"a. the defendant has met the offense and offense history profiles referred to above, and project staff has indicated that the defendant is not unable to perform;

"b. the Legal Aid attorney has described to the defendant the nature of this sentence and the consequences of failure to comply with worksite rules or failure to complete the 70 hours of service; and

"c. the ADA and Legal Aid attorney have indicated to the project representative that a recommendation to the court of sentence to conditional discharge, conditioned on successful participation in the project, would be a workable basis for a plea.

"2. The ADA and Legal Aid attorney would not agree to disposition of such an "eligible" case until notified that there is, in fact, a place in the project available for the defendant. The project would not be free to pick and choose among "eligible" defendants, but would be bound by a lottery selection system in which chance determines which "eligible" defendants must be excluded from the program. If a place is available, the ADA and Legal Aid attorney may conclude plea negotiations with an agreement to recommend the community service sentence to the bench. The judge, of course, would not and could not be bound by the ADA's recommendation.

"3. The project would accept into the program any defendant who is sentenced to a conditional discharge, with the condition of performing community service in the project, for whom a place had been made available pursuant to these agreed procedures."

Where prosecution and defense are agreed that some form of community service, other than the form offered by the proposed project, is a suitable basis for a plea, there is of course nothing to prevent such a recommendation being made to

the bench, nor is there anything to prevent a judge from imposing such a sentence. During planning, the agencies principally involved agreed that there would be cases where more and longer supervision by probation would be desirable; but it was felt that, if a systematic program was to be tried, the first priority would be a test of the community service sentence by itself, without the longer-term obligations of probation. Similarly, by settling on a seventy-hour, full-time community service program, it was understood that defendants currently in full-time employment could not be eligible. Weekend and evening community service sentences (on the model most ofen used in England, and some U.S. jurisdictions) might, indeed, be more appropriate in some cases, but it was decided that, at least for the first ten months or so, this project could not be run well while also being made flexible enough to accommodate such variations. During the last six months of the pilot, the project staff was able to accept a number of offenders who were employed but who were able to secure their employers' agreement to a schedule that permitted at least two weekdays each week, or every afternoon, to be devoted to community service until completion of the 70 hours.

The administrative simplicity desirable for any new project mandated a uniform length to the sentences for which this project would be prepared to take responsibility, despite the likelihood that in some cases community service would be viewed as an appropriate and positive sanction but the charge would merit more or less than a seventy-hour obligation. The

project's planners settled on seventy hours because it was felt that an obligation that could be fulfilled over ten 7-hour days (the equivalent of two regular work-weeks) would not appear so overwhelming, to the type of offender who faces jail in the Bronx, as to encourage failure. Yet seventy hours seemed sufficiently burdensome to represent, to offenders and to the court,a fitting consequence for violation of law. Vera's experience with projects directly employing ex-offenders suggested that, for a population unaccustomed to reporting regularly to work, attendance is at least initially a serious problem.

Offenders' performance in the Bronx pilot shows that most who evidence the degree of personal disintegration common in the jail-bound population there need 17 or 18 calendar days to complete their ten seven-hour weekdays of service. Many, accustomed to the non-enforcement of sanctions in the Criminal Court and unaccustomed to meeting personal obligations, do not take the sentence seriously at first; usually, they are sufficiently impressed with the seriousness of the matter when phone calls, and personal visits from staff follow an unexcused absence from the service site, reminding them that they will be resentenced if they do not perform their community service sentence. Even then, some need (and are excused for) a day or two during the course of the sentence to attend to pressing personal problems (e.g., welfare eligibility reviews, medical appointments). No one is allowed to discharge the sentence without putting in the full 70 hours.

In the Fall of 1978, when agreement on these procedures and criteria had been reached with all the relevant parties and it appeared that program funding from LEAA was imminent,[3] staff was hired, community agencies that could provide appropriate service sites were identified, and intake procedures were fine-tuned through several weeks of "dry runs."

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[3] Late in 1977, when planning for the Bronx demonstration project was well underway, LEAA was attempting to pull together restitution and community service schemes for systematic development and evaluation; in March, 1978, Vera joined with the Bronx District Attorney, the New York City Department of Probation, and a local Bronx community development group to seek discretionary funding under the LEAA national initiative. The proposed program won a grant in the competition, and the grant award was finalized in November. But, during meetings in December and January, it appeared that a national research design, to which the Bronx action project was being subordinated by LEAA, presented a host of practical, fiscal and ethical difficulties which could not be resolved. Negotiations culminated at a meeting in Washington on January 30, at which it became apparent to Vera that the rigidities of LEAA's approach to the research would prohibit responsible development of the action project. Some of the project staff had, however, already been hired and trained and the intake procedures were to start the following day. Rather than stop, losing an opportunity to test the procedures and risking alienation of the system personnel whose expectations had been raised, Vera terminated the LEAA contract and proceeded, with a skeleton staff, to launch the more limited pilot project reported in these pages. Lack of certain funding prevented Vera from hiring a full staff until the Fall of 1979, when funds sufficient to continue the pilot project for twelve months were committed from the Edna McConnell Clark and German Marshall Foundations and from the City of New York (through the Police Department and the Mayor's Criminal Justice Coordinating Council).

