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## This Issue In Brief

### [Crime Control Strategies and Community Change—Reframing the Surveillance vs. Treatment Debate](#)

David Farabee's recent monograph "Rethinking Rehabilitation" challenges much of the theory, research, and policy associated with "liberal" offender treatment strategies. The authors argue that Farabee's control-based corrections model ignores the larger issue of community change and unreasonably jettisons treatment-driven corrections policy.

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### [Sex Offender Management in the Federal Probation and Pretrial Services System](#)

In the Federal Probation and Pretrial Services System, a "sex offender" is anyone who has any prior state or federal conviction for a sexual offense. The authors describe the gamut of conditions, practices, and treatment options that are employed by the districts for this specialized population.

*By Migdalia Baerga-Bufler, James L. Johnson*

### [Sex Offenders on Federal Community Supervision: Factors that Influence Revocation](#)

Among factors correlated with offenders' success or failure on supervision are employment, education, treatment, age, gender, and race. The author discusses data from the Federal Probation and Pretrial Services System that show such correlations.

*By James L. Johnson*

### [Restorative Circles: A Reentry Planning Process for Hawaii Inmates](#)

Restorative Circles, part of a pilot reentry program in Hawaii beginning in 2005, help inmates understand that their actions have impacts on their victims, families, and the larger community. Offenders are encouraged to take responsibility for their past actions, plan the future beyond prison, and acknowledge the strengths they can use to get there.

*By Lorenn Walker, Ted Sakai, Kat Brady*

### [Motivational Interviewing for Probation Officers: Tipping the Balance Toward Change](#)

Motivational Interviewing of offenders by probation officers allows them to steer clear of both "hard" and "soft" approaches in a process that makes positive change more likely. The authors explain what it is and how it works.

*By Michael D. Clark, Scott Walters, Ray Gingerich, Melissa Meltzer*

### [Power and Control Tactics Employed by Prison Inmates—A Case Study](#)

The author, who has worked as a correctional mental health professional for 31 years, uses the power and control tactics employed by one death-row inmate as an example of how inmates attempt to manipulate correctional staff to achieve greater control.

*By William N. Elliott*

### [Convicted Drunk Drivers in Electronic Monitoring Home Detention and Day Reporting Centers: An Exploratory Study](#)

The authors report on an exploratory study comparing convicted drunk drivers in Indiana who

are sentenced to either electronic monitoring home detention or day reporting centers.

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#### [The Effects of Gender on the Judicial Decision of Bail Amount Set](#)

Using data from a Midwestern district court, the authors examine whether female defendants receive differential treatment from judges in the setting of bail.

*By K.B. Turner, James B. Johnson*

#### [Accomplishments in Juvenile Probation in California Over the Last Decade](#)

Beginning with legislative changes in California in 1993, probation departments in California began moving from a focus on suppression, enforcement, and monitoring of youthful offenders to a focus on families and on rehabilitative and therapeutic approaches. The authors describe the new initiatives and link these efforts with potential impacts on youth crime and other outcomes.

*By Susan Turner, Terry Fain*

#### [The Role of Prerelease Handbooks for Prisoner Reentry](#)

Prerelease handbooks can help offenders negotiate a successful reentry into society by describing the challenges they will face, giving advice on meeting them, and providing links to the most helpful services. The authors survey ex-offenders on the components of a successful prerelease handbook and describe useful features.

*By Jeff Mellow, James M. Dickinson*

#### [John Augustus, Father of Probation, and the Anonymous Letter](#)

John Augustus is generally considered the Father of Probation in the U.S. for his work with minor offenders in 19 th century Massachusetts. The author provides details about Augustus' work from an unpublished anonymous letter not generally available.

*By Charles Lindner*

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## Crime Control Strategies and Community Change— Reframing The Surveillance vs. Treatment Debate\*

\* Adapted from a presentation at the 14th World Congress of Criminology, Philadelphia, PA, August 10th, 2005. This paper is a revised and expanded version of an article by James Byrne and Faye Taxman, "Crime (Control) Is A Choice: Divergent Perspectives on The Role of Treatment in The Adult Corrections System," which was published in *Criminology and Public Policy* (May, 2005).

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[The Difference Between a Treatment and a Surveillance/Control-Based Corrections System](#)  
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**IN A RECENT** monograph, *Rethinking Rehabilitation*, David Farabee challenges much of the theory, research, and policy associated with "liberal" offender treatment strategies (Farabee, 2005). He argues that we have attempted (and largely failed) to "treat" offenders in both institutional and community settings for a range of problems (drug abuse, alcohol abuse, mental health, educational/employment deficits, etc.) based on the misplaced notion that if we can successfully address these problems, offenders will desist from crime. Farabee suggests that since attempts to rehabilitate offenders have not worked particularly well, perhaps it is time to move in a different direction and consider crime control policies *not* based on the underlying assumptions of offender rehabilitation. He offers an alternative offender change strategy, which is based in large measure on his attempt to apply the assumptions of classical criminology found in the "broken windows" model of crime control [1](#) to the offender change issue (see, e.g. Wilson and Kelling, 1982). At the outset, he offers the following three principles for our consideration:

*First, crime is a choice, not an unavoidable response to a hopeless environment. Most offenders could have completed school, but didn't; most had held jobs in the past, but chose easier, faster money over legal employment... Moreover, the pervasive belief that these criminals essentially had no choice but to resort to crime and drugs conveys a profoundly destructive expectation to them and to future criminals that undermines their perceived ability to control their own destinies (Farabee, 2005:54).*

*Second, most offenders give little or no consideration to the risk of getting caught for crimes they are about to commit . This is not because they don't consider the imposition of a prison sentence to be a negative experience; rather, it is because they know that the risk of getting caught is extremely low: (Farabee, 2005:54).*

*Third, social programs have not and never will produce long-term changes in the behavior of career criminals*. The majority of us grew up perfectly well without various programs to teach us how to act. We completed school, became employed, avoided drugs (or limited their use), and never resorted to crime. We followed this path for the same fundamental reason: the rewards of doing so...crime is not the result of a deficit in social services. When we rush to provide social programs to those who have chosen to break the law, we undermine our own efforts by fostering the misperception that the responsibility for changing an offender's behavior lies outside the offender himself (Farabee, 2005:55, 57).

Farabee's three principles offer support and justification for policies that emphasize the importance of formal (crime) control strategies, while challenging the underlying assumptions of both individual offender rehabilitation strategies and community-level change strategies, such as restorative justice initiatives (Bazemore and Stinchcomb, 2004; Clear & Cadova, 2003), and interventions targeting "at-risk" communities (see, e.g. Sampson, Morenoff, and Raudenbush, 2005, Pattavina, Byrne, and Garcia, 2006). <sup>2</sup> By focusing his critical review on evaluations of the effectiveness of offender treatment programs, Farabee certainly makes a strong case for improving both the quantity and quality of treatment programs currently operating in both prison and community settings. However, by arguing that we should abandon treatment-driven corrections policy because programs do not typically get implemented