# Federal Probation



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All phases of preventive and correctional activities in delinquency and crime come within the fields of interest of FEDERAL PROBATION. The Quarterly wishes to share with its readers all constructively worthwhile points of view and welcomes the contributions of those engaged in the study of juvenile and adult offenders. Federal, state, and local organizations, institutions, and agencies — both public and private — are invited to submit any significant experience and findings related to the prevention and control of delinquency and crime.

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# Federal Probation

A JOURNAL OF CORRECTIONAL PHILOSOPHY AND PRACTICE

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## This Issue in Brief

***The Evolution of Probation: The Historical Contributions of the Volunteer.***—In the second of a series of four articles on the evolution of probation, Lindner and Savarese trace the volunteer/professional conflict which emerged shortly after the birth of probation. The authors reveal that volunteers provided the courts with probation-like services even before the existence of statutory probation. Volunteers were also primarily responsible for the enactment of early probation laws. With the appointment of salaried officers, however, a movement towards professionalism emerged, signaling the end of volunteerism as a significant force in probation.

***Don't throw the Parole Baby Out With the Justice Bath Water.***—Allen Breed, former director of the National Institute of Corrections, reviews the question of parole abolition in light of the experience with determinate sentencing legislation in California, the current crisis of prison overcrowding, and the improvements that have been made in parole procedures in recent years. He concludes that the parole board—while it may currently not be politically fashionable—serves important "safety net" functions and retention of parole provides the fairest, most humane, and most cost-effective way of managing the convicted offender that is protective of public safety.

***LEAA's Impact on a Nonurban County.***—LEAA provided funds for the purpose of improving the justice system for 15 years. To date, relatively little effort has been made to evaluate the impact of LEAA on the delivery of justice. In this article, Professor Robert Sigler and Police Officer Rick Singleton evaluate the impact of LEAA funds on one nonurban county in Northwestern Alabama. Distribution of funds, retention and impact are assessed. While no attempt has been made to assess the dollar value of the change, the data indicate that the more than one million dollars spent in Lauderdale County did change the system.

***Developments in Shock Probation.***—Focusing on a widely used and frequently researched probation program, this paper by Professor Gennaro Vito examines research findings in an attempt to clearly identify the policy implications surrounding its continued use.

***Family Therapy and the Drug-Using Offender: The Organization of Disability and Treatment in***

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***a Criminal Justice Context.***—The paper describes offenders' behaviors which exacerbate conflict between probation professionals to protect a fragile interpersonal situation within the offender's family. The mirroring of familial conflict by professionals leads to high rates of recidivism whereas the professional's ability to work collaboratively with the offender's family frequently enhances autonomy and more responsible behavior, assert the authors, David T. Mowatt, John M. VanDeusen, and David Wilson. Three modes of interaction characterizing the interface between probation professionals and the offenders' families are described.

***Toward an Alternate Direction in Correctional Counseling.***—While examining some of the problems in correctional counseling, e.g., authority, resistence to change, etc., this article calls for an alternative to traditional therapies. Dr. Ronald Holmes recognizes the need to move toward a model of counseling which reduces the importance of traditional therapeutic values and stresses the need for humane relationships. This model encourages an equal relationship between the counselor and the client, an examination of conscious determinants of behavior, and a belief in the client's ability to change.

***Victim Services on a Shoestring.***—The criminal justice system is currently demonstrating more concern about the victims of crime. Robert M. Smith, probation and parole officer for the State of Vermont, writes that although we in corrections oftentimes do not become involved with offenders until long after some crimes were committed, we still can play a significant role with regard to victims. Furthermore, some of these interventions do not require additional resources; rather, it is a matter of rethinking our own attitudes.