IV. WAITING FOR THE JAIL-BOUND CASES

In the second week of February, 1979, the project's court representative had begun actively to screen court papers to find potential candidates for community service sentences. As potential participants were identified, by application of the eligibility criteria, the court representative discussed the possibility of using the community service sentence with the ADAs assigned to the arraignment court. At first, any further consideration of each case he raised for discussion was obstructed by the ADAs' reservations about the interchangeability of community service and short jail terms. Specifically, the arraignment court ADAs raised the following objections to various "paper-eligible" candidates:

- the defendant does not seem likely to fulfill the community service obligations, because the NYSID sheet (criminal record) indicates past failure to appear for court hearings;
- the defendant might be a risk to other people because one or more previous arrests were for charges such as assault or resisting arrest;
- the defendant should not be considered because of his "open" cases (this objection arose in part because unresolved cases make it harder to assess the defendant's suitability and in part because appearance at other court proceedings would interrupt his performance of the service);
- the defendant does not "deserve" the project, because it would be possible to negotiate a jail sentence.

Of the various objections raised by the ADA liaisons, the last was most expected and, as expected, created the greatest difficulty. The District Attorney had agreed that his Office would consider for community service sentencing any defendant (meeting other eligibility criteria) likely

to receive up to a three-month jail term. In the adversarial atmosphere where ADAs operate, however, and because of their reasonable mistrust of new dispositional alternatives that, if not enforced, are "soft," this policy decision could not be fully and immediately realized. From the perspective of the courtroom ADAs, a community service sentence was a "lighter" sentence than jail, at least until it could be demonstrated that the requirement to provide service would be enforced.

The problem with this initial prosecution position was that it led ADAs to reject precisely those defendants whom Legal Aid attorneys were prepared to consider appropriate candidates for the project -- defendants likely to do a few weeks or months of jail time. Conversely, and equally as obvious, the defendants the ADAs favored for community service sentences were the very ones Legal Aid attorneys were sure they could get off with an adjournment in contemplation of dismissal, "time served," or a small fine. For some days, then, an impasse blocked implementation of the project.

Finally, on the morning of February 26, a defendant appeared who met with approval from both Legal Aid and the ADAs:

> Warren (the name is changed) was arrested at Alexander's for stealing a twenty-dollar pair of pants which, he said, he planned to sell to raise money to support his new infant child. Warren was thirty-one years old, with a history of twenty-three arrests, mostly for petty crimes such as shoplifting and illegal possession of drugs. However, included among his seventeen convictions were four convictions for burglary and one for robbery and assault (for which, in 1966, he had been sentenced to five years in prison): in recent years, he had become a regular recipient of sentences in the 15- to 45-day range. Despite his extensive criminal record, he had apparently never failed to appear for a court hearing.

Because of the minor nature of the present charge, the ADA felt Warren was a suitable candidate for the project. Because of his extensive prior record, Warren's Legal Aid attorney thought he was certain to get a jail sentence even on this charge; she also reported that he was "terribly disgusted with himself and very eager to stay out of jail." Warren was then interviewed by the project:

> Warren proved to be a stoop-shouldered, weary man who seem far older than his thirty-one years. He freely admitted a fifteen-year history of drug addiction and a recent hospitalization for alcohol detoxification. He was currently in a methodone project where he went daily for medication.
>
> Warren was eager to receive a community service sentence. His common-law wife, also a drug addict, was due to go into the hospital and Warren was anxious to stay out of jail to see to it that their fifteen-month-old son was properly looked after.

Although the attorneys were pleased by the prospect of a community service sentence in this case, the project staff was in a quandary. On the one hand, it hardly seemed credible that this aging drug addict with no solid community supports and no work history whatsoever could complete ten seven-hour days of service for his community. Yet there was no question in anyone's mind that Warren wanted the sentence and would go to jail again if he were rejected by the project. A check with his methadone maintenance center indicated he was reliable and in good standing there. If only because the adversarial logjam had to be broken, the staff agreed to start with Warren. The Legal Aid attorney and the ADA were informed. They approached the bench and informed the judge that the defendant would plead guilty to the misdemeanor provided the sentence could be community service in the project. The judge agreed.

Warren was due to report for work at the project office at nine o'clock the next morning, a Friday. He did not appear. Over the weekend, the staff searched Bronx and Harlem streets for him; on Monday they finally found him at his methadone center. Warren was surprised and frightened. He held the widely-shared view that a conditional sentence need not be taken seriously: "I never thought you'd come looking for me" he exclaimed; "I just didn't think it mattered." He said later that he was sure, when the staff did come after him, that he would be sent straight to jail. Instead, he was brought to the project office where the director stressed again the importance of completing the sentence.

From that time on, Warren reported regularly and punctually to the project, but he needed support to complete his sentence. His home life was in a state of chaos as a result of his wife's drug abuse. He had spent and given away to relatives all of his month's SSI check and was without funds. The project provided him with some emergency assistance and spent a great deal of time, outside the hours set aside for performance of community service, counseling him on his home situation. To everyone's surprise, Warren more than pulled his weight in helping to give the Davidson Senior Citizen's Center its clean-up. Perhaps his finest moment came when he was confronted by an old neighborhood friend of his mother's who had become a regular at the Center. She expressed pleasure at seeing him after so many years, and commented pointedly that it was "good to see him doing someing so useful." On the appointed day Warren returned to court and his sentence was changed to an unconditional discharge.

