Solicitor General Canada

Solliciteur général Canada

INTERNATIONAL CONFERENCE ON ALTERNATIVES TO IMPRISONMENT REPORT

CONSULTATION CENTRE

Canada

INTERNATIONAL CONFERENCE ON ALTERNATIVES TO IMPRISONMENT REPORT

Toronto,
June 8-11, 1980

This report is published by the Communication Division under the authority of the Hon. Bob Kaplan, P.C., M.P., Solicitor General of Canada. The views expressed in this publication do not necessarily reflect the views or policies of the Minister, nor of the Ministry of the Solicitor General of Canada.

Cat. No. JS 42-14/1982

ISBN 0-662-51892-6

Available from the Communication Division,
Solicitor General Canada, Ottawa, Ont. K1A 0P8.

Contents

Speech: June 8, 1980

Opening Remarks

The Honourable BOB KAPLAN, P.C., M.P., Solicitor General of Canada

In the past decade, we, in Canada, have achieved (as has much of the Western world) a marked increase in the use of alternatives to incarceration. It pleases me to report that significant progress over this period has been made in all Canadian jurisdictions (not surprisingly, more dramatic in some regions than in others). Nonetheless, progress towards the greater use of alternatives has been slower than the Solicitor General, corrections officials, and the experts would have wished.

Support for increased use of alternatives is based on the opinion that they are more humane, that they are at least as effective as imprisonment, and that they can be shown to be less costly.

In the vast majority of cases, an alternative that keeps the individual in the community, close to his family and friends, and functioning as a community member is bound to be more humane, and at least holds promise for future full participation of that individual in our society.

In these times of restraint in government spending, it is also worthwhile noting that it is very expensive to keep individuals in prison. For example, the cost of maintaining a male inmate in maximum security was $29 000 last year. Now, I fully realize that, at times, the only appropriate response to crime is imprisonment and, for serious crimes, imprisonment for long periods. However, when imprisonment is not effective, where less expensive, more humane alternatives exist, we should be trying them.

In Canada, as in most federal states, responsibility for criminal justice is divided between the Federal Government and the governments of the provinces. The Federal Government is responsible for legislation in criminal justice; the provinces, broadly speaking, for the bulk of the administration of criminal justice. It is the position of the Government of Canada that alternatives to imprisonment must be encouraged and supported in whatever form they arise and wherever in Canada they develop.

The expert and professional opinion in Canada advocates a wide range of alternatives to incarceration. Recently, the Federal Law Reform Commission, in an interesting and useful series of papers and reports, has strongly urged the increased use of sentencing alternatives. It is interesting to note that, even without legislation being passed, programmes are being developed and judges are beginning to experiment with their use. Much of this experimentation in Canada has been carried out and *is* being carried out on the initiative of individual provinces. In Saskatchewan and New Brunswick, for example, the first experiments in Canada were done with the approach of imposing a fine as an option. Community service orders had been experimented with very widely in provinces such as Ontario and British Columbia. (Much of our current and proposed legislation is directly due to the work that has been done by the *provinces* and they deserve much credit.)

The Federal Government's role is to provide the necessary enabling legislation to support the increased use of alternatives and to provide necessary resources, both fiscal and human, to support experimentation with alternatives throughout Canada. Much of the experimentation in Canada that has been carried out in criminal justice has been done with the direct support, and in some cases, the *stimulus* of the Federal Government. My ministry has an extremely active programme of experimental and demonstration projects, and of research into many aspects of criminal justice. Similarly, the Federal Department of Justice is involved not only in research through the Federal Law Reform Fund, but also in stimulating discussion of alternatives to imprisonment. In addition, experimentation with the use of alternatives, particularly insofar as the courts and sentencing are concerned, is an important area of our work. The past few years have seen a great number of projects, conferences, and workshops throughout Canada on topics associated with alternatives to imprisonment.

I want to assure you that I consider legal and institutional reform one of my primary goals. Alternatives to incarceration is a major concern to the Federal Government now and for the next several years.

A major obstacle to the creative use of sentencing options is that the criminal law either does not specifically recognize many of them or imposes other obstacles of a technical nature to their use.

Officials of both the federal Department of Justice and my ministry are currently evaluating a number of alternatives in this area and are developing policy proposals to remove these obstacles and to permit the expanded use of alternatives such as fines, discharges, community service orders, probation and restitution, and compensation. As well, the Federal Government is studying possible changes to sentencing procedures and the possibility of specific procedures and dispositions related to the treatment of drug abuse.

Restitution and compensation could be extended to a much broader range of indictable and summary conviction offences. Some of the obstacles to the use of restitution and compensation that are currently in the *Criminal Code* should be removed. For example, any participant in the trial (not merely the victim, and not merely at the time of sentencing) should be able to raise the question of such an order.

Fines are more widely used by Canadian judges than any other sentencing option. Fines could be made available for a *wider range of offences*. Maximum fines should be raised and their use permitted against corporations. This should encourage even greater use of this non-custodial disposition.

Too many Canadians go to jail because they lack the means to pay their fines. Saskatchewan and New Brunswick, among others, have experimented with programmes whereby offenders provide a service to the community deemed equivalent in value to the fine imposed. Some provinces have been reluctant to adopt this approach, as they feel that it is not a legally available alternative for federal offences. Changes could be made to the *Criminal Code* to clearly signify that it is a legitimate approach available for all offences, federal as well as provincial.

Probation is now well established in all provinces, though it is a comparatively recent innovation in many of the more isolated or sparsely populated regions of Canada. Technical changes to the legislation affecting probation are necessary to facilitate transfers from one jurisdiction to another, to make it easier for judges to vary the conditions of the probation order, and to provide alternative procedures for individuals who wilfully fail to comply with the provisions of the probation order.

Another important alternative — intermittent sentences — have been widely used in Canada. In fact, in some major urban centres, they have been used so extensively for weekend incarceration that they have created a major population problem for correctional facilities. Due to overcrowding, offenders sentenced to intermittent sentences have only had to report to the appropriate correctional centre for a brief period at the start of the weekend, or even not at all, and then were credited with the full weekend. This alternative has not been without other problems as well. A number of offenders have reported intoxicated. For them, the sentence is simply a chance to sleep off their drunk. For corrections, it means a unique and quite undesirable management problem.

To correct the problem of unmanageable congestion, the provincial corrections agency could be required to certify that an appropriate facility is available before the judge imposes such a sentence. To correct the problem of drunk and disorderly offenders, it might be necessary to require that a sentence of intermittent imprisonment only be imposed as a condition of a general probation order. Further, the judge could insert any other condition such as a prohibition against alcohol consumption.

In addition, two kinds of community service orders are under consideration: one directed at work for the benefit of the community in general, and the other for the benefit of the victim. A "community service order" would resemble a probation order in terms of enforcement, variation and transfer. It could only be issued where the accused consents and is considered suitable by the court. This would encourage greater use of community service orders as an alternative to imprisonment.

The changes I have just described would create a firm legal basis for the increased use of sentencing alternatives. Of particular interest to my ministry are any changes in procedure which would have an important impact on the use of imprisonment. One such change being considered would be to require that if a judge imposes imprisonment of more than the minimum term specified by law, he be required to state his reasons. Such a change has been supported by virtually every report on the Canadian criminal justice system and will surely lead to more thoughtful, clearer sentencing.

Corrections officials, experts and several provincial governments have expressed their rising concern with the widespread problem of drug dependency. Action must be taken to make treatment available to those who believe they would benefit. It might be feasible to amend the *Criminal Code* to enable a judge to order an examination to determine if an offender is addicted to drugs. If treatment is indicated, the judge could sentence the offender to a course of treatment at an appropriate

facility. It is important to note that the offender and the receiving facility both must voluntarily agree to this course of action.

When the treatment of the offender is completed, or if consent is withdrawn, the offender will serve the remainder of his sentence in prison unless eligible for, and granted, some form of release.

I believe the changes we are considering to the *Criminal Code* would take us in the direction of a more humane, more effective and more flexible Criminal justice system for Canada.

Speech: June 8, 1980

Reduce Imprisonment — Why and How

MILTON G. RECTOR, President, National Council on Crime and Delinquency Hackensack, New Jersey, U.S.A.

Your Canadian officials have been both gracious and generous in their invitation to the National Council on Crime and Delinquency to co-operate in the planning and sponsorship of this conference. We are most appreciative of that privilege. My associates Ms. Kay Harris and Judge Keith Leenhouts and I share with all of you a deep respect and affection for Robert Fox and his planning associates who have done the work that has made the conference a reality.

I hope this will be more than a conference and will result in a call for action — a call for a change in public policy which will also be heard in the United States. We have even a greater need than Canada to reduce our over-reliance on imprisonment. We incarcerate our people at twice the rate of Canada. The statements I shall make apply, of course, to the situation in the United States. I'm certain, however, you will hear many similarities to the problems you face in Canada.

The major problem facing American criminal justice organizations is how to reduce prison and jail populations. This must be done because the excessive use of incarceration in the United States belies the kind of people we are or would like to be. Our overcrowded jails and prisons are totally at variance with our international position on human rights.

The problem is at least three-faceted. It is a humanitarian problem. It is also an economic, and a political problem. Your kneejerk response might be to include a fourth facet — the crime problem. My thesis, however, is that jails and prisons increase the crime problem. They don't reduce it. Except for the imprisonment of persistently violent criminals we must examine incarceration in light of the social and economic liability it has become.

Jails and prisons are a major part of the crime problem we are trying desperately to combat. Like Pogo's self-revelation, we have found the enemy and they are it. They are the most dangerous, most violent crime-ridden environments known to man.

After 200 years, jails and prisons have failed as an environment in which to help criminals build the self-esteem essential to positive behavioural and attitudinal change. There are, however, still many who would nurture the federal, state and local government bureaucracy which writer Jessica Mitford aptly called the "business of prisons." They are indeed a business — a bankrupt business which siphons huge amounts of tax resources needed for education, health, housing, vocational training and other basic attacks on the causes of street crime.

To help preserve the myth that jails and prisons can indeed reduce crime is the popular theme that they, at least, punish even if they can't provide an environment conducive to rehabilitation. But surely a humane, caring people can find a range of punishments which don't cripple and destroy. A civilized society cannot rely upon threats and severity of punishment as its panacea for crime and violence. Every major religion of the world is based upon restoration and grace rather than the hate and fear which are basic to a philosophy of retribution and deterrence. It is time to bring our criminal law standards and philosophy into line with our espoused values wherein the dignity of human beings and human life have primacy.

To continue the search for equal justice and fairness in sentencing through retribution and deterrence is to continue a course through which there will be expectations of continuous escalation of severity — "if five years in prison doesn't stop him, give him ten." The immediate and long-range track on which our nation is well launched would be to move from enlarged rain barrels in flood season to higher and higher dams at the base of the canyon. As with our jails and prisons each will eventually fill beyond capacity and overflow into the streets.

In the United States, we now incarcerate at a rate higher than any nation other than Soviet Russia and South Africa. In proportion to population our incarceration rates range from more than twice those of Canada and Germany, three times those of Great Britain, more than seven times those of Denmark, Sweden and France to almost ten times that of Holland.

To be totally factual here I must add the factor of racism and scapegoating in our justice system which comes so clearly to the front when we try to reduce overcrowding by adding new cells.

Blacks in America are arrested for half of the street crimes that cause the greatest public fear and for one-third of the property crimes. They are, however, more than five times as likely to be incarcerated for their crimes. If a disproportionate rate of incarceration for minorities does not indicate racism in the justice system, it does indicate a willingness of a society to use incarceration for symptoms of problems for which the justice system has no solutions — the need for education, employment, decent housing, medical and social services.

Prisons have a higher rate of homicide, physical assault, sex crime, mutilation and suicide than any other environment. Violence is the controlling force under which our justice system now requires men and women to live while awaiting or after receiving sentence.

Can we, by any form of logic, believe that less crime will result from increasing the use, the length and the certainty of incarceration? If we put our most scientific

minds to the task of devising a system to guarantee a concomitant escalation of alienation and violence by released prisoners we couldn't improve on our jails and our prisons.

The humanitarian problem of incarceration deserves our greatest concern as our economy sinks again into a recession. Forty years of factual correlations tell us that since the Depression of the 1930s the prison population has increased 4%, robbery 5%, and homicides about 6% for every 1% increase in unemployment. The cure for stranger-to-stranger street crimes is education, jobs and decent living conditions *not* incarceration.

We enter this next recession with our jails and prisons crowded to almost 285 000 beyond their design capacity. If not for humanitarian concerns, then certainly for economic concerns we must look to methods other than new construction to end the problem of overcrowding. Jails and prisons, in terms of effectiveness in reducing crime, should have been abandoned a century ago for all but the persistently and irrationally violent offender. In economic terms they must be abandoned now for most criminals. We simply can't afford to build them, or to operate them. You can't build a new jail or prison cell for less than $150 000, and that is the cost only if you pay off the bonds in 20 years. Many are refinanced beyond that time. You can't operate them for less than $15 000 to $20 000 per year per prisoner. (New York City costs were $26 000 per year in 1977.)

Whether or not you agree with my opening remarks and would put humanitarian issues aside in favor of retributive justice, I doubt that even your visceral satisfaction can long justify $26 000 a year in $150 000 cells for robbers whose loot averages less than $1 000 and burglars whose thefts average $300 or less. Such demands will become even less popular as a better informed public adds to the cost of spending on jails and prisons the billions of dollars which could otherwise be spent for services which can have a positive impact on the causes of street crime.

As the country moves with more certainty toward sentences and alternatives that are more economical, less destructive, and at least as effective as incarceration, the name of the game will not be new money. It will be reallocation of funds now being wasted on incarceration.

Two additional factors are bearing rapidly upon us which will test our people as never before on the future of the jail and prison in the United States. One stems from the fact that the best of jails and prisons cannot be operated for long to meet constitutional standards governing civil rights and individual safety.

Currently, 31 states are involved in prison litigation. In 19, the entire prison system or all major institutions are under court order. As Alvin Bronstein, Director of the National Prison Project of the American Civil Liberties Union Foundation stated in his recent report on prison litigation: "It is a devastating revelation about the American society which has permitted and tolerated the shocking conditions in our nation's prisons." In reviewing petitions of prisoners, judges are beginning to question whether a prison can possibly be operated within constitutional requirements.

Despite the above litigation which clearly addresses the unconstitutional conditions in the prisons, Mr. Bronstein states that not a single state has ordered the release of prisoners though the rhetoric is there: "The state must choose between running a constitutional prison system or not running one at all."

It has been eight years since Judge Frank Johnson found Alabama prisons unconstitutional. Alabama, like most other states, delays in compliance because of the exorbitant costs of new construction. Alabama, as most other states, likewise delays in developing a quicker and far less costly method of community alternatives to incarceration. The reason for that is more political than economic. To release prisoners from inhumane incarceration is a decision that would require a political martyr. But it will have to be done. Even if our economy could raise the money to add enough new institutions to replace the old jails and prisons (experience here and abroad shows that the new are often worse than the old), we again face the two-century-old truism, "Prisons aren't for people — not people like us." The fear-enforcing thought that criminals are different from us can no longer be supported.

Society need not fear the remedy of court-ordered release from inhumane and unsafe conditions of incarceration. We have experienced many court-ordered releases of hundreds and sometimes a thousand prisoners at one time. All have resulted in far less than expected repetition of criminal behaviour. The 1 000 Florida prisoners released following the Gideon–Wainwright decision committed fewer crimes than prisoners released on parole. New York and Pennsylvania, following the Baxtrom and Dixon decisions in releasing hundreds of persons judged criminally insane, had experiences similar to Florida.

We must search for alternative sentences to incarceration which have greater pay-off to society in general as well as to the victims of crime. If we don't do so we must prepare to pay for the high rate of crime victimization in the jails and prisons themselves. The half million dollar award in Virginia in 1979 for a prisoner paralyzed by overmedication and neglect in isolation is a precursor of even higher public costs for unsafe incarceration. State, federal and local governments have an absolute legal responsibility to protect from harm any person they confine. Not to guarantee such protection is to violate prisoners' constitutional rights. On April 14th in *Owen V. City of Independence, Missouri,* the U.S. Supreme Court removed any question of governmental immunity from damages liability flowing from their constitutional violations. In light of the overwhelming evidence of danger from rape and other injuries we can expect the *Owen* decision to serve as a propellant for alternatives to incarceration after the clouds of new litigation have settled. It is hoped that this will halt the vain effort to play catch-up through massive jail and prison construction.

At present, there are over 880 new jails and prisons being planned or under construction. If completed the estimated aggregate cost will be in excess of $8 billion not including operating costs. Most of these institutions are in cities and states which are already economically hard pressed to maintain high standards of health, education, housing and other human services. However, as I stated earlier, jails and prisons have become a political issue. To suggest that shorter sentences for most offenders and that alternatives to incarceration for non-violent offenders is socially and

economically the best way to go is politically controversial. Those public officials who have the facts to support such change find it far less threatening to follow, rather than to lead, public opinion. The public, however, is getting more and more of the facts through the increasing interest of business, labour, religious and other civic leaders. No one doubts that an informed base of public opinion is essential to the changes to which we must turn. If more public officials would assume a leadership role they would soon find that the general public has been sorely misjudged. Every citizen's committee I have observed or worked with over the past 40 years which has inquired into the injustices and brutality inherent in both children's and adults' incarceration systems has recommended more progressive changes than their public officials were ready to adopt. This was true of the Attica Prison Riot. It will be true of the citizens' inquiry into February's New Mexico Prison Riot where at least 15 of the 33 murdered prisoners were serving time for non-violent crimes.

Who will lead in the use of alternatives? From within the system it will require the leadership of the judges. They can, within the framework of existing law, reduce the length of sentences for non-dangerous offenders and they can use a wide range of alternatives for offenders who have not committed violence. They can work with the prosecuting attorneys to encourage the development of community programs for early dispute settlement. The status of judges can be helpful in leading the voices of others in requesting sentencing laws with a presumption against the use of incarceration. They can show the value of a graduated system of victim-centred sentences such as restitution, reparation and community service to precede probation.

Under the leadership of judges the purpose of the criminal law could be to repair the harm done to the victim and to the community and to involve the offender in reparation and later restoration to full and productive status in the community. The judges could see that the penalties assigned, when fulfilled, would not impair the capacity of offenders to function productively and positively in society.

I thought so highly of the possibility of judges giving such leadership that I recently wrote an open letter to about 8 000 state and federal trial judges to tell them so — about 10% of them replied. As you might imagine, it will be no simple task.

The responses were evenly divided between agreement and disagreement. Some judges wrote at length to describe what they are now doing to help upgrade the justice system, and the use of sentences to reduce incarceration. One Chicago judge returned the letter with "Absolute garbage" scribbled in red on it. Where another wrote with pride of the effectiveness of community sanctions, still another judge claimed that his years of experience proves that the only hope lies in building more prisons where young offenders can be kept in total isolation.

A trial judge in Philadelphia, Lois Forer, sent a manuscript of her forthcoming book, *Criminals and Victims*, citing in case after case how sentences requiring payment of restitution and reparation have consistently repaired the harm done to victims in ways that could not be possible through incarceration.

One strong theme came through in both the positive and negative responses. The changes to a more rational system of sentencing and cost-effective system of community alternatives to incarceration cannot evolve without that base of informed public opinion. The political risks are too great in informing the public that we use incarceration too often for too long.

The concept of a system of justice based on restoration and reparation rather than retribution is too radical, too controversial. It will continue to be so until public officials and criminal justice leaders can be certain that it coincides with public demand. At the outset, most of the leadership must come from outside the system — from the private voluntary sector. It is a campaign in which the leadership of citizens' organizations is essential if the United States is to turn away from or over-reliance upon jails and prisons.

Citizen involvement must go beyond one to one volunteer visiting and counselling. Law enforcement, courts and corrections must be opened up by informed and systematic monitoring by citizens. We cannot expect legislators to assume responsibility for enacting rational sentencing policies to put an end to public execution and to eliminate the use of incarceration except in cases of clear public endangerment; we cannot expect judges or legislators to lead in reducing excessive lengths of sentences or in developing a range of sentences to other than incarceration unless they hear distinct demands from the public.

If we are to be effective in establishing a well funded and staffed system of alternatives to incarceration we must truly believe that prisons and jails are society's most wasteful and ineffective response to crime. We must promote the use of alternatives as though our ultimate goal is to abolish prisons. If we do not try for that seemingly impossible goal the compromises of those setting public policy and fixing sentences will continue to view alternatives as additions to, rather than substitutes for, incarceration.

Speech: June 11, 1980

Alternatives — The Judicial Dilemma

The Honourable JAMES K. HUGESSEN, Associate Chief Justice of the Superior Court of Québec

The theme and title of the present conference is "Alternatives to Imprisonment." Implicit in that title and underlying that theme is the assumption that imprisonment is an undesirable or ineffective method of dealing with offenders and that we should, therefore, by every means possible, be attempting to develop alternative means. This assumption is also reflected in much official and legislative policy, which, for the past several years, has been developing techniques for reducing the numbers of people sent to prison or hastening the release of those already there. By way of example, one could mention the institution and expansion of parole and probation services, the creation of mandatory supervision, the establishment of half-way houses and, more recently, the legislative sanction, actual or proposed, of intermittent sentences and community service orders.

There is, however, another side to this coin. Recent public opinion polls show that almost 80% of Canadians believe the courts do not deal harshly enough with offenders. Legislators, presumably reflecting this perception of public opinion, have adopted a growing number of provisions designed to limit judicial discretion for leniency in sentencing and to impose severe mandatory dispositions. Examples of this trend can be seen in statutory minimum prison sentences for such offences as importing drugs or driving while under the influence of alcohol, in the establishment of long periods of ineligibility for parole for persons convicted of murder, and in the requirement of statutory minimum consecutive prison terms for certain firearms offences.

I am a judge. As such, it is my duty to impose sentence on persons convicted of offences and, in doing so, to attempt to reconcile the two conflicting trends to which I have just referred. You will forgive me for saying that this is clearly an impossible task, and, if the courts sometimes seem schizophrenic in matters of sentencing, this is because they are attempting to apply policies and to respond to stimuli which are themselves contradictory. It is within this context, in the next few minutes, that I want to share with you some reflections on the nature and purposes of imprisonment, as seen by one sentencing judge.

Let us start with the obvious. Now that we have abolished both capital and corporal punishment, imprisonment is the most severe penal sanction available. Since it is the nastiest thing we can do to people within the criminal justice system, it would seem to logically follow that we should reserve it only for the nastiest offenders. As a practical matter, there is no doubt that this is what the courts generally try to do, but a part of the judicial dilemma is due to the fact that, in theory at least, the law provides imprisonment as a sanction for virtually every offence in the book. Historically, as I understand it, imprisonment came to be adopted as a mitigating form of sanction, less cruel and more humane than execution, mutilation, torture, and other such charming practices as found favour with our forefathers. Now that it has, so to speak, graduated from being the mildest to the most severe form of punishment, it seems inappropriate that it should be retained, even as an alternative, for the whole of the vast range of minor offences and regulatory transgressions, which are punishable by summary conviction. Note that I am not talking here about fine options, which are a separate problem, but of imprisonment as an alternative, primary sanction which Canadian law provides for every summary conviction offence. If the law says that a person *may* go to jail for six months, for, to take a well-known example, being found in possession of a lobster which is less than three and three-sixteenths inches long, then, presumably, the law is of the view that some such persons *must* go to jail for that period. No doubt due to my limited experience, I have not as yet come across such a case.

Of course, in the case of the illegal lobster, as in the case of the vast majority of other crimes (both indictable and summary conviction offences), imprisonment for some period of months or years is provided only as a possible maximum sanction, and with the exception of the relatively few instances already mentioned where a minimum sentence is called for by law, the sentencing judge has a discretion to use imprisonment or some alternative and possibly lesser sanction. It is to the reasons

invoked for the exercise of that discretion that I want to turn your attention for the balance of the time which we have available.

What are the factors that determine the choice of imprisonment as a sentence for the offender? Four of the generally accepted aims of sentencing are usually advanced as justifying a prison sentence. First, it is said that imprisonment deters; second, that it neutralizes, or isolates the offender; and third, that it provides the means for his rehabilitation. Finally, imprisonment is said to be a suitable way of expressing society's repugnance at the offender's conduct and of exacting retribution.

Deterrence as a justification for imprisonment is seen as being of two kinds. Specific deterrence operates to dissuade the offender who is sentenced from ever again succumbing to the temptation to repeat his offence. General deterrence, on the other hand, is supposed to operate on the minds of people other than the offender, to persuade them that crime does not pay. I would like to examine both of these aspects of deterrence with you, but before doing so, I would make the preliminary comment that there is nothing in the nature of the prison sanction itself which makes it uniquely appropriate as an instrument of deterrence. Other forms of penalties, as, for example a fine, can equally well serve as a curb to criminal activity. Thus, I would suggest that deterrence should never be considered as a justification for the imposition of prison sentences generally, but only as one applicable to certain offences and certain offenders.

It now seems to be generally accepted that specific deterrence is not an aim which is particularly well served by a sentence of imprisonment. One only has to look at the recidivism rate in our prisons and penitentiaries to be forced to the conclusion that inmates do not perceive themselves as being deterred from crime, in any realistic way, by their incarceration. This is not to say that the concept of specific deterrence is of no value in the formulation of a sentencing policy, but simply that that value is limited and that it is far from clear that the experience of imprisonment plays a critical role in the decision of those who have offended once, not to do so again.

General deterrence poses problems of another order. In the first place, the very theory of general deterrence creates an ethical dilemma for its proponents. To what extent can we justify being particularly beastly in our treatment of Jones, who has been caught, on the grounds, first of all, that Smith and Robinson, who have not been caught, have committed crimes of a similar nature, and secondly, that White and Brown may be contemplating committing a similar crime? It is true that, from a social-defence viewpoint, such an action may seem permissible, but our criminal law purports to assert other values, not the least of which are justice and evenhanded treatment of offenders. For example, the fact that there may be a rash of bank robberies in Montreal, while there are almost none in Halifax, is surely more of a comment on the efficiency, or the priorities in the allotment of resources, of the Montreal police than it is a statement that the crime of bank robbery itself is more serious in the one city than in the other. Of course, if the crime is equally serious in both places, which is what the Criminal Code would appear to say, we should be giving it the same sort of treatment.

With regard to both general and specific deterrence, there is an absence of any reliable data that would support the proposition that the severity of a sentence will increase its dissuasive effect. Certainly, common sense would suggest that this should be the case, and the experience in Scandinavia, where impaired drivers are routinely imprisoned, or in some eastern cultures where very severe punishments (i.e, mutilation for theft) are imposed, would seem, at first blush, to bear this out. The difficulty is that there are limits, and it is almost impossible to know where they are. When the penalty imposed is too severe, the other parts of the criminal justice system tend to react to reduce the effect, as in the case of the English juries of two centuries ago — they would systematically refuse to convict an individual when theft was a capital offence — or, to take a more modern example, the lawyers (both prosecutors and defence attorneys), who enter into plea bargains to avoid the results of unacceptably harsh minimum penalties. Certainly, the relationship between severity of sentence and deterrence is not mathematical, and a sentence of four years is not twice as deterring as one of two years. At some point on the scale of terms of imprisonment, the law of diminishing returns comes into play. I have not seen any research which suggests where that point may be, but I suspect that it may be surprisingly low. Sentences in Canada and in North America generally are considerably higher than those imposed for similar offences in most of the countries of Western Europe, but the rate and seriousness of our criminal activity, far from being lower, seems to be worse.

The greatest weakness of any theory of general deterrence lies, I suggest, in the fact that we do not know how much criminal conduct is rationally motivated. If the criminal does not have the good grace and intelligence to think through the possible consequences of his action for himself before he commits it, then, of course, the beauty of the syllogism that evil results will follow upon evil actions is likely to be lost upon him.

All this being said, however, we cannot deny that sentences have some effect in the field of general deterrence. Even if some offenders do not rationally think through the consequences of their actions, it seems to me that the criminal law must at least act as a deterrent upon those who do not offend. It has been suggested, and I would agree, that this effect takes place at a subconscious, rather than a conscious level where the possibility of punishment for oneself and its perceived reality for those others who are unfortunate enough to have been caught, act as a sort of intuitive educational force to create or strengthen inhibitions against criminal conduct. To put it in another way, most people do not rape, murder and rob, because they are consciously afraid of being arrested by the police but they are probably very much less likely to even consider doing so when they know that the police are there and that very unpleasant consequences may follow. The failure of the "noble experiment" of prohibition in the United States illustrates the limits of the theory of general deterrence where the conduct sought to be deterred is not generally regarded as wrong. We may be living through a similar phenomenon with regard to the possession of marijuana and similar drugs in Canada at the present time. On the other hand, the experience of those of us who have been unfortunate enough to live

in an area which has suffered that modern phenomenon of the policemen's strike, illustrates, to my satisfaction at least, that the coercive power of the law plays an important role in deterring criminal activity.

I would only add that, as I have already stated, deterrence does not necessarily rely upon the use of imprisonment as a sanction, and I would suggest that, for the great majority of those persons for whom the criminal law does serve as a deterrent of some kind, the public shame and disgrace of exposure and trial probably weigh a good deal more heavily in their minds, if they ever think of it, than the prospect of being locked in a cell for a certain number of days or months, or years.

This brings me to the second justification advanced for imprisonment, namely, the neutralization or isolation of the offender in such a way as to make it physically impossible for him to repeat his crime. Unlike the case of deterrence, this argument is, for practical purposes, pretty well limited to imprisonment as a form of penal sanction. Historically, of course, there have been other ways of neutralizing offenders, of which the death penalty was the most drastic example. The old-fashioned technique of transportation was almost equally effective. The first of these has been abolished in this country and the second would appear to be no longer practicable, the Australians unfortunately having long ago ceased to make their country available for this purpose. There are, of course, some cases in which a probation order can be designed with conditions which will have the effect of neutralizing the offender from at least some types of offences, but I do not think that this takes away from the fact that for most crimes, and for most criminals, the only available means of insuring that they are rendered harmless is the sanction of imprisonment.