***Medical Services in the Prisons: A Discriminatory Practice.***—This article by Professor James T. Ziegenfuss reviews the provision of medical services in prisons and the growing involvement of the courts. Studies reported in the literature raise serious questions as to the quality and quantity of such care. Traditional approaches would suggest amelioration of the situation by providing more and better care. However, the consideration of alternatives to the present delivery system is examined in this article, as exemplified by the developing drug and alcohol treatment system. Importantly, the resolution of the problem is defined in terms of service system design and redesign. Additional needed research and analytical studies are identified.

***Legal Assistance to Federal Prisoners.***—Legal Aid Attorney Arthur R. Goussy describes the duties of the visiting attorney to the Federal Correctional Institution, Milan, Michigan from February through October 1981. Commencing in April, a total of 136 interviews were conducted with 126 inmates during visits taking a total of 71 hours. Prison authorities felt this service would assist inmates in: (1) pursuing their criminal cases; (2) coping with prison grievances; and (3) resolving private legal matters. This paper addresses, experientally, these problems and the merits of legal consultation.

***Love Canal Six Years Later: The Legal Legacy.***—It was August 1978 when the New York State Health Commissioner declared a health emergency at the Love Canal site on the outskirts of Niagara Falls, which ultimately led to the evacuation of nearly 1,000 families. For 5 years, Hooker Chemical and Plastics Corporation had used the 15-acre site to dump 21,800 tons of toxic chemicals until it sold the property to the Niagara School Board in 1953. Since 1978 the Justice Department has initiated a $124.5 million lawsuit against Hooker and New York State has filed suits totalling $835 million, charging Hooker with responsibility for the Love Canal disaster and other illegal dumping in the area. Issues remain, however, in the assessment of legal responsibility in this case. In this paper by Professor Jay Albanese questions of causation, prosecution, sentencing, and prevention are examined to illustrate the difficulty in doing justice in cases involving the scientific and legal issues raised by exposure to hazardous waste.





# The Evolution of Probation

*The Historical Contributions of the Volunteer**

BY CHARLES LINDNER AND MARGARET R. SAVARESE**

AS MOST of us already know, probation was brought into existence in this country by a relatively small number of dedicated individuals, most of whom were volunteers. Of course, the very first name that comes to mind is that of John Augustus whose pioneering work in and around Boston during the mid-1800's earned for him the title, "father of probation." But there were other volunteers, both in Massachusetts and other jurisdictions such as New York and Chicago, who followed Augustus and who continued his work, still on a voluntary basis, winning acceptance for probation, in the process and, thus, laying the groundwork for passage of the first official probation laws.

Whereas volunteers had been the undisputed leaders and pioneers during the early stages of the evolution of probation, their role changed radically very shortly after the enactment of probation legislation. Almost inevitably, the advent of publicly paid professional probation officers led to an eventual diminution of both the volunteers' functions and status within the system. In most jurisdictions, a consistent pattern emerged following the creation of a formal, official probation system; as paid probation officers were hired, increased in numbers, and became professionalized, they often concentrated their organizational efforts on the removal of volunteers from the system or, at the very least, on severely limiting the role and functions of volunteers.

In New York State, for example, the trend toward professionalism was evident during the first decade of statutory probation services and, in many instances, publicly paid probation officers were simply substituted for volunteers. Elsewhere, volunteers were subjected to supervision by professional, salaried probation officers, limited in the scope of their duties and responsibilities, and assigned reduced caseloads. Most importantly, a number of attacks on the quality of volunteer work served as a stigma and tarnished the credibility of volunteers as a whole. So strong was the anti-volunteer feeling, as a result, that it would not be until the 1960's that a revival of volunteer services in probation would occur.

Whereas the contributions made by the early volunteers to the development of probation have received considerable attention, the later struggle between volunteers and professionals has been overlooked for the most part. This article is an attempt to explore the various roles played by volunteers at different stages in the evolution of probation culminating in the volunteer/professional conflict and the eventual outcome of that struggle.