Warren's community service sentence broke the ice at the court. Over the next week, four more defendants were sentenced to the project, quickly broadening the base of support and understanding within the court system for the new sanction. Once the inertia of the system was overcome, the parties to dispositional decision-making, by their actions, began the slow process of identifying the kinds of cases for which the "weight" of the 70-hour community service sentence seemed right.

V. PROVIDING SUITABLE TASKS FOR COMMUNITY SERVICE PARTICIPANTS

In January, as the pilot was about to begin, the project director settled on the Davidson Senior Citizens' Centers as an initial service site; the activity there would permit program participants to interact with the beneficiaries of their service, the tasks to be performed would require no skills, and supervision of a crew of 5 persons would not be difficult there.

The Davidson Senior Citizens Center is located on the ground floor of a small public housing complex at Prospect and 167th Street in the South Bronx, and it provides the elderly of that neighborhood with a supportive daily program of hot meals, recreation, counseling, and referral services.

The Center's rooms were in urgent need of cleaning and basic maintenance; the seniors were playing cards and eating at tables set beteen filthy walls, under light fixtures and windows that had not been cleaned for several years, and on floors caked with dirt and wax. Mrs. Marks, the Davidson Center's program director, wrote, as follows, of her response to the prospect of having convicted offenders doing a volunteer clean-up:

> "When I heard those young men might be available to help me clean my center, I leaped at the opportunity. After all, the people in your program aren't much different from a lot of people living right upstairs in this project. Jails are a terrible thing. With all the unemployment, why not give people a chance to do something useful? Maybe helping us out will make them feel better about themselves."

Project staff met three times with Mrs. Marks and the rest of the Davidson staff to define and schedule the services to be performed. It was agreed that participants would clean

the center's tile walls, windows, and wax-encrusted floors. Mrs. Marks agreed to treat them like any other staff, voluntary or paid, and not to call attention to the fact they were under court supervision. "Of course," she added, "we hope they will have lunch here. We pride ourselves on our good cooking." (This offer turned out to be of substantial value to the project as it got underway at Davidson; participants were by and large too poor and their personal lives too chaotic for them to pay proper attention to nutrition.)

The project's site supervisor and the Davidson Center staff seem to have been successful in giving the participants a sense of pride in their service and accomplishment in their tasks. As the work progressed, the participants were regularly thanked by the seniors for a job well done. During the lunch breaks, when participants ate with the seniors in the center's dining room, they were often invited to join in a game of pool or cards. A number of the seniors expressed gratitude, in particular, for the presence there of some young faces. As the first three participants reached the final day of their sentence, they were given a standing ovation at lunch-time.

At Davidson, the project's site supervisor developed techniques for managing the crew, for enforcing the project's rules of conduct, and for facilitating positive relationships between participants under sentence and the beneficiaries of their service; these lessons were, in turn, applied by other site supervisors on other sites.

The second service site chosed was the Forrest Houses Neighborhood Center which serves New York City Housing Authority projects on 163rd Street and Tinton Avenue. There, project participants completed a wide variety of assignments including a basic clean-up, providing help in escorting groups of retarded children on visits to cultural sites (e.g., museums), and painting wall murals to brighten up drab areas of the facility. One particularly withdrawn offender, who was given the mural-painting assignment, found himself the center of attention as a group of the children gathered daily to watch; he found it easier (and reported it pleasurable) to communicate with them than with peers. He successfully drew them into the project and supervised them in completing portions of the design. Having finished his court-imposed service obligations, he came back to the Center on his own time to help and was then retained, in a paid position, to paint murals on walls throughout the Center.

These first two service sites established something of a theme for choosing community service sites in the Bronx. Although offenders have assisted City staff in clean-up and repair work in Crotona Park, and have assisted various neighborhood groups in creating gardens and playgrounds in vacant lots, more than half of the service sites have been community centers serving the elderly or the very young. And the project's presence at these centers has provoked good ideas and presented opportunities for some of the other

service tasks selected by project staff; for example, participants have recently been helping Project Score to install smoke alarms in apartments occupied by the elderly.

It has not proved difficult to identify community needs for service. It has been rather more difficult -- given these offenders' lack of skills, work experience and education, and given the need to form them into groups for supervision of the performance of their service -- to find particular tasks that are intrinsically satisfying but that are within their capacities. On balance, physically demanding manual work seems to be a plus with this group, so long as progress of the group's work is visible and there is a straight-forward link between it and the beneficiaries' needs. Within the basic framework, opportunities have arisen to make use of participants' special interests or skills: for example, the transformation of a general painting job into a mural-painting project for the artistically-inclined offender at Forrest Houses, and the assignment of one who has a way with machines to the repair of broken appliances at the Davidson Senior Citizens Center. (It is almost certainly significant that these two offenders were in the relatively small number of project participants who, after completing their sentences, returned regularly to the site of their community service to help out.) But such opportunities for individualizing the service tasks have been relatively few, and the project has relied principally on the quality of site supervisor to make the work itself as satisfying as possible.