There is no doubt that imprisonment is an effective means of neutralizing an offender and of protecting society from his ravages while he is kept safely locked in his cell. The difficulty, of course, is that unless we are prepared to accept perpetual imprisonment for all offenders or, at least, for all those whom it is felt should be neutralized, the peace which we obtain by imprisonment today is purchased at the price of a heavy mortgage on the day when the offender will eventually be released. Prisons, while they may be pretty effective in keeping people out of trouble or, at least, keeping them from causing damage to anyone other than their fellow inmates while they are locked up, are widely regarded as being universities of crime, whose students graduate even more dangerous to society than they were when they went in. There is a terrible irony at work here. The criminals, with whom public opinion polls want us to be more severe, are a kind of stereotype of violent, brutal, aggressive, inhuman beings. In fact, very few, if any, offenders actually conform to this stereotype and a common public reaction to a bank robber or a burglar, when seen in the dock or in a police line-up, is to exclaim how ordinary and small he appears. By imprisoning these people, however, we may in fact be doing much to turn the stereotype into reality and to produce the very kind of person against whom we are seeking to protect ourselves.

Even in the case of those who really are dangerous and violent, imprisonment for purposes of neutralization has its limits. As a matter of law, we can only lock up a very few of our criminals in perpetuity and, as a matter of practice, we keep vir-

tually none of them until the day they die. The recent introduction of long periods of non-eligibility for parole in cases of murder may, of course, change this situation but up to the present time virtually no convicted persons have died a natural death while in custody. This means that we are letting people out of prison, and if the result of their imprisonment is to make them more anti-social than they were when they went in, the theory of neutralization would seem to be an extremely weak basis on which to found any justification of imprisonment as a criminal sanction.

This brings me to the third, and in my view the most doubtful of the arguments in support of the use of imprisonment, namely, rehabilitation or resocialization of the offender. The argument, as it seems to me, turns on a combination of a form of cost–benefit analysis applied to prisons and a sort of pseudo-medical reasoning, which seems to fly in the face of both logic and observed reality.

With regard to cost, first of all, there is no doubt that prisons are an expensive luxury. There are approximately 9 500 people in our federal penitentiaries today and a somewhat larger number in our various provincial jails. The most recent figures as to the cost of keeping an inmate in a federal penitentiary set it at about $30 000 a year. The cost of keeping inmates in provincial jails, where the security and programme requirements are generally less, is rather lower, so that the national average maintenance cost of keeping people in prison is about $20 000 per inmate. This figure calculates only the direct cost of employing guards and other supervisory, treatment and correctional personnel who presently work in the penitentiary system on an employee–inmate ratio of about 6:5. The figure does not take into account the capital costs of building and maintaining prisons which must be enormous. Nor does it take into account the hidden costs to society of taking the inmate out of the tax-paying and work-force and of leaving his dependents to rely on the welfare system for their elementary needs of food, clothing and shelter. I have seen no study which attempts accurately to estimate the total real cost of imprisonment to society and can only suggest that the figure must be astronomical.

Given these costs, whatever they may be, the argument runs that simple economics dictate that we should attempt to turn the inmate into a useful and productive member of society, paying taxes, supporting his family, contributing to the gross national product, and ceasing to be a drain on our pocketbooks. This we do by training or rehabilitating him, so that on his release he will become gainfully and lawfully employed. There can be little argument with this line of reasoning when it is used to support programmes for the non-carceral disposition of offenders or intermittent sentences which can be served at times which do not interfere with the inmate's employment. I would simply point out, however, that the argument can, in no sense, be logically seen as one in favour of imprisonment, but rather to the contrary.

Questions far more important than whether economics may justify an attempt to rehabilitate criminals through imprisonment are whether rehabilitation can ever be effected in the coercive prison environment and whether it is meaningful to even talk of treatment or rehabilitation as a useful response to the problem of criminality.

On both counts I entertain some doubts. In the first place, I suggest that everything we know about the behavioural sciences indicates that we cannot teach someone how to respond to, and survive in, an environment by removing him from that environment and placing him in another wholly different and quite artificial one. Put in practical terms, we cannot train the criminal to live in society according to society's rules by excluding him from that society and confining him in another one which operates on its own code of rules bearing little or no resemblance to those on the outside. Rehabilitation, in short, cannot be effected in a cage. By the same token, training and education require motivation, and while such motivation may be either positive, by the promise of reward, or negative, by the threat of sanction, it almost certainly cannot be provided where the ultimate sanction, deprivation of freedom, has already been imposed and the only reward that can be promised is that it will not be reimposed or maybe brought to an earlier end if the desired behaviour is manifested. Certainly, there are some cases of successful rehabilitation in prison but they are the exception and can hardly be held out as a benefit flowing from the use of imprisonment as a sentencing technique. When rehabilitation does take place in prison, it tends to be in spite of, rather than because of, incarceration.

This brings me to my final point about rehabilitation as a justification for the use of imprisonment as a penal sanction. Very shortly put, it is to ask quite bluntly whether we are ever justified in attempting to rehabilitate or treat those who have breached the criminal law. It is altogether too easy to hold that persons who commit crimes must be sick people in need of treatment; that if only we can find the correct medicine we can stamp out the disease. This is a case of mistaking the metaphor for the reality. It is, of course, sometimes useful to speak of crime as a social disease, just as it may be useful to speak of our society as the body politic having a head, organs, extremities, and so on. But just as no one would seriously suggest that the body politic is a real, physical body, which should take a real aspirin when its head aches or a real laxative when its internal economy is not functioning in the way that it should (although we might use both these suggestions as part of an extended metaphor), so, I think, we should not fall into the trap of believing that our social ills are susceptible to real medical or surgical treatment. This however, is exactly what we do when we make the assumption, for which I can see no justification, that criminals are sick people and we have expended vast energy and resources in attempting to find a cure for their disease. In short, we have adopted a medical model for the treatment of a social phenomenon.

As far as I know, there is no evidence to show that criminals, as a class, when they are out of prison, are any sicker, mentally or physically, than the rest of the population. Of course, what happens to their mental health once they are caught and locked up for long periods of time is quite another matter. I have already spoken of prisons as universities of crime and one might well expect that prison treatment would have undesirable effects on the psychological make-up of those who are subject to it.

Nor is there any evidence that people who are mentally ill have a higher tendency to commit crimes than those who are not. Indeed we have demonstrated our

belief that mentally ill patients are not dangerous by our almost total abandonment of restraint in mental hospitals and our acceptance that the great majority of mental health problems can be satisfactorily treated on an out-patient basis. There is, of course, a small but highly visible group whose crimes may well be due to mental disorder; I refer to certain kinds of sex offenders, particularly child molesters. Certainly, if medical treatment were capable of preventing these terrible offences it would be justified, but there is not much evidence that such treatment is possible and, in any event, the people in question represent only a tiny minority of our prison population.

These exceptional cases apart, it is my belief that crime is more likely to be a symptom of mental normalcy than otherwise. It is statistically probable that everybody will, at one time or another in his life, commit a relatively serious crime. Thus, it is the person who has never committed a crime who is the anomaly whose mental health may be a cause for concern. Indeed, I understand that a standard control question asked in the administration of the polygraph, or lie detector, is whether the subject has ever stolen anything, it being assumed that anyone who answers no to such a question must be lying. It would be an interesting exercise to stand here and read to you sections 283 and 244 of the Criminal Code, which are the definitions respectively of theft and assault, and to ask how many of you could stand up and honestly say that you had never committed either of those serious offences. I am not going to conduct the experiment but I would be very surprised if anyone who did stand to answer such a question was other than a pathological liar.

The causes of crime, assuming that they can be identified, are, I suggest, not necessarily or even likely, to be found in the abnormal functioning of individuals and groups or in some form of pathology. Rather, I suggest that crime is a predictable and quite ordinary consequence of the way in which our society is organized. Our penal legislation is not, as I have suggested earlier, enacted with a view to the prevention or care of mental health problems but quite simply in order to repress behaviour which is deemed to be socially unacceptable at the time. To attempt to turn our criminal justice system into a therapeutic exercise and to endorse a policy of treatment for a condition which is altogether normal, is not only to doom the whole operation to frustration and failure but also, more importantly, to set at risk those very values which the criminal law seeks to enforce. We preach the sanctity of human life and the liberty of the person. If our practice, in the name of supporting those values, in fact deprecates them, we are, I suggest, no better than those societies which we roundly and rightly criticize for their improper use of mental hospitals as a means of neutralizing and silencing political dissenters.

Of course, this is not to say that there is no place in prisons for educational or training programmes designed to teach trades or skills to those inmates who think that they will be able to make use of them on their release. Such programmes have the same value and deserve the same support as other adult education and training which are offered to citizens who are not in prison. They are a sound, economic investment in the future productivity of our society. They should never, however, be made a condition of release or an obligatory feature of incarceration. We do not feel

that we should force everyone who is obliged to leave school after grade 8 to complete his education by going to night school and there is nothing in the apprehension and conviction of such a person for a crime which gives us the right to treat him any differently in this respect.

Nor do I deny the value of the threat of the coercive prison sanction in some cases as an inducement to modify socially unacceptable behaviour. What I do suggest is that we should recognize what we are doing for what it is, namely, behaviour modification in support of recognized social goals, and that we should not attempt to camouflage it beneath a cloak of medical and treatment terms. It is only by being honest about what we are doing that we will, I suggest, be able to make the essentially ethical judgements which the situation calls for. Medicine, after all, is basically an amoral science, having for its purpose the correction of physical or mental dysfunction and pathology. By contrast, the alteration of behaviour patterns and attitudes, which is really no more than an elegant way of describing what we pejoratively call brainwashing when practiced by others, is an exercise which a society which describes itself as free should only undertake, if at all, after careful consideration of all the moral implications and of all the possible alternative means of self-defence.

This brings me to the fourth and final justification of the use of imprisonment. Sometimes it is described as retribution, the requirement by society that the criminal atone for his wrongs. Sometimes it is described as denunciation, the public expression of society's disgust at conduct which it considers unacceptable. For myself, I prefer the simpler word "punishment," which I think more accurately describes both the historical attitude which the criminal law has always taken towards offenders and the public attitude which I referred to earlier, that the courts are too soft on criminals. Historically, the criminal law is about punishment and the very words which are central to the criminal process and which continue to be used today, words such as "prosecutor," "accused," "guilty," "criminal," and "penitentiary," are loaded with moral overtones. The very concept of a legislatively established scale of penalties for different offences which establishes the objective gravity of each of them, only makes sense if it is seen as an expression of the view that the conduct proscribed is evil, to a greater or lesser degree, and therefore calls for punishment of a greater or lesser severity. It is likewise also for the judicially established rule which calls for rough parity of treatment of persons convicted of similar offences; such a rule can only be justified on the basis that what we are doing is punishing people for wrongdoing and for breach of an objective standard. If deterrence, or neutralization, or rehabilitation were the only aims of sentencing, these rules would not only be meaningless but counterproductive, for these aims require the court to look to the offender rather than to the offence. General deterrence, it is true, does look to the offence, but we have already seen that it has its limitations.

In this respect, I think the law also faithfully reflects public opinion, although here, of course, it is difficult to speak with as much confidence. Of those same 8 out of 10 Canadians who think that the courts do not deal harshly enough with offenders, less than half (between one and three out of ten) are fearful of being personally victimized by strangers or of walking in their neighbourhoods at night, and

few, when asked to identify in general what they consider to be pressing, social problems, will, without prompting, mention crime and delinquency. The only conclusion that I can draw from these figures is that when Canadians say that we, the courts, are being too soft upon criminals, they do so, not because they feel the need of protection against crime, but, rather, because they think criminals should "pay for" what they have done and not "get away" with it.

It is not fashionable to do so, but I, for one, see nothing wrong with regarding punishment as being the ultimate aim of the criminal justice system. Whether we like it or not, the concept of atonement for wrongdoing is deeply rooted within our Judeo-Christian morality and social structure. Nor does the recognition that what we are doing is punishing people necessarily mean that astronomical prison sentences, or even ones as long as those presently being imposed, will follow as a consequence. On the contrary, it is the juxtaposition of treatment with punishment which now serves to justify many long sentences and the removal of the former might well result in the latter assuming more reasonable dimensions. Indeed, imprisonment is not a necessary part of punishment at all and there are other dispositions available in a purely or primarily punishment-orientated sentencing policy which might be quite unpleasant enough for the offender to satisfy our need to have him atone. What we must avoid doing, or attempt to reverse, if, as I suspect, it has already happened, is to debase by indiscriminate use the importance of the prison sanction, which is the most serious and unpleasant sanction which we have. The deprivation of liberty for punishment purposes, for even quite short periods of time, is a thoroughly unpleasant experience and if it is not so viewed by the public, that is because, I suggest, they have been misled by the false doctrine of treatment into thinking that prisons are really no more than glorified hospitals.

To put it bluntly, it is my view that our response to crime is, and has always been, emotional rather than rational. We send people to prison not because we believe logically that it does them, or us, any good, but because we want to hurt them for being bad. Our theories of deterrence, neutralization and rehabilitation are, to a large extent, attempts to rationalize our emotional response. In my view, they have not succeeded very well. I think it is time that we admitted our emotions and faced up to them. There is no need to be ashamed of them, for I think they properly represent the views of most members of our society. There is no harm, and indeed perhaps much good, to be had from our collectively letting off steam in a structured and controlled way against those whose conduct we find to be abhorrent. At the very least, it is a necessary safety-valve to prevent people from taking the law into their own hands. It is far better that we should act out our collective feelings in the structured court setting than in the streets. Let us, however, for our own sakes as well as for the sake of those whom we send to prison, stop rationalizing what we are doing and denying its true nature.

Let me just add this. There is, in my view, nothing wrong, either in theory or in practice, with the use of parole to mitigate the effect of prison sentences, even where such sentences are imposed for largely denunciatory or punitive purposes. In theory, parole does not touch the sentence itself and the parolee continues to serve the

sentence of the court, but outside rather than inside the prison walls. In practice, the denunciatory effect of a sentence to prison is largely achieved when the sentence is pronounced and the offender is removed from public view and taken to the institution. Because parole cannot, as a general rule, be granted in any event until at least one-third of the sentence has been served, there is little danger of the offender reappearing in such a short time that the sentence is perceived by the public to be little more than a symbolic or theoretical exercise. In any event, as far as I am able to determine, most public complaints about parole are directed not to the fact that it interferes with the punishment of the offender but, rather, that it negates the protection of society which the sentencing court intended to achieve by his isolation or neutralization. Such criticism is a necessary and healthy incentive to better parole decision making and it can never be wholly avoided because, for as long as parole decisions continue to be made, some proportion of them are bound to be bad — but then, of course, the same can equally be said of sentencing decisions.

Let me return to where I began. The courts are at the tension point between, on the one hand, the view of prison as an inhumane, expensive and ineffective means of dealing with offenders, and on the other hand, the desire to punish offenders in a way which leaves no doubt as to the attitude which society takes towards their conduct. It is unlikely that this tension will ever be resolved or indeed that it is desirable that it should be, for it is out of precisely this kind of conflict that we are likely to achieve a balanced and reasonably satisfactory result. To draw a parallel with another area in which I have some experience, it is in the continuing conflict and tension between the executive and judicial arms of government that we find the greatest guarantee for the various civil liberties which we hold so dearly. What courts must do, however, is recognize what a prison sentence can and cannot do and specify what goals they hope to achieve when they make the drastic decision to deprive a citizen of his liberty for some period of time. We must acknowledge that prison is a last resort, to be used only where all other alternatives have been considered and rejected. Above all, we should be careful never to expect that a prison sentence should achieve more than it is capable of doing, for it is from such false expectations that the judicial dilemma springs.

Workshop 1
Justice Councils

Resources

DONALD McCOMB, Special Consultant, Ministry of the Attorney General, British Columbia, was responsible for the development of Justice Councils in that Province.

JIM ELLIS, British Columbia's Ministry of the Attorney General liaison person to the Association of Justice Councils of British Columbia in June, 1980.

This workshop examined the development of Justice Councils in British Columbia. Mr. McComb, the first speaker, immediately involved the participants using group dynamics techniques. He asked each participant to identify himself and to state his reason for attending this particular workshop. Responses showed a strong interest in community involvement in the justice system, and a strong commitment to change.

Some general comments followed regarding the context in which the concept of Justice Councils arose. They were initially proposed by a newly elected government in British Columbia, and were closely related to the "small is beautiful," "back to grass roots" efforts of the early 1970s to humanize government processes, and to make the government more open to its citizens.

The participants were asked to list what they thought the local justice issues in any given community would be. Mr. McComb explained that, in an effort to involve the community in the justice system, similar sessions were held throughout the province. The ministry asked for, and received, criticisms of many aspects of the justice system.

It was necessary to face contentious issues directly. The feeling, however, was that far more was gained than lost in doing so.

A question raised by a participant about whether local communities had the knowledge and competence to identify and deal with local justice issues was more than answered through the illustrations given during the workshop. Justice Councils set their own terms of reference, and the issues arose from the community rather than government. The Justice Development Commission, composed of division heads from criminal law, courts, corrections and policing (B.C. Police Commission), played the role of a guiding force with two main principles: that the criminal justice system be open to the people, and that the system be decentralized and coordinated on a regional level.

In British Columbia, anyone, a lay person or a person working the criminal justice field, can become a member of a local Justice Council. Their purpose is to provide a public forum for issues to be brought to the attention of the community.

They have no set programme, mandate, or legislative guidelines, and act as vehicles of information, project initiation, study and public response to issues, legislative review, and support to justice programmes.

Justice Councils identified, and in many instances initiated, projects in the areas of juvenile delinquency, family law, child abuse; drinking and driving, witness management, court watch, and community-based corrections.

Workshop participants suggested that raising contentious issues would inevitably lead to political questions in the legislature, vocal pressure on decision makers, and action in response. Mr. McComb indicated that the intent of public participation through Justice Councils and other citizens groups, was to enhance the political process (non-partisan in nature) through a more informed and involved community. The role of justice personnel as the catalyst to specific programmes was described as an important part in the process. Professionals (police, lawyers, and corrections staff) provide the knowledge and practical basis for community volunteers to become concerned and involved in specific programmes.

In the second half of the workshop, Mr. Ellis provided a detailed description of the development of Justice Councils. Their aim was twofold: (a) to identify ideas within the community, and (b) to establish an over-all model for the operation of Justice Councils.

Regional Justice Councils, comprising representatives from the Justice Councils within the region, were formed and a Provincial Association, comprising regional representatives, was established in order to develop communication with the Ministry of the Attorney General. The ministry currently has one staff member devoting part of his time to providing liaison with the Councils' Provincial Association. Previously, there were nine regional co-ordinators and support staff providing staff support to the local councils.

The ministry now appears to be treating Justice Councils as one more independent community movement competing for scarce public funds. A grant has been provided to the association for fiscal year 1980–81. A precise evaluation of their role is needed; however, the resource staff agreed that the concept could stand on its own merit.

Of the many particular accomplishments of Justice Councils, the most important to Mr. Ellis is a symposium held annually since 1976 to deal with current justice issues.

An indication of the interest of the participants in this workshop presentation was the number of perceptive and probing questions. Mr. Ellis was asked whether a Justice Council is a "community court," and: "Just what does a Justice Council do?" Mr. Ellis stated it is not a "community court," but a group of citizens, lay and professional, who come together out of an interest in the operation of the criminal justice system. Although it has no power, authority, or mandate, it often has initiated action regarding particular problems in the community.

Participants returned to the question of the role of Justice Councils. Mr. Ellis felt that the role was a link between government and the community in relation to criminal justice matters. While the present British Columbia government is reluctant

to accept community involvement in decisions which are ultimately financial, experience has shown that people are indeed motivated to deal with their own problems. This has included a more extensive involvement of municipal governments in the justice area, particularly in regard to crime prevention areas.

Mr. McComb was asked what he felt most needed change, and how the Justice Councils could effect that change. He felt that much more effort should be spent on prevention. Strategies would include making the case for pro-active policing, as well as the full range of diversion and victim–witness assistance programmes.

A second area touched on by both resource persons was the need for governments to think through the implications of public involvement programmes using community development as an approach. Retraining justice professionals in public involvement methods would be invaluable to offset the false assumptions voiced by many professionals that communities and citizens are apathetic. Poor marketing techniques and professional control restricting a sharing of authority were considered to be major problems to overcome.

Participants appeared to be stimulated by this example of involvement of the community in the criminal justice system, and questioned the speakers long after the allotted time had expired.

Workshop 2
Neighbourhood Dispute Settlement Centres

Resources

CHRISTIE JEFFERSON, Executive Director, the Canadian Association of the Elizabeth Fry Societies, served as the National Consultant on Native Peoples in the criminal justice system for the Ministry of the Solicitor General, Canada, and was a founding member of the Committee for Citizen Dispute Services, Ottawa.

SANDRA LYTH, past President of North End Diversion and Neighbourhood Justice Project, Halifax, Nova Scotia. This is a community-based programme, involving mediation of neighbourhood disputes and the creation of alternative methods of dealing with crime.

PAUL WAHRHAFTIG, Programme Secretary, Grass Roots Citizen Dispute Resolution Clearing House, Pittsburgh, U.S.A. He is attorney with over 10 years' experience in community organization, criminal justice reform and citizen dispute resolution.

JIM COUGLIN, Saskatchewan John Howard Society, and Director of Project Mediation Division.

In keeping with the theme of "Alternatives," Neighbourhood Dispute Centres offer an innovative and community-oriented approach to resolving problems in the community which might otherwise escalate to more serious and detrimental court battles.

Ms. Jefferson, the workshop leader, presented a general overview of the historical development and philosophy of mediation as it applies to the Neighbourhood Dispute Centre. She noted that the concept of neighbourhood dispute settlement dates back to the aboriginal societies. More recent concerns with this issue have been examined by the President's Commission of Law Enforcement in 1967, the East York Community Law Reform Commission in 1972–73, and the United States National Commission on Causes of Popular Dissatisfaction with Criminal Justice in 1976.

In a general discussion of this topic the speakers pointed out the overload in the court system of disputes which could be settled more effectively and humanely within the community. This type of dispute settlement is not only justifiable in economic terms but also allows a more realistic examination and resolution of the precipitating factors in neighbourhood disputes. This differs significantly from the "black and white" or "victim and offender" image of the criminal justice system.

Moreover, neighbourhoods working toward the resolution of social problems peculiar to that area afford the opportunity for a greater sense of community and the expression of a concern for quality of life without the intervention of a formal, structured and often impersonal court setting.

The North End Diversion and Neighbourhood Justice Project in Halifax was founded following the observations of significant discrepancies made in the treatment of disputes in Halifax's North End. Ms. Lyth described this project as an option to the criminal justice system, which, because of its bureaucratic and complex legalistic nature, makes mediation difficult. The criminal justice system, she notes, needs the community's help in progressive reform.

Citizen Dispute Resolution Programs, as described by Paul Wahrhaftig, provide informal settings where people who know each other can sit down with trained volunteers and discuss disputes with a particular emphasis on working toward a compatible agreement and prevention of future problems, rather than fault-finding. These programmes provide an opportunity for communities to "re-assess their role as a first-line resource for problem solving," and, because of its non-blaming nature, both parties can work together in designing resolutions. Consequently, both parties can come out as winners, rather than the traditional "loser and winner."

Project Mediation Diversion is directly linked with the criminal justice system of Saskatchewan in that all referrals are made by the Crown counsel or the police. In this model, the victim has the option to participate and, should he/she do so, the final agreement is filed by the courts. Jim Couglin describes traditional handling of disputes by the formal court structure as an obstacle to the notion of the community. The Mediation Diversion Project allows the people with the problem to solve the problem under the guidance of an approved mediator. The complainants often lose their sense of being the victim and feel a sense of satisfaction in their contribution to the settlement of the dispute. This personal involvement, he notes, also often results in both parties arriving at a greater understanding of personal circumstances and social difficulties.

Issues raised by the participants included: the need for a definition of what constitutes social disputes as opposed to crime (i.e., does crime exist or is it always a social dispute?), confidentiality (i.e., admission of guilt to a lay person), consistency of remedy and ethical concerns (i.e., in addition to agreement by both parties, a standard of what is fair or just is essential in mediation).

The general consensus of the group was that there is a need for relieving the criminal justice system of problems which can be more appropriately resolved within the community. At the same time, this gives the community a chance to build in problem-solving techniques. On a positive note, it should be noted that, in Canada, three mediation projects are now in operation.

Workshop 3
Alternate Entry System

Resources

GEORGE CORNEVEAUX, Director, Correctional Volunteer Center, Intake Center, Prima County, Tucson, Arizona.

DAVID ROONEY, Dodge-Filmore-Olmstead Counties Community Correctional System, Rochester, Minnesota.

DAVID BAHR, Director, Alternate Entry Programme, South Fraser Region, B.C. Corrections Branch, B.C.

DAVID BENNETT, consultant on jail overcrowding, Law Enforcement Assistance Administration, was Director of Pretrial Services, Salt Lake City, Utah.

ARTHUR DANIELS, Director, Community Programmes Division, Ontario Ministry of Correctional Services.

The theme of this workshop was the need to establish an integrated system of criminal justice. Mr. Bennett, in giving the overview, stated that the system as it has operated is not a system. There has been very little harmony in the criminal justice system and there must be if it is to meet the demands placed upon it.

As a result of an April 14, 1980, U.S. Supreme Court decision (*Owen v. Independence, Miss.*) cities and jails will no longer have "good faith" protection when the civil liberties of inmates are violated, and will now be liable for monetary damage suits. The system has had little commitment to change but will now be forced to — even if for the wrong reasons. The cost is going to be simply too great to incarcerate all but the most dangerous offenders. The potential liability of not housing them safely and humanely is unbearable.

Working on the premise that the criminal justice system does not operate as a system, Mr. Bennett, when he is called in to deal with an overcrowded jail, tries to set up an integrated system. An advisory board is first created, and then a complete data analysis is made of how the local system operates. That data is then used to document and validate changes to be made in the system. Next is the need to establish a central intake system in which a great deal of client information is obtained. This is then used to make decisions for recognizance release, supervised release, jail classification, the appointment of counsel (if a public defender is needed), for social agency or mental health referrals, and for consistent medical screening.

An accurate data base can identify what types of people are being arrested, as opposed to those being warned or given a summons or citation, and which people

are being sentenced or placed on probation. Information obtained in these early stages can be used in the pre-sentence report. Having earlier information enables one to know what changes are made in the pre-trial period; it can also be used to establish and evaluate standards and goals. It facilitates greater accountability because it makes it easier to evaluate programmes and services. Pro-active, rather than reactive decisions can then be made about who enters the system and who is jailed.

In 1973, the Arizona legislature passed the Revised Rules of Criminal Procedure, which permitted release on recognizance. Mr. Corneveaux operated, and continues to operate, a release on recognizance programme, after a study showed no correlation between a monetary bond and performance on release. He also ran a pre-trial release programme. A study of his centre found that they are screening 15 000 arrests a year and that, out of a population of 500 000, 600 to 800 persons per year are being sent to state prisons. He emphasized that they are proud that the figure is that low.

Mr. Corneveaux established a Central Intake Advisory Board comprised of judges, police, prosecutors, public defenders and sheriffs. Close co-operation eventually was achieved. Quite helpful is the fact that members of the board are autonomous and thus have decision-making authority. Some results were the establishment of pre-trial services, an effective screening process, and an efficient "tracking" system.

The goal of releasing all but the most dangerous offenders has been aided greatly by the passing of legislation in 1979 which has enabled his agency to release directly on their own authority those arrested for misdemeanours. The agency is a neutral arm of the court which lends authority to such action.

With enthusiastic questioning in the second half of the workshop many points emerged. With good screening the use of grand juries is reduced. A high number of felony charges are reduced to misdemeanours or dismissed; of the remainder, a very high percentage result in guilty pleas or convictions. No questions are asked about the offence during screening except in family or sexual matters, and then only if related to the ability of the subject to return home. The screening process and the advisory board appear to have reduced the effects of attitude extremes on the part of some members of the board. It also reduces the territorialism of different parts of the criminal justice system, and is able, therefore, to more effectively protect the community.

The centre recommends no release on only 20% of all persons arrested for felonies, but rarely recommends no release for those arrested for misdemeanours. Recommendations for release are followed 90% of the time and those against release are followed 80% of the time. Of those released, 84% are placed on probation and of those not released, 64% are placed on probation. Of the few cases (3%) missed by the screening process (with the result that no recommendation is made) 50% are released.

Participants in the workshop asked whether those released commit further crimes while awaiting trial. Mr. Corneveaux said that the pre-trial offence rate is

about 10%, whether the offender is released or not. He reminded the group of the prison environment, where offences against persons continue to be committed. As to the likelihood of flight, the other prime reason for pre-trial detention, the screening process is more likely to detect that possibility, if it exists, than any procedures previously used. Further, the centre's tracking system is more likely to point out those instances where a subject has failed to comply with release conditions in the past than a court officer or prosecutor would be aware of. Thus it will lead, in those cases, to a recommendation of no release, giving, in fact, greater protection to the community.

One participant raised the issue of returning an arrested person, on release, to the problematic environment from which he came, whereas the centre begins intervention immediately, at the pre-trial stage. A judge was quoted as saying that a citizen has the right to remain in that environment until convicted. Mr. Corneveaux emphasized that the principal purpose of pre-trial conditions is to meet the same goals as the practice of pre-trial incarceration, namely, to ensure attendance at trial, or, in Canada, to assure protection of the community. If the person in enrolled in a drug programme, for example, the community gets some protection and the offender can be easily located.

As indicated above, early screening provides information which can begin the pre-sentence investigation process. One interesting point which raised questions from the group was that, after a person has been in the criminal justice system for 45 days, research shows they are quite certain to be convicted. (Only 10% of those cases which are not disposed of at that point are acquitted.) Since, when the conviction is registered, there will be only a short amount of time to prepare a pre-sentence report, the practice of beginning the pre-sentence investigation after the 45-day point has evolved. The question was raised as to how a presumption of innocence could be preserved. Mr. Corneveaux said that letters to the client's employer, school, etc., are prepared. Defence counsel is contacted, and because of the circumstances, is normally prepared by then to waive any objections. If he does not, no action proceeds. If he does, the letters go out and the investigation is completed, frequently while a guilty plea is being negotiated. He also noted that, as required by Arizona law, a pre-sentence report is prepared before every felony sentencing.

The centre includes four Indian workers, an effective witness assistance programme, and provides third party custodians if the person does not have community ties. All of the above have been shown to closely correlate with re-arrest rates and appearance for trial. A further saving of public funds is achieved when clients are released on recognizance. If they do not have to post cash bail, they may be able to afford their own defence counsel and not require the services of a public defender.

As for changes or improvements needed, Mr. Corneveaux would like to see Arizona reduce Possession of Marijuana from a Class 6 felony to a misdemeanour. He would also like to see pre-booking release become possible as, at present, officers have no option but to take all arrested persons through a full booking procedure, even if they are to be released shortly afterwards. He also hopes to see the establishment of bail hostels, much as they are established in England.