## THE ROLE OF VOLUNTEERS PRIOR TO THE PASSAGE OF PROBATION LEGISLATION

The years prior to the passage of the statutes legally authorizing probation and the appointment of probation officers could very well be called the "golden years" of voluntary probation services for it was during this period of time that volunteers played their most prominent, fruitful role in both initiating and then developing probation until it became an accepted, well-established practice. Indeed, in many jurisdictions, long before probation received the official sanction of law, volunteers were active in the courts where they provided, on a strictly informal, unofficial basis, a type of assistance which would, much later, be recognized and accepted as the essential core of professional probation practice. The services provided by these early volunteers included both investigations of defendants and informal supervision, for although the courts lacked the ability, at this time, to place an offender under formal probation supervision, the combination of a suspended sentence plus informal supervision was often used as an alternative and served essentially the same purpose.

### *The Premier Volunteer*

Of course, the first and foremost volunteer was John Augustus and his accomplishments in launching probation in this country overshadow the efforts of all other volunteers who labored during this period prior to the existence of a formal probation system. Appropriately credited with being the "father of probation," Augustus was the "first to invent a system, which he termed probation, of selection and supervi-

*This is the second in a series of four articles on the evolution of probation.

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evaluated and have been found to successfully contribute to the quality of care.[34,35]

The linkage between rights protection and quality assurance is the significant one. While some advocates stop after identifying rights abuses, the real challenge is in the design and continuous redesign of programs and systems so that they do not violate rights in the first place.[36,37,38,39,40] To do this, further work in the following areas is needed to address the prison medical care problem:

(1) Analyses of the technical problems of community hospitals providing prison care.
(2) Designs for the administrative structuring of shared services with the prisons' administration.
(3) Analyses of community medical personnel willingness and attitudes toward rendering prison care.
(4) Models of grievance programs for prison medical care.
(5) Legal analyses of the liability issues in shared services (prison and community hospital).
(6) Comparative studies of the costs of prison-based and community-based care.
(7) Analyses of the political and organizational development barriers to implementation.
(8) Models for analyzing the success or failure of the programs.

There is increasing interest in attacking the prison medical care problem.[41,42] Those involved need both study and action assistance.

In summary, the medical care and rights problem is, in fact, one of designing a system capable of providing quality care. The system must be capable of self adaptation, correcting structures and processes which are rights violating in nature. Outside care providers and internal complaint mechanisms would both assist the system development process.

[34]Freddolino, P.P., *Assessing Advocacy Services for the Mentally Disabled: An Evaluation of the Mental Health Advocacy Project* Amer. Bar Association, 1979.
[35]Ziegenfuss, J.T., "Assessment of the Pilot Rights Advisor Program," Pennsylvania Dept. of Public Welfare, Office of Client Rights, Harrisburg, PA, January, 1981, 157 pp.
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[37]Ziegenfuss, J.T., "The Therapeutic Community: Toward A Model for Implementing Patients Rights in Psychiatric Treatment Programs," *Journal of Clinical Psychology* 33(4) 1977.
[38]Ziegenfuss, J.T., *Patients Rights and Organizational Models: Sociotechnical Systems Research on Mental Health Programs*, Washington, D.C.: University Press of America, 1983.
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[40]Ziegenfuss, J.T., *Patients Rights and Professional Practice*, N.Y.: Van Nostrand Reinhold, 1983.
[41]Sandrick, K., "Health Care in Correctional Facilities," *Quality Review Bulletin*, 7(5), May 1981.
[42]Sandrick, K.M., "Health Care in Correctional Institutions in the United States, England, Canada, Poland and France," *Quality Review Bulletin*, 7(7), July 1981.

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# Legal Assistance to Federal Prisoners

BY ARTHUR R. GOUSSY

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THE FEDERAL BUREAU OF PRISONS under the United States Department of Justice has a unique legal program in Michigan. Specifically, the Federal Correctional Institution, located at Milan, Michigan, has designed a contractual arrangement for a visiting attorney to that institution. I was the contractual attorney of record from February 1981 until September 1983.