VI. COMING TO GRIPS WITH PARTICIPANTS' NEEDS -- SUPPORT SERVICES

No detailed plan for counseling or for providing support services to the participants had been spelled out in advance. It had been hoped that at least, the site supervisor would be able to play a counseling role with those participants who wanted his help. Because this function overlaps somewhat with probation work at its best, a probation officer was brought into the project at the start; the Commissioner and Vera felt this important, both because the Department is clearly a possible host agency if community service sentencing does in fact take hold in New York as it did in London, and because there are obvious possibilities for efficient and satisfying probation work in the short-term intensive setting of a community service sentence -- perhaps more so than in the conventional context of long-term supervision orders that build up the unmanageably high caseloads. Thus, although short-term casework had been anticipated for both the site supervisor and the probation officer, the volume of demand for it emerged only after the pilot was underway.

The need for substantial re-thinking of the assignments of project staff became evident even before the first five participants finished their sentences; they had massive economic and social problems. Since the initial eligibility criteria ruled out community service sentences for offenders who were in full-time jobs, such problems are not altogether surprising; but it had not been anticipated that the current difficulties of the participants would so graphically reflect the economic and social

decay of the South Bronx. The cases of the first five sentenced to community service are dwelt upon in some detail here, because their situations so directly influenced staff in reshaping the project design. Briefly:

- Only one of the five had had any steady employment within the two years prior to this arrest. The exception had spent some time employed in Wildcat, the supported work program for "unemployable" ex-offenders, from which he had been unable to make the transitition to a regular job.
- Two were without any funds whatsoever and had no place to live. The remaining three were in receipt of some form of welfare.
- Three were known to have had histories of drug and alcohol abuse; of these, two were in methadone maintenance programs. One of the methadone patients was currently abusing alcohol.
- One had a history of psychiatric problems.
- Two had no job skills at all. The skills of the other three were only marginal (One had once worked in a leather goods factory, one had knowledge of but not accredited training in radio and television repair, and one had some skills but little work history as an auto mechanic.)
- Four were socially isolated. They had no significant family ties or close friends.

Each of the five had such an array of problems that it would clearly have been difficult for them to use community resources effectively, even with assistance from project staff. They suffered from poor self-esteem, pessimism, low frustration tolerance and lack of assertiveness. Jointly or singly these problems made it difficult for them to apply for and follow though with training programs, job applications, vocational counselling, or actual employment. All would require support and encouragement to make use of even the sadly limited opportunities available to them.

As the project staff came to know and care about these participants, it became imperative that a programmatic decision be taken concerning how much effort should be made to provide them with assistance, beyond that necessary to get them through the obligations of their sentences. The project could not be transformed into a vocational or social service agency; any substantial attempt to do so would undermine the primary objectives of the project as a sentencing reform and, by greatly extending the term of participants' contact with the project, would reduce the volume of cases for which the project could provide a sentence option. On the other hand, because the participants faced such limited resources and opportunities, it seemed to staff unlikely that they could summon, from their internal resources alone, the motivation and stamina to meet the court-imposed community service obligations. Even if they managed to complete their sentences, any positive momentum built up in that effort was likely to dissipate because they had so little knowledge about and skill in negotiating the social welfare and vocational systems; it seemed unlikely that, on their own, they could find real employment. The chances therefore seemed high that they would be back in the criminal justice system before long.

In response to these concerns, several of the staff began to play a "broker's" role: each participant was offered help in making a post-sentence plan for himself and assistance from the project in carrying it out. Calls were made to various agencies that might assist them to obtain work or vocational training.

The combination these offers of support services from the project and the warm reception from the senior citizens at Davidson had an interesting effect. Despite the project participants' recognition that their service obligations were a form of punishment for lawbreaking, they began to firm up positive relationships with staff of both the Davidson Center and the project. They sought assistance about various problems. For example, one requested help from project staff in getting tutoring to improve his reading level. Another wanted assistance in determining whether he was eligible for unemployment benefits. A third asked for advice on how to get out from under a number of old motor vehicle violations he had not paid and could not pay. Meanwhile, at Davidson, a participant approached the Center's director for help in getting food stamps for his mother. One of the younger participants asked if he could join in a theatrical production being planning by the seniors.

But, as each of the first five participants discussed their plans for the future with the site supervisor and other members of the project staff, it became clear that they had little hope for themselves. The combination of poor education, limited job skills, lack of employed role models, and prior criminal convictions convinced these men that they would never be permanently employed at a job paying a living wage. The participants were encouraged to be more optimistic. Since both the crew supervisor and the project director had worked their way out of similar situations they could speak with conviction about using the opportunity at hand.

By the time they completed their sentences, all five participants were referred to training, employment or other service. Three of

the five followed through on the plans made while with the project and stuck with the job or training that had been found for them. One who didn't make it was Warren. Warren decided he should detox from methadone (so he could enter a drug-free residential program). It seemed a suitable start for him and a bed was obtained for him at the methadone detox unit of Kings County Hospital. He failed to appear there for his intake appointment. In retrospect, a project staff member probably should have accompanied him to the hospital to help him deal with his ambivalence about giving up drugs.