Mr. Bahr spoke of the need for a completely integrated correctional system. He began by outlining the problems presented by British Columbia's Lower Mainland Reception Centre, Oakalla Prison. Serving 17 courts and a population of 2-1/2 million, it was processing 2 500 people per year. Although it is a maximum security provincial institution, 38% of inmates were there less than 30 days, and 68% were there for four months or less. Traffic-related offences brought 29% of the inmates, theft 22%, and "serious offences" brought only a small portion of the inmates moving through the facility.

There were also classification problems. All offenders went to maximum security, whether necessary or not. Further, the classification process took seven to nine days. Thus, a person sentenced to 14 days or less never got out of maximum security. It was always overcrowded, yet minimum security institutions were badly under used.

Under Mr. Bahr's direction, British Columbia's approach to this problem was direct placement of incarcerated offenders into the appropriate level of security and control. The statement of purpose of the project was: To develop an alternative entry system into corrections which maximizes the most direct placement of incarcerated offenders into the lowest level of security consistent with needs for protection of the public, programme effectiveness and individual needs of the offender.

The specific objectives were:

1. To reduce bed use at Oakalla by a daily bed count of 25%.
2. To increase bed use in open settings and community resource centres to 25%.
3. To determine if different placement decisions are made when classification decisions are made different settings. Would there be a decision for more or less security?
4. To measure the effect of alternate entry on 14-day sentences.
5. To develop an intake–classification procedure that is completed in 48 hours (some were taking over 30 days).
6. There will not be any increase in the sentenced population from the courts as a result of alternate entry.
7. There would be no cost increase; a full cost analysis would be done.
8. Alternative entry will not result in an increase in the rate of escapes, or of negative movement from lower to higher levels of security.
9. Attitudes–responses to alternative entry would be measured with reference to
   (a) humane treatment;
   (b) processing of offenders;
   (c) impact on the system.

In answer to questions posed, Mr. Bahr said that the length of sentence as a classification tool was considered and rejected. The project did not study the possible effects of alternate entry on deterrence or re-entry into the system. Objective 5 was met in one institution, but in no others.

Three classification models were established. In the first, classification was done at the regional reception centre at Chilliwack. Inmates were then transported from there by the sheriff's office to the appropriate institution.

Criteria for classification were: the purpose of the sentence (reference was made to the Law Reform Commission study), the individual needs of the inmate, his plans, life style, ties to the community, previous record, previous probation or previous prison behaviour.

The group found that classification in this manner was a more relaxed and personal approach than at Oakalla — information transfer problems arose however. Another change, which the separate provincial classification specialists did not appreciate was that the whole process was demystified.

Under the old model, one problem was that probation officers would make a recommendation, and the court would sentence accordingly, but the classification people would act autonomously, and usually differently. Another problem arose, however, when classification was done near the sentencing court. In some instances, the court asked for classification staff to give evidence under oath about programmes available and for commitments regarding where the inmate would go. These efforts were resisted successfully.

The second model was also a regional reception centre. One took inmates sentenced to six-months or less, the other took inmates sentenced up to two years.

The other model was direct court classification. Beginning with the court facilities in Surrey, classification took place immediately after sentence was passed. It was conducted by a provincial classification officer and a correctional officer. They also tried a panel system and included a citizen, but found it did not work well.

The advantage of this procedure was in the much improved information base because the court proceedings, record, and pre-sentence report were right at hand. The only problem was as stated above — that they might have to give classification information in court. A participant in the workshop asked if any attempts at sentence bargaining were made. Mr. Bahr said that there were not, but that judges often tried to sentence to a particular facility.

In general, he felt that the advantages were significant. Each facility became an intake centre; correctional officers had more influence on decisions; transportation problems were simplified because the sheriff's office had to organize their system efficiently; and although medical assessments were occasionally a problem, they were usually done by a local doctor.

When evaluating the projects, the group made a number of findings. The first objective was not met. Utilization was reduced by about 12%. Of admissions for under 30 days, 38% utilize 16.9% of bed space; 67% of those under four months utilize 39.9% of bed space; and 78% of admissions for six months or more utilize 64% of bed space. The rates of utilization and of admission are quite different. The greatest impact of the innovation was, as intended, on the short-term offender.

As for the effect of the setting on classification, they found that the court setting is a more neutral, objective atmosphere. When classification took place in a more secure setting there was a greater use of security. ("We have him here, let's play it

safe and keep him.") The inmate had to be transported from the court regardless, so one might as well send him to the most appropriate place.

As for the other objectives:

4. Most inmates sentenced to under 14 days went to community correctional centres.
5. Under the direct classification system, the whole process was normally completed in two hours, whereas, formerly, it sometimes took over 30 days.
6. No change in sentencing attitudes of judges was detected.
7. Cost analysis was difficult because of the problem of determining the actual cost of Oakalla, a facility well over 100 years old. By comparing *per diem* operating costs, however, there was a considerable benefit. A yet larger one lay in the potential of closing a tier at Oakalla.
8. There was a slight decrease in the rate of escapes.
9. Regarding attitudes, there was a significant improvement on the part of judges, as they got much better feedback. Correctional officers, having a part in the decision-making process, had a greater commitment to the inmates.

Classification officers resisted the court model, preferred the old system, and at most wanted a new facility built.

The study also found that, for the first time, community corrections centres were full. There was full use of camps and community resource centres.

As a result of the study, four models were proposed: the court model in Vancouver only, and all else the same as before; the model using two reception centres; using the court model throughout the province; and simply improving the facility and procedures at Oakalla. Mr. Bahr noted that all of them were better than the previous procedures. The system was very resistent to change, frequently producing the refrain "it can't be done, you know."

The recommendations accepted, and operational since March, 1980, were to have a direct court model out of Vancouver, and to classify at the regional reception centres for all other courts. They will move towards a direct court model in the rest of the province at a later date. In remote regions, classification would be done by the senior probation officers. This would make probation officers part of the sentencing procedure and would tend to improve the quality of sentencing recommendations. This is also the most cost–effective model, since it can be done without any new staff, and would involve only redistribution of present classification staff.

Workshop participants found the presentation most interesting even if they did not have a background of institutional experience.

Mr. Rooney described his programme in detail. He said that the enabling legislation, the Minnesota *Community Corrections Act, 1974*, provides an incentive not to send people to state prison. State funds are provided to the county (in this case three counties combined) to operate a community corrections system. If a juvenile or an adult, who is not considered dangerous, is sent to a state facility the county has to return to the state the *per diem* cost of the inmate's stay.

The state has responsibility for funding, establishment of standards, planning, research and evaluation. The county has responsibility for determining local needs, developing and implementing plans, and involving local communities. The goal is to produce community alternatives to incarceration of non-dangerous offenders. The expected result is to effectively protect society, and to promote efficiency and economy in the delivery of correctional services. This is to be done by implementing a community-based correctional system, along with a full range of preventive and diversionary programmes, as well as probation and parole services.

Mr. Rooney explained how this was done. A Corrections Advisory Board including officials, professionals, and citizens was established; a comprehensive plan was established; an equalization subsidy was obtained from the state, based on population and other factors; a local administrative structure was established, to make the criminal justice system one in fact; costs were determined; information, evaluation and training programmes were established.

Although they encountered some problems, such as subsidy criteria, communication problems between the judiciary and correctional advisory boards, and some sentencing guidelines passed by the state which greatly determined the direction of sentences, many positive results were obtained. The most important was a reduction in the rate of juveniles (47%) and adults (30%) sent to state institutions. The programme also established that counties can manage their own correctional services. It brought about good co-operation within the system. It led to similar programmes being established in Kansas, Oregon, California and Ohio.

After a break, Mr. Rooney described further details of his programmes. The first established was P.O.R.T.: Probationed Offenders Rehabilitation and Training. The P.O.R.T Corrections Centre is a residential facility for male juvenile and adult offenders. Its programme includes crisis intervention and placement, placement of juveniles awaiting trial, and sentencing alternative for juveniles and adults. Residents are occupied at jobs or schooling, and therapy if needed. Few problems and some benefits are encountered by having juveniles and adults in one residence.

There are two P.O.R.T. group homes, one each for males and females. Other programmes include court officers, formerly known as probation officers, whose purpose is to provide pre-sentence reports, supervise offenders and to work towards diversion of offenders from the criminal justice system. The jail programme provides not only detention but also individual and group counselling, tutoring for upgrading, and life skills programmes and work release. An active volunteer programme provides supervision of clients, assistance with pre-sentence reports and recreation programmes. A youth services co-ordinator works with a caseload of 25 adolescents selected by their schools as being pre-delinquent, and intervenes to provide counselling and appropriate referrals to community services. *Rapeline* provides assistance to victims of sexual assault in the form of emotional support, information, counsel and advocacy. A Learning Disabilities Research Project was established to study the cause and effect relationship between learning disabilities and delinquency. While the relationship has been established, efforts to deal with learning disabilities among delinquents have not yet reduced delinquency. Their hypothesis

now is that by 14 or 15 years of age, personal problems created by the learning disability are too well-established to be changed very much. The study points to the need for early detection and intervention.

Last, but not least, the system participates in a very thorough evaluation and research programme, which greatly influences planning and funding.

The discussions of the two United States programmes were enlivened by thorough questioning from workshop participants. The questions were mostly for clarification, rather than criticism, since the participants were generally very enthusiastic about the programmes.

Workshop 4
Bail Verification and Supervision: American and Canadian Perspectives

Resources

MADELEINE CROHN, Director, Pre-Trial Services Resource Centre, Washington, D.C.

BRUCE D. BEAUDIN, Director, Pre-Trial Services Agency, Washington, D.C., U.S.A.

RUTH MORRIS, Manager, Old City Hall Bail Project, Toronto, Ontario.

JUDGE R.D. REILLY, Provincial Court Judge, Kitchener, Ontario.

CONNIE MAHAFFY, Provincial Co-ordinator of Pre-Trial Services, Community Programme Development Branch, Ministry of Correctional Services, Scarborough, Ontario.

J. TERRY EGAN, Director, Community Pre-Trial Services Unit, Vancouver Region, Ministry of the Attorney General, Corrections Branch, British Columbia.

This workshop examined bail programme development and implementation in the United States and Canada. The discussion explored the issues involved in a judicial interim release process and in bail supervision as a community alternative to pre-trial detention.

During this session the first speaker was Judge R.D. Reilly. He gave a brief history of bail as an option of the court. He emphasized his view that there is need for focus on remand and bail, but that such a focus should recognize the importance of (1) the potential danger of the offender in the community, and (2) the risk of the offender not appearing for trial. Judge Reilly pointed out that there were certain difficulties inherent in bail supervision at present. He stated that the work of the bail supervisor under a private system can overlap with the responsibility of the probation officer. One of the concerns with regard to the overlap of responsibility revolves around the possibility that the private supervisor may attempt to undertake some type of rehabilitation. Another difficulty is that privatization necessarily involves the awarding of contracts to private agencies. Such contracts are subject to cancellation as a result of political realities.

Judge Reilly further pointed out that one of the objectives of the bail verification programme would be to reduce the number of people held in custody awaiting trial.

He stated that, in 1979, there were 5 400 individuals in detention. By late 1979, this number had been reduced to 4 500. He is of the view that this reduction is largely due to sentencing alternatives. Approximately 25% of the individuals are in detention before conviction. He is of the view that something can be done about this 25% who are held in detention before actual disposition.

The primary goal for detention is to ensure that individuals appear at their trial. A secondary goal is to ensure that offenders that are dangerous to the community are held in custody as is appropriate. At this point a participant questioned what type of offenders have been placed on the bail supervision programme. Judge Reilly's response was that, in his view, bail supervision would benefit individuals who are seen to be inadequate in the sense that they have difficulty appearing in court at the prescribed time. Another category would be transients who have no financial resources and are unlikely to post a bond. He emphasized that bail supervision is considered an alternative and is not granted automatically.

The next speaker was Mr. Terry Egan. He explained that prior to 1974, in British Columbia, corrections was responsible only for custodial care as far as this aspect was concerned. In 1974, the bail supervision project began in response to the *Bail Reform Act, 1972*. In 1974, it was observed that there was chronic overcrowding in institutions and that many of the individuals in overcrowded facilities were there largely because of their poor financial situation. The problem was researched, and the programme was subsequently implemented.

The programme in British Columbia is staffed entirely by probation officers who are employed in the Corrections Branch of the Ministry of the Attorney General. The programme is offered to courts as a tool for setting bail. All levels of offences are being supervised on bail supervision. Offences range from theft to murder. The two main objectives of the programme are to ensure that people return to court as directed and to supervise individuals on bail to ensure that they do not interfere with the witnesses. This supervision involves the provision of resources where appropriate to ensure that they are stabilized while awaiting trial. Bail investigation is usually undertaken on the same day of appearance when the decision is made whether bail will be granted.

In this programme, there is provision for a supervision report to be presented to the court at a time of bail hearing. It is at this time that the probation officers involved in the bail programme have actual input. In addition, there is a pre-trial service officer in each institution. The function of the pre-trial service officer is to assist those in custody with personal problems such as undertaking the type of contacts necessary to ensure bail. It is also established that a number of unresolved difficulties which occurred at the time of apprehension or prior to it could be dealt with on behalf of the individual in custody. This assistance helps to minimize the level of tension within remand centres.

Mr. Egan reported that British Columbia Ministry of the Attorney General has a continuing commitment to pre-trial services and have allocated $20 million for the construction of a new pre-trial centre. This pre-trial centre will be the first major construction of correctional institutions in British Columbia since 1964.

Workshop 5
Victim – Offender Reconciliation and Restitution

Resources

JUDGE DENNIS A. CHALLEEN, has been a judge in Minnesota since 1964, has published and lectured extensively, and is particularly recognized for his writing, practice and work in the area of offender restitution.

JUDGE SAUL NOSENCHUK, Judge of the Provincial Court of Ontario, Criminal Division, Windsor.

PAUL SONNICHSEN, National Consultant, Community Alternatives, Ministry of the Solicitor General Canada, was formerly Co-Ordinator of Victim – Offender Reconciliation Programmes with the Province of Ontario.

The workshop on Victim–Offender Reconciliation and Restitution was designed to give the participants exposure to the field from two points of view: the practitioner's, and the courts. These views were looked at within both the Canadian and American forums. Mr. Paul Sonnichsen acted as chairman of the workshop. The first resource person was Judge Dennis A. Challeen from Winona, Minnesota. He was described as a judicial maverick in setting up a creative restitution sentencing programme in Winona. He is writing a book about his programme.

Judge Challeen extends the age-old concept of restitution sentencing, in which the offender must repay society and the person harmed, to include self-restitution. The key to the programme's success, according to Judge Challeen, is to help the offender develop self-esteem through constructive accomplishment. A good sentence should encourage offenders to make efforts toward self-improvement that will take them out of their losing roles.

One of the biggest myths ascribed to by the average citizen and some judges, according to Judge Challeen, is that criminals are shrewd, scheming, plotting, macho people. However, the criminals appea g before most courts are largely life's losers. These losers, and unemployables, commit crimes out of impulse rather than plan. They appear in court as belligerent and cocky; what Challeen calls "fronting." Most judges deal with "fronting" by imposing punishment. It has been proven that punishment does not work and 50% to 70% of criminals end up back in United States prisons; for example, 83% of prisoners in California are ex-convicts.

The citizen on the street, in most cases, feels that judges should crack down — "harsher punishment would curtail crime." Losers believe their "failure" was due to bad luck, therefore, deterrents do no work. According to Judge Challeen, this is the second myth.

Judge Challeen states that our present justice system is a game. On one hand, the Crown or prosecutor wants a jail sentence and on the other, the defence attorney wants probation. The result is a tug of war with the judge caught in the middle. As Judge Challeen so aptly put it: "It's either 'kick ass' or 'kiss ass' and neither one works." The answer to this dilemma is to bring back restitution.

Restitution is an old concept going back to biblical times with the principle of repaying the victim and the community. Judge Challeen then went on to say that a good restitution sentence has three focal points: (1) the victim; (2) the community; (3) the offender. These three points are generally forgotten in our present justice system. Ideally, every sentence of restitution should be made to suit the offender, his characteristics and his problems, so that he gains self-esteem and feels that he has made up for his negative acts in a positive way. The tools which are important to this are Transactional Analysis and Reality Therapy. The ideal restitution plan involves the victim, the offender, and the community if possible.

Restitution must be positive and not negative. A good example of negative restitution follows: a person who was caught with drugs in his possession was, as his restitution, to push a wheelbarrel around the court-house with a sign on his back stating "I am a pot pusher." This, stated Judge Challeen, did nothing for the offender's self-esteem whereas a shoplifter shoveling snow covered sidewalks for shut-ins would.

Restitution, therefore, saves tax dollars, repays victims, restores self-esteem and has a lower recidivism rate. Judge Challeen feels that if a programme is set up properly it eliminates the need for an adversary system.

Judges, to him, are the least equipped people to sentence offenders. As a group, they have very little training in the behavioural sciences and, therefore, they must change and begin looking at other factors. Restitution, he concedes, is not appropriate for every offender (for example, persons involved in violent crimes). But, he goes on to add, in the United States, statistics have shown violent crimes amount to only 5% of all crimes committed.

Judge Challeen concluded by commenting on "Jailhouse Restitution," a programme whereby an offender works out of the jail and on completion of the programme is discharged.

Ms. Cynthia McCormack, former Co-Ordinator of a victim–offender reconciliation programme described two projects in operation in the Province of Ontario. The Victim–Offender Reconciliation Programme (V.O.R.P.) operates out of Kitchener, Ontario, under the Co-Ordinator, Mark Yantzi. It was created in 1969 by the Ministry of Correctional Services and the Mennonite Central Committee. It attempts to bring together the victim and offender for reconciliatory purposes. The participation by both parties is strictly voluntary. The programme is initiated as part of the sentencing process after a finding of guilt and is part of the Probation Order.

Other programmes in Ontario described by Ms. McCormack were begun in Ottawa in June, 1975, by Mr. Paul Sonnichsen, and at Mimico Correctional Centre in Mimico, Ontario, in April, 1978. Working with offenders already serving

sentences, these individuals are placed in Community Resource Centres (C.R.C.) and hold jobs in the community. Wages earned pay for their room, board and transportation as well as make payments to the victim. The remainder is placed in the offender's savings account.

The concern which was expressed by Ms. McCormack was whether this programme could put the offender in a double jeopardy situation including both imprisonment and restitution. She further explained that in the Ontario model the offenders volunteer for the programme; therefore, it is not imposed. Restitution must be considered as a sanction in itself.

Ms. McCormack felt that there were many benefits to the programme. The offender has the option of making restitution rather than being incarcerated, and enjoying the feelings of pride and self-worth in repaying the victim. The victim gains financially and assumes an active role in the rehabilitation process. The community also gains by having the offender pay his own expenses rather than having him sit in prison at the taxpayers' expense.

The restitution programmes in Ontario have put into practice the recommendations of the Ouimet Report and the policies of the Law Reform Commission.

Judge Saul Nosenchuk was the final resource person to address the workshop. Judge Nosenchuk is a Provincial Court Judge in Windsor, Ontario. He has had many years of practical experience in law as a defence attorney. He, along with Ms. McCormack, shares many of the views expressed by Judge Challeen. Judge Nosenchuk explained that not only the judges, but all participants in the criminal justice system, must share the responsibility to develop an awareness of restitution. He quoted Professor Linden who stated that restitution plays a minor role in the criminal justice system today and is not being used to its full potential.

The Canadian system, he went on to explain, works under an entirely different premise than that of the United States where Judge Challeen sits: In Ontario, judges are appointed rather than elected and may be appealed on a mistake in the principle of law. In Ontario restititution is applied under Section 653 of the *Criminal Code* (rarely used) or as part of a condition of a Probation Order (more commonly used). In Canada, unlike the United States, judges are limited to compensation not beyond the actual damage of loss.

Judge Nosenchuk feels that restitution should not be left only to the Victim–Offender Reconciliation Program. There could be much more done at the court level, i.e., Crown attorneys, defence counsel, and probation officers recommending it in Pre-Sentence Reports.

In Ontario, judges are under no obligation to order restitutions as it is not a concept in Canadian law. However, the input needs to be made at the court level — not after incarceration.

Judge Nosenchuk summed up his presentation with several suggestions. One was to have a Victim Duty Counsel, and a Witness Duty Counsel. In addition; the Pre-Sentence Reports should consider the feasibility of a restitution programme for the offender. There should also be a movement to create a greater awareness of restitution, and encouragement to implement it.

In summary, the general concensus of the workshop was that restitution is a feasible alternative to incarceration and should be looked at seriously within our criminal justice system.

Judge Challeen also remarked that copies of his programme will be provided to anyone by writing him at this address:

Judge D.A. Challeen
Courthouse
Winona, Minnesota
USA 55987

Workshop 6
Community Service Orders

Resources

KEN PEASE, Professor, Faculty of Economics and Social Studies, University of Manchester, England, was formerly with Home Office Research Unit.

JUDGE G.E. MICHEL, Judge of the Provincial Court, Criminal Division, Sudbury, Ontario.

KAY HARRIS, Director of the Washington Office of the National Council on Crime and Delinquency, U.S.A.

GERALD GALLANT, Provincial Co-ordinator, Community Service Order Programme, Quebec, 1975–76, pioneered the development of the Community Service Order Programme in Quebec.

PRISCILLA REEVE, Former Provincial Co-ordinator of the Community Service Order Programme, Ontario. Now with Probation and Parole Services, Ontario.

Following is the main body of the paper delivered by Professor Ken Pease.

I intend to deal with five aspects of community service as it operates in England: (1) legislative framework of the order; (2) the making of the order, and in particular the extent to which the order is used instead of terms of imprisonment; (3) the way in which work is selected as appropriate for community service and the notion of which community it serves; (4) methods in which we should evaluate community service. Finally, I would like to talk about the issue of revocation of a community service order and the circumstances under which it is appropriate.

Some of what I will say is critical of the operation of community service. From that it should not be thought that I am not a supporter of the community service by offenders scheme. I am a supporter. My analogy is with the British motorcycle industry in the 1950s. In that decade that industry was internationally famous and produced a good product. Because it did not develop its projects into something better, it lost its position of prominence and is now all but dead. The community service order is a good product. Unless it is continually developed, it will certainly lose the support of sentencers, whose support it currently enjoys in England and Wales.

A Brief History of Community Service

The notion of community service by offenders is an extremely old one in England and Wales. Some would suggest that transportation to perform good works in the colonies contains some of the germs of the community service idea. Others point to the regime of the houses of correction established in the 16th century as an example of work-based penal sanctions. Historically, the antecedent which interests me most is that of impressment into the armed forces.

As for the more immediate history of the community service order, Warren Young, in 1978, analyzed a number of themes:

1. The decline of the perceived worth of prison as a reformative tool and an individual deterrent.
2. The overcrowding of prisons and the drain on the public purse which these prisons represented.
3. The lack of success of post-War welfare state provisions in reducing criminogenic conditions and hence reducing crime.
4. An increasing emphasis on the needs of the victim and the desire for penal sanctions to reconcile victim and offender.

Community service represents the confluence of these factors.

Community service orders were introduced in England and Wales by the 1972 *Criminal Justice Act* and the main provisions of this Act as regards community service are as follows:

1. available to magistrates and crown courts;
2. offender must be aged 17 or over;
3. offender must be convicted of an offence punishable by imprisonment (unless penalty fixed by law);
4. court must consider a social inquiry report (prepared by probation officer or social worker);
5. court must be satisfied that work is available;
6. offender must consent to the making of, and agree to abide by the requirements of, an order (after it has been explained to him) *before* the order is made.
   Requirements: (i) to report as directed by the organiser, (ii) to perform the work as instructed; (iii) to notify any change of address;
7. the hours ordered must lie between 40 and 240;
8. the work must be performed within one year from the date the order is imposed (unless an extension is granted subsequently, upon application to the court);
9. in the event of the offender coming back to court as being in breach of the requirements of the order (under section 16 of PCCA, 1973) the court can: (a) fine the offender up to $50 and let the order continue, or (b) revoke the order and deal afresh with the original offence;
10. the offender can be returned to court for revocation of the order under section 17 of PCCA, 1973, "in the interests of justice."

Initially, the order was available only in six areas of England. From these small beginnings it has now developed to the point where community service orders are available in every area of England and Wales, and in 1978, were made on nearly

14 000 offenders, a figure which represents 3% of all people convicted for the more serious indictable offences. Orders are administered by the probation service. Of all orders given, 52% are to those in the 17–20 year old age group. Ages 21–29 represent 33%, and 15% are over 30 years of age. Following is a chart representing the distribution of community service orders according to offence categories.

TYPE OF OFFENCE	PERCENTAGE OF PERSONS				
	1974	1975	1976	1977	1978
Violences against the person	7	8	6	6	8
Sexual Offence	1	1	–	–	1
Burglary	18	24	22	24	17
Robbery	1	1	1	–	1
Theft/Handling of Stolen Goods	46	43	46	46	49
Fraud & Forgery	4	5	4	4	5
Criminal Damage	4	5	6	5	5
Other Offence	19	14	15	14	14
ALL OFFENCES	100	100	100	100	100

It may also be of interest to note that 6% of those given orders were women. Besides substantial expansion in community service orders in recent years in England and Wales, it should also be noted that there is pressure at the moment to introduce orders for two groups of offenders not currently eligible to receive them, namely, 16-year-olds and those defaulting on fine payment. It will be difficult to overstate the praise lavished on community service which appears to be seen by many people as the most significant penal change of postwar years.

The Making of an Order

There are many contentious issues surrounding the making of an order. For example, not all probation officers see the same kind of person as suitable for community service, and not all areas have the same selection policy. For some offenders, a social inquiry report is not written at all. It seems unfortunate to me that people's chances of being considered for community service do vary according to the practices of the probation service and court in which he appears. This is a matter of good practice and does not raise the issues of principle which I think are intrinsic to the next issue on which I would like to elaborate. This is the position of community service in relation to the custodial sentence.

In the various stages of the development of the community service scheme (before the Act which empowered the order), it was not stated clearly to be primarily an alternative to a prison sentence. The strongest statement was "in general we

would hope that an obligation to perform community service would be felt by the courts to constitute an alternative to a short custodial sentence." However, politicians in the debate leading up to the Act said things like: "I was attracted from the start by the idea that people who had committed a minor offence would be better occupied doing a service to their fellow citizens than sitting alongside others in a crowded jail"; ". . . the alternative would be to go to jail." The Home Office Circular to courts and other offices suggested that use of the order, instead of a non-custodial sentence, would be "occasional;" however, in the early days, almost all press coverage stressed that community service was an alternative to imprisonment. Of the original six probation areas concerned with the scheme, three took the view that community service was an alternative to custodial sentence and three that it was an alternative to both custodial and non-custodial sentences.

Early work on community service orders showed that whatever the chief probation officer in an area thought as to whether community service was primarily an alternative to custody, evidence gathered by Norman Whittington in Newcastle later suggested, too, that magistrates had a spread of opinion about whether community service was primarily an alternative to prison. Thus, we have an extremely confused position. Our early evidence showed that between 45% and 50% of those given community service orders received such orders instead of custody. Warren Young disagreed with our estimate and he, himself, showed evidence of confusion about the position of community service relative to custody and argued for a clarification of that position.

Now, one can have any combination of views about the position of community service relative to custody among the various individuals involved in the order. A probation officer can, for example, recommend a community service order, believing it to be an alternative to custody; the court can accept or reject that recommendation, believing it not to be an alternative to custody, and the offender's perception could be either. If the offender has his order revoked, the court revoking the order can have a view of community service relative to custody which is different from the sentencing court and/or the probation officer who originally recommended it. The particularly poignant kinds of misunderstanding are when the probation officer does not recommend community service, believing it is not primarily an alternative to custody, and the court gives a custody sentence believing that the probation officer would have recommended community service if he had thought that that was an appropriate alternative to custody. Another example is when a revoking court locks up someone who has failed on his community service order on the basis of an offence which the original court did not think was one which should be punished by imprisonment. Knowing community service practice reasonably well, I would also argue that probation officers recommending community service tend to stress the alternative to imprisonment aspect to the offender to obtain his consent even when a custodial sentence is not likely. This is entirely understandable since it is a less horrendous mistake not to warn of the possibility of custody when it occurs than to warn when it might not.

One important thing which I would argue should be guaranteed in any intended sentence is that it should be a matter of public record, and most importantly, the offender must know to what the sentence is an alternative. In England and Wales I see two possible resolutions of the problem. The first is to have a two-tier community service order scheme in which it is generally understood that orders in excess of 100 hours in length are alternatives to custody, and those of less are not. In this way, then invited to consent to an order of a particular length, the offender would grant or withhold his consent knowing that the alternative was likely to be. If, upon withholding his consent to a short order, the court proceeded to lock him up this could and should be dealt with by the appellate courts. An alternative scheme which may find more favour is simply to tell the individual offender what his sentence replaces. He can then make an informed consent or withhold his consent.

One final point which to me, underlines the confusion of the position of community service relative to other sentences concerns the position of the suspended sentence. In law, the suspended sentence is a sentence of imprisonment. Is community service to be regarded as this by those who see community service primarily as an alternative to imprisonment? That to my knowledge, that question has never been raised in British community service experience illustrates the lack of clarity of thought of the position of community service in the tariff.

Choice of Work

It is an axiom of community service thinking that work performed should not be work which could be performed by paid labour. In reality, the position is not so simple. Very soon after community service began in one area a large cricket pavillion in the middle of a park was refurbished by community service labour. It was in a park operated and maintained by a local authority. The argument at the time was that the local authority's money could then be spent on something different. So, does work which would not otherwise be performed mean, work which would not otherwise be performed in the current financial year, or work which would not be performed under the agency's current priorities or budgeting arrangements? It is very clear that the availability of community service can influence an organization's financing whether the question of it's being an alternative to paid work is relevant or not. The questions are very vexatious. A local authority housing department took to marking some house repairs "community service" and handing them on to the probation service for their attention. If these tasks had not been done by community service, there would, no doubt, have been an outcry from local residents which may have led to requests to perform housing repairs by the local authority staff.

What is the propriety of doing community service work for playgroups whose leaders take a proportion of the profit as salary? What is the propriety of doing work for a golf club, which work will tend to keep members' subscriptions down by avoiding the need for other means of maintaining the course? What is the propriety of doing necessary work for rich individual beneficiaries (in one English case the theft of an elderly lady's money arose from just such a question in the offender's

mind). I am afraid I have no easy answers to questions of this kind. My only recommendation would be to develop a debate and think through guidelines regarding acceptable and unacceptable work for community service. This process is only just beginning in England but I should mention the name of Roger Statham from Staffordshire; he has been working with me to advance this debate.