While there is not a statutory mandate that these legal services be provided, it is noted that the Federal courts have consistently ruled that Federal prisoners must have access to the courts. This has meant that mail sent by prisoners to the courts (or their legal counsel) cannot be censored or impeded. Further, it implies that the institutions must act in good faith not to thwart the efforts of prisoners to seek redress of legal grievances pertaining to their cases. In order to facilitate this "good faith" requirement, the Federal Bureau of Prisons has provided law libraries to assist the prisoners in articulating their grievances. These law library facilities have been in place for several years. Parenthetically, this has relieved a serious burden to the Federal courts since they would have inherited the chore of correcting erroneous motions, writs and the like.

In addition to the right of the prisoners to maintain channels of communication with the Federal court, an observer quickly learns that the prisoners have rights connected with their presence in prison. Living conditions, activities, and disciplinary action are all subject to review, "due process," and possible court action. Thus, punishment or deprivation of privileges without "equal protection" and "due process" probably will constitute constitutional violations. Again, in order to safeguard against such violations, the Federal Bureau of Prisons provides a well-structured, administrative procedure to deal with grievances. And again, the Federal courts have been spared the task of dealing with these grievances until the "administrative" remedy has been exhausted.

Finally, the Federal Bureau of Prisons has been empowered through statutory language (title 41, United States Code, section 252 (c) (4)) to contract for human and educational services that are conducive to the well-being and rehabilitation of prisoners. Consequently, at the Federal Correctional Institution at Milan, Michigan, there is a budget provided for contractual services that bring teachers, psychiatrists, psychologists, medical doctors, and, now, attorneys into their institution.

In this area of legal aid to prisoners, the institution, through its vested contractual powers, can enlist the services of a law school, a law firm, or a single, legal practitioner.

To summarize, the Federal Bureau of Prisons sees itself as having a court-directed mandate to provide legal resources for the inmates regarding their criminal cases although not specifically required to provide routine legal assistance. Additionally, the Bureau finds itself required to operate an ongoing grievance procedure attendant to prisoner privileges and discipline. Lastly, the Bureau is aware that legal problems impact on the rehabilitation process in their facilities. Since they have a budget to contract for services, they are able to provide legal aid to help the inmates (and themselves) meet the perceived needs.

## *Overview of the Current Legal Aid Contract (Milan, Michigan)*

The current contract for legal services states the following description of duties: "(1) To provide legal advice to inmates sentenced to the Federal Correctional Institution, Milan, Michigan. Advice may be given on the full range of legal concerns expressed by inmates. (2) Provide assistance to inmates in preparing legal papers. (3) Assist in arranging for representation of the inmate by other attorneys on contingent fee basis or through community legal aide services." It provides further that "the incumbent will be proscribed from actual representation of inmates as a part of this contract, and from serving in a capacity as private attorney for any inmate assigned to FCI, Milan. The incumbent may not receive any compensation in behalf of these duties except as provided for under this contract."

As noted, the thrust of the contract is to provide answers and assistance to the inmates in terms of their full range of legal problems but not to provide the visiting attorney as their legal representative in legal actions. This distinction is important. It clearly defined the role of the legal aid attorney. That role is as a paid legal consultant rather than as a solicitating private practitioner. One can perceive the desire on the part of the Bureau of Prisons to avoid conflict of interest. Certainly one can understand

their position since they are the employers in this legal service contract. On the other hand, it is in their interest to be aware of ongoing problems to avoid administrative disputes, misconduct, and morale trouble. This dilemma is handled by not allowing the contract attorney to represent the inmate against the Bureau or anyone else but, at the same time, encouraging the attorney to report problems (but not names) to the prison administrators.

In addition, there is a practical reason for prohibiting the contract attorney from representing individual inmates. If the attorney were to do this, he would find himself focusing on a few cases rather than being unencumbered and, therefore, free to advise a broad population.