Two of the successful referrals involved false starts. They had been referred to an agency offering vocational counselling and job placement. Over the phone, this agency informed the project staff that the participants were eligible for the program. When the two men got to the agency, they were turned away because the agency could only take persons recently discharged form state correctional facilities. Fortunately, both men had sufficient confidence in the community service project to recontact the staff; second referrals were made and were successful.

This work with the project's first participants made clear the need to develop adequate resources to insure support services for those who complete their obligations to the court. It was clear, too, that a community service sentence could be a turning point for some; the experience of arrest seemed to shock them into some awareness of self-defeating patterns in their lives. Members o. the project staff were able to help some mobilize that awareness into a decision to do something better for themselves. Without the intervention of the project staff, however, these men were too deprecating

of their own self-worth to make positive plans or carry them through. Therefore, project assignments and job descriptions were revised to permit preparatory phone calls to other agencies by project staff, to help identify appropriate referral services and to clear the way for participants to make a secure connection with the sources of help. For several months, it was almost workable to leave it to court and site staff to come up with the time, thought and energy for these counselling and resource development functions. But by mid-summer, 1979, the need for a full-time resource broker and vocational counsellor led to the addition to the staff of a person having years of experience in that kind of work.

The Support Services Coordinator uses his seventeen years of experience as a job developer and a city-wide network of contacts with employers and social service agencies to respond to problems such as the ones that surfaced when this participant sought help:

> Michael (not his real name) is 26 years old, married, and has resided with his wife in the Bronx for the past four years. During the first day of his community service sentence, he told the Site Supervisor that the rent for his apartment had not been paid, and his wife had no money to purchase food. After some probing, the Support Services Coordinator found Michael's problems to be as described, and arranged for an emergency interview with the New York City Department of Social Services. Shortly thereafter, Michael and his wife were able to get an emergency rent check and food stamps.
>
> After a few days in the program, Michael, who had a long history of drug abuse, asked for help to be enrolled in a methodone maintenance program. After a long discussion with him on the relative advantages and disadvantages

> of methodone and drug-free treatment programs, in which Michael rejected advice to try a drug-free program, the Support Services Coordinator arranged for him to be considered for treatment at a local methodone center. Perhaps because of the counseling, when Michael went to the intake interview there, he changed his mind and did not enroll.
>
> During the second week of Michael's community service sentence the Support Services Coordinator followed up on Michael's request for help finding a job. He was referred to a program offering training and paid employment, and to three separate employers. On the third of these job interviews, Michael was hired; when last contacted (two months after finishing his sentence) he was still employed there.

All of these support service interventions took place during the period of 14 working days during which Michael completed his 70 hours of community service.

In some ways Michael's case is typical. In other ways it is not, because the problems evidenced by the first five participants are common to the target population and did not evaporate with the arrival of a Support Services Coordinator. This picture can be balanced out by noting the history of another offender, who performed his sentence obligations energetically over 10 straight days, whose behavior on the community service sites was exemplary, and who from the first day described his principle objective as finding a job; he failed to show up for either of the two job interviews arranged for him at the end of his sentence.

VII. SUPERVISION AND ENFORCEMENT -- THE BASIS FOR CREDIBILITY IN AN ALTERNATIVE SENTENCE

If a community service sentence were to fulfill its full promise, the offender on whom it fell would view it as punishment for the particular crime that brought him before the court; would experience it as a kind of restitution to the community whose norms he had violated and whose peace he had disturbed; would come away from it with positive feelings about having succeeded at a task, having satisfied an obligation and having helped others in need; and would have learned how to use those feelings and experiences in moving toward regular employment, training or other services with which to continue on a positive course. This is a tall order, particularly when these results are sought from a brief period of work with offenders of the kind passing through the Bronx Criminal Court towards jail. The pilot project experience has reinforced Vera's judgement that if such offenders are to realize one or more of these possibilities of a community service sentence, it will be through the full-time involvement of supervisors having rather rare combinations of skills, personal experiences, and commitment.

The service site supervisors in the Bronx pilot are ex-offenders who have worked as supervisors in analogous roles on other Vera projects. By their own examples they show that a straight life-style and attitude is a possible, and possibly attractive, alternative to the life of repetative property crime that is so characteristic of the project's participants and so destructive to the communities in which they live. From their previous work

experience, they bring some knowledge about how to evidence personal commitment to and sympathy for the participants without compromising the project's commitment to the court and to the ground rules of what is fundamentally a punitive sanction. They attempt, through the rather intense daily contact of work on the community service sites, to keep participants focused on the purposes of the sentence and, with those participants who evidence a desire for assistance in straightening out their lives, they attempt to help forge links to appropriate sources of help.

But these were not the principal reasons for including service site supervisors on the project staff. Almost by definition, South Bronx community groups that have substantial need for help do not have staff available for supervision of the helpers, for monitoring the performance of obligations imposed by courts, or for assisting in the enforcement of those obligations. Even community groups that have adequate staff are not staffed to handle the supervision problems posed by jail-bound offenders from the Criminal Court. Most of those sentenced to the pilot project had experienced the routine of work only intermittently, and were therefore unaccustomed to producing, day after day, seven hours of effort in a structured setting. They had often learned their survival skills in institutional settings, including the institutions of the criminal justice system, where the norm is "hustling" -- getting

around requirements by manipulating persons in authority, or by sitting back or simply disappearing.