A related point about which work is required concerns the choice between providing good experience for offenders and others, and operating a cheap scheme. It is cheaper to have large group comprised exclusively of offenders than to have individually supervised offenders working in a number of placements in contact with individual beneficiaries. Present economic pressures in the United Kingdom are, in my view, exerting secondary pressure on community service organizers to go for large cheap schemes which almost inevitably involve de-emphasizing the quality of experience for the offender. They, incidentally, also restrict the range of appropriate work placements to the disadvantage of individual beneficiaries and small charities.

Workshop 7
Fine Options in Canada and the Swedish Day Fine System

Resources

NORMAN BISHOP, Research and Development Unit, Kriminalvardsstyrelsen, National Prison and Probation Administration, Norrkoping, Sweden.

MARGERY HEATH, Director, Fine Option Programme, Saskatchewan Social Services.

ARNOLD GALET, Assistant Director, Community Corrections Branch, Edmonton, Alberta.

This workshop examined two Canadian programmes which provide community of a work as an option to fines, and the Swedish Day Fine System whereby fines are the alternative to incarceration.

Fine Options in Alberta

The fine options programme in Alberta is a programme whereby fined offenders may invoke an option of community work service in lieu of the fine payment, or default and subsequent incarceration. The impetus for the implementation of this programme came largely from the 1975 Kirby Commission Report which made several recommendations concerning the imposition of fines and imprisonment. Of particular importance was the recommendation that a pilot project be organized in which the option of community work is open to persons "who default in payment of a fine." As a result, a survey was conducted regarding incarcerated fine defaulters in Alberta. It was found that over 40% of all admissions to correctional institutions resulted from non-payment of fines. It was also determined that 58.6% of all fine defaulters were comprised collectively of status Indians, Metis, or non-status Indians. This presented wide implications. A warrant had to be issued involving many police man-hours to complete the task of arresting and escorting the prisoner. This detracted considerably from the major law-enforcement task of crime detection and protection of the public.

In addition, this has a deleterious effect on the fine defaulter, his family and society. Fine defaulters and criminals are mixed together. Experienced has suggested that the imprisonment of fine defaulter may severely weaken family ties and relationships.

Fine defaulters also create difficulty with the correctional institutions because the same resources are required to admit a defaulter serving 10 days as for an offender serving two years less a day. Because of the large turnover of fine defaulters, much valuable time is spent in classifying, processing and accommodating them.

Considering the social and economic costs incurred in the incarceration of fine defaulters, it readily becomes apparent that an alternative to the traditional approach is highly desirable; particularly when one takes into consideration the fact that when a judge imposes a fine on an offender it is not his intention that the offender be incarcerated.

The Kirby Commission recommended that a Fine Option Programme was to be established within the existing structure involving the following departments: (1) Alberta Social Services and Community Health Department, regarding welfare benefits; (2) Municipal Affairs, regarding their view of reducing revenues to municipalities; (3) Workers' Compensation, regarding an extension of the *Workers' Compensation Act* to cover clients performing community work service; (4) Volunteer Action Bureau, regarding an inventory of needy agencies and projects requiring volunteer work; (5) the Alberta Attorney General's Department, regarding procedural matters; (6) the Alberta Treasury, regarding invocation of Specific Remission Orders; (7) the Unemployment Insurance Commission, regarding their view of continuing Unemployment Insurance benefits to recipients; (8) Revenue Canada, regarding their interpretation of the accrued fine credits as income.

The Saskatchewan Department of Social Services was also consulted regarding their present programme. The similarity between Phase 1 of the Saskatchewan and Alberta Fine Option Programme is attributed to the co-operation of both governments.

Program Description

The Fine Option Programme in Alberta was designed to provide individuals who receive a fine under provincial and federal statutes an opportunity to satisfy the fine through community work service. Community work service is designed to benefit both the individual Fine Option Programme participant and the community. The individual involved in community work service can make a contribution by completing a meaningful task and the agency benefits by having tasks completed that, normally, would not be done due to shortages in human and financial resources. The Fine Option Programme participant is given credit for each hour completed. The current rate is $4 per hour. In order to cancel the debt that a fined offender acquires, a voucher system has been developed. The voucher is completed by the Fine Option Programme worker and by the agency providing the work placement. When the work assignment has been completed, the credit is recorded on the voucher which is submitted to the Clerk of the Court who, in turn, prepares the necessary documentation for the Alberta Treasury. Periodically, an Order in Council is granted to cancel the indebtedness of individuals involved in the Fine Option Programme.

The Fine Option Programme is designed to be somewhat flexible, and in addition to the option of community work service, a participant may elect to pay the fine on the basis of paid employment; that is, a fined offender who has been given time to pay, but is not able to pay by the due date, may contract with the Fine Option Programme worker to pay instalments at specific intervals. This option, of course,

obviates the need for a voucher as the payments will be in cash. A third option also is available whereby the fined offender may elect to satisfy the fine through partial payment combined with community work service.

It may be noted that all Fine Option Programme participants are supervised by the recipient community agency as well as by a Fine Option Programme worker. This worker is required by policy to make weekly personal contact with the offender on the job site.

The Alberta Fine Option Programme consists of two phases, each with a separate target group of fined offenders. From the outset, it was believed that to have a significant impact on the total fine default group, a two-pronged approach was necessary. Consequently, Phase 1 termed *the pre-institutional* phase of the programme is geared to the diversion of fined offenders at the court room level prior to default and incarceration; Phase 2 termed the *institutional* phase of the programme is geared to the early release of fine defaulters incarcerated in provincial correctional institutions.

Phase 1 of the programmes instituted early in February, 1976, in Edmonton, was operated on a pilot project basis until June, 1977, at which time a number of procedural modifications were made. This phase of the programme was subsequently expanded to 34 geographical locations throughout the province and covered all Provincial Court circuits. The pilot project, it should be noted, was valuable in identifying procedural problems and validating the need for such a programme.

The pre-institutional phase is now procedurally operated as follows:

— an individual receives a fine and is granted time to pay;
— a Time to Pay Slip is issued by the Clerk of the Court. On the reverse side of this slip is the telephone number and address of the local Community Corrections Office and an explanation of the Fine Option Programme.
— the individual contacts the Community Corrections Office prior to the due date of the fine;
— if eligible, he is placed into community workservice;
— once the fine has been satisfied, a voucher is completed and forwarded to the Clerk of the Court.

The institutional phase of the Fine Option Programme provides incarcerated fine defaulters with an opportunity for early release through participation in the options of community work service or paid employment. It is the objective of the institutional phase to release eligible fine defaulters as soon as possible following admission. There are two components to the institutional phase of the programme. The external component refers to the release of fine defaulters on Temporary Absence. The Temporary Absence can be issued for the purpose of either a full release or a day release situtation depending upon the circumstances of the offender and the availability of community residential facilities in the area.

The following criteria is applied to defaulters taking part in the external component:

— no outstanding warrants or charges;
— no history of violence or serious offences;

— no history of escaping custody or being unlawfully at large;
— an expressed interest in settling the fine within the Fine Option Programme rather than serving the complete sentence.

This institutional phase of the Fine Option Programme, first implemented in November, 1976, was subsequently expanded to include all correctional institutions within the province. For the most part, fine defaulters in correctional institutions are released on Temporary Absence and take part in the external component. A minority, however, of fine defaulters do not meet the eligibility criteria and these individuals are afforded an opportunity to avail themselves of the internal component of the programme. These individuals are also credited on the voucher system at a rate of $4 per hour, and accordingly experience a reduction in the number of days required to satisfy their respective fines. The work service these individuals perform within the institution consists of special projects including, for example, landscaping, clearing brush, painting and cleaning roadways.

All fine defaulters participating in the institutional phase receive Earned Remission on their sentences in addition to the $4 per hour Voucher Credit for work service and the accrued satisfaction of each day served. Consequently, the number of days of incarceration for the fine defaulters is reduced considerably.

Depending upon the individual circumstances, such as eligibility for Temporary Absence and the availability of community residential facilities in the community, the individual can participate in the programme in one of the four following ways:

1. Be released on Temporary Absence from the correctional institution on the first or second day to his permanent residence in the community.
2. Be released on Temporary Absence from the correctional institution on the first or second day to a community residential centre.
3. Be released each day on Temporary Absence from the correction institution and return each evening following completion of a community work service assignment; or,
4. The individual may have been denied Temporary Absence and completed the work service within the institution on special projects.

In all cases, the date of release is the same. That is, while residing in the community on Temporary Absence, the individual continues to receive the credit for each day served as well as Earned Remission credit because, while on Temporary Absence, his status is one of a serving prisoner. Consistent with this, the participant who does not live up to the requirements of the programme will have the Temporary Absence suspended and will be required to return to the correctional institution. Participants who abscond are declared unlawfully at large and a warrant for their arrest is issued.

Administration and Delivery

The Fine Option Programme, it may be noted, has been integrated with the general delivery of Community Corrections Programmes in Alberta. Although reference has been made to Fine Option Programme workers in this presentation, this title was used for clarity only and in fact the service is delivered by probation officers. In the

rural areas outside of Edmonton and Calgary, Fine Option workers comprise approximately one-half of the designated probation officer's workload. In the large urban areas, however, the probation officer assigned to Fine Option work is released from other community corrections duties and devotes a full day to interviewing, placing and supervising Fine Option clientele.

In the early stages of development of the programme, it was found necessary to use a Provincial Fine Option Co-Ordinator. This position was terminated upon the successful completion of the pilot project. This was consistent with the earlier established principles of avoiding duplication of staffing and delivering the programme in the simplest fashion possible.

The Fine Option Programme has clearly contributed to a reduction in admissions to correctional institutions in the province. In 1975, fine defaulters constituted 43% of all admissions to correctional institutions in the Edmonton area. From a survey conducted this year, it appears that fine defaulters now constitute only 30.25% of admissions in the same area. A more dramatic impact is evidenced in the Lethbridge area which has high native population. In 1975, during the same survey period at Lethbridge Correctional Institution, the results revealed that fine default admissions amounted to 73% of total admissions. The 1980 survey indicates that this figure has been reduced to 41.7%. These results can be directly linked to the level of programme activity achieved in the pre-institutional phase of the programme. Further procedural refinements and an increased awareness in the community of this programme could very well further contribute to the decline of fine default admissions to correctional institutions.

With reference to volume, it may be noted that each year both phases have continued to show an increase in the number of participants. During the 1979–80 fiscal year, the pre-institutional phase recorded 1 878 participants. A total of 90 994.43 hours of community work service was completed, satisfying a fine value of $309 289. The institutional phase during the 1979–80 fiscal year recorded 1 496 participants and 41 438 hours of community work service were completed, satisfying a fine value totalling $146 047.

It would appear that the Fine Option Programme in Alberta can be termed an unqualified success. It is basically an uncomplicated programme but one which has yielded substantial results. From an organizational standpoint, a minimal number of correctional staff have been able to deliver this programme and process a large number of fined offenders at minimal cost. From a taxpayer's standpoint, the programme may even constitute a saving. In any event, the implementation of the Fine Option Programme in Alberta represents an advance in social justice; for, this voluntary program ensures that in Alberta no one need be incarcerated because he/she cannot afford to pay a fine. This is most important when one understands that a sentencing Judge in cases of fine imposition never intends that the offender be incarcerated. From a social perspective then, the Fine Option Program is indispensable within the present Criminal Justice structure and, while the program can be readily justified within an economic cost-benefit framework, those of us with a more humanitarian bent will agree that another significant reduction has been effected in the population referred to by Victor Hugo as "Les Misérables."

Fine Options-Saskatchewan

The Fine Option Programme in Saskatchewan began in the early 1970's. The statistics were quite similar to those of Alberta. Fifty per cent (2 000 persons) of the admissions to the Correctional Centres were fine defaulters. The feeling in Saskatchewan was that the prison should no longer be a debtor's prison. In the spring of 1974, Fine Options was made a legal alternative to a jail sentence. Statistically, Saskatchewan knew where the people in prison came from, whether they were native, Metis, status or non-status, male or female. As in other provinces it was found that the native community had the highest number of incarcerated persons. It was argued that the procedures were to be kept as simple as possible, and no money was to be involved. A voucher system was to be used, work performed to be "paid" at the provincial minimum wage of $3.65 per hour.

The community program was to be flexible to meet not only the needs of the offender but also the community resources. Therefore the Fine Option Program was designed to serve Native offenders using volunteer manpower.

Community Work Programs were implemented in the community where the offender resided. Standards reflected the needs of the community and the work provided had to be dignified.

Work being done was to be done for the municipality or for community non-profit organizations. Like Alberta, negotiations were agreed to with various government agencies such as Unemployment Insurance and Workmen's Compensation.

The structure was quite simple, consisting of a director and five field workers who worked with communities to establish programmes in the community which could be used by the offenders.

Contracts were made with the agencies and they were paid $10 per client on a fee-for-service basis. Field workers' roles were non-directive but in co-operation with agencies. It was found that a great deal of public relations work was required in order to assure the agencies that people involved were not dangerous.

Originally, the programme was set up to deal with offenders who had been in default. Attempts were made to contact defaulters by mail but this proved unsuccessful. Therefore in March, 1977, procedures were altered in co-operation with the Attorney General's Department. All offenders were issued a *Time to Pay* slip which indicated the address of the agency to which the offender might apply for the Fine Option Programme. The background of the offender was not taken into consideration. More than 200 communities, as the reserves, in Saskatchewan now use this programme.

Should an offender not be able to pay his fine by the due date he is able to make application to the Fine Option Programme and establish a new due date according to the criteria of the Community Work Order Programme.

The agencies follow the progress of the offender and keep records. Time sheets are returned to the Fine Option Programme. In the last fiscal year (1979–80), 5 000 people made use of this programme and the effect on the community and the offender have been very positive. Several of the applicants have been offered jobs and also the municipality receives free labour for jobs not normally budgeted for. Many

outstanding warrants have been eliminated in the past few years. Negotiations with the federal government are ongoing to include offences under such legislation as the *Income Tax Act*.

Loss of fine revenues has been negligible, as guidelines for community work are very similar to those provided by employers. Time records are kept and late workers are noted. Also, much of the work being done by volunteers is visible and this has had a positive effect on the community and the worker.

Originally, it was felt the Fine Option Programme was "band-aid treatment," but at present most Saskatchewan residents feel the Fine Option Programme should continue as it is proving to be not only an economic benefit but also a social benefit.

In summary, the object of the programme is to provide a reasonable alternative to imprisonment through community work service for offenders who are unable or unwilling to pay a fine. Its purpose is also to reduce the cost in such areas as transporting offenders and ultimately to reduce the demand for imprisonment facilities.

Swedish Day Fines

In Sweden, 95% of the sanctions imposed on offenders consist of fines. This situation has been consistent between 1871 and 1974. There are, however, extremely few fine defaulters in Swedish prisons.

There is a two-fine system in Sweden — Fixed Fines and Day Fines. Fixed Fines which are issued by the police department for minor traffic offences, liquor offences, etc., are imposed on the spot. Day Fines take two things into consideration: first, the seriousness of the offence and the measure of punishment which should be imposed; second, the offenders' income and obligations. These two areas are weighed together to arrive at a fine based on the offender's ability to pay.The formula applied consists of the number of Day Fines (predetermined per offence on a scale of 1–120) multiplied by 1% of the offender's income after taking into consideration his family and social responsibilities.

The fines are broken down into three categories where the option to pay is: (1) 1–30 days, (2) 31–60 days, and (3) 60–120 days. Of the fines imposed, 57% are from 1–30 days, 33% from 31–60 days, and 10% from 60–120 days. These fines are established by the prosecutor and, if the fine is agreed to by the perpetrator, they are called Summary Fines. The vast majority of fines are of this nature.

The next highest are what are called Court Day Fines which are established by the court. When there is some question about fines, these can be linked to such things as conditional discharge or probation.

Fines are not administered by the court but are administered by a central administration for collection of monies. On all these fines there is a maximum time to pay of eight months but the usual period is four months. Fines can also be paid in instalments up to a period of a year with a maximum of two years.

These periods are negotiable between the collection agency and the offender. This fine concept was introduced in 1921 and since 1931 there has been a steady reduction in the number of persons sent to prison.

The collection agency may garnishee wages if it sees fit. The central collection agency must take action regarding an outstanding fine within a period of three years, otherwise the matter is waived. If the matter is returned to the court, it can again be referred to the Crown collection agency and the whole process can start over again. The courts can also impose a term of imprisonment either in addition to the fine or in lieu of the fine.

Statistics show that 57% of persons fined pay their fine within the prescribed period; 36% pay when under pressure and approximately 7% do not pay. In order to collect the 7% unpaid fine court proceedings are begun. The proceedings are more expensive than the fines usually imposed but this procedure is kept in force in order to prevent manipulation of the system.

Workshop 8
The Ex-Offender and Alternatives

Resources

JAMES HART, Executive Director, Alternatives for Youth, Hamilton, Ontario.

PAT GRAHAM, Provincial Director of the Seventh Step Society, Alberta.

MAURICE BLOCK, Co-ordinator of Counselling Services, Salvation Army House of Concord, Concord, Ontario.

BILL SHARP, President, Fortune Society of Canada, Toronto, Ontario.

SYLVIA R. PIVKO, Social Worker with Family and Children Services Metropolitan Toronto, Seventh Step.

The session began with an outline of its objective, which was to discuss the role of the ex-offender in alternatives to imprisonment. Self-help groups are seen as one of the important alternatives in which ex-offenders may play a role.

Each of the workshop leaders made a brief presentation of the focus of the organization with which they are involved. Ms. Pivko began with a presentation of how the Seventh Step organization was founded in the United States in 1973. A self-help group, it works with street groups to achieve attitudinal change. Three such street groups exist in Ontario, based in Toronto, Kingston and Newmarket.

Maurice Block, who is involved with the Seventh Step Society operating at the House of Concord played a videotape made at the House of Concord which offered insight into the focus of the Seventh Step Society. The focus involved mainly attitudinal change through peer pressure and support. The process through which this is accomplished was significant however. One of the means employed by the Seventh Step Society is the use of the "hot seat" through which it is believed offenders may come to accept themselves and the need for change.

Membership in the Seventh Step organization is achieved through a voting mechanism, wherein 80% of the membership must accept the individual as one who is motivated to seek and give help within the group.

Mr. Sharp, who works with the Fortune Society, outlined the organization's focus, that of helping the released offender reintegrate himself into the community. This organization, comprising ex-inmates and concerned members of the community, focuses primarily on employment and practical issues facing the released offender. The Fortune Society began approximately 10 years ago and grew out of a perceived lack in the services provided by other agencies. The organization draws.

on the resources available through other agencies whose target populations are the offender and ex-offender. The Fortune Society goes into the institutions regularly and discusses concerns with those due to be released or paroled. A chapter exists at Guelph Correctional Centre (Ontario) which tries to prepare inmates in "how to live on the streets."

Pat Graham outlined the services available through the Seventh Step Society in Alberta. The organization operates a residential centre, the only one in Canada built for that specific purpose. It houses parolees, probationers and those referred directly from the courts, including those who are released on bail. The organization also operates two co-educational halfway houses, one located in Calgary and the other in Edmonton. Therapy groups, fine options, parole and supervision are carried on, with the thrust of the programme being the opportunity to change with dignity.

Mr. Hart, who represents Alternatives for Youth in Hamilton and Kingston, stated that this programme focuses on offenders aged 16 to 25 with the majority being 20 years and under. Mr. Hart raised the point that most alternative programmes focus on the first offender who might not re-enter the system. He related that the ex-offender can play an important role in dealing with the recidivist, and particularly the career criminal, but only if the individual has a basic motivation to change. Another important area is prevention. The problem in this area is funding because a measure of efficiency is difficult if not impossible to obtain.

The group broke into smaller discussion groups and after reconvened to share the ideas which emerged in the smaller groups. Of paramount concern to the groups was the underlying reason why people change their attitudes. Although no clear consensus was reached it was felt that a basic motivation to change coupled with support and viable alternatives worked together in order to promote value change in the individual. It seemed to be the general feeling that the ex-offender can play an important role in this process because he acts as both an example and a mentor to an individual. The importance of the development of self-esteem was seen as paramount if change is to occur.

Concern was expressed by many members of the group that alternatives, if they are to be that, must be developed in the community. By focusing on programmes within institutions it was perceived that this could both preclude funding for similar programmes within the community and provide the judiciary with no option but to sentence an offender so that he might avail himself of the programme.

The ex-offender group was perceived as one which could provide a "bridge" between the "straight" and "con" world, a bridge that was seen by the group as necessary during the transitional stage. The range of alternatives from prevention, public education, prison liaison, self-help groups after incarceration and services to those released were all viewed as those in which the ex-offender could play a valuable role.

Workshop 9
Alternatives for the Mentally Retarded Offender

Resources

MILES SANTAMOUR, Committee Co-Ordinator, President's Committee on Mental Retardation (U.S.).

PERRY YORK, editor of "Diversion — A Treatment Alternative for the Mentally Retarded Offender" written by E.A. (Lisa) Binnie; 15 years as psychiatric social worker in Forensic Treatment Services in Saskatchewan.

DAVID H. VICKERS, was Deputy Attorney General for the Province of British Columbia in the mid-70s; now practises law in Vancouver and Victoria; on the Executive Committee of the Canadian Association for the Mentally Retarded.

COLIN L. CAMPBELL, practises law in Toronto; teached at York University; has volunteered in legal matters for the Canadian Association for the Mentally Retarded for the past several years.

The workshop consisted of a presentation by the above noted panelists and a precis of the following reports: (1) "The Mentally Retarded Offender and Correction;" (2) "Diversion — A Treatment Alternative for the Mentally Retarded Offender," and (3) "Alternatives to Imprisonment for the Criminal Offender with Mental Retardation." The group was informed of what constitutes mental retardation, and the profound effect of incarceration on the mentally retarded individual.

Mental retardation is defined as "a condition of sub-average intellectual functioning occurring at birth or in the early developmental years and associated with impaired adaptive behaviour in coping with the demands of society in which the individual lives." The interaction between the retarded individual and the community often predispose this person to criminal behaviour, incarceration, and repeated offences. Because of this person's inability to be independent, tolerate frustration, control resultant impulsive behaviour, delay gratification, generalize from specifics, learn from past experiences, and comprehend the world around him, he is likely to experience chronic low-level anxiety and low self-esteem. It is the expression of the accompanying frustration that may well bring this person before the courts.

Within the justice system, findings indicate retarded individuals are disproportionately represented in the prison population. The reasons given for this include: the retarded offender is easier to apprehend and convict, confesses readily, is ignorant of legal procedures and his rights, is unlikely to be represented by private counsel, and is less likely to appeal. Once convicted, he is likely to receive a

custodial sentence. Probation and diversion are less frequently used due to lack of knowledge or time on the part of personnel to explore alternative dispositional arrangements for the retarded offender. The retarded offender is further limited in the disposition of his sentence by lack of assessment facilities to bring his condition to the attention of the court and by reluctance on the part of existing community social services to accept him.

Within a correctional institution the retarded offender is further disadvantaged. He is forced to conform to rules he may have difficulty comprehending, he is exploited socially, and abused by the "normal" prison inmates, often necessitating removal from the general prison population. He is rarely given the same rights and duties as the general prison population, but assigned menial tasks. Incarceration, then, tends to reinforce feelings of dependency and low self-esteem, thus decreasing prospects for rehabilitation. Due to constraints and the necessity of careful screening and exploration of community resources precluding the early release of the retarded offender, this individual is quite likely to remain in the institution until his sentence expires.

In conclusion, the reports noted that incarceration within the general prison population is an inappropriate and negative experience for the retarded, and is likely to aggravate his retardation and decrease his chances for an independent life. His presence among the prison population also presents problems for the untrained personnel who are unable to adequately support and protect him in the facility, and who lack the knowledge and community support services to release him. The writers emphasize the necessity of development of treatment programmes to assist the mentally retarded individual to become independent and to maximize his potential to function within the community and, in so doing, achieve self-reliance, and ultimately integration into society.

The three principal areas of concern for the workshop leaders were: (1) legal issues; (2) residential facilities; and (3) the co-ordination of services to individuals.

One of the major problems of a legal nature is that of identification; often a mentally retarded individual is not visibly retarded and, because of the stigma attached to this label, he may try to conceal his handicap when questioned by the police or when he appears before the court. Intention is another factor which should be examined more closely in the prosecution of the mentally retarded. For instance, is the charge of "indecent assault" a fair description of the sexual behaviour exhibited by a retarded adult toward a young child? Does the court consider that the retarded adult may be at a similar or even younger age in terms of mental development? What was thought to be an "indecent act" may be seen as the "normal" sexual exploration of a child. A second example — does a retarded adult commit the act of "arson," or is he just playing with matches. The behaviour may be inappropriate but is it really criminal in nature? It is, therefore, crucial in the analysis of criminal behaviour of the mentally retarded to consider intent. By the same token, the violation of probation–parole conditions, institutional rules, etc., must examine the intent of the individual.

It was pointed out that, once the retarded individual is identified, or even suspected to be retarded, assessment becomes vital. At this point pre-sentence reports play an essential role. It was suggested that in cases where retardation is a factor, pre-sentence reports be mandatory. This kind of pre-sentencing investigation would allow for appropriate agency referral and community planning.

Having recognized incarceration as inappropriate and detrimental to the retarded offender, the establishment of regional psychiatric centres is seen as a more humane and constructive alternative. It was noted that the cost of housing an inmate in a correctional facility is three to four times that of residential care in a psychiatric centre. The focus of such a facility is to promote a movement toward normalisation, thereby achieving self-sufficiency and workable life skills.

The co-ordination of facilities for the mentally retarded will provide opportunity for these people to have a voice in the community. By joining forces as agencies, we can educate ourselves and the community as to the special needs of the mentally retarded.

The general consensus of the group was that mentally retarded individuals must be seen as individuals with developmental problems in need of special services to bring about independence and a relatively "normal" life within the community. The system, as we know it, must turn the process around — "those with the greatest need should get the greatest effort." It is time for the courts to give greater consideration to what sentence is appropriate to an individual's personal circumstance as opposed to the offence.

Workshop 10
Understanding the Offender's Family as the Victims of Crime

Resources

KAROUL TALABA, Director, Families and Friends Centre. An organization first established by the Ministry of Correctional Services, Ontario, to work with the families and friends of inmates in the Toronto Jail. This centre is unique in that while it is funded by the Ministry, it is allowed to work independently as a private agency.

MOIRA BERTRAND, Assistant Superintendent, Wee Folks Nursery, is also assistant to the co-ordinator of the Families and Friends Centre, Toronto.

MARILYN McHUGH, Community Worker for Child Abuse, Toronto, Ontario.

JOSEPH D. OSSMANN, Executive Director, Friends Outside, Salinas, California, U.S.A.

Families and Friends Centre

The structure and operation of this centre and some specific case histories were discussed by Ms. Talaba and Ms. Bertrand. It was suggested that, very often, society does not distinguish between the offender and his family; therefore, families also become victims of crime. While a variety of services exist for the offender, his family is often ignored. The centre attempts to provide support and assistance to the wives of inmates.

The following is taken from written material distributed during the workshop:

The Families and Friends Centre is a volunteer organization. Volunteers work with friends and relatives at the Toronto Jail and the Toronto East Detention Centre. In Toronto, there is a volunteer group which works where the institution and the community meet, in the visitors' waiting-room at the jail. This volunteer group is the Families and Friends Centre.

The centre was organized in the fall of 1972, a project of the Ontario Ministry of Correctional Services.

In February, 1975, the Ministry and the jail provided the group floor at 558 Gerrard St. E., for use as the Families and Friends Centre. These facilities provided an open, comfortable setting to match the friend-in-need philosophy. Growth and activity since moving into the house have shown that the need for such an organization does indeed exist and that the need is being met by Families and Friends. The

centre offers an informal atmosphere where coffee is always available — so is the telephone, a diaper or an aspirin. Referrals are provided to various services from Al-Anon to Welfare, from bail information to Salvation Army services. Babysitting is offered to women visiting the jail, and home visits are conducted on request from an inmate by qualified staff.

Families and Friends often reaches out into the community. Volunteers accompany family members to court, make hospital visits, home visits, and provide transportation for disabled parents or wives. Requests also come from classification officers to visit an inmate. Other times the inmate is concerned because his wife or girlfriend has not been to visit. The volunteer will attempt to contact the person in question and if necessary, provide support and report back to the inmate.

The Families and Friends Centre operates on limited funds. The jail provided space and utilities, and the community programmes of the Ministry of Correctional Services pays the co-ordinators on a contract basis and provides office services and supplies as well as providing support and information. Apart from this, the George Manley Muir Conference of the St. Vincent de Paul Society provides coffee and diaper funds.

Volounteers and Staff

The centre has two co-ordinators provided by the volunteer programmes of the Ministry. These co-ordinators work 24 hours a week. There are approximately 20 volunteers on staff and they are exclusively female. Incarcerated males do not advocate non-professional males working with their wives.

Increasingly, colleges and universities are finding Families and Friends an ideal student placement facility due to the fact that all the problems of poverty and urban life are seen here. The centre also has volunteers that are not students but women who care enough to give up some of their time to help someone in need.

The volunteers of Families and Friends work in the centre at 558 Gerrard St. E., Toronto, Ontario, and in the visitors' waiting-rooms at the Toronto Jail and the Toronto East Detention Centre in Scarborough, Ontario. With the increasing inmate population, the visiting areas are often crowded and bewildering to first-time visitors. Volunteers wear identifying badges, provide information sheets on visiting hours, answer questions and explain procedures.

The centre is open 9:30 a.m. to 4:00 p.m. on weekdays and 9:00 a.m. to 12:00 p.m. on Saturdays and Sundays. The hours are determined by visiting-hours at the jail.

Toy Lending Library

A toy lending library was set in the playroom of Families and Friends Centre to meet the needs of children who come with mother to visit their father. The library became their International Year of the Child project and although it took nearly six months to get all the toys together, it is now being used regularly by children of inmates at the Toronto Jail and also children in the community. Garage sales and donations were the main source of obtaining the toys.

Women's Group

The purpose of the women's group was to bring together women with common problems. Women who have lost a husband or boyfriend to the penal system are often faced with similar difficulties. Being able to discuss their problems to "understanding friends" helps to alleviate some of the stress and burden.

This group was started because there was a need to bring these women together to share their knowledge and problems. They have had movies and discussions in the group. They discuss such topics as child-rearing, birth control and whether one should tell their child were their father really is. They also have guest speakers who come and talk to them about the prison system.