Following the intent of the contract, I consistently resisted the professional motivation to "follow through" on a legal problem by representing the inmate. Ironically, this has accrued to the benefit of many inmates in an immediate way. As an attorney, I was able to cover several legal problems with one inmate and to get them started toward solutions rather than allow the legal problems to "stack up."

### *Application of Contract*

Overall, I visited Milan a total of 25 times in 1981 to conduct a total of 136 interviews that consumed 71 hours. Excluding October, an untypical month, we observe that this averages out to 4 days (actually evenings) of legal consultation per month. Obviously, some problems could not be resolved in this relatively short period of time so that some inmates required more than one interview. Also, as mentioned earlier, many inmates expressed multiple legal problems compounding the difficulty of resolving problems in one visit.

In order to expedite these interviews within obvious time constraints, I developed a simple form to be filled out by the inmate prior to the interview in which he was asked to identify his legal problem(s) in one or two sentences (for example: a pending divorce action with nonsupport complications).

Finally, the inmate was asked to fill in basic facts about his legal problem(s) under the following headings: Who, what, when, where and why. The end of the form asks for the date and his signature. As one might surmise, even a poor effort to fill out this form can be helpful in cutting down preliminary questions in the interview. The form also required the inmate to attempt a simple analysis of the facts of his problems. As a result, he becomes better prepared for the actual interview because he has "briefed" himself.

In order to facilitate the legal aid interviews, this writer agreed that visits would be conducted in the evenings, usually between the hours of 6:00 p.m. and 9:30 p.m., when inmates could be more readily available. It was agreed that inmates should put their names on a roster, with a specific time slot, so that a schedule could be followed without a lengthy wait for interview in most cases. An inmate who did not "sign up" would only be seen if there was a missed appointment or time at the end of the evening. So far, this interview roster has been effective in promoting efficiency in seeing a maximum number of clients.

### *Type of Problems*

As suggested in the introduction to this article, the Federal Bureau of Prisons finds itself confronted by three areas of legal concern in dealing with inmates. These are: (1) Problems attendant to incarceration (prison treatment, administrative hearings, grievances, parole consideration); (2) problems related to trial and other criminal matters (probation violations, parole revocations, detainers); (3) problems separate from their incarceration (pending divorces, tax liability, civil suits, property matters).

This writer utilized these categories in assessing the difficulties an inmate may have been experiencing. If the inmate complained about the prison administration, I generally utilized the Institution Supplement on Inmate Discipline. If the problems related to their problems in the criminal justice system this writer requested all existing notes and paper they had related thereto. If the problems were separate from their criminal or prison involvement, this writer evaluated the problem(s) in a manner similar to general legal practice.

The type of problems take on definition in actual practice and patterns emerge. There are at least nine separate subcategories: (1) Salient Factor Scores and Offense Severity Ratings (as used by the Federal Parole Commission); (2) detainers; (3) divorce problems; (4) parole matters; (5) sentencing and appeal questions; (6) prison administration questions or complaints; (7) property rights problems (real estate, inheritance, etc.); (8) civil liability (growing out of the criminal offense); (9) miscellaneous legal questions and inquiries.

While these subcategories are, for the most part, self-explanatory, the first one requires some clarification. The Federal Parole Commission, in an attempt to be objective, utilizes key factors (called Salient Factor Scores and Offense Severity Ratings) to decide length of sentence. Many significant elements of the offense and the prisoner's background are analyzed. The prisoner is classified accordingly and gets placed in a category where he has a minimum to maximum number of months he is expected to serve. Not surprisingly, the prisoners express great concern about the salient factors and their classification.



The second subcategory refers to detainers. Technically, a detainer is a writ that is filed against the inmate making him accountable for some other legal process such as an arrest warrant for an alleged previous offense. Inmates are likely to express frustration because it is a sword hanging over their head and may interfere with programs they might otherwise be eligible for (for example, work release).

The inmates seem to show the greatest concern about their sentences and the possibility of appeal. They focus on their trials because they see the adjudication and disposition as having put them in their present uncomfortable situation. They often verbalize anger, frustration, depression, regret, remorse, and plans for revenge. Usually they look for weaknesses and loopholes in the their cases to win release.