From the beginning of this pilot it was clear that the project would have to supply site supervision if it was to avoid deliberate selection of only those offenders whose prior history suggested they would be responsive to lax, occasional supervision; without appropriate site supervision it would not be possible to seek community service sentences for the group of offenders otherwise destined for jail.

Similarly, it was necessary to give the project a capacity directly to monitor compliance with the court-imposed conditions of sentence, and to insure that non-compliance resulted in return to court for resentencing. It seemed clear that community groups, whose principal interest in the project would quite properly be the service performed by the participants, could not be relied upon to report back to the court when an offender failed to comply with his sentence. (Equally obvious, there would be little incentive for these groups to insist on full compliance by any offender whose behavior posed supervision problems on the site.) Yet it was apparent that any sentence aiming to be an alternative to even the shortest jail sentence must be enforceable, enforced, and seen to be enforced if it was not to be perceived by all involved in the Criminal Court as another "boondoogle." It was reasoned that an alternative sentence would have to establish its credibility in this regard right away, and maintain it; if prosecutors were to

begin to make use of community service sentences in cases where they had no real interest in imposing some burden on the offender, it would be virtually impossible at some later time to change the perception -- after such a start, it would fast become fruitless to try to establish the seriousness of the community service sanction by bringing non-complying offenders back to court for resentencing, because re-sentencing would only confirm the initial judgement that the "going rate" for the case was something less than even the shortest jail term. Thus, it was decided that project staff must be given the supervisory and monitoring functions at service sites, despite the cost.

In addition, anticipating early failures, Vera made arrangements with the District Attorney's Office and the Police Department's Warrant Squad to ensure the timely issuance and execution of warrants for the arrest of the offenders sentenced to community service who fail to perform the service and resist staff attempts to get them to return voluntarily to court for re-sentencing. But, as the pilot got underway, project staff proved remarkably successful at securing offenders' cooperation with the sentence, even in cases that were initially troublesome; it was not until the eleventh community service sentence that the offender persisted in refusing to respond to the court-imposed obligations and to the efforts of the staff. The procedures for issuance and execution of the arrest warrant worked smoothly (although several of those whose action was required to accomplish the offender's return to court remarked on the unfamiliarity of the practice), and, ironically, this

offender's failure to adhere to the court's order did seem to help establish the credibility of community service as a sanction with "weight" because the system moved with such unaccustomed efficiency to return him to custody.

Nevertheless, it proved much more difficult to secure the re-sentencing of a non-complying community service participant than to secure his return to the court. Through this first attempt to invoke the process, it became clear that resentencing would actually occur only if the offender were brought before the original sentencing judge and if the Legal Aid attorney and the ADA appearing in that judge's part were already familiar with the case. A defense attorney seeing the case for the first time when it is called (the usual situation in the Bronx Criminal Court) would insist, understandably, that resentencing not proceed until he had prepared for the hearing; if the defense were successful in getting the case adjourned, not only would the project's procedure be perceived to have wasted the time of the court and the police officer who had executed the warrant, but the offender's likely failure to appear on the adjourned date would simply invite repetition of the same course of events. Similarly, an ADA seeing the case for the first time would be likely to feel unprepared to go forward. Development of more workable court enforcement procedures took time and proceeded in tandem with the design and evolution of staff procedures, short of violation, for dealing with non-complying participants.

Initially, the project was designed to respond in rigid fashion to misbehavior or non-performance by participants. A point system was established and carefully explained to each new participant -- penalty points were to be recorded for unexcused lateness or absence or for specified misconduct on the site, and termination and resentencing were to follow in a lockstep fashion if a specified number of penalty points were accummulated. The major attraction of this device was thought to be its bypassing of discretionary decision-making by the site supervisors.

The point system proved impractical; participants were so beset by problems, so bent on testing the rules, and so unaccustomed to reporting anywhere regularly that the staff had no choice but to learn to exercise discretion wisely in responding to their provocations and explanations, particularly their explanations for not appearing or appearing late at the service site.

Gradually, the following procedure evolved:

> First day that the participant does not report to the service site or fails to call in to request permission to be absent: Starting at about 11:00 a.m., one of the project staff working out of the courthouse tries to reach him by telephone, to persuade him to come to the site and to remind him of the consequence of termination. (The site supervisors call in each morning at 10:00 with the names of participants who were scheduled for their sites and did not appear.) Usually, this contact is sufficient to move the offender into compliance, If not-

Second day without hearing from the participant: Staff try to reach him by calling his home and the homes of friends and relatives. (At the pre-sentence interview and the post-sentence orientation, the project gathers the phone numbers of several people who might be able to contact the offender.) Again, if the offender is reached by this effort, it is usually enough; and, again, the somewhat surprising responsiveness of offenders to these efforts seems in part the product of their surprise that such follow-up is occurring at all.

Third day without hearing from the participant: A member of the project staff seeks a face-to-face confrontation with the offender, at his residence or, failing that, wherever he can be found. If he cannot be found, a letter informing him of the action the project intends to take the next day is left at his residence.