Friends Outside

Mr. Ossmann presented a brief overview of this agency that operates in California and Nevada. It began approximately 25 years ago and now includes 19 local chapters employing 65 people and 1 000 volunteers. (This includes six representatives "inside".) Each local chapter is essentially autonomous, dealing with local issues and meeting needs with local resources. Friends Outside not only visit within the prison but are involved in outreach, planning activities, and attempt to meet emergency needs for families. There are also child-care centres which have been established within certain prisons and hospitality centres which are available to those visiting the prison, sometimes providing short-term shelter.

Friends Outside feel it is important to be seen as a strictly voluntary organization that arises out of the community and is working with the community, rather than being a government inspired bureaucracy.

Mr. Ossmann also outlined some theoretical bases for this approach to working with prisoners and their families. Two basic assumptions were established:

1. Family ties are highly effective predictors of parole success.
2. The present criminal justice process, especially incarceration, does much to weaken and discourage these ties.

Therefore, change that would move toward strengthening family ties appears undeniable. In most social systems, there exists an equilibrium or status quo that is held in place by an equal balance of driving forces and restraining forces. It is felt that change is the result of understanding both these forces and any attempt to work with only the driving forces will result in a reactive strengthening of the restraining forces.

With regards to the aforementioned change desired to strengthen family ties, the group was asked to list those forces which pertain. The group in which this writer participated, developed the following lists:

Restraining Forces

— visiting conditions
— societal attitudes toward offender and family
— punitive attitudes in society
— budget restraints

— private property and territoriality
— restricted communication
— physical separation
— destruction of the family roles
— easy divorces

Driving Forces
— public education
— growing public concern
— use of alternatives
— budget restraints of expensive incarceration
— temporary absence
— economic development
— legal development, reform, right to court rights
— support services
— new young offender laws

As a final exercise, the group was asked to enunciate steps which would promote change:
— public education
— involving opinion leaders and decision makers
— streamlining the judicial process
— promoting co-operative values (rather than competitive values) in schools

Workshop 11
Probation and Parole: Engaging the Community and its Resources

Resources

L. ALBERT, Deputy Commissioner, Connecticut Department of Corrections.

F. DELL-APA, Manager of the Western Interstate Commission on Higher Education, and Director of the Community Resource Team Management Model Programme in Boulder, Colorado, U.S.A.

Mr. D.E. Taylor welcomed the delegates to the workshop. Mr. Michael Crowley, in his introduction to Mr. Albert, noted that an alternative way to meet the needs of corrections clients must be explored due to increased caseloads and the reduced number of probation officers being employed. Mr. Albert established the Connecticut Private Public Resources Expansion Project (PREP) which developed a constituency *to purchase agencies for the services* to corrections clients.

Mr. Albert began his presentation by noting that his background consists of studies and employment in the fields of psychology, mental health, retardation, juvenile delinquency and adult corrections. In 1972, a need for the development of a constituency in the private sector to speak for correction clients and the justice system in general became apparent. The purpose of this constituency is service-delivery as well as to voice changes in the system. The philosophy and goals of the Public Resources Expansion Project are as follows:

1. To awaken public interest and concern for improvement throughout the entire range of the criminal justice system.
2. To establish a far reaching, state-wide public information and education programme aimed at modifying public attitudes toward criminal justice clients.
3. To foster system change activity in the criminal justice system through legislative education, for example, to develop an extensive private sector lobbying group.
4. To encourage private agencies to take on new responsibilities in partnership with public agencies for tailoring their programmes to help offenders and their families.

This council maintains a partnership between the public and private sectors. In the United States, the influence of politicians as well as bureaucrats is needed to effect change in the system. The Public Resources Expansion Project Council fullfils this role in the Connecticut corrections system.

Initially, service-delivery agencies were contacted in order to discuss the purchase of services for corrections clients as well as to discuss the means to developing a broad constituency. Agency heads supported the plan and obtained support of

their respective communities. Communities were made responsible for providing services to their own justice offenders. The Public Resources Expansion Project Council contains 22 agencies in Connecticut with one of these agencies considered to be the lead agency responsible for public education and legislative lobbying. This lead agency was paid on a declining scale to develop other agencies in respective communities in Connecticut. Their role is to work with the other agencies in developing issues of concern to the agencies and to the Department of Corrections. The goal of the Public Resources Expansion Project Council is to become completely independent of the Department of Corrections. Thus, a contract was established with this lead agency and 100% of their efforts was expected to be directed to public information and legislative education areas. The remaining agencies' focus would be on service delivery (50%), public education (30%) and legislative education (20%) for their respective areas.

Initially, the Public Resources Expansion Project Council was financially dependent on the Corrections Department; however, through the public information component of the contract, funds from the private sector were obtained through fundraising activities. The operation of the Public Resources Expansion Project remains to be a shared-cost arrangement; however, Public Resources Expansion Project now contributes $1 to the council for every dollar received from the state. There was not sufficient budget control or contracts with service agencies. The advantage of purchasing the aforementioned services for clients and communities was that clients' needs were better met through referrals to agencies within the community. Also, a follow-up component is included in the delivery of services to a client to ensure that the clients' needs are met.

A discussion period followed but with minimal response from the participants. The question of a contract as opposed to purchasing services on a fee-for-service basis was raised. Mr. Albert had concern in terms of the limited degree of security that would be available on a purchase of service basis. It would be too difficult to operate a business on a purchase-of-service basis and therefore Mr. Albert supported the contract arrangement.

Further, it was noted that the training for agencies to fullfil the lobbying component of their contract was initially received from the Department of Corrections. Now, the agencies train their own staff to perform this function. Some training sessions in the area of service delivery are conducted jointly between Department of Corrections and the Public Resources Expansion Project Council. The role of the probation officer in relation to the Public Resources Expansion Project Council is considered to be strictly one of surveillance.

Mr. Dell-Apa, the second resource leader, addressed the issues of brokerage and the Community Resource Team Management Model. Comparison between the eastern part of United States and the western part of United States was made. In the east, provision of services to clients is formalized with the emphasis on contracting services from the private sector. On the other hand, in the west, the provision of services is informal and public, thus less costly.

Brokerage was defined as having the knowledge in detail of what services are available in the communities and having knowledge of the needs of the clients of the agency. It was suggested that clients be assessed in terms of areas of need; for example, education, employment, financial, alcohol and drug abuse and so forth. A card index could be developed in terms of clients' problem areas. The Community Resource Management Team Model could then be used as a means of meeting these clients' needs. This team could be developed initially by inviting directors of the various agencies in the communities to a regular staff meeting where concerns regarding services to clients could be expressed on an informal basis. During the second meeting between the directors of the agencies and corrections staff a case would be presented. A plan of action for implementing the delivery of services to the clients with such priority needs would also be decided upon. Mr. Dell-Apa noted that twice as much work can be accomplished with half as many people by adopting this Community Resource Management Team Model. It was also believed that even the supervision component of the probation officer's role could be delegated to an agency in the community through the utilization of this model. Mr. Dell-Apa advised that although adoption of this approach would not reduce crime in the community, community problems could be dealth with in a more efficient and accountable manner.

A limited discussion period followed the presentations.

Substitute House Bill No. 5988

PUBLIC ACT NO. 80-200

AN ACT CONCERNING COMMUNITY CORRECTION SERVICES

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) As used in this act:

(a) "Department" means the department of correction.

(b) "Commissioner" means the commissioner of correction.

(c) "Community-based service programmes" means residential or nonresidential programs provided by private, nonprofit community or locally based organizations of units of local government including the public-private resource expansion project, which offer housing, transportation, employment and counselling services to incarcerated, paroled or discharged offenders, victims of crime, persons charged with a crime, persons diverted from the criminal process and families of offenders.

(d) "Residential programs" means those offered in "halfway houses," providing twenty-four hour care, supervision, and supportive services to pretrial, incarcerated, paroled or discharged offenders.

(e) "Nonresidential programs" means those programs providing daytime or episodic community correction services to pretrial, incarcerated, paroled or discharged offenders and their families, or victims of crime.

Sec. 2. Section 18-81 of the general statutes is repealed and the following is substituted in lieu thereof:

The commissioner of correction shall administer, coordinate and control the operations of the department and shall be responsible for the overall supervision and direction of all institutions, facilities and activities of the department. He shall have supervision of parolees. He

shall establish rules for the administrative practices and custodial and rehabilitative methods of said institutions and facilities in accordance with recognized correctional standards. HE SHA" L ESTABLISH, DEVELOP AND MAINTAIN NONINSTITUTIONAL, COMMUNITY-BASED SERVICE PROGRAMS. He shall be responsible for establishing disciplinary, diagnostic, classification, treatment, vocational and academic education, research and statistics, training and development services and programs throughout the department. Subject to the provisions of chapter 67, the commissioner should appoint such professional, technical and other personnel as may be necessary for the efficient operation of the department. The commissioner shall organize and operate interinstitutional programs for the development and training of institution and facility staffs. He shall provide for the services of such chaplains as are necessary to minister to the needs of the inmates of department institutions and facilities. He shall, within available appropriations for such purpose, arrange for provision of legal assistance of a civil nature to indigent inmates of department institutions and facilities and legal representation for such inmates before administrative boards where permitted or constitutionally required. He shall act as administrator of the interstate compact for parole and probation supervision established by section 54-133, and may designate any person or persons to act for him.

Sec. 3. (NEW) (a) To establish and develop noninstitutional, community-based service programs, the commissioner shall award grants or purchase of service contracts in accordance with the plan developed under subsection (b) to private, nonprofit organizations and units of local government; provided such grants shall not be subject to the formula funding requirements of section 5 of this act. Such grants or contracts shall be the predominant method by which the department develops, implements and operates community correction programs. In addition, the commissioner may administer community-based service programs under the direct control of the department.

(b) To carry out the purposes of subsection (a) the commissioner shall:

(1) Develop and revise annually a comprehensive state community correction plan for the delivery of services in each of the service areas established by section 4 of this act. The department shall adopt regulations in accordance with chapter 54 of the general statutes by January 1, 1981, providing for community input into such plan.

(2) Report annually to the governor and the general assembly regarding its community correction activities. At a minimum such report shall include the number of clients served, services offered and prevailing concerns of the service areas.

(3) Research and gather relevant statistical data concerning the impact of community correction services and make such data available to the service areas and community correction program providers on a monthly and annual basis.

(4) Establish a mechanism to monitor and evaluate on a regular basis all community correction programs and report their findings in writing to each agency in a timely and regular manner.

(5) Solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services or property from the federal government, in accordance with the state community correction plan.

(c) The department shall include in its budget a separate allocation for the provision of community-based service programs as required by this act.

Sec. 4. (NEW) There shall be five community correction service areas corresponding to the health systems agency regions established pursuant to the National Health Planning Resources and Development Act, Public Law 93-641. These areas shall be used by the department in the data collection concerning community correction programs and the planning, delivery and evaluation of community correction programs and for the purpose of providing funds under purchase of service contracts for community correction programs of the department.

Sec. 5. (NEW) (a) In establishing the level of funds in each service area, and funds available for each service contract, the department shall in accordance with chapter 54 of the general statutes adopt regulations by February 1, 1981, providing a formula and procedures for the application, review and award or denial of requests for funds, and providing for the waiver or amendment of such formula as provided in subsection (c).

(b) Such formula shall provide for: (1) Private sector match; (2) client population ratio; (3) nonclient criteria; (4) residential facility criteria; and (5) nonresidential facility criteria.

(c) Such formula may be amended or waived by the department when, after due consideration, it finds that services for such area are not needed or that such area fails to have existing private, nonprofit organizations or units of local government to carry out the purposes of this act.

Sec. 6. Sections 18-87a and 18-87b of the general statutes are repealed.

Sec. 7. This act shall take effect July 1, 1980.

Certified as correct by

_____

Legislative Commissioner.

_____

Clerk of the Senate.

_____

Clerk of the House.

Approved _____ . 1980

_____

Governor.

Workshop 12
Bulldog and Banger

Resources

WILLIAM H. PEARCE, C.B.E. Chief Probation Officer, Inner London Probation and Aftercare Services.

GRAHAM SMITH, Deputy Chief Probation Officer, Inner London Probation Service, London, England.

The English Probation system, which is over 100 years old, has always been held in high esteem and praised by the judiciary. Probation systems in other countries have been established according to this model. However, Mr. Pearce suggested that perhaps the probation service has become too complacent and self-satisfied and has settled into a pattern of resting on past laurels.

In the early 1970s, it was realized that there had been a rapid growth in crime and that both the number of people sent to prison and the length of sentences had increased. Coupled with this was an apparent lack of confidence in the traditional methods of dealing with offenders, particularly probation.

The probation service was forced to take a new look at itself and this resulted in the formation of new ideas, concepts and projects. Social casework practice still remains the main thrust of their work, but they are now attempting to prove that alternative methods of dealing with clients are viable and worthy of expansion.

For instance, when probation case-loads began to reflect an increasing number of clients requiring residential placement, Inner London Probation and After-Care Service established seven residences which serve as probation and bail hotels. In 1972, community service orders became another sentencing alternative, and to date over a half million hours of service have been performed.

The major focus of this workshop was the discussion of two other projects in which Inner London Probation and After-Care Service is involved — Bulldog Manpower Services Limited and Ilderton Motor Project. The following summary of these projects is from written material presented by the workshop leaders.

Bulldog Manpower Services Limited, 1980

Introduction. Bulldog was set up by the Inner London Probation Service in 1975 with the aid of a grant from the Home Office as a limited company and registered charity providing a supported work scheme for young offenders with long histories of unemployment. Bulldog's aim is to create a realistic work situation through which employees can establish a pattern of regular work and be prepared for the normal commercial world within six months to one year. All operatives must be: (1) between the ages of 18 and 30 years; (2) under statutory supervison to Inner London Probation and After-Care Service, and (3) have a very poor work record.

Research shows that operatives are more likely to have a host of disabilities besides being unemployed, such as financial, housing, family relationships, medical, educational, physical and personality problems. Bulldog was set up to try and assist in breaking the cycle of no skills, no job, no money, crime, court and punishment.

Bulldog operates mainly in the field of painting, decorating and refurbishing, but also undertakes clearance and the boarding up of properties. Gardening and conservation work has continued uninterrupted since 1975 for example at Highgate Cemetery, where Karl Marx is buried. There is also a workshop for 10 operatives, which produces fire-grates, street railings and gates among other items. Customers for all these activities include local authorities, housing associations, charitable organisations, commercial firms and private individuals. However, one-half of the work is for local government.

Bulldog has changed quite considerably over the past four and one-half years. From a pilot project employing 20–30 operatives, based at one office and engaged mainly in unprofitable work for charities spread over the whole of London, Bulldog has decentralized to each of the four corners of the Inner London Probation area; it now employs 80–100 and competes in the open market for contracts. It still requires the central government's financial support in view of the unemployable background of its employees and the consequent high staff ratio needed. However, Bulldog now generates more than half its income by its own trading. Additional financial support in the form of buildings, some services and a proportion of the staff employed is obtained from Inner London Probation and After-Care Service as a contribution based on its statutory responsibility for the client employees and the necessary social work rehabilitation aspects of the project.

Research (1976-1977 sample of 50 client employees) shows that probation officers do not usually refer specifically for employment reasons. The three most general reasons given are: (1) to enhance self respect; (2) to gain work habits; (3) to gain some stability in at least one aspect of their lives.

Unemployment was not usually seen as the dominant problem, nor did officers see a direct link between their clients' unemployment and their offences. The majority referred clients to Bulldog because of the firm's characteristics as a tolerant, benevolent and supportive employer who provided a structured setting for the client.

The clients' perceptions of unemployment were found to be primarily: lack of money, boredom, family problems, and getting into trouble with unemployed friends.

Their expectations of working for Bulldog were, consequently, to alleviate these problems, but also to learn a skill or trade. Most the sample claimed to have tried to find work on their own initiative and half stated that they had discussed employment problems frequently with their supervising officer.

The results indicate that the longer an employee stays with it the better are his chances of obtaining post Bulldog employment. However, they also indicate that nearly half of those leaving within the first two weeks find jobs themselves. It is also

known that a substantial number obtain work between referral and start. This suggests that Bulldog's existence has a positive spur effect which can be assessed by the performance of its employees.

Unit Costs. It is extremely difficult to produce a realistic cost effective survey of a scheme such as Bulldog. There are so many variables and so many unknowns and disagreement over the standards of measurement. On the face of it, Bulldog is an expensive operation but, when one looks more closely, a rather different picture emerges. However it must be recognized that any form of close supervision (in Bulldog 2 hours per day as against an average 20 minutes per week contact in straight Probation supervision) will be expensive. When one looks at the client profile it is clear that Bulldog's operatives are extra vulnerable to further custodial sentences. The current cost of a week in a British prison is in excess of 200 pounds. The following calculation is based on the Home Office grant, the inner London Probation and After-Care Service contribution, the sales figures and an average work force in 1979-80 of 85 client operatives.

The gross cost per week for an operative	86 pounds
On the basis that operatives would otherwise be unemployed and therefore entitled to Supplementary Benefits at an average rate of 26 pounds per week	26
	60 pounds
Bulldog's existence "creates" a contribution to the Exchequer in the form of tax paid and National Insurance paid by operatives and forepersons. It also creates and passes on directly a substantial value added tax amount.	20 pounds/
Net cost per week per operative to the Exchequer	40 pounds

Problems Faced by Bulldog. The over-all problem and the recurring theme within the organization is the opposing pressures of commerce and rehabilitation. It is only too easy to select the most skilled, those with the best work record, to remove all thought of educational development and gear the firm solely to success on site. Similarly it could become a sheltered workshop with a social work emphasis unable to pay its employees more than pocket-money.

Staff salaries, including foremen are not surprisingly geared to the parent body's scales. Inner London Probation and After-Care is a social work agency. They therefore compare unfavourably with the building industry, causing recruitment problems. However, the work holds a large social work content and therefore all staff need to have some interest and flair in working with the problems of long term unemployed offenders. This constantly raises the issue of experience versus amateurism, both in the technical and welfare fields.

The question of diversification of work is another issue that must be kept constantly in mind. With a deepening slump in the building industry is it appropriate that Bulldog should largely be offering work experience in this field? Yet, it is only now that they have developed a viable commercial base from which to operate. The workshop is the only experience related to factory work, and caters to ten operatives. Enquiries have been made into the possibilities of garment assembly but the return was insufficient.

Related to the commercial versus rehabilitation tension is the importance of close contact being maintained between Bulldog and the field probation officers. Bulldog is a resource for probation officers to use in relation to their responsibilities for their clients. Bulldog must be alive to changing client need and to the views of the Service, the Courts and the pressures facing officers.

Commercially, one centrally situated office with strong cover makes sense but it would have little contact with or feel for the service. It would also be very remote from where client operatives live and sites might become concentrated too near the centre rather than spread throughout the area and therefore nearer operatives' homes.

Cash flow is a recurring problem, partly due to the grant being paid quarterly with no leeway in the budget, and partly due to the renowned slowness in payment by major customers — local authorities. This reliance on local authority works is being shifted but its great advantage over private work must be recognised — security of eventual payment!

Conclusion. For many years probation officers have worked with the long-term unemployed at a distance. They have talked at length about the underlying reasons, the hopes, the fears; they have referred to rehabilitation courses, and to those with specialist responsibility for employment; they have searched through vacancy lists and visited firms in the hope of a break. After all this, the majority remain unemployed. What has been missing is a real commitment to the long-term unemployed offender, space in which to practise some of the ideas developed by the service, money to back a project, and a recognition that no other agency is going to take on the responsibility however much they may hope.

Bulldog Manpower Services Limited arose directly from these frustrations and was given great encouragement by other projects, notably the Wildcat Scheme of New York.

Bulldog has moved from a pilot project to an experimental scheme. They are now consolidating their experience, refining their methods of working and developing new solutions to their own uncertainty about the outcome of operatives finding work on leaving Bulldog. They are operating in a difficult — unemployment (now at 1.8 million and rising), high inflation, high interest rates and public expenditure under microscopic scrutiny. Subsidized pseudo-government concerns are not the most popular enterprises at the present moment. However, Bulldog is proving that long-term unemployed offenders who would otherwise be a severe drag on the economy can, with some financial assistance, be turned to a positive advantage both in monetary terms and more importantly, in human terms.

It was with some trepidation that the project attempted the radical approach of trying to deal with these offenders by giving them what they sought to obtain by committing offences, and its steady development and encouragingly low rate of convictions among clients argues that this boldness has worked. Out of some 150 offenders who have attended the centre, further conviction rates for offences involving cars has varied between 18% – 23% over the last three years. They accept that they still have a great deal to learn about auto offenders but they also believe that they have begun to ask some of the right questions.

These then are summaries of the presentations of Bulldog Manpower Services Limited and Ilderton Motor Project as implemented by the Inner London Probation Service.

Ilderton Motor Project

The persistent offender who is addicted to cars and committing crime offences, led to serious consideration of how to capture this interest in motor vehicles so as to change it gradually from a delinquent to non-delinquent focus in his life, and of how to use cars as the indirect approach to resocialisation rather than ignoring their significance.

In 1974, a group of probation officers in London who were concerned about the numbers of young auto-crime offenders whom they were supervising with only moderate success, began the Ilderton experimental project in an old disused bath house. These premises were cleared and converted mainly with voluntary help and Bulldog Manpower Services, into a fairly basic motor workshop where offenders and non-delinquent youth who were also "hooked" on cars, could pursue this interest together. It was thought important to have a mixed rather than an all-delinquent group so that as far as possible the pro-social attitudes of the volunteers might begin imperceptibly to rub off on the offenders.

Offenders accepted at the centre are mostly referred by probation officers, social services workers and increasingly by the Police Juvenile Bureau. Enrolment at the centre is on a contractual basis where the offender understands that his continuing attendance depends on his good behaviour inside and outside the project. Length of membership depends on the rate at which individuals respond and obviously on the capacity of staff to manage increasing numbers. The centre is open each weekday evening from 6:00 p.m. to 10:00 p.m. so the offenders can attend after finishing their day's work.

The project receives a steady flow of old cars from the Police which are used to instruct the young offenders in repairs and car maintenance. They have made available welding, paint-spraying, body building and engine-tuning for this purpose. In addition to these material activities the staff encourages the gradual transfer of emotional investment away from the car and into ordinary social relationships in which the car can then take a proportionate place. Individual counselling, group sessions and directive straight talks are among the range of interventions used.

As well as encouraging "TADA offenders" to learn properly about car repairs and maintenance (one self-proclaimed "expert" was found to be fitting brake shoes

upside down!), care was taken to make them more aware of the legal requirements for car owners and drivers, and of the need to observe road safety regulations.

While these broadly educative aspects of the programme were being established, those involved were actively searching for some legitimate driving outlet for those who were banned, since repairing, rebuilding, maintaining and making cars roadworthy, while being very satisfying in some ways, also created tension and frustrations. The answer to this problem proved to be "banger-racing" or demolition derby racing — a sport which gives old cars an opportunity to make one last grab at glory. In five minutes, a car endures more collisions than ever before in its lifetime — an unrecognisable heap of wreckage screaming its heart out and still able to limp on in a cloud of steam generates terrific excitement for the spectators, and even more for those who are competing. Very strict safety regulations are laid down by the organising body, and are carefully observed. Drivers must be over 16 and for racing events disqualification by a court is not a bar. Although the driving skills displayed on the track seen perilously close to those of a Kamakaze pilot, very few drivers are hurt, and in fact minor bruises and cuts seem to be the worst that happens. Most of the value of "banger-racing" lies in the preparation and build up for the event. Preparing a banger-car means, first, the dismantling of unwanted parts. Little technical knowhow is required and this puts the backward offender on a relatively equal footing. Some modifications to the bodywork are required, which is carried out under expert instruction. For each banger-car, there is a team of one driver and one mechanic who are totally responsible for the vehicle from start to finish and who work together towards the same goal. They constantly have to resolve difficulties in reaching decisions, sharing responsibility and effort, and, of course, their shared commitment means heavy recrimination if either does anything to jeopardize taking part in the race, not just from the team-mate, but from all the project members. Occasionally, the group decides to suspend a member for a limited time if his behaviour puts others at risk, but on reinstatement, he is again given opportunities to be trusted and make a constructive contribution. Banger-racing offers competition, companionship, sportsmanship, excitement and achievement in return for effort, and has proved for the offenders to be a very attractive and fruitful way of learning to modify previous attitudes and behaviour. The relationships which offenders establish with the project leader and other authority figures at the Motor Project, including the police, are of great significance and flourish because they are not over-emphasized but develop naturally out of a shared interest.

Workshop 13

Probation and Bail Hostels and the Role of Probation Officers in Institutions

Resources

PERCY RUSSELL, O.B.E., Chief Probation Officer, Hampshire, England.

The objective of this session was to examine the operation of probation and bail hostels and the use of probation staff in institutions.

England, in the 1950's and 1960's, generally held in custody those deemed to be bail risks. In 1970, a working group operating out of the Home Office was established to investigate the use of community service orders, bail and probation hostels. The first bail hostel was established with the financial backing of a private citizen and operated by the Salvation Army. The hostel would accept only first-time offenders. The rationale for operating such hostels was that it was felt that those who were remanded in custody because of their lack of a home were punished more than those who had such accommodation. Research had also demonstrated that, of those remanded in custody, 60% were subsequently found not guilty or were not given custodial sentences.

In 1972, the *Criminal Justice Act* was passed in England which permitted bail and probation hostels to be established and supported by central government funds. Planning consent had to be obtained from the authorities and public inquiries had to be held. The government, realizing the objections of the public, legislated that planning consent was not granted only on technical grounds and not based on the community opinion. Cost estimates per bed were approximately $10 000 (Canadian). Hostels were generally established in the middle of a cachement area thus providing easy access to the major court centres. One such hostel was opened in Fairham (population 100 000), which is located between two major centres. This hostel originally had a 12-bed capacity, which has expanded to 24 beds with four beds reserved exclusively for those on probation. The hostels are all co-educational, although the number of females requiring the facility is recognized as significantly lower than the number of males.

One of the major arguments used in the rationale for opening such facilities was the belief that they would provide the care and control necessary at a much lower cost than would the remand centres to which the offenders would otherwise be sent. This was found to be false as the Home Secretary insisted on 24-hour staff coverage and this significantly raised operating costs. There was also a belief that during the bail period the individual would be able to obtain employment. With the recession, the distance from where the offenders might have had work and the limited amount of available casual labour in each town, this was not found to be the case.

From 1975 until 1980 a total of 664 residents stayed in the facility in Fairham with an average stay of 29 days. (Under the English system, most offenders are tried

and sentenced within 30 days.) In terms of age, 49% (N=324) were aged 17–21, 21% (N=137) were aged 21–25, and 30% (N=203) were over 25. The individuals were facing trial on a wide variety of offences, including those of a violent nature. The largest group (N=283) were charged with theft; the second (N=114) largest was burglary. Interestingly, the disposal of cases over the five-year period demonstrated one of the original beliefs. Of the 664 individuals, the largest number (N=142) were placed on probation and only 40 were placed in custody. The remaining numbers were dealt with by a variety of non-custodial sentences.

In terms of criteria for residence, the Hampshire hostel which was presented as typical, would accept anyone over 17 appearing before the magistrate or crown court with no alcohol or drug addictions. Individuals could not be mentally ill so as to disturb others. Rules of the residence generally provided a curfew, payment of rent if working or with the means to pay, and required as individual to seek employment if not working and agree to be medically examined. While living in the hostel, social skills training is available to better prepare the individual to deal with daily living. The probation officer plays a role as, generally prior to trial, a pre-trial report is prepared, provided the individual plans to plead guilty and is willing. When the individual appears in court, a report prepared by the hostel staff is also sent to the judge.

The bail and probation hostels have a warden who is generally a seconded senior probation officer. He heads a staff including a deputy warden, who is generally a seconded probation officer, three assistant wardens, a cook and a part-time secretary. A management committee actually administers the hostel and has community representation. This is considered an important aspect as the citizens are seen as able to represent the hostel within the community-at-large. If the hostel is statutory, that is, financed by the Home Office, then a probation officer also sits on this committee. The estimated cost in 1980–81 for a hostel accommodating 24 residents is approximately $130 000 (Canadian) which is provided by the central government.

In 1972, probation hostels were established in England and Wales and now number in excess of 100 providing accommodation for 2 000 residents. An Offenders Co-Ordinating Committee examines needs and studies proposals relating to the establishment of such hostels. This body is headed by a senior probation officer.

The acceptance of the concept of hostels to provide accommodation for those awaiting trial and on probation was seen as emerging out of the halfway house movement. Many such facilities had been operated by the Church Army and Salvation Army and had expanded to flatlets and bedsitters which provide a network of graduated integration into the community. Such accommodation is not subsidised generally but is administered by both voluntary and government agencies.

Generally, there is a trend in England to see what may be done to prevent crime rather than simply punishing offenders. A discussion of sentencing practice revealed that most custodial sentences are short, averaging three to six months and the maximum sentence of life is equated to 15 years. The Borstal System, which provides

education and training to male and female offenders aged 16–21 provides an environment similar to that of the military college. Sentences, where they formerly averaged 18 months, now average six to nine months. Approximately 65% of those attending Borstals recidivate within a five-year period and this is seen to be related to the shorter sentence as previously only 50% were re-sentenced in the five year follow-up period.

The Role of Probation Officers in Institutions

The prison service was presented as a system of containment which provides, where possible, training and rehabilitative programmes. Generally, it is seen as doubtful whether prisons have rehabilitated offenders. The lack of resources was cited as the prime reason for the failure.

In 1946, the National Association of Discharged Prisoners' Aid Society was funded to place welfare officers in the prisons. The majority of these officers were ex-army personnel, untrained and not part of the prison service. They existed within a vacuum inside the institutions. In 1964, the working party proposed and implemented a system whereby the probation service would be responsible for providing welfare officers to the prisons. While this provoked displeasure in both the prison and probation service within the first year, probation officers were seconded to the prison service in the proportion of 1 for every 300 to 400 inmates.

The system which began in 1965, while basically the same, has expanded and developed. Where there was originally little co-operation between the probation and prison staff, the scheme is now said to work well. Probation officers are seconded for periods of two to five years and are generally now in the proportion of 1 for every 80 inmates. Previously, where probation officers remained in the administrative block and were seen not as an integral part of the prison, they are now located in each wing and are easily accessible to both inmates and staff. Each team of probation officers in each prison is headed by a senior probation officer who is part of the prison management team.