The next most prevalent legal matter brought forth by the inmates relates to parole matters. The parolee who has experienced parole revocation seems to be more aware of the legal aspects of matters because of his prolonged exposure to the criminal justice process.

The other legal problems of concern to the inmates seem to be distributed rather evenly and, therefore, do not point to any one, overriding conflict in their lives. On the other hand, when the individual inmate does have a legal problem, such as a pending divorce, he often displays considerable frustration because of the personal restrictions imposed by his incarceration.

### *Method of Providing and Delivering Services*

I arranged visits in the evenings when the inmates were more likely to have free time. A typical evening of consultation started at 6:00 p.m. and had appointments set for 15 minute segments. I scheduled future appointments if I could not resolve the problem at hand. In most instances, the advice and counsel seemed to satisfy the client and point him in the direction of a resolution of his concern.

My approach had to do with the nature of the problem. I asked for basic information and queried the client about any and all legal papers or notes he had. (Often they brought them to the interview.) These were reviewed and critiqued. Finally, of course, I gave my evaluation and opinion. A closing overture might include: a referral to the bar association of a particular community; a referral to a legal aid group; a referral to a government agency for information or service; an offer to assist the inmate directly in preparing a letter or legal papers; or, an offer to pursue a matter with prison administrators. The latter offer was qualified by getting the permission of the inmate and maintaining confidentiality unless the inmate agreed that his name be used. This situation usually had to do with a matter involving prison administration. Parenthetically, I was able to articulate some of these individual problems to a successful conclusion and, at other times, I was able to identify a problem affecting several inmates so that the administrators could address a general difficulty. I am convinced this helped the administrators as well as the affected inmates.

I was subject to the provisions of the Privacy Act and so did no reveal any information on a specific inmate unless consent by the inmate was clearly given. As an attorney the confidentiality of the relationship was recognized as a necessity to communication. The inmate was not only told that the interview was confidential but was told, also, that the information was privileged indicating it would not be revealed without permission even if official inquiry was made.

Although the legal aid contract permitted a referral by me to a specific attorney or law firm, I avoided this because of the possibility of entanglements. The contract, correctly in my opinion, precluded me from actual legal representation of the inmate's case.

Therefore, I preferred to avoid any connection with a private attorney or law firm that might take the case even on a contingent fee basis. Accordingly, I referred the inmate to the bar association or a community legal aid group so that the question of fee was not part of my referral. I was quick to point out to the interviewee that I could not actually "take" his case or represent him. Then, I was able to go on to say that I could give him opinions, assistance, and sources for further help if he so desired. This seemed to suffice.

### *Merits of the Program*

At a cost of about $3,000 the Federal Bureau of Prisons offered a program in 1981 that gave inmates the opportunity to air their legal problems to an attorney. Associate Warden Albert Uhl, in several interviews, expressed satisfaction with the arrangement. He said that he believes this program is not only a legitimate exercise of contract services but has achieved the administrative goals. Thus, he stated the consultations do seem to be conducive to a better operating institution. The inmates expressed satisfaction with the advice and assistance in most instances. In many cases, they seemed as grateful for the attention and concern as the substantive legal information. Finally, the legal consultation program seems to complement rehabilitative programs; such as, education, vocational training, and therapy. Consequently, legal aid is viewed as an important adjunct to prison welfare.

Since this program is helpful to both the inmates and the institution and is not costly or bureaucratic,

I am convinced it will continue to provide needed services. Constitutionally, the courts have said that prisoners deserve decent treatment, access to the courts, and recognition of many legal rights not lost by confinement. This program is one answer to this mandate that seems reasonable and appropriate. Accordingly, I would recommend testing it in other Federal districts where Federal prisons exist and in the various state systems. It is a resource that the penal systems could easily acquire and quickly dispense with (by due notice in the contract) if not satisfied. But if successful, as the experience in the Eastern District of Michigan has proven to be, it could be beneficial to the Criminal justice process.