Fourth day without hearing from the participant: A letter is delivered to the District Attorney stating the arrest charge; the names of the original ADA, defense attorney, and sentencing judge; the charge at conviction and the conditions imposed at sentencing; and the efforts the project staff has made to secure the participant's compliance with the sentence. It concludes with a request that the case be put back on the calendar for resentencing. The letter is delivered by hand to the chief of the District Attorney's criminal court bureau. Simultaneously, the defendant's attorney (and his probation officer, if he has one) is informed that the project is asking for resentencing.

When the ADA puts the case on the sentencing judge's calendar, he sends notice of the date and purpose of the hearing to the project, the defense attorney, and the participant. If the defendant appears in court on the scheduled date, the judge can resentence him without adjournment (after a hearing, if he invokes his statutory right to one). If he does not appear, the judge orders that an arrest warrant be issued.

All warrants are sent to the Court Cashier's Office. When the judge orders that a warrant be issued for a project participant who has failed to appear for resentencing, a project staff member calls the Cashier's Office, gives the clerk the name and docket number of the person named in the warrant, and requests that the project be called when the warrant comes into the office. Later in the day, after the Cashier's Office clerk calls back, a project staff member picks up a copy of the warrant, which the project then makes available to the Police Department's borough warrant squad to expedite enforcement. (The original warrant is transmitted to a central office in Manhattan where it is assigned a number before being returned to the Bronx County Warrant Squad, ten days later, for execution.)

The day after the warrant is issued (more than a week before the original arrives at the Warrant Squad from Manhattan) the project director asks the Warrant Squad supervisor to execute the warrant. The director shares with the Squad any information he has that might help officers find the offender. He asks that an attempt be made to serve the warrant at a time when the original sentencing judge will be on the bench. (The project has the tentative sitting schedules for all Criminal Court judges in the borough, which are made up on a monthly basis.) If the Warrant Squad is successful, its supervisor alerts the project, which alerts the DA's office and schedules a project court representative to be present in the proper court part.

It seems that it will not be necessary to invoke this rather complicated procedure for more than about 7 percent of the project's cases. Nevertheless, it seems essential to have it firmly established in order to guarantee to the ADAs, and to sentencing judges sceptical from experience with unenforced or unenforceable conditional sentences, that community service sentences can be taken seriously enough to be used even where the "going rate" would ordinarily mandate a short jail term.

The evident seriousness with which project staff pursued the enforcement issues seems to have had the desired effect. Not only are defense attorneys helpfully reluctant to agree to disposition of clients' cases by sentence to community service when they view the prosecutor's case as flawed or the risk of real sanction as slight, but ADAs have been increasingly willing to recommend a community service sentence in cases where they believe their chances good for winning jail terms of longer than 90 days.

VIII BACKGROUND

(a) The English Experience

Sentencing offenders to the performance of a specified amount of voluntary service for the community is, of course, not a new idea. An in recent years, spurred on by LEAA financing, community service restitution programs have sprung up in hundreds of courts across this country. They are almost always characterized as providing an inexpensive and attractive "alterantive to jail". It would be a disservice to those programs to assert that none have reduced local reliance on the jail but, from the literature presently available, it appears that in this country the community service sentence has been aimed almost entirely at first offenders facing minor charges for whom a jail sentence is not a real possibility -- certainly not a real possibility in New York City and other run-down urban jurisdictions where court volume is high and where petty offenses and first offenders are usually overlooked so that more serious crime and recidivists can be given more attention.

The most highly-evolved program, however, is in England where Section 15 of the Criminal Justice Act of 1972 formally created a new sentence -- the courts were authorized to order any number of hours (between 40 and 240) of voluntary community service to be completed, under the supervision of the Probation

Service, within 12 months of sentencing.[4] By 1977, the London courts were placing more offenders on community service orders than on probation orders.

The Home Office Research Unit, although unable to apply the techniques of controlled research, established by the best available alternative research methods that, in the absence of the community service alternative, about half of these sentences would have been short jail terms; the remainder would have been probation orders, fines and the like.[5] Although there was some disappointment in quarters where it had been hoped that the community service sentence would be used only as an alternative to jail, there was little but positive reaction to this sentence in the field. Run-down communities and dependent populations (e.g., handicapped children, nursing home residents, etc.) were getting services; the voluntary and charitable agencies which work in such communities and with such groups found themselves with a new supply of volunteers (and some of them continued to volunteer after

[4]This provision was in direct response to a recommendation from the Home Secretary's Advisory Committee on the Penal System, which reported in 1970 (The Wooten Report) that community service:

> "should appeal to adherents of different varieties of penal philosophy. To some, it would simply be a more constructive and cheaper alternative to short sentences of imprisonment; by others it would be seen as introducing into the penal system a new dimension with an emphasis on reparation to the community; others again would regard it as a means of giving effect to the old adage that the punishment should fit the crime; while still others would stress the value of bringing offenders into close touch with those members of the community who are most in need of help and support ... These different approaches are by no means incompatible." (Non-custodial and Semi-custodial Penalties, 1970, pp. 33-34.)