The duties of the probation officer inside the institution are seen as providing liaison to the outside probation officers, dealing with the concerns of prisoners and their families, and providing crisis intervention. They also prepare reports for parole consideration, make arrangements for pre-parole leave, make referrals to probation hostels, contact relatives and co-ordinate volunteers. Young offenders under the age of 25 may be released when they are deemed ready by a review board. The probation officer is a member of this board. Prisoners with sentences in excess of two years may, for up to periods of six months prior to release, be sent to pre-release hostels on the recommendation of an allocation committee. The probation officer sits on this committee, whose function it is to recommend transfer to pre-release or alternative settings.

While probation officers volunteer to work in the prison, the governor of the institution reserves the right to remove him in consultation with the probation service. One of the major concerns of the service is the tendency for staff to become institutionalized, hence the system of secondment for varying periods.

England provides after-care to prisoners on a voluntary basis within five years of release, and institutional probation officers offer and refer those prisoners requesting such service. Whether supervision is mandatory or voluntary, the files kept by the institutional probation officer are sent to the community officer, thus providing continuity. The probation service is also experimenting with a programme whereby the institutional probation officer, where geographical considerations permit, maintains a relationship with released prisoners.

The programme provides through care which is seen as of paramount importance to the prisoner. Integration of probation service to inmates while institutionalized and in the community is seen to provide a valuable relationship within which both supervision and support may be achieved in an informed manner.

Workshop 14

The System as an Alternative: The Dutch and the Scandinavian Approach

Resources

ELO K. GLINFORT, Director, Planning and Intergovernmental Affairs, Department of the Solicitor General (Canada).

ERIK J. BESIER, Assistant to Director of Prison Administration in the Netherlands.

OLE INGSTRUP, Director of Prison, State Prison at Kargskovhede, Denmark.

The correctional systems in Holland and Denmark, as presented in this workshop, have a number of similarities both in philosophy and operational procedures. Presentations by a representative from each of these countries was followed by the formation of two discussion groups for a question and answer period with each representative. Mr. Glinfort, co-ordinated this workshop and also offered some comparisons with the Canadian system.

Mr. Ingstrup has a broad knowledge of the criminal justice system in Scandinavia and presented a thorough outline of his native Denmark.

Denmark is a small country with a population of only 5.2 million. As with many countries, the 1970s have seen significant increases in unemployment while the crime rate has been escalating since the late 1960s. 95% of crime is against property with only 2% being crimes of violence. It is interesting that there has also been, since the late 1960s, a trend toward de-criminalization and de-penalization. The distribution of pornography, for example, is no longer an offence in Denmark. De-penalization has come about as the value of punishment as a deterrent for crime has been questioned and there has been subsequent re-examination of the system. The major goal of the State has been to reduce the number of people in prison and this number has gone from an average of 3 300 (prior to 1975) to approximately 2 900 (from 1976 – 80). Priority is also being given to individual rights and there have been efforts to reduce the number of restrictions and deprivation of privileges within the prison environment. This is reflected in such things as the use of "open prisons," with almost non-existent security, wide use of the home leave system, and a philosophy of incarcerating people in the institution nearest their normal residence, thereby encouraging family contact as much as possible.

Changes in philosophy and operational methods generally were initiated from the field. Minor Parliamentary changes occurred which sanctioned the trend toward the reduction of the use of punishment as a whole.

The trend toward the reduction of the use of imprisonment has been reflected in a substantial increase in the use of suspended sentences, both with and without supervision or accompanying conditions. However, liberal policies of prison authorities and the use of community resources for inmates and extensive grants of Home Leaves have not been without problems. In particular, tension between the police and the prison authorities increased considerably until research proved that only 6% of prisoners granted Home Leave commit new offences while in the community. Relationships have improved now that police authorities are consulted prior to the granting of individual passes.

Wherever possible, inmates who wish to make use of educational programmes or opportunities do so through established facilities and organizations in local communities. Where this is not possible programmes are operated within the prison setting. This policy reflects the recognition that inmates need more education and training. The positive effect of this policy has been proved by slight reductions in the recidivism rates of those who participate in programmes.

An innovative prison was opened in 1970 which houses 100 young offenders in co-educational living units. Greater responsibility is given to the inmates for their own day-to-day functions and there are no restrictions prohibiting sexual contact. This experiment seems to be succeeding although no statistics are available.

The philosophy of the Probation and Parole Services in Denmark also reflects trends toward fewer restrictions. Operating on experiences from all social areas which indicated that little change occurs effectively by means of threat, the system now does not permit incarceration for breach of probation terms. The service is run largely on a voluntary basis and seems to have a surprisingly good success rate.

Mr. Ingstrup indicated that the correctional authorities maintain good working relationships with the media. However, he feels that, as a whole, the Danish people may be somewhat uninformed about developments or policies in this area. There are, however, attempts to inform the public particularly through the public school system.

Generally speaking, the liberal de-penalization policy of Denmark's criminal justice field has a high degree of consistency in practice, and, although Mr. Ingstrup admits there are some problems, there are also many reasons for their increasing satisfaction with the system. At a cost of $60 000 per cell per year there are certainly many reasons to seek alternative sentences.

Mr. Besier presented a comprehensive outline of the Dutch criminal justice system.

Pointing out that Holland is a small country geographically, with a high population density, the average daily prison population is approximately 3 000, that is, 21 inmates to 100 000 inhabitants of the country. There is a high number of crimes or incidents reported in this country; however, the public prosecutor has a high degree of discretion and approximately 50% of the cases reported result in no prosecution. Custodial sentences result in only 23% of all cases disposed of with 73% resulting in fines. Periods of incarceration are generally very short with the average being three months.

The Dutch system, very similar to that of Denmark, aims to avoid incarceration wherever possible but, where it is necessary, to limit the negative effects of imprisonment upon people. The philosophy is that prisoners need not necessarily be kept within prison walls and that life in prison should be as normal as possible in order to minimize problems of re-integration. The importance of human contact and the stability of that contact is emphasized. Providing meaningful employment for some remuneration is stressed. Open prisons with low security exercise Home Leave Programmes quite effectively and this is also planned for more secure "closed prisons."

New prison buildings being constructed are based on group work principles, and the concept of small groups operating as living/working units is an emerging practice. A popular practice in Holland is the system of "self-reporting." A summons is issued following the ordering of a custodial sentence and the individual is required "on his honour" to report to serve the sentence at some future date. The incidence of failing to report is relatively low.

Contrary to the Canadian practice there is no remission, either automatic or earned, in Holland, and parole applies only in sentences over one year. Parole has become more of a right than a privilege once two-thirds of the sentence has been served. As in the Danish system, probation services tend not to exercise negative sanctions toward unco-operative clients, and workers choose to work mainly with well-motivated people. Mr. Besier indicated that there is some dissatisfaction with the structure and operational methods of the probation division.

The Netherlands seem to practice many alternative methods at the level of prosecution as there are many avenues available to the prosecutor to seek alternatives to imprisonment. These alternatives include: the dismissal of certain cases, findings of guilt with no penalty, probation, oral reprimands, fine and forfeiting of privileges. Restitution or Community Service Orders are not in use in either Holland or Denmark to any great extent.

There are, as is evidenced by the preceding, many similarities in the justice systems of Holland and Denmark. Societal attitudes (supporting policies of "incarceration as a last resort"), development towards better relationships between corrections and the media, the trend towards fewer restrictions in probation and parole conditions, and the high degree of consistency between practice and policy are all similar.

Generally, this was an informative and very popular workshop in which a great deal of information was shared. North American correctional systems can undoubtedly learn a great deal by closer study of these two societies, their processes, policies and research findings.

Workshop 15
Native Canadians and the Justice System

Resource

CHESTER CUNNINGHAM, Executive Director and Founder of the Native Counselling Services of Alberta.

It was stated that native people across Canada do not understand the criminal justice system. Pleas of guilty are often entered to get through the system when there is no justification for a plea of guilty. The proportion of native people incarcerated is far out of proportion to the non-native population. These problems were recognized by the Alberta Government in 1969 and, as a result, the Native Court Workers' Programme was set up to help native people deal with the criminal justice system. Much hard work was necessary to establish the creditability of the native people when the programme was first started. A board of directors was appointed by the Metis Association and the Native Association of Alberta. The board consisted of seven members — president, vice-president, secretary–treasurer, and four members at large. At present there are four native and three Metis on the board of directors. The directors are appointed for a one-year term. The purpose of the board is:

1. To set up operational procedures for housing and guidelines for services to Indian people.
2. To evaluate effectiveness of present programmes.
3. To sanction new programmes.
4. To see that the programmes are operated in an effective and efficient manner.

In 1971, the organization became known as the Native Counselling Service of Alberta and services were expanded to cover the entire Province of Alberta.

The counselling service works with the native people whether status or non-status. Services are offered to band councils and to the Metis Association. If the services are wanted or needed the band council or Metis Association must give their approval.

At the present time there are 36 court workers with the Criminal Courts and 26 court workers working with the Family Court. In addition there are 4 liaison officers working with the federal institutions and 8 liaison officers working with the provincial institutions. Funding is provided by the Solicitor Generals of Canada and Alberta and the Provincial Department of Health and Social Service.

However, it is important that the Indian communities take the initiative to obtain services. Court workers are usually local people who are stationed near Indian communities or on or near Indian reserves. The Criminal Court worker is involved with a client from the time a summons is served to the time he is back home in the community. The court worker attends all courts and informs the client of his legal right, helps to fill out applications for Legal Aid, acts as a friend in court but does not partake in legal proceedings other than act as an interpreter or speak to

sentence with regard to family background. The court worker also sets up workshops to educate native people and court personnel. They conduct community investigations, when requested, and they work with the liaison officer until the client is returned to the community.

The Family Court worker is also present in court and is often called upon to interpret not only language but the Indian lifestyle to the court because of better communications between Indian people, the court worker and the court. The Family Court worker often supervises Indian children and will recommend homemaker services for Indian mothers who need such a service. Court workers work closely with social agencies involved with the Family Courts. Court workers try hard to improve the communication between social agencies and Native people. Criminal Court workers have also been used an assistant parole officers for the National Parole Service and they are paid on a fee for service basis.

In 1973, the high proportion of natives imprisoned in Alberta led to the establishment of a native liaison officer working within the Institution. These officers, employed by the Native Counselling Service are used as counsellors and liaison between the prisoners, his family and community. They are responsible for temporary absence programmes as well as assisting in parole programmes for native people. In the Federal Institutions the liaison officer sits on the Classification Committee and Parole Review Board in addition to the above duties.

The Native Counselling Service is meeting needs of native people by educating their own staff. Of their staff of 99 people, only five are non-native. Court workers take Law courses, report writing courses or any other course which their employer feels will help them. The service has obtained work contracts from private enterprises where inmates can earn money as well as learn working skills while receiving on-the-job training. They earn $4 per hour while working. These contracts were usually for clearing brush.

The Family Court workers recognize a need for homemakers service and a programme has been established whereby a Homemaker goes into a home for two or three days to work with the family or possibly just relieve the mother for a few hours.

The Native Counselling Service is actively working with reserves to set up their own policing and, possibly later on, their own court programmes. Because of the court workers involvement in the justice system, several changes have been made in service to the native Indians.

1. Judges seldom drive to court with the Royal Canadian Mounted Police (R.C.M.P.).
2. Court workers are present in all courts.
3. Court hearings are being held on reserves.
4. A Pre-Charge Diversion Project has been established in the juvenile field.
5. Workshops in native communities involving social Agencies, courts, police and other people have been accepted and attitudes and understanding towards natives and non-natives have improved.

6. Children who have appeared in Family Court are remaining on the reserve or community rather than being removed, wherever this is possible.
7. A fine option programme has been established in some native communities.
8. Six native Justices of the Peace have been hired to visit remote areas and deal with minor offences.

Altogether the Native Counselling Services are operating 14 different programmes, all helping to meet the needs of the native community and creating a dramatic reduction in the native people incarcerated in institutions.

Of the native staff hired by the Agency 40% have a criminal record. Since the court workers began work, it was noted that Indians were not granted bail because they could not provide a home address. Bail was granted when it was learned that they in fact had a residence, but could not give it by name and number. Of 800 natives released on bail only two did not report to court. Some problems have arisen with the success of the programme. As an example, some natives feel that the court worker could get changes dismissed. This is an entirely wrong interpretation of the court worker's role in the court.

Native people have been found to be dependable when they understand what is being said and what is going on. The success rate of native inmates, on a work programme has been as successful as non-natives on a work programme.

The following questions and answers were raised during discussion:

Q. What health services do Indians receive?

A. Metis have the same health services as anyone else in Alberta. Treaty Indians come under the jurisdiction of Indian Affairs Health Service, however, there is some dispute about this jurisdiction as there may be possible changes in the *Indian Act*.

Q. How successful are native constables?

A. In Alberta, this programme has not been too successful because, in the beginning, there was lack of proper consultation before the programme was set up. It is also felt that constables are not being used properly on the reserve.

Q. What is the status of the Addiction Recovery Home?

A. There are 34 native-operated homes in Alberta and they are funded by the Native Alcohol Services. Most of these homes are on the reserves.

Q. Is there a criminal justice system set up on the Reserves?

A. At present, no. The Indian Association are looking into the research and development systems that are being done in the United States where the entire system of Police, courts, probation etc. are controlled by the reserve. There are problems in that 80% of native charges occur in the urban areas. Tribal courts only have jurisdiction on the reserves.

Most of the native people on reserves consider their native language their first language and English as their second language. There is a movement now whereby Indians are taking a greater interest in their culture by listening to their elders and returning to their own religion. Some reserves are now educating their own people, teaching native language and giving their children a greater knowledge of their heritage. Indians are also becoming more highly educated in our colleges and universities.

Q. What kind of half-way houses are there in Manitoba?
A. The half-way houses in Manitoba are operated strictly by contract with the federal and provincial governments and are operated on a non-profit basis. The present budget is approximately $500 000 per year.
Q. What kind of involvement do native people have in the institutions?
A. The liaison officer in the institution keeps the Native Brotherhood active. He also helps keep regular contact with the community and the inmate's family. He works with the provincial institutional staff and he initiates programmes within the institution through the court worker and the community worker to work out pre-release and parole plans. In the federal institution his duties are much the same but he sits on a Classification and Parole Review Board.
Q. Does the court worker go with the court?
A. Yes. All full-time court workers serve several areas and they usually attend court four days per week and work at least 12 hours per day. Court workers often tell the community when court is and help advise those due to appear. As previously noted, the court workers duties were again reviewed. In Family Court the number of children removed have been reduced greatly.
Family Court in Alberta is not highly structured but quite informal. There is quite often a native social worker in court who works with the Children's Aid, family and children on the reserve to get children home as soon as possible.
In Fort Frances, because of workshops on the reserves, the Children's Aid Society have decided to leave children on the reserve and native workers meet with the Children's Aid to help resolve problems. The Ontario Government sets quite rigid standards for foster homes; however, it has been agreed that foster homes on the reserve meeting the standards of the reserve people will be used and this has been acceptable to the Children's Aid.
Q. Does Alberta have a temporary absence programme?
A. Yes. Part of the staff training for Native Counselling Services is to bring in elders to teach the workers their heritage. In Manitoba the liaison officers are sworn in as Peace Officers in order to do escort duties. Liaison officers in Alberta do this in Lethbridge but not as frequently in Calgary.
Q. Is there a problem between status and non-status Indians as far as identity is concerned when non-status were in more contact with white people?
A. This was not answered directly but an illustration was used that a programme was set up for approximately one year. During one summer 12 non-status natives who were unmanageable were placed on a reserve for the summer months. When they were returned home, eight of the twelve had significantly altered their attitudes. When asked about the change, they had learned that they were proud to be Indians. This Indian reserve was very traditional and the people lived in tents all year round.
Q. What happens to native children who go to non-native schools and mix with other children?
A. There is a move to revive the Indian culture at home and in the schools whereby natives are able to improve their identity.

Q. Are there community service orders on the reserve?
A. Yes. Work done under the community service orders are those not done by people who would be paid by the Reserve. These jobs include cleaning the reserve, cutting wood for older people and other similar jobs.
Q. Are schools run by the reserve using the same curriculum as provided by Indian Affairs or the province?
A. Reserves tend to use the same curriculum and they are doing their own teacher training. Elders are teaching crafts and some are compiling a Cree – English dictionary.
Q. What kind of person are you looking for when hiring Liaison and court workers?
A. Liaison officers are ex-offenders who have been on the street for two or three years. In Manitoba they look for street-wise people who set a good image and who also have been out of trouble for two or three years.
Q. How many women from Alberta are there in the Kingston Penitentiary?
A. Twenty-six. The percentage of native people is a little more than 50%. Ther was some confusion in past statistics. In the near future, two reserves in Alberta will have half-way houses.
Q. What kind of sanctions would the native people use if they had their own court system?
A. No answer was available but, it was felt it would be as difficult as it was at present and those passing sentence would have their own personalities and opinions.
In the United States a native may choose to take the state law or the court system provided by the reservation. So far, they have tended to follow the system already established by the state. This does not apply in Canada as Canada does not give natives the same type of constitutional rights. In the Yukon, the sanctions imposed by the Justice Council were much tougher than those imposed by the Court. People started to choose the court rather than the Justice Council but then the court began to impose stiffer sanctions.
Q. Are there problems hiring native workers in your Counselling Service?
A. There were problems at first, but when the situation was explained fear subsided. Non-natives will only take over if you let them.
Q. Are there problems of natives getting into hard drugs?
A. In the rural areas, problems are with alcohol, glue and gas sniffing, but in the cities hard drugs are starting to be a problem.

The presentation was excellent and the discussion after the presentation was very lively and all persons seemed to participate.

Alberta has done an excellent job in working with the native people as well as improving communications with the judicial system and the native people.

Workshop 16

Expanded Sentencing Alternatives — Judicial Discretion and Sentencing Disparity

Resources

JUDGE C.C. BARNET, Provincial Court, British Columbia.

EUGENE EWASCHUK, Director, Criminal Law Amendments Section, Department of Justice, Ottawa, Ontario.

During this session there was discussion of sentencing alternatives which are to be enacted by the Canadian Government under the new Omnibus Bill and their practical implications for judges. There was also a discussion on what these extended alternatives will mean for judicial discretion and of the consequent sentencing disparity for Canadian judges.

This review of the package of amendments began by discussing the case-law concerning concurrent sentences. The present practice is, if the judge does not specify whether the sentence is consecutive, it is assumed that sentences are concurrent. The proposal is to confirm this in the *Criminal Code*. This proposal also includes the development of new warrants of committal which will allow judges to number all charges on the warrant and to allow the clarification as to which sentences are concurrent.

It is proposed that section 646, subsection I, be amended to allow a fine to stand on its own. Section 646, subsection I proposes to increase the five year cut-off point to 10.

Section 646, subsection 10 of the *Criminal Code* requires that the court obtain and consider a report concerning the conduct and means to pay of an accused who is under 21 years of age and not less than 16 years before issuing a warrant committing the person to imprisonment for default of payment of fine. This is being amended to read — may consider a report thereby increasing the discretionary power of the Judge.

Fines and Compensation

The Omnibus Bill proposed to amend section 647, subsection B of the *Criminal Code* of Canada to increase the maximum amount of the fine imposed on a corporation from $1 000 to $25 000 when the offence is a summary conviction offence. It was explained that the $1 000 figure was a 1955 cut-off point which could be treated by the corporations as the purchasing of a licence and therefore it would not likely act as a deterrent in these cases. The $25 000 figure was challenged to be too low; however, it is difficult to justify a $24 000 increase in one amendment. It is likely that an increase to this figure will be proposed in the future. There is also a proposed increase in the $500 fine attached to summary conviction offences for individuals be increased to $2 000 and that this amendment would be correlated with the above.

Another deterrent for corporations is that executive directors are also subject to criminal prosecution on an individual level.

Fine Option Programme

This amendment proposed that the offender be given the opportunity to earn credits in lieu of paying fines. The offender would work at the minimum wage, and would decrease the amount of his fine accordingly. It was questioned whether, in the areas where such a programme does not exist, the judge could impose a fine and eliminate imposing a default in payment. It was found that there must be a default, if not paid, and, that the judges who are in the areas where these programmes do not exist, should conduct a more thorough investigation into the offenders' means to pay. It was also suggested that there be an increase in communications between the provinces and the federal government to establish these programmes. For those offenders who are disabled and therefore unable to work, and who have no means to pay the fine, other alternatives are recommended, such as a discharge. Another suggestion was that the payment of a fine become a condition of the probation order to ensure that the offender be returned immediately to court if the fine is defaulted rather than imposing an automatic jail term.

Compensation and Restitution

Compensation is defined by the federal government as a sum of money or equivalent services paid to the victim by the offender. Restitution is defined as restoring to the victim the stolen property.

The appeal case of *R. v. Selinsky* in Manitoba revealed that compensation for personal injuries is a civil matter and is not to be dealt with in the Criminal Court. However, Bill C-21 allowed the courts to rule on compensation for personal injuries. The more extensive use of Criminal Compensation Boards was discussed and, it was noted, the taxpayer subsidizes these payments. There is also a greater possibility of obtaining a greater amount of money to compensate for damages if you go through the court process.

The Omnibus Bill proposes that restitution be available for all indictable and family conviction offences and that input on this issue should be received by the victim and counsel or the Crown. In the case of indictable offences, the victim must make application. The possibility of work orders as a condition of probation was also discussed. This means a number of hours of service provided to the victim by the offender which do not exceed 100 hours in total. It is recommended that a pre-sentence report be available in order for the judge to be satisfied that the offender could or would participate in this programme. The victim also has to give consent. If there is no consent on the victim's part, then there are other alternatives such as community service orders.

A community service order is only to be imposed when the individual would otherwise have been incarcerated. The suggested range of hours are from 40 to 240 hours, depending on the seriousness of the offence. Before imposing a community

service order, the following areas must be considered. These include: the circumstance of the offence; suitability of the candidate; the C.S.O. must not be contrary to public interest and the hours must be performed within one year. It was proposed that community service orders be a separate entity from probation orders and that it be considered only as an alternative to jail. Upon breach of this order, judges may impose a sentence of not less than one day in jail and not more than two years less a day.

Probation as it Applies to Corporations

This Bill provides that the court may order a corporation to comply with conditions outlined in a probation order. This provision is to help control corporate activities. Fines against corporations have proven to be unsuccessful in the past and this alternative is anticipated to help solve this problem. Some criticisms of this proposal involve the enforcement of the order and who will sign the probation order. In the case of a breach of probation the question of who is directly responsible arises. There has been no allocation for section 663, sub-section 4 of the *Criminal Code*. Executive officers are also criminally liable for their activities in the corporation.

Breach of Probation

In the case of a suspended sentence there must be a conviction registered and separate revocation proceedings pursuant to section 664, sub-section 4 of the *Criminal Code*. However, if the sentence is imposed pursuant to section 663, sub-section D, that is, probation plus fine or imprisonment, then it is unfair to revoke and impose sanctions for subsequent convictions.

Intermittent Sentences

The *Criminal Code* of Canada indicates that a probation order must accompany all intermittent sentences to ensure that the offender is being supervised during the time spent in the community. Two areas of concern have developed.

1. There has been a serious management problem with inmates reporting to the jail intoxicated and disorderly. Therefore, it is proposed that, as a condition of the probation order, the offender not appear at the jail intoxicated.
2. The other concern is that there are few beds available on an intermittent basis. A possible solution to this is to establish the availability of space and then sentence accordingly. However, the Court of Appeal has ruled that available space is irrelevant and that judges should sentence as he sees fit.

The B.C. Court of Appeal has ruled that an intermittent sentence must be accompanied by a probation order which terminates simultaneously with the intermittent sentence. This Bill proposes to adopt the Ontario Court of Appeal ruling which outlines that the probation order may extend beyond the intermittent sentence, but, not to exceed three years.

Drug Addiction Orders

At any stage of criminal proceedings where it appears that the offender is involved with drugs, the judge can make an order for a report on this issue. And if he sees fit,

an eight-day assessment period can be imposed without the consent of the offender or the consent of the facility. Each day in the facility will count as a day toward a jail sentence if imposed. If the offender is convicted he could be sentenced to a facility which deals with drugs and, upon his release, the balance of the jail term would be completed at a correctional facility. The inmate and the receiving institution must consent and both must have the prerogative to withdraw consent at any time. This is similar to what the Law Reform Commission calls a hostel order. The danger in this provision is that judges may sentence persons such as drug addicts for treatment when otherwise they would have been granted a suspended sentence. This order does not include alcohol abuse as the cost for treating such individuals is too high. Also, in the *Criminal Code*, there is a definite differentiation between alcohol and drug abuse.

Sentencing Guidelines

There is an emphasis on the importance of providing sentencing guidelines to judges. It is proposed that when a judge imposes a sentence for more than the minimum sentence, as outlined in the *Criminal Code*, the judge must provide reasons for the sentence. The Court of Appeal has ruled that, for at least the first jail term imposed, a pre-sentence report must be available to the judge. It was suggested that correctional administrators and parole board members would benefit from having reasons for a sentence. This would help in the administration of a sentence. It was also mentioned that offenders would also benefit if they are given reasons for the length of the sentence.

This, then, is a summary of the changes proposed by the Canadian government under the Omnibus Bill.

Workshop 17
Community Based Crime Prevention

Resources

ROY HOBBS, Chairperson, Sergeant, Durham Regional Police Force.

D. FORCESE, Chairman, Department of Sociology and Anthropology, Carleton University, Ottawa, Ontario, Canada; Chairman of the Law Enforcement Certificate Programme, Carleton University.

BOB HOLMES, Sergeant, Crime Prevention Unit, Royal Canadian Mounted Police, Ottawa.

THOMAS J. HALL, Consulting Social Worker, Gloucester Police Force, Ottawa.

Sgt. Roy Hobbs welcomed those in attendance and briefly introduced the panel speakers.

Professor Forcese began the presentations with the statement "To consider alternative to imprisonment, one must begin with consideration of the role of the Police." The two styles of policing were addressed: (1) Reactive and Traditional Style, where the emphasis is on law and enforcement, or maintaining order; (2) Proactive Style, which suggests that police can engage in measures that anticipate and prevent violations of the law.

At present, the reactive style is the dominant definition in policing. The attitudes of this role still prevail in police management, officers and training establishments, and members of the public. However, the proactive style can be found in specified units of police organizations, for example, the unit which Sgt. Holmes heads, youth squads, etc. The proactive style of policing is not dominant because it is viewed as a low-prestige function, or even as a punishment to the officer. The reward system within policing organizations does not reinforce prevention of crime. It reinforces the law enforcement function of the position, and as a result, the few police officers who engage in prevention of crime find their efforts are held in low regard. Therefore, they receive marginal support from their colleagues.

Professor Forcese noted that *genuine preventive policing* should be the dominant approach to policing. Adoption of this philosophy would mean the decentralization and integration of the officer into his own community where he would no longer be anonymous to the members of the communities. They would have personal knowledge of the residents and of the communities in general. In order to achieve this decentralization process, it is necessary to place greater emphasis on the use of intelligent police discretion. Furthermore, early intervention and referral to appropriate agencies in the community for help when needed should be emphasized,

as opposed to the role of arresting the offender and bringing him into the justice system. With an emphasis on preventing and assisting individuals, one avoids premature entrance into the justice system.

Attempts have been made to break down the isolation of the police officer from the residents of the community through the development of programmes such as: (1) ethnic co-ordination programmes; (2) agency co-ordination programmes; (3) courses on family crisis intervention in police training; (4) team policing.

Changes in the following areas must be made in order to allow preventive policing to become the dominant role:

1. Force decentralization with police officers having autonomy for a particular zone.
2. Authoritarian structure in police forces must be modified to allow police officers to use their own discretion in the field.
3. The recruitment base should expand so that police officers will be representative of the educational and family backgrounds of the communities they serve.
4. Police training should emphasize preventive policing to a greater extent.
5. The reward and promotion structures must recognize preventive policing as a valid approach.

Sgt. Holmes, the next speaker, discussed crime statistics, noting that these statistics do not, in actuality, measure crime but, rather, police activity. He showed how statistics gathered in this way reward the traditional police organization with its emphasis on arrests. Sgt. Holmes then outlined the following components of crime prevention:

1. Learning about crime prevention normally starts within the family, as it is the parents who have the primary responsibility for the rearing of children. It is difficult, however, for police to involve themselves in this phase of crime prevention, due to the traditional feeling of the sanctity about the home.
2. Target Hardening reduces the opportunity for criminal activity by making the target more secure. For example, women are provided with information about safe routes to walk during the evening in order to reduce the possibility of being raped. In relation to thefts, marking programmes have been encouraged. Marking one's property increases the risk of the offender's being apprehended and thus acts as a deterrent.
   Security hardware can be used in buildings.
   Environmental design is also a factor affecting the possibility of a crime occurring. For example, building a liquor store near a park where groups of youths gather regularly increases the likelihood of criminal behaviour in that area.
3. Legislation can be effected with a view to preventive policing, giving police a voice in the establishment of municipal by-laws.

The issue of family violence was then addressed by Sgt. Holmes. It was noted that violence within families is a problem that is rapidly coming to the attention of Canadian society. Police officers have a high interest in this area, in view of the number of officers who have been injured or killed while responding to a family

dispute. However, little commitment has been made by police trainers to emphasize ways of handling and defusing such incidents. Issues of wife abuse, child abuse, abuse of the elderly are of concern to police agencies. In relation to child abuse, reports of such incidents have been few in the past. Sgt. Holmes stressed that society is not paying proper attention to the problem of violence in the home. He indicated that a high proportion of inmates in institutions are from abusive homes. Such individuals are conditioned in the home to believe that violence is used in order to get what you want. This attitude is internalized at an early age and can be externalized later. The example of a person making himself the target of violent activity by threatening others at gunpoint, thereby necessitating a police officer to shoot him was cited as a means of committing suicide. Furthermore, individuals with learning disabilities often come into the justice system since despair of their disability leads to acting out behaviour in the community.

Sgt. Holmes concluded his presentation by noting that the prevention of crime is the responsibility of a number of agencies in the community — police, medical, social and youth services. A co-ordinated, concerted effort to effectively prevent crime by these agencies was recognized as being a complicated and difficult task to achieve.

Mr. Hall, the final speaker, began by outlining how his position as a consultative social worker to a police force developed. The position was established three years ago by the Gloucester Police Force to be responsible for: (1) direct intervention; (2) co-ordination with other agencies; and (3) in-service training.

During the past year, Mr. Hall has been working three days of the week with a Local Community Resource Committee which receives referrals from the police, guidance counsellors, parents and even teenagers themselves. The purpose of the programme is to keep offenders out of the justice system. Sample cases involving domestic disputes, child abuse and wife abuse were reviewed in order to make the group aware of the activities in which Mr. Hall and the Local Resource Committee engage.