# Love Canal Six Years Later: The Legal Legacy*

BY JAY S. ALBANESE, PH. D.

*Department of Criminology and Criminal Justice, Niagara University*

IT WAS AUGUST 2, 1978, when the New York State Health Commissioner, acting on studies finding a very high incidence of cancer and other diseases, declared a health emergency at the Love Canal site on the outskirts of the City of Niagara Falls. The Commissioner recommended that children under 2 years of age, as well as pregnant women, be evacuated from homes in the area, and that the 99th Street School remain closed in September.

Five days later, President Carter declared the Love Canal site a Fedeal disaster area, and the State of New York began to buy nearly 240 abandoned homes at a cost of $10 million. Nevertheless, the Federal Disaster Assistance Administration ultimately denied New York State's request for a reimbursement of the $22 million spent in relocating families and in a cleanup effort. Concern about the safety of the area continued, however, for in August 1979 the Niagara School Board voted to close a second area school due to chemical contamination.

It was the element of surprise that made the Love Canal situation so shocking. There was no slowly accumulating body of evidence that the area was unsafe, and no public information was available to confirm or set aside suspicions regarding the cause of the area's growing health problems. Only when the Health Commissioner's declaration was made in 1978 did the panic set in, turning a formerly typical surburban neighborhood into a virtual ghost town.

It did not take long, however, before the legal system was called upon to determine responsibility for (1) the severe health problems experienced in the area, (2) the costs of relocating displaced families, and (3) the costs for a cleanup of the area. The urgency of these legal claims was amplified in late 1979 when a Federal study indicated that the odds that Love Canal residents would contract cancer were as high as 1 in 10. In addition, the U.S. Environmental Protection Agency (EPA) reported that it had found four suspected carcinogens in air samples taken from the area (for a review, see New York State, 1980).

As a result, on December 20, 1979, the U.S. Justice Department initiated a $124.5 million civil suit against Hooker Chemicals and Plastics Corporation charging it with dumping chemical wastes at four different sites in Niagara Falls. On April 28, 1980, the New York State Attorney General also filed a $635 million lawsuit against Occidental Petroleum Corporation and its subsidiary (Hooker Chemical) charging them with responsibility for the problems and cleanup at Love Canal.

The problems at Love Canal continued in 1980 when further tests of area residents by the EPA were said to reveal genetic damage that could result in cancer and birth defects (for a review, see Kolata, 1980; Levine, 1982:153; Shaw, 1980). These findings led President Carter in May 1980 to declare a second Federal emergency, which resulted in the evacuation of an additional 710 families.

In 1982, tests conducted by New York State found dioxin (a chemical that has been linked to cancer, birth defects, and disorders of the nervous system) in abandoned homes in the Love Canal neighborhood to be "among the highest ever found in the human environment" (Dionne, 1982). A few days later, the EPA released its report claiming that only the houses of the "inner rings" closest to the former canal site were still uninhabitable and that families could move back into the other homes. The controversy was rekindled, however, when it was found that only four of the EPA's 11 consultants would say they "absolutely" supported this position. Six said they did not support the conclusion at all (Tyson and Peck, 1982). In late 1982, the 226 homes of the "inner rings" were bulldozed into their foundations and covered over.

Unfortunately, the legal legacy of the Love Canal disaster continues 6 years later. In 1983, the EPA discovered a "significant migration of chemicals" beyond a proposed containment wall and declared a "total review" was needed of their 1982 determination of habitability. The EPA said a new determination of habitability may not be made until 1988 (Perlez, 1983). Furthermore, neither the Federal nor state cases have been settled out of court, and it appears certain that the cases will be resolved only after trial (Tyson, 1982).

*Presented at the Annual Meeting of the Academy of Criminal Justice Sciences in San Antonio, Texas, March 1983.

END