[5]K. Pease, S. Billingham, Jr., I. Earnshaw, Community Service Assessed in 1976 (Home Office Research Unit, Report No. 39, Her Majesty's Stationery Office, London, 1977), p. .

satisfying the obligations of their sentences); the courts and the probation service were able to impose and administer a sentence that, while more burdensome than an unconditional discharge, was far more positive than jail, more obviously a sanction than probation, less discriminatory than a fine, and (largely because it places the offender in the role of helper rather than helped, and affords an opportunity to make practical expressions of atonement) more appropriate in many cases than long-term probation supervision. Finally, a 50 percent displacement of jail sentences was acknowledged, by those familiar with the track records of other non-custodial sentencing alternatives, to be good performance for an alternative to incarceration.[6]

In 1976, when the Vera Institute was two years into a working relationship with the Home Office and the Inner London Probation and After Care Service, it arranged for a week's visit to London by the Bronx District Attorney, the Commissioner of the New York Probation Department, representatives of the federal and City benches and the federal probation service, and officials of LEAA. Vera's London staff, which had participated in London's implementation of the new sentence, focused the New Yorkers' attention on the possible use of such a sanction in New York, for cases in which sentencers feel some degree of punishment is

[6]It would be misleading to suggest that the English practice of community service sentencing has won universal acclaim there. See Ken Pease and Willian McWilliams, eds., Community Service by Order (Edinburgh: Scottish Academic Press, 1980) for a comprehensive treatment of the nagging theoretical and practical problems -- including inappropriate use of the sentence in cases where jail is not the real alternative.

in order but that jail would be too heavy or counter-productive. After their return to New York, and with the English community service sentencing practice in mind, some of these individuals and their staffs undertook a planning effort, to adapt the English practice to New York conditions and needs, which led to the pilot project reported here.

(b) Curing Lack of Statutory Authority for and Problems in Administration of Community Service Sentences in New York

There were two major obstacles. First, there was no express authority in New York law for sentencing to community service. Penal Law Section 65.10, which sets forth the powers of sentencing courts with respect to the "conditions of probation and conditional discharge," did not expressly mention community service and had been read at least twice to rule it out.[7]

It was not until the summer of 1978 that Senator Barclay and Assemblyman Gottfried, after learning of the planning for

[7] The Attorney General, in an October 1972 Opinion, reviewed a sentence to probation with the condition that defendant work without pay on a City project; he opined that "such a condition, if it could legally be imposed, should be specifically authorized by law and not rest on the authority of a court to impose a condition 'reasonably related to rehabilitation' [§ 65.10(2) (i)]," and that, therefore, the court had been without authority to impose the sentence. In 1975, the Appellate Division, Second Department, reviewed a sentence to probation, of which a condition was that the defendant continue his volunteer services with a charitable agency; the court, on its own motion, struck that condition, stating "there is no authority in law for mandating such service as a condition of probation (Penal Law, § 65.10)." People v. Mandell, 50 A.D. 2d 907, 377 N.Y.S. 2d 563, 564 (2nd Dep't, 1975).

a community service sentencing project in the Bronx, co-sponsored a bill amending Penal Law Section 65.10 to authorize courts, when imposing sentences of probation or conditional discharge, to make use of the following condition:

> "(f-1) Performing services for a public or not-for-profit corporation, association, institution or agency. Such sentence may only be imposed upon conviction of a misdemeanor or violation and where the defendant has consented to the amount and conditions of such service."

The bill was passed on June 20 and signed by the Governor on July 24, 1979.

The second, and ultimately more important obstacle to adaptation of the English model to an American inner-city environment was administrative. The high rate of unemployment among New York City Criminal Court defendants, their low rate of compliance with obligations that are not closely monitored, and the severely limited resources of the New York City Probation Department made it obvious that the community service sentence could not reach for jail-bound offenders if it were administered here as in most other jurisdictions -- by a Probation Department or by an agency that does little more than refer offenders to community agencies which are left to supervise the work and monitor compliance with the sentence. Most of U.S. jurisdictions which have tried the idea limit its application to offenders whose age, employment and life-style (including nature of charge) suggest much more stability

and reliability than can be expected from the jail-bound offenders in New York City's courts. In London, offenders under community service sentences seem to be less well-established, less used to meeting obligations, and more heavily involved in crime than the offenders sentenced to community service in most American projects. But the London probation service has very low caseloads (about 40 cases per officer) and is able to erect substantial administrative and field operations with which to supervise the service sites, monitor each offender's progress towards completion of his specified amount of community service, help those who fall behind and who look likely to reach the end of the 12-month sentence without putting in the court-ordered number of hours, and bring back to court for resentencing those who fail to meet the sentence conditions.

It was in order to meet these administrative difficulties, and to determine through a limited demonstration project whether community service sentencing could ever be a workable idea for jail-bound offenders in New York and jurisdictions like it, that the Vera Institute, the Bronx District Attorney, and the New York City Probation Department (in consultation with the administrative judges, legal aid, and others) designed the program model used in the Bronx pilot. It does depart from

the London model in several important ways. Most importantly, the New York version does not permit offenders to decide when, over the course of a year, to perform the specified number of hours of service (which risks failure when performance is postponed until it becomes impossible); instead, the project requires work of benefit to the community to be performed full-time (7 hours per day) over ten working days. Failure to comply with the condition of sentence is thereby made quickly evident, as is successful performance.

END