Mr. Hall deals with locating runaways, counselling the mentally retarded and emotionally disturbed, and helping single parents in coping with the responsibilities of parenting. It was revealed that police officers are used more now than ever in terms of performing a surrogate father role in single parent families. Mr. Hall's caseload consists of: family and domestice disputes — 50%; disturbed offenders — 11%; abused or neglected offenders — 7%; suicidal offenders — 7%; runaways — 13.2%. The need for agencies to break down the stereotyping of offenders was expressed by Mr. Hall.

A discussion period followed. In relation to Mr. Hall's position with the Gloucester Police Force, it was clarified that intervention during or after that involvement with the justice system does not occur. The service is totally preventative in nature. The attitudes of the police towards this programme were discussed. Administratively, the programme is supported, however, the majority of front-line police officers maintain ambivalent feelings towards it. It was believed that these feelings are due to previously described role conflict and reward systems within the

police organization. Mr. Hall indicated that, in any event, the programme is receiving more support now as police officers become accustomed to its existence.

The need for community involvement in crime prevention was raised for discussion. Sgt. Holmes noted that the process of identifying the crime, determining the target community, and who has a vested interest in the community, and then identifying a catalyst to involve the community in finding resolutions for the problems should be used as a means of preventing criminal activity. Programmes such as Operations Identification and Pride were referred to as means of involving communities in crime prevention. It was noted that solutions to community crime require innovative thinking on the part of its members. The leading agency, initially, in encouraging communities to find resolutions to their own problems, was identified as the police force.

Community-based policing with subsequent increased personal contact with the residents of an area was supported. Problems such as the officer's not having immediate access to his vehicle were discussed. It was pointed out that community residents seem to like the proactive style; however, once again, it was noted that the reward system in police organizations does not reinforce officers engaged in community activities. In reference to the relationship between probation officers and police officers in the community, Sgt. Hobbs advised that communication between them around problem areas in the community should be increased. Furthermore, more effort to expand openness with community residents should be emphasized. Residents should be made aware of the fact that the police organization does not have all the answers and that resources and ideas from the residents would be welcomed.

At the close of the workshop, the group was supportive of the change from the reactive style of policing to the proactive style as outlined above. It was believed that the support of policy makers, political representatives and the general public is necessary for the change process to occur. Professor Forcese emphasized once again the necessity for decentralization of the policing role and for allowing the officer to use *intelligent police discretion* on the basis of informal participation in the community. It was believed by those present that *additional legislation is not needed* to develop the proactive style of preventive policing.

Workshop 18

Career Exploration Assessment Centres in Corrections Vocational Assessment – An Alternative

Resources

WILLIAM A. HORNER, President of Experience Education, S.W. Iowa Learning Resources Centre; a member of New Life Ministries, Red Oak, Iowa, a programme which works with inmates and ex-inmates.

The Learning Resources Centre of South West Iowa was established in 1965 with the support of federal government grants. This organization became a non-profit organization known as Experience Education in 1969. The purpose of the organization was to explore and implement new approaches to Education.

By their own definition Career Exploration Assessment Centres (C.E.A.C.) are "an experience-based system of individualized vocational evaluation. It is designed to sharpen career focus, improve training program success, and increase job placement potential."

The organization gives the philosophy behind C.E.A.C., as follows:

> Unfortunately, after the very early years of life, many people are not asked what they would like to be, and perhaps more tragically, they often have no answer when asked. Experience Education believes people have not only the need to know but the right to know if they are to contribute. Experience Education also believes that the way to meet this human and individual need is through the excitement of discovering what "I" can and like to do. Career Explorations Assessment Centre was conceived by Experience Education so that those who have the need to know have a way to know . . . Experience Education believes self-discovered vocational choices become part of the individual's future because he/she has been the key decision maker.

Project Discovery was originally devised by Experience Education as a "hands-on" exploration tool. It was a programme used extensively in schools and proven to be very effective. The project is intended to fill the gap left by traditional education methods which are not always effective for all students. The programme is now being used extensively in two juvenile training schools in Iowa. These programmes not only allow student exploration of various occupation "packages" but also offer training in job-seeking skills.

In 1977, Project Discovery began to be incorporated into a "comprehensive vocational evaluation system." Extensive studies by recognized occupational analysts eventually led to a system whereby vocational information, personal information, and qualifications could be analyzed for each individual in order to arrive at realistic occupational goals.

In 1979, this exploration and assessment system was incorporated into Educational Experience's first C.E.A.C. in Denver, Colorado. It provides services to the Denver community as well as to people being released from a nearby Colorado state prison. This is facilitated by a community-based help group known an Employ-Ex. This group, comprising ex-offenders, is interested in assisting recently released prisoners to obtain jobs, and works with C.E.A.C. in order to facilitate this. Late in 1979, a C.E.A.C. was established inside Fort Madison State Prison in Iowa and is operated by one full-time staff member and four inmates serving life sentences. Both programmes seem to have demonstrated some degree of success; however, there are problems which inevitably develop when dealing with prison populations and government bureaucracies. Problems have yet to be completely ironed out regarding referral processes and the value of C.E.A.C. training which could occur a considerable length of time prior to an inmate's release date. The suggestion was made that the programme may be more successfully implemented in halfway houses or in conjunction with day pass programmes.

The C.E.A.C. packages can take up to two and one-half years to devise and field test. They are written by people actually working in the job or field. By 1983, there will be many different packages available. The packages were originally designed for people with reading comprehension at the 6th Grade level. However 15 packages have now been revised to the 3rd Grade level and a system by which a series of "talking cards" could be used for the illiterate is now being developed. In practice at present, it seems to be common for those who do not read to seek and obtain assistance from their peers who do. In this way, two or more people may go through a package together.

As can be expected, a fully accredited and supplied Career Exploration Assessment Centre is an expensive investment initially; however ongoing costs generally involve only salaries and administrative costs. A fully-trained staff of vocational evaluators, each of whom would work with no more than five clients at any given time, would also be required. Specific evaluation instruments must also be readily available.

C.E.A.C. describes the population they can and are servicing now and in proposed new centres in the United States as follows:

> Locations can range from isolated rural areas to inner cities, from a maximum security penitentiary to a corporate employment office. The Career Exploration Assessment Centre either
> 1. complements an ongoing employment, training, or rehabilitation program;
> 2. provides the basis for establishment of a new assessment program; or in the case of the Experience Education . . . Career Exploration Assessment Centre in Denver; or
> 3. can be the sole instrument for providing vocational evaluation services to contracting agencies.
>
> The Career Exploration Assessment Centre recipients range in age from teenagers to mature adults. They represent diversified cultural backgrounds and levels of academic achievement or vocational maturity. They are socially and economically disadvantaged minority youth from the inner city and smaller town who have "dropped out" of school and the labour market. They are men and women who have been or are incarcerated and those

with varying degrees of functional and physical disabilities. Some, such as displaced homemakers, have held many or no jobs and have taken part in several short term subsidized employment and training programs. Others, due to shifts in the economy or personal capabilities, have been obliged to find a new career. They are misemployed or underemployed; and many have only a vague notion about what they can and want to do. The Career Explorations Assessment Centre is designed and functions to serve all these individuals who need and want to make a satisfying vocational choice.

In addition to outlining the program by means of discussion, film and lecture, this workshop also described the relationship with an organization called the New Life Ministries. This is a network of volunteers located throughout Iowa who are matched one to one with inmates in Iowa prisons. This encourages close interaction between inmate and volunteer both before and after release into the community. This seems to be a very successful organization which pays special attention to assisting ex-offenders to find jobs, particularly with the assistance of C.E.A.C.

The general concept of C.E.A.C. and Experience Education as a whole is that in order to internalize tasks or skills, it is necessary to experience the activity. This concept seemed to be generally accepted by workshop participants, and although many agencies and organizations may not have the funds available to purchase C.E.A.C., sharing the concepts, principles, and results of its use was most enlightening.

Workshop 19

Effective Programme Design and Budget Development

Resources

DON EVANS, Director, Community Programs Support Services Branch, Ontario Ministry of Correctional Services, presented this workshop. He was assisted by his training staff: CARL ASPLER, ELIZABETH FLAVELLE, STAN JOHNSON, AND PETE LEFEBVRE.

The purpose of this day-long workshop was to examine the steps required in the developing and launching of a new programme.

The workshop began with an overview of the life-cycle of an organization.

The cyclical interplay of goals, priorities planning, and managing within an "enabling environment" consisting of people, communication, and adequate resources was noted. Tension is imposed upon this lifecycle as a result of the history, commitments, goals and situation of the organization.

This lifecycle may fail as a result of several factors, including: unrealistic goals; inadequate time selecting or organizing priorities; limited planning; inability to follow or change the plan; absence of adequate resources; failure to reassess the purposes of the organization and action taken becomes an end in itself.

Various techniques were employed throughout the day to emphasize the importance of creative thinking. For example, basic assumptions common to employees involved with social services were questioned, such as: How long will there be a need for our agency? What factors may come about which will change our agency? What will be the availability of finances? Which programmes, now offered, will no longer be useful 10 years from now?

Review was given to the four steps of non-linear thinking, namely, preparation, incubation, illumination and verification.

A handout was circulated on the merits of "zig-zag thinking." A summary of characteristics of creative programme developers was provided which included such traits as high energy level, good cognitive ability, achievers, iconoclastic.

Participants formed small work groups to devise a programme based on the following set of assumptions: It is 1990 and there is no imprisonment for individuals convicted of theft under $5 000 regardless of any previous recidivism.

Following the creative exercise, the principles of marketing research and strategy were highlighted. Techniques of problem-solving were also discussed.

Attention was then given to designing the plan of the programme and incorporating these ideas into a programme submission.

Discussion of budgeting principles centred around the concept that the budget is an abstraction which should be: a reflection of goals; a forecast of needs; a measure of progress toward goals; and an indicator of success.

Emphasis was placed upon selling a programme through the use of negotiation skills. These skills revolved around such principles as: try and establish a situation of mutual gain; never disclose "your bottom line"; assume the first offer is not the final one; know what you want.

The importance of introducing and maintaining an on-going process of evaluation was also stressed. References were made to three steps in the evaluation process: (1) get intermediary milestones; (2) immediate feedback is important; (3) discuss with funders the success of the various linchpins in the programme.

Workshop 20
Contracting for Services

Resources

CARL DOMBEK, Director of Legal Services, Ontario, Ministry of Correctional Service, Toronto, Ontario.

BETSY KAPPEL, Senior Social Worker, Elizabeth Fry Society, Toronto, Ontario.

DAVID KENNEDY, Director of Branch Services, John Howard Society of Ontario, Toronto, Ontario.

DON SPENCER, Regional Administrator, Probation and Parole Service, Ontario Ministry of Correctional Services, London, Ontario.

Mr. Spencer introduced the session and made some remarks regarding the purpose and format. It was noted that with the trend toward greater community involvement in corrections, the government and private agencies are more frequently entering into contractual arrangements to meet local needs. He hoped to deal with the rationale of contracting, the mechanics of contract negotiation, legal aspects of the contract, alterations and terminations. The resource people would also try to explore some of the implications contracting for service can have on private agencies and government services.

Ms. Kappel explained why private agencies are interested in entering contract agreements with the government.

1. The agency believes in a set of goals and when they do not have the resources to achieve these goals they will seek support from other sources.
2. They have a sense that many community needs can be met most appropriately by private, local agencies.
3. They believe that private agencies have served community needs for many years without government support and want to continue to serve now that more support is available.
4. Sometimes small and new agencies need the financial support and stability.

Issues raised:

1. Government and agency may be looking at a problem in different ways and the agency must decide if it can commit itself to meeting objectives that may not be consistent with agency goals and practices.
2. Private agencies have an important role as advocates for change in the system. This role can be compromised by contract relationships with the government.
3. Terms of the contract can have serious and threatening implications for union staff on both sides. This area needs more attention.

4. Who controls the programme — the agency or the government department? There is a danger in the agency becoming financially dependent on the continued support of government. This can very gradually weaken the autonomy of the agency in questions of policy in service priorities. To obtain money does the agency have to provide programmes that are fashionable and politically attractive?
5. There is a concern about the effect that government requirements have on the internal operation of the agency, auditing procedures, log books, records of supervision, etc.
6. Government intervention in private agencies can blunt the initiative of individuals and community groups, leaving a vacuum when the service withdraws.

Mr. Spencer spoke as a government administrator and noted that in 1978, the Ontario Ministry of Correctional Services had stated very clearly that increased contractual arrangements with private agencies was a new policy position.

As an administrator, he is expected to encourage and maintain positive working relationships with community based agencies and monitor involvement of individuals and groups in the delivery of correctional services.

He stated that the use of contracts for service had increased dramatically in the last five years. According to Ministry records in 1975 there were two contractual service agreements with private agencies. In 1978 there were 45, in 1979 there were 85, and in 1980, they estimate 150 contracts.

It is important that a government representative look at his own philosophy of corrections and his feelings about the role of community based private agencies.

The administrator should consider several things when moving into a contract relationship:

1. Who is identifying the need?
2. Are there other benefits to private agency approach besides funding?
3. Are private agencies being seen as the fastest way to get politically attractive programmes operational?
4. Ramifications to government services in terms of accountability, evaluation, standards, staffing, salaries, etc.
5. Communication regarding government expectations on target group referral, agency refusal, and evaluation.
6. Continuity: What are the obligations to the private agency and the community? What does pilot project mean? If it is one year, no informal commitments should be made giving the agency false expectations.
7. Authority — both parties need to negotiate this.

Mr. Kennedy dealt with issues related to preparing the contract proposal and budgeting the programme.

He noted that private agencies are primarily interested in providing service to people while government projects are often designed to meet the needs of the system. Usually through the negotiation process a compromise between the objectives of the two parties is found.

He stressed that the funding organization has a right to measure and hold the agency accountable for the outcome of the programme. They do not have a right to evaluate and direct the way in which the agency delivers the service. He made a clear distinction between paying for services and taking over responsibility for the internal operating procedures of the agency.

Mr. Kennedy made several points regarding establishing a budget and the importance of costing such things as administrative and supervisory time, office supplies, publicity, public education and the time spent in preparing the proposal. He felt strongly that the complete budget should not have to be a part of the proposal or contract. The budget is a projection. The agency should cost the project and agree to the contract with the financial figure they believe will support the programme. If they overspend, the agency absorbs the loss, and if they come in under budget, they keep the excess funds. He stressed that the agency should maintain control over the way in which the money is used.

Mr. Dombek made a brief presentation on some of the issues of contracting for service from the lawyer's perspective.

Definition of "Contract": It is a promise, and acceptance with consideration. It also states a time to commence and terminate.

He indicated that there is a trend toward more comprehensible language in contracts — more specific identification and clearer terms. Problems arise when social workers try to draw up the contract as they use jargon which lacks legal precision.

Participants were given an outline of a simple contract and the basic structure was explained. He recommended that government bodies and agencies make use of lawyers in the negotiation process so that the terms of the contract are consistent with the goals and understanding of the two parties.

Discussion

1. There were some comments about the evaluation and the distinction between evaluating the effectiveness and impact of a programme and evaluating the effectiveness of an agency. Others felt that the funding group had a right to negotiate the methods that the agency would use in the programme, i.e., type of contract, frequency, resources, etc. As long as this is a part of the negotiation, the agency can accept or indicate that it is not prepared to work under these conditions.
2. One participant expressed surprise that so many of the basic issues were causing confusion and tension in each contract. There was a consensus that inclusion of a schedule with previously accepted terms would eliminate much of the confusion. Apparently these are not yet common, but the whole field is developing rapidly.
3. Someone asked what it takes to break a contract. The government will generally not sue an agency for failure to provide service but will give notice and terminate the contract. Again, the need to be specific and realistic in setting terms

became apparent. It was noted that sometimes small agencies will get into obligations that they do not really understand. There is a need for both parties to negotiate in good faith, and with sensitivity to the other's capacity to understand the implications of the terms of the contract.

4. There were some comments about the importance of agencies getting third-party liability insurance to cover incidents which could hurt the agencies.
5. There was some disagreement over the issue of responsibility for controversial incidents involving press and public reaction. Most agreed that the agency should take full responsibility for their actions within the government funded programme. The agency people felt very strongly that they did not want the government department to assume this responsibility. It was also conceded that the public and press often place the ultimate responsibility on the government service that initiated the programme. Reference was made to Children's Aid deaths and abuse cases.
6. It was recommended that more of these service contracts be put out for tender with clear expectations and provisions for quality control.
7. Some concern was expressed about the tendency to lose the distinction between government service and private agency functions. This creates confusion for other community services and clients. There is a need for community education.
8. Question and discussion about the difficulty in evaluating the quality of people services. Some disagreement about the appropriateness of some of the education tools used.

Participants broke into two groups to go through the process of negotiating a contract with special reference to the issues that they would need to address prior to final agreement.

The general consensus of the group was that increased use of private agency service contracts is a positive development. It was also clear that both government and agencies need to clarify their expectations and responsibilities, and demonstrate this through more precise contract documents. It appeared that lessons are being learned quickly.

Workshop 21

Research and Evaluation of Alternatives to Incarceration

Resources

C.P. NUTTALL, Director, Research Programmes, Ministry of the Solicitor General, Canada.

SHARON MOYER, The Research Group, Toronto, has experience in evaluating community alternatives and other criminal justice programmes.

STAN DIVORSKI, Research Officer working on alternatives to incarceration and sentencing with the Ministry of the Solicitor General, Canada.

MICHAEL SMITH, Director, VERA Institute, New York City, N.Y.

RITA WARREN, Professor, State University of New York, Albany, N.Y.

Introduction

This is a summary of a paper entitled "Self-Evaluation and Monitoring by Alternative Programs in the Criminal Justice System." It was presented by Sharon Moyer and outlines some of the issues surrounding the implementation of self-evaluation and monitoring in social programming in the criminal justice area. The types of programmes to which the discussion will be most applicable are those with limited financial resources, few or no professional staff, and located on the periphery or "outside" the formal criminal justice system. However, some suggestions made here could conceivably apply to programmes outside these categories — obviously, the measures suggested and the implementation problems arising would differ to some extent.

Differences Between Evaluation andSelf-Evaluation

The differences between evaluation and self-evaluation: There are differences in purpose and approach, in who performs the tasks and in the timing and nature of the information collected. The reasons why self-evaluation should be considered by innovative programs can be briefly outlined. While the arguments in favour of self-evaluation may seem to be self-evident, it may be that the less "traditional" the programme, the greater the reluctance to consider ongoing self-evaluation.

Why should Alternative Programmes Self-Evaluate?

Advantages of Self-Evaluation for a Small Agency or Programme. Some programmes may not have developed their objectives and strategies to a degree where outcome evaluation is feasible. Certain preconditions must exist before adequate outcome analysis can be performed: specific, measurable objectives, clearly defined programme elements, baseline data, and so on. If these conditions are lacking, the project is not ready — and should argue strongly against — a full-scale evaluation. Self-evaluation from inception of a programme may produce, eventually, a programme that can be evaluated. (As an aside, this does depend on the nature of the programme. If the programme is heavily funded, and has ramifications for several parts of the criminal justice system, it should be evaluated from the beginning. Indeed evaluation should be built into its design.)

A second major argument for self-evaluation is that it shows interested parties (funding agencies, community interest groups) other aspects of the system with which the programme must interact: that the program is a dynamic one, continually trying to improve. An agency with ongoing self-evaluation may also be in a better position to explain to funding agencies why their agency's "success" cannot be looked at in an "all or nothing" way. It is not unknown for interested parties to ask blanket questions like "does the programme work?" rather than the preferred "to what extent is the programme meeting each of its objectives?" Self-evaluation, if its results are properly transmitted, may serve a public education function. A self-evaluating organization is more credible to outsiders.

One practical consideration is that self-evaluation assists in the training of new staff or volunteers. If written material is available on prior efforts, it is useful in educating new personnel in what has been tried, and why. This function is important for agencies with many volunteers, a high staff turnover, or both.

Another reason for considering self-evaluation is also a practical one: self-evaluation helps keep track of what is going on and assists in day-to-day decisions about individual cases and other programme elements.

Finally self-evaluation permits long- and medium-range planning in areas such as administration, staff hiring and training, specification of new programme approaches, and budgeting, because more information is now available for decision-making. For example, if a new approach is being considered, its relationship to the over-all goal can be assessed, its implementation is monitored for a period of time to ensure it is being carried out as proposed, and that the expected results are, in fact, occurring. (Some of this information will be estimates, not completely valid and reliable "facts".) For example, a voluntary counselling element is introduced into a mediation or restitution programme. Staff record information on who has accepted counselling, their perception of the help provided by the sessions, the difference in the in-programme "success" between those who accepted counselling and those who refused, and the costs of the component. In light of this information, the programme manager can decide whether the investment is warranted.

Despite these potential benefits of self-evaluation (providing the ground-work for more sophisticated evaluation; helping to justify the programme and educating key interest groups; assisting in the training of new staff and in daily operational decision-making; providing information for planning) there is one important limitation.

Limitation of Self-evaluation

A major limitation is that it does not permit an organization to state that its way of doing things is more effective, more efficient, or has greater impact on clients or the system than the other, similar programs.

The advantages of self-evaluation can be, in some instances, partly offset by a number of obstacles to implementation.

Obstacles to Self-evaluation and Monitoring

Resistance to Staff

There is no doubt that evaluation of any kind is a threat, to most staff, many of whom have made considerable investment into established method and strategies. There may be staff resistance to change — to, in effect, examining their own approaches to their task assignments — and there may also be objections to the additional time required, and to the form completion required for self-evaluation. It is essential that staff participate in each step during the development of the self-evaluation formats; that staff are routinely provided with feedback on their own contributions; and that the relationship between their recordkeeping and the benefits to the program is clear to them. It would also be useful to have an outsider periodically assess the information being collected and make suggestions on format and, more importantly, on what the information means in terms of decisions.

This last point may also assist management in the handling of another possible obstacle: PROBLEMS IN DRAWING IMPARTIAL CONCLUSIONS FROM MONITORING RESULTS. Information can often be interpreted in several ways, and outside assistance could help in this process.

AREAS WHICH ARE THE HARDEST TO ASSESS QUANTITATIVELY ENGENDER THE STRONGEST STAFF COMMITMENT. It is easy enough to count up number of activities such as caseload, telephone calls, referrals made — it is much more difficult to establish that aspects of the program that do not involve direct service are worthwhile. Areas such as community development or community attitude change are much more difficult to assess. An organization's defensiveness is often strongest in those areas least amenable to quantification or "counting." These ay also be the areas which funders are least willing to finance, without specific evidence of benefits and relevance. It is thus especially important for self-evaluating organizations to relate such strategies clearly to their goals and objectives.

A final obstacle to self-evaluation is its **COST** and the time required of staff members.

Programme Monitoring Approaches

A Definition

Monitoring can be defined as keeping track of key aspects of the functioning of the major components of the organization of programme. Monitoring is usually directed towards the measurement of *staff activity* and *client behaviour or performance*. As noted above, most problems arise in trying to measure the adequacy of the functions not amenable to "counting" (e.g., quality of relations with external agencies, effects on the community). In addition, most programmes are constrained by lack of funds, staff, and expertise from doing any but the most crude estimates of their impact (e.g., on clients, on the system).

Monitoring What?

The Nature of the Interventions Being Made

It is necessary to define concepts and terms used within the agency such as service "brokerage," "advocacy," and "counselling."

The Magnitude of the Interventions

Programmes must devise ways of recording the quantity of the various services being provided.

Client Descriptions

Pertinent data on clients, their backgrounds, previous criminal justice involvement, current offence, etc., are required.

The following management tools or information collection procedures should be considered:

1. A *procedures manual,* describing the responsibilities of the staff (and in some cases the clients, depending on program type). This ensures consistency in approach and provides guidance to staff.
2. *Intake records,* including basic client information, how they came to the programme (referral source), any conditions of the referral, conditions established by the programme

   Information collection at intake is generally considered essential for two reasons:

   1. To make individualized programme decisions; if there is a service orientation to the programme, the needs of the client must be ascertained;
   2. To be able to obtain aggregate data on the demographic characteristics and criminal justice involvement of clientele; this information is very useful for comparisons over time. Are clients changing? If so, this could affect the nature of the programme. Do different types of clients have different in-programme success rates, i.e., complete the programme successfully?

   If possible, information on programme rejects and failures should also be maintained. For example, diversion administrators should know: (1) who are the eligibles; (2) who rejects and why; (3) who is rejected by staff and why; (4) who fails, drops out, etc. This information could provide valuable clues on screening, referral patterns, failure rates and their relationship to demographic and offence characteristics, etc.
3. A third tool which may be of assistance is a *programme plan* which defines the expectations of the programme and the participant.
4. Some *ongoing tracking of clients during programme participation* is invaluable for most programmes. Each programme must decide the amount and type of detail to be collected, and at what intervals. A systematic format must be established (e.g., the more closed-ended the better, with check-off responses much preferred). This ongoing monitoring should include staff activity as well as client performance.
5. A *summary of client–program interaction* at the conclusion of his participation is desirable. A staff member should summarize the services received, and any noted behavioural changes. Both subjective perceptual data (e.g., of staff and/or participant) and objective information (e.g., employment patterns) should be included. As well, some programmes may want to include a section on the staff's estimates of the individual's future "success" in those areas relevant to the programme, such as future criminal justice system involvement or employment stability.

This, then, is a summary of one section of the workshop on Research and Evaluation of Alternatives to Incarceration dealing specifically with self-evaluation and its application to small agencies or programmes.

Workshop 22

Implementing Community-Based Criminal Justice Programmes: Research and Action Strategies

Resources

LOUIS ZEITOUN, is currently Director of Community Resources and Special Programmes in the Correctional Service of Canada.

ROBERT COATES, teaches at the School of Social Work Administration, University of Chicago, U.S.A.

DESMOND CONNOR, is a consulting sociologist and President of Connor Development Services Limited, Oshawa, Ontario.

JAMES MORGENSTERN, is associated with the Institute of Environmental Research Inc., Toronto, Ontario, and specialises in community impact studies and social and community planning.

T.E. HANNAH, is a social psychologist, teaching in the Department of Psychology, Memorial University.

CHRISTIANE LOUIS-GUERIN, is a social psychologist and is presently working as a principal researcher for the project National Survey of Attitudes to Criminal Justice, Phase II, being carried out by the Université de Montéal under contract with the Ministry of the Solicitor General of Canada.

Mr. Zeitoun introduced the session as an exploration of the most appropriate and effective action strategies to implement community-based criminal justice programmes. This would involve research methodology and issues related to pursuing specific action within the community.

Scott Burbidge of Solicitor General Canada, stressed that any plan to bring a criminal justice programme into a community must begin with good research. He outlined some of the information which will be useful and how it may be obtained.

1. It is important to determine as far as possible the feeling of the community on criminal justice issues (basically, how do people feel about offenders?) and the demographic factors which affect feeling and concerns.
2. The question whether particular concerns can be related to specific groups within the community.
3. What kind of action are these feelings likely to prompt?

4. Where is the positive support for the programme?

This research is important in two ways:

1. There is an awareness of feelings and concerns which helps in designing the type of programmes, i.e., security level, size, etc.
2. It helps in planning strategy. If objections and concerns are fairly clear these can be dealt with initially and increase the credibility of the community programme.

The information is obtained through written surveys of random sample and interviews with key people in the community. There is no danger of stirring up reaction and unfocused concern through this survey method.

Dr. Hannah described some of the psychological factors which his group dealt with in initiating a programme in St. Johns, Newfoundland.

They planned the project on the assumption that people were rational and would respond to logic, facts and figures. Although their initial assessment of attitudes toward correctional programmes indicated 80% of people in favour, they met with tremendous opposition when the project became specific to a community. His experience indicated that emotions initially override rational consideration will reach eventually a peak. If there is no continued stimulation the reaction will subside. Research therefore needs:

1. Better research into the effects of the emotional reaction.
2. Monitoring reaction over time — knowing when to act or withdraw.
3. Ways of minimising reaction.
4. Ways of dissipating emotional reaction and subsequent action on part of objectors. It is easier to change opinion than disavow public behaviour, i.e., petition, public meetings, marches, etc.

Policy recommendations:

1. If there is a choice between two or more locations tend toward the community where reaction is likely to be most manageable. Note that those neighbourhoods that are the easiest to enter are often the least attractive in terms of resources.
2. Those setting up programme should understand the community.
3. If at all possible try to avoid zoning by-law wrangles.
4. Try to win firm support of a political body if a decision is required. This will require lobbying and education.
5. Give yourself enough time to introduce the plan cautiously, i.e., a one-year option on the building.

Mr. Morgenstern made several points regarding the approach to a community.

Assumptions:

1. Opposition is inevitable therefore face it.
2. Numbers do not matter — opponents may be 2% or 98%.

The key is not so much to try to avoid emotional opposition but to deal with it creatively. When people are concerned and upset about a programme coming into their neighbourhood they are not interested in general statistics and correctional philosophy. You must give specific answers to their questions about this particular facility.

Public Consultation Process

The intention is not necessarily to overcome opposition but to clarify issues and at least deal with an informed opposition. To get necessary approvals it is important that you can demonstrate that you have gone through the process of consultation.

Elements of Model

The agency requires credibility. The process should be very open and the agency spokesman must inspire confidence and trust.

Information

1. Information should be specific.
   A. Some issues are for discussion and negotiation.
   B. .Some give rise to opposition and concern.
   C. Policy discussion only leads to debate and goes nowhere.
2. Information must be clear and relevant, i.e., property values, inmate failures, security, etc. This is called social impact information.
3. Emotions and irrational thought are part of the process. Try to appreciate how the audience is going to evaluate information.

Technique. (1) Try to avoid large public meetings filled with angry protesters. (2) People do need opportunity to express reactions and clarify points. (3) Use audio-visual aids. This will be a positive use of media.

Audience. You are dealing with different audiences; clubs, associations, people on the street, special interest groups, politicians, and media. One approach will not be successful with all groups.

Action Strategy

1. Plan by getting to know the community, the history of issues, the opinion setters and how often issues have been handled.
2. Initial announcement of plan is dependent on:
   A. Timing
   B. Hitting the issues that are of major concern
   C. Assuring the audience that they will have an opportunity for discussion before the final decision is made
3. Monitoring audience reaction throughout the process — Try to respond to expressed needs as they arise
4. Providing an opportunity to resolve some of the negotiable issues, i.e., name, size, level of security
5. Final approval stage if necessary.

Mr. Coates emphasized the importance of recognising the linkage between the programme and the community. More research is needed to determine why some communities are more receptive to correctional facilities than others. The answers have implications for successful programmes.

He questioned the assumption that the community is homogenous. He felt that interest groups form around specific issues and questioned the validity of attitude

surveys taken before the issue is raised. He disagreed with the notion that strong emotion in a protest group would dissipate over time. While the individual in isolation may calm down, the group will rekindle whenever threatened.

Planners should analyse the group and try to find what, in particular, is upsetting them and deal with it. The task is to neutralize the effect of emotions.

From experience with a group-home project in Massachusetts in 1972, he listed several factors which contributed to success or failure. Some of these were mentioned earlier. He stressed the importance of encouraging people (neighbours, etc.) to have a stake in the success of the project. Planners should not back off when emotions escalate and he noted that sometimes the arguement becomes symbolic, i.e., religion, racial. You may get the physical site but lose any hope of using the community resources.

Discussion

There was a great deal of discussion about how to deal with irrational and emotional opposition. It was agreed that it must be recognized and seen as legitimate. Also, it is essential that the importance of the emotions be put in proper perspective. If the programme requires acceptance by a local board you should not ask the opposition if they are for or against the proposal. The strategy is to ask whether there is anything that they are still having difficulty with and then try to answer their concerns.

Comment

The point was made that establishing a programme in a community is only one step. Maintaining and developing it demands ongoing consultation and credibility.

While there was some disagreement over the relative weight of certain factors the session provided a good overview of very practical action strategies.

Workshop 23
Community Mobilization

Resources

TERRY BELL, Former Recreation Director of the Town of Wallaceburg, Ontario, is experienced with programme design and implementation using community involvement to formulate and fulfil community goals.

MICHAEL DYMOND, is currently directing the Community Services Department for the Town of Wallaceburg, Ontario.

PAUL ROUSSEAU, is a faculty member at St. Clair College, Chatham, Ontario, where he teaches courses in counselling, inter-personal behaviour and community services.

SHEILA WEBSTER, is currently the Executive Director of the Fort Erie Y.M.C.A., Ontario, and has experience in mobilizing the volunteer sector of the community.

JAMES SNYDER, is the Neighbourhood Improvement Co-ordinator, Town of Wallaceburg, Ontario.

Participants of the workshop took the view that modern trends within the corrections field are moving towards retaining clients within the community. In order to approach a community and achieve a positive response, one must learn how to identify, analyze and apply community resources towards creating alternatives to imprisonment. The workshop focused upon techniques, strategies and processes which effectively motivate and mobilize community resources.

Purpose of the Workshop

The resource personnel of the workshop outlined two assumptions which underline the arguments put forward. The first assumption is that modern trends within the corrections field are moving towards retaining clients within the community. The second assumption is that a basic atmosphere of collective community responsibility geared towards achieving the above objective must be fostered at all levels of community corrections programmes. The first workshop was structured mainly in terms of didactic instruction regarding the methodology for community mobilization and also some possible techniques which could be employed in solving problems encountered during the process of community mobilization.

After the first session, the structure of the workshop was redesigned in order to allow the participants more opportunity to exchange ideas, concepts and approaches utilized when attempting to mobilize a community resource. The resource

personnel took on the role of facilitators and advisors throughout the discussion section of the workshop.

Included in the workshop was an evaluation session, and a suggested process for mobilizing community resources.

At the termination of the workshop, literature was handed out giving information on the following topics: strategies for change; basic guidelines for community change; the nine basic attitudes for a change agent; laying the groundwork for change; a suggested scheme for community mobilization; handling group and organizational conflict; the opinion leader; the fusion pattern; decisions change schematic; community overview schematic.

A number of community resources were identified. The resource personnel indicated that the checklist of community resources was not complete and that participants could possibly add others. Some community resources identified were as follows: political groups; planning boards; television stations; garden clubs; service clubs; fraternal organizations; neighbourhood improvement groups; teacher's associations; mental health groups; municipal councils; chambers of commerce; ethnic groups; Better Business Bureau; social planning councils; boards of education; senior citizens; community colleges; treasuries; press clubs; retired businessmen's groups; day care centres; Boy Scouts; Salvation Army; volunteer agencies; ministerial associations; Y.M. Y.W.C.A.; Bar associations; legions; women's auxiliaries; unions; P.T.A.; taxpayer's associations; associations for the mentally retarded; businessmen's groups; municipal recreation committees; native population associations; March of Dimes; Red Cross; Royal Life; youth groups; banking associations; libraries; settlement houses; private foundations; junior chambers of commerce; planning parental groups; Girl Guides; private clubs; museums; community aid councils.

The resource personnel emphasized that community mobilization involves change, particularly at the local level. People or persons intending to initiate change must work with people they know and people who have some interest in resolving the problems affecting the community. In this connection, there are some basic guidelines for community change.

The first is, that attempts at planned change should be initiated at the level of the community where people have a significant degree of concern or interest. This makes genuine interpersonal communication possible. Secondly, the more that community problems can be dealt with across the institutional lines, free of domination of any one institution, the greater the chances of breaking away from the limitations of the past and arriving at workable solutions that are in the interest of the total community. Thirdly, the more that concerned citizens are involved in the decision-making process, the greater the possibility of putting the needs of the people above the survival of the bureaucrats. Fourthly, to the extent that contemplated change will necessitate establishing new norms of thought and behaviour for the community as a whole, it is essential that citizens representing organizations from all social-economic levels be included in decision making.

In line with these general guidelines for initiating community change, it was suggested in one of the resource materials handed out that there were nine basic attitudes of a change agent. The following excerpt, taken from the text *Facilitating Community Change — A Basic Guide*, D.R. Fessler, outlines the role of a change agent.

The change agent is the individual within the agency or the community who has the desire to have some problems resolved. In this day and age the change agent needs more than just a mastery of facts. He or she needs to acquire special attitudes towards the people whom he or she attempts to change. Nine basic attitudes appropriate to an effective change agent are as follows:

1. The change agent must accept the fact that life is so complex that, however expert he or she is in the chosen field, there are almost always people in the groups he or she is working with who have had related experiences and who possess relevant information that he/she does not have, particularly regarding the local situation. He/she treasures this information and encourages these people to share with the other members of the group.
2. As the change agent gains mastery of the chosen field he/she is not deluded into thinking that he/she knows enough. The agent constantly tries to broaden their horizons and encompass understanding that gives new meanings to all aspects of life. The technician who is first and foremost a technical expert is not suited to be an effective change agent.
3. He/she constantly seeks to enlarge the circle of his fellow men with whom he/she can feel genuine compassion. He/she realizes the role of change agent as providing a new challenge and unique opportunity for bringing this about. It is difficult to feel compassion for people outside his/her immediate family or social circle, therefore the change agent works doubly hard to put himself in other people's shoes.
4. As the ultimate objective is to bring about change and not to gain a popular following, the change agent puts communicating with others above entertaining or impressing them with his erudition and cleverness. He makes sure that he has something worth communicating, that he uses comprehensible language free of jargon, that he has professional ease, and he avoids meaningless generalities. He resists the temptation to use communication aids of any kind, no matter how impressive, unless they clarify the meaning of what he is presenting. He limits humour to what will put his audience at ease and facilitate the communication process.
5. The change agent helps people to accept situations which they cannot change. When faced with disasters or disappointments, he helps others to look at those elements of the situation that present new challenges to them. Often they find that what they wanted would have been a setback, viewed from the standpoint of their total life experience. And, before he can genuinely deal with the setbacks of others in this way, he must incorporate this point of view with a part of his own work philosophy.
6. He/she accepts his/her own limitations and helps others to do the same. He starts by declining the leadership responsibilities that too often are assumed by change agents as a matter of course. He directs the group members to developing more fully the talents which they already have. This becomes increasingly important as he/she tries to involve more people in the democratic process of planned change. The change agent keeps his emotion and his impulses under control and sets the pattern for the conduct of the group with which he works.
7. He constantly raises the questions of how he and his fellows can work for the common good even when this means giving up some of their own personal gratifications.

8. The change agent values other people's time as highly as his own. The foregoing are considered to be the attitudes of the professional and the non-professional change agents alike. The change agent needs to cultivate such attitudes in order to be effective in the democratic process of planning change. While they constitute ideals that may never be perfectly achieved, the change agent's determination to shape his conduct by them will be, in time, evident to those with whom he works. Adherance to these ideals will also win for him satisfaction in his personal relations that could never be achieved in any other way. By his own increasing maturity of mind, the change agent is making it possible for others to achieve maturity and fulfillment along with him. This is the essence of planned change — change in a democratic society.

A Suggested Process for Mobilizing a Community Resource

The resource personnel indicated that the process of Research, Approach, and Contracting (RAC) can be used to effectively motivate and mobilize a community resource to respond positively to a given corrections project.

Research

The word "research" involves the selection of a community resource. It requires a knowledge of resources available in the community and an understanding of the basic ability to survey the resources in the community. It is necessary to examine and analyze the chosen community resource. Therefore, the researcher must know and understand the structure of the community resource. Thirdly, the researcher must identify managment or staff, board of directors, or similar controlling bodies, constitution and goal orientation, sources of revenue, history of organization, past involvements and successes in the community. Fourthly, the researcher must identify an exact interaction and involvement of the community resource in the community. For example, he must have a sound knowledge of the programme base for funding criteria and priorities. Finally, if possible, the researcher must identify the power to alignments and the controlling structure of the community resource.

Decision to Approach

In deciding to approach the community resource, the researcher must establish how the resource might become involved in the corrections project based on the preceeding research information.

The second phase involves contact and clarifying perceptions. The agent, in attempting to mobilize community resources, must first introduce himself. Secondly, the agent must contact an influential and knowledgeable member of the community resource, and clarify the research previously completed. Involved in the process is information giving. This is a process of explaining the purpose, goals, and objectives of the corrections project. Thirdly, he must be general as well as specific regarding the goals and objectives of the joint venture.

Following the information-giving stage, is the pre-contract discussion. *Pre-contract discussion* involves the clarification of how the corrections project might be of mutual benefit to both the resource being approached as well as the initiator of

the project. Questions arise as to whether the constitution or mandate of the correction resource will allow the helping relationship and stated project; and whether the correction resource is flexible regarding its mandate. On answering these questions the person initiating the change or developing the project will be in a position to determine whether the contract can be established or not.

The third phase of the suggested process for mobilizing a community resource is the contracting phase. *Contracting* involves the decision whether to begin the actual planning of the project. If affirmative, there will be planning for actual commencement of the project which will include day-to-day operation and evaluation. If negative, the reason may be due to lack of interest on the part of the corrections resource. The community resource may be lacking in their required skills, human relations, or actual training. If appropriate, the agent attempting to initiate the programme should provide a systems and/or referral indicating where skills may be obtained. In the case of lack of interest, the initiator should try to locate another community resource and begin the process again.

A Suggested Schema for Community Mobilization

In addition to the Research, Approach and Contract model outlined above, an extremely detailed outline for use by the change agent was included in the information package handed out at the end of each session.

Adapted from the text, *Strategies of Community Organization*, by F.M. Cox, J.L. Erlich, J. Rothman, and J.E. Tropman, the Suggested Schema for Community Mobilization reproduced below outlines eight detailed steps geared towards community change.

1. Preliminary Considerations (Background details to be considered re your agency, prior to, and during any community outreach assignment)
   a. *Summary of Assignment* Brief description of the worker's assignment and developments leading to it, the agency, etc., designed to introduce and make intelligible to the reader what follows.
   b. *Agency* (organization employing the practitioner)
      i) Constitution and goal orientation (formal statement and informal "understandings" of purposes, modus operandi)
      ii) Constituency (those who control the agency) and resources (financial, professional, and their social characteristics)
      iii) Structure, formal and informal (governance and authority, social status and prestige, attachments to other groups)
      iv) Program and its relation to worker's assignment
   c. *Practitioner* (person employed by agency who is working on given problem)
      i) Motivation, capacity, and opportunity to perform assigned tasks
      ii) Role ambiguity, conflict, discontinuity, and strain in the situation and their management.
2. Problems
   a. *Problem Analysis* (as perceived by the practitioner)
      i) Nature: What specific kind of problem are you concerned about?
      ii) Location: Where is the problem? (Geographically, socially, psychologically, institutionally)

iii) Scope: Who (kinds of people, groups) are affected?
iv) Degree: How much are they affected?

b. *Past Change Efforts*
i) By whom?
ii) How effective?
iii) Reasons for successes or failures?

c. *Perceptions of the Problem by Significant Others* (individuals, groups and organizations)
i) Who perceived the problem as the practitioner does?
ii) Who perceived it differently — as nonexistent or insignificant, or as qualitatively different?

3. Social Context of the Problem (Background information necessary in order to conduct a proper public education program)
a. *Origins of the Problem* (where relevant)
b. *Structural — Functional Analysis of the Problem*
i) Social structures that maintain, increase or reduce the problem
a. Social, regional, state, local, neighbourhood
b. Formal organizations, voluntary associations, primary groups
c. Power alignments, social/demographic factors, ecological/economic relations, cultural-technological factors
ii) Consequences of the problem for significant elements of the social structure who gains, who loses. In what ways is the problem situation functional or dysfunctional for the maintenance of the groups having a stake in the problem?

4. The Client (the population segments or groups that are the primary target of the practitioner's efforts)
i) *Physical Location* boundaries, size
ii) *Social, Economic, Political, and Demographic Characteristics*
iii) *Formal Organization of the Client*
iv) *Divisions and Cleavages* within the Clients
v) *Significant Relations* with other parts of the social structure
vi) *Significant Changes* in the above, over time

5. Goals
a. *Goals in Their Approximate Order of Priority* for dealing with the problem as identified by
i) Agency — the base from which the practitioner operates
ii) Client — the target group
iii) Significant others — connected with the target group

b. *Practioner's Preferred Goals and Priorities* in the light of the above, including:
i) Task goals (goals related to task attainment regarding a substantive community problem i.e. mainstreaming the offender back into the community)
ii) Process goals (system maintenance and enhancement goals — social relationship, problem-solving structures, and processes)

6. Strategy — in the light of preferred goals and priorities, consider two or three feasible strategies, in the following terms
a. *Minimum Tasks Required for Success*
b. *The Action System* Identify the resources and supporting groups from within the agency, the client and significant others required to carry out strategy under consideration.
c. *Resistance* (opposition) *and Interference* (inertia, distraction) *Forces*
i) Identify opposing groups, their probable actions and impersonal difficulties which might be encountered.
ii) Indicate how the strategy under consideration would cope with these.

d. *Evaluation of Practitioner's Ability to Utilize Strategy*
i) Can minimum tasks be carried out and sustained?
ii) Can needed resources and supporting groups be mobilized, and their cohesion and goal-directed behaviour maintained?
iii) Can resistance and interference forces be managed?

e. *Preferred Strategy* of the strategies considered, select one and give the rationale for this choice.

7. Tactics
a. *Gaining Initial Support*
i) Entry — where does one start and with whom?
ii) Leverage — what initial actions give one the best chance for sustaining one's strategy?

b. *Involving and Organizing* (or Reorganizing) *the Action System*
i) Clarification of the problem, including gathering and interpretation of relevant data
ii) Clarification of goals and preferred strategy
iii) Clarification of role expectations of change agent, agency, and various parts of the action system
iv) Establishing a "contact" (or basic agreement between the practitioner and those making up the action system)

c. *Implementation of Action*
i) Training and offering organizational and psychological support to the action system
ii) Scheduling actions over time
iii) Utilizing available resources
iv) Utilizing "Action — Reaction — Action" patterns (designing a sequence of actions to take advantage of anticipated responses)
v) Dealing with opposition, as necessary (confrontation, neutralization, questioning legitimacy, bargaining, etc.)

8. Evaluation
a. *Success of Strategy in Problem Solution*
b. *Effectiveness of Tactics*

9. Modification, Termination or Transfer of Action
a. *Designing New Goals, Strategy or Tactics*
b. *Facilitating Termination or Modification of Practitioner's Activity*
i) Disengaging practitioners from action system
ii) Transferring relations to new practitioner
iii) Maintaining or institutionalizing change effort
iv) Moving action system toward terminal goal(s)

How the System Works

A case study was given of a situation in which a problem-solving process was attempted in order to deal with an acute case of vandalism. The general format indicated in the problem-solving process was applied. The programme was called "C.A.P." (Community Appreciation Programme). It was ascertained during the research phase of the process that young offenders were primarily responsible for the vandalism. A number of other factors were also established in order to embark on the other two phases of the problem-solving process. The illustration indicated that the community resources could be mobilized if there was clear evidence that the problem was identifiable, and that members of the community had some part to play in resolving the difficulty.

Concluding Statements

The structure of the workshop was altered slightly from day to day in order to accommodate the expressed needs of the participants.

Participants taking part in the first session seemed to be quite concerned as to the make-up of the community. During the session, many definitions of the community were expressed; however, the accepted definition was that the community was a social and physical environment in which people live, interact and grow in a series of human systems, sharing common needs and resources. It was emphasized that the respective community would have to be defined depending on the problem at hand, and essentially the community would be within the context of the local or grass roots issues.

Participants taking part in the second session had no problems in defining the community and more quite interested in the approach or process of mobilizing a community resource. Extensive discussion ensued with participants drawing upon case studies and situations relevant to their individual jobs, roles, placements, etc.

The concepts of "free ranging" and "touching base" were used by the team leaders in order to point out the need for community resource outreach programmes outside of so-called traditional bodies or avenues used by corrections personnel.

The third session was quite similar to the second in that the time spent by the leaders giving out information was shortened in order to allow for more dialogue and problem-solving models to be developed by the participants.

By the end of the third session it was evident that the participants and indeed corrections personnel as a whole, were using existing resources.

It was suggested by the participants and team leaders that a longer session, perhaps a day or two, would have allowed for more exploration re alternative resources and approaches available to field workers within the corrections system.

Workshop 24
Mediating Conflict

Resources

DAVE WORTH, Offender Ministries Co-Ordinator, Mennonite Central Committee, Co-Founder of the Victim–Offender Reconciliation Programme in Kitchener.

MARK YANTZI, Probation Officer, Ministry of Correctional Services, Co-Ordinator of the Victim–Offender Reconciliation Programme and one its Co-Founders.

CONRAD BRUNK, Director, Institute of Peace and Conflict Studies, University of Waterloo; Chairman of Community Mediation Services.

DEAN PEACHEY, Co-Ordinator, Community Mediation Service.

The concept of victim–offender mediation and community mediation service came alive for the nearly [illegible] delegates when the resources personnel presented a videotaped dramatization of mediation conflict.

This workshop, which lasted half a day, was planned by Dave Worth.

The workshop was born of the resources' combined experience and involvement in both the Community Mediation Service and the Victim–Offender Reconciliation Project. The Victim–Offender Reconciliation Project is geared to work with victims and offenders, involving them at either the pre-sentence or the post-sentence stage. The main objective is to have the victim and the offender meet face-to-face with the help of a third party from the community in order to work towards the resolution of the precipitating problem which resulted in the offence against the victim.

The Community Mediation Service works on the same basic philosophy but deals with disputes involving the "neighbourhood" where there is a problem or relationship between two parties which may or may not lead to or involve criminal charges. In this process two mediators are used; they, with both parties, meet in a neutral setting and attempt to work toward a mutual resolution of the problem.

The focus of the workshop was directed towards the specialized skills involved in mediation rather than the concept of establishing a new programme. Conrad Brunk initiated the session by discussing mediation in the context of conflict resolution and conflict management. He presented delegates with various modes of conflict resolution, or, as he stated, conflict management. He observed that many people prefer not to talk about conflict resolution as it suggests that the only way to deal with the conflict, ideally, is to end it. Mr. Brunk claims this is not necessarily the case. Conflict is often a very constructive process, an ongoing process, and not

necessarily a bad thing. The trick is to learn how to carry the conflict on in a mutually constructive, and not destructive or disfunctional way for either one or both parties, or the larger society. Often the term used is conflict management or conflict regulation. Mr. Brunk acknowledged that there are times when it is desirable to put an end to the conflict through resolution.

The initial examples of conflicts resolution described two parties who worked through their conflicts by themselves, without external intervention by a third party. Then the example of conflict resolution which involved the use of a third party, working in the area of a felony, was described.

These were divided into co-operative types and competitive types. "Co-operative" suggests that the two parties work together with a co-operative attitude to build a solution to their problem.

In competitive approach, the attitude is one of competition with both parties at loggerheads. Their perception of the situation is either "win or lose", whereas the co-operative attitude tends to imply what is called a "win–win" attitude. The assumption is that both sides can get something out of the conflict resolution.

It also refers to the fact that a co-operative solution tends to be internally motivated. The competitive solution infers the lack of internal motivation. The first kind of model, the two-party resolution, occurs when the two parties work together. This happens frequently when people know each other well and live in a society where there are agreed-upon rules and practices to settle disputes. If there is a conflict over a piece of pie, both parties know how to work it out — perhaps they throw dice or flip a coin. In a more rational approach, they agree to split the pie with the person cutting getting the second choice.

The second kind of conflict resolution is called negotiation. It is a process where people trust each other and communicate well with each other. The people, in this type of conflict, sit down and talk out the conflict. This process happens only if the two parties have a co-operative attitude and if they are able to communicate with each other constructively. They must listen to each other. This process is free of hostility, stereotyping and prejudice.

When conflicts occur it is usually due to the breakdown of rules of trust, understanding and the high-level communication. As this breaks down, negotiation becomes very, very difficult.

Mr. Brunk described competitive bi-lateral models as those which we see regularly in international relations or in highly asymmetrical conflicts, that is, conflicts where one party has all the power. In this model, party A coercively imposes a solution on party B, pushing B to an unsatisfactory position. This type of conflict resolution is regularly observed in our society, particularly in "marriages" between large and small nations where there is often a high ratio of discrimination. Cases such as this would be viewed as being unjust.

Where A and B push against each other, with their own power base, there is a bargaining situation. They each use their own power to resolve the conflict, be it in terms of money, political power, influence, oil, etc. This results in a "tug-of-war" or hard bargaining as often seen in international relations.

The third process, referred to as "fights," occurs when coercive bargaining takes place and quickly escalates to the point where there is no solution being generated but, rather, the two parties inflict harm on each other. Constructive problem-solving does not occur; nor does effective bargaining. The end point appears to be in inflicting harm on the other party or making him "pay."

If this occurs, third-party intervention becomes very important. Third-party mediation begins where the two parties, contestants, or disputing persons are encouraged to start a process of negotiation to work out a mutually acceptable solution. The mediator communicates with both parties and the goal is to get the two parties to communicate directly with each other. In this situation the mediator is a facilitator of a process.

The second form of a co-operative process is called voluntary arbitration, where arbitrators impose a solution. However, there is also voluntary arbitration where both parties agree in advance that they would like to have their conflict arbitrated and they agree in advance to accept the terms of the arbitration.

Mr. Brunk called this co-operative third-party intervention because it is generated by the parties and not really imposed upon them, unlike the competitive third-party model which is a strictly compulsory arbitration. This is the model of conflict resolution which our society is becoming more and more reliant upon. It is the model of conflict resolution which prevails in the legal system, where the courts, the judge and the jury, play the role of the arbitrator, or we have police or military enforcement.

The arbitrator's role is to decide who is right, who is wrong, what should be done, how much damage should be paid to whom, by whom, etc. He imposes his decision on the two parties and there is no relationship between the two parties. Often they never speak to each other, nor is it necessary that they are seen by each other. Although necessary for certain kinds of conflict, such as disagreement of interpretation of law, letting judges decide the problem is that usually, the two parties, having no participation in the process, accept no ownership nor identification with the solution. This often results in the arbitrated solution having to be backed up by enforcement procedures.

The concept of community mediation service or victim offender reconciliation is to try to return ownership to the parties who are in conflict. If ownership is accepted, a solution is much more easy to achieve.

Mr. Brunk then talked about the general process through which conflict resolution moves and its stages. The mediator plays an important role in all of these.

Education (or clarification of a conflict), occurs when two parties define the parameters of the conflict: What is the real issue? What is not an issue? What issues are central? What issues are extraneous and are merely part of the emotional trappings? Often the conflict is created by gross misunderstandings.

Another stage, *confrontation*, occurs when the two parties confront each other by saying whatever is bothering them and getting rid of emotional pressures. In many mediations, this is one of the first issues which must be dealt with. Also, at this stage is the equalization of power between two parties. This is a very difficult

area because of the problem of an imbalance of power. Sometimes, as a mediator, it is necessary to enter into the process to become an advocate for the weaker party.

The third stage mentioned was *conciliation*. This is where the two parties begin to deal with the psychological problems, with the subjective factors, i.e., alienation, hostility, stereotyping, prejudice. Feelings of anger, hate injury — this must happen before mediation can occur.

At this juncture, Mr. Brunk stressed that conciliation is not the final goal of mediation. The final goal of mediation is to reach a workable, liveable solution to the problem. He noted that people can do this without necessarily loving each other or being the best of friends. He noted further that there is premature conciliation or resolution when some people become very friendly, often putting their arms around each other and seemingly understanding each other's position. This sometimes leads to an emotional resolution which, at a later time, breaks down.

The fourth stage is the *negotiation process*. The object is to get the process started by having the two parties work on their conflict by communication and negotiation. This leads to the fifth stage — *building a solution*. In this stage, the mediator must be very sensitive, often determining for both parties what may be in their best interests, as sometimes people will agree to the most inappropriate suggestions.

At this juncture, Dean Peachey addressed the participants regarding some of the uses and abuses of mediation as a conflict management strategy. An essential skill of any mediator is to be able to look at what he should try and what he should not try. Perhaps, equally important, is knowing what to quit before the attempt towards mediating a solution results in further conflict. Dean Peachey then outlined some *sources of conflict*. One is to get the facts. Often the "facts" are filled with misinterpretations and misperceptions. The second source of conflict deals with interests or resources ("I put so much into this partnership," etc.). Thirdly, is conflict over values. Life styles may also be important to the cause of a conflict. The fourth factor is history; conflicts that have been building and festering over a long period of time. Finally, the fifth factor is social ills such as housing, employment or racism.

Dean Peachey stressed that conflicts arising out of misperceptions can often be mediated successfully.

Dean Peachey also discussed some of the motives brought to the process of mediation. He urged the delegates to recognize the need for *justice*. It should be proportional, it should entertain individual rights, and, it should be aware of individual's desires for retribution. He pointed to a person's right to listen to music, and at the same time, another person's right to have peace and quiet. In this sense, Dean Peachey acknowledged that dealing with rights is often a difficult problem because rights have a tendancy to be absolutes. Dean Peachey also urged the participants to be sensitive to a person's desire for retribution, wanting to "teach a lesson" to the offender. With certain types of motives, people will be much more amenable to the process of reconciliation or mediating of conflicts. Dean Peachey also pointed to the need for compromise, noting that in most instances resolutions are not totally right or wrong.

He encouraged the participants to try to accomplish as much as possible to assist both parties in the process of mediating conflicts.

During the third stage of the workshop Dave Worth and Mark Yantzi presented a discussion about mediation skills. They offered the participants in this workshop a number of headings that promote effective understanding and use of the mediation process.

The areas discussed were as follows:

Mediation Skills

1. Communication
2. Regulating Interaction
3. Ownership and Motivation
4. Diagnose Relationship

Communication

Non-Verbal
1. Body
2. Gesture
3. Facial

Verbal
1. Listening skills
2. Feed back
3. Clarification
4. Repetition
5. Summarizing

Regulating Interaction

1. Lay down framework — time; rules; what are people doing; set agenda
2. Equalize power
3. Maintain optimum level of tension
4. Physical arrangement — where does each person sit
5. Gate-keeping — referee
6. Regulate pace — slow down; speed up
7. Maintain control, not dominate — solution must come from parties

Ownership and Motivation

1. Motivation — parties own problem
2. Clarify task — what are expectations
3. Reinforcement and hope — towards solution
4. Motivation — external; internal; shift towards mutual interests
5. Balance situational power
6. Promote sense of inter-dependence

Diagnose Relationship

1. Some detachment — objective
2. Self awareness — how does each person react
3. Power in balance — young or old, rich or poor

4. Comment on relationship as you see it
5. Background — facts–information
6. Confrontation between parties
7. Self-diagnosis — insight

The mediation skills outlined above and discussed in some detail by both Dave Worth and Mark Yantzi were presented to assist delegates in mediation of victim–offender reconciliations or community disputes services.

The problem in a victim–offender conflict is the commission of an act by one person, termed the offender, and the resulting loss by another person, the victim. The immediate task is to make right the harm done in a manner satisfactory to both the victim and the offender. The point of contact in this exchange, whether at the community, police or court level, is to explore the depth of emotion surrounding the incident. Examination may reveal that there is a hurt beyond the actual loss which needs to be reconciled. Ways must be found to achieve this reconciliation. It was further noted that attention should be given by the third party to see if the offender himself has been hurt by the experience.

The victim–offender mediation, as dramatized by the videotape presentation, indicated that the programme is trying to move away from the two extremes of punishment and rehabilitation to find ways to allow the offender to become more accountable. The programme's emphasis is less on treatment and more on providing ways for the offender to do something personally to correct the situation. The role of the third party is to initiate communication between the offender and the victim. Especially in relatively minor situations, it was noted that the people involved can be successfully brought together to see if they can solve the problem. Reconciliation may take place through discussion and through restitution of money, goods, or service.

The third party maintains the motivation of both parties by developing an atmosphere of trust, giving hope that something can happen, and avoiding blame. At the meeting the third party helps improve communication by clarifying terms, summarizing, encouraging the expression of feelings and making sure each party hears the other.

Confrontations between parties are encouraged when necessary in order to deal with issues which are particularly emotional in nature.

Within the orientation of this programme, criminal activity is seen as "people breaking rules." The third party, in effecting reconciliation, assists both victim and offender to come to accept each other as individuals with equal rights and responsibilities.

In the videotape dramatization of a community dispute, the two resource mediators helped effect communication between the two disputors, by clarifying their anger and concerns, and ultimately, through the process of mediating skills and techniques, motivated negotiation between the two parties.

During the presentation of the videotape dramatizations of both the victim–offender reconciliation and the community mediation services, the resources assisted

the participants in the mediation conflict workshop to understand how mediating skills could be developed towards effective solutions of conflicts.

In addition to the presentations, all delegates received handouts providing historical and theoretical background to the concept of mediating conflict.

Workshop response from delegates representing all parts of Canada and the United States demonstrated the growing interest in third party involvement in victim–offender reconciliation and community mediation services.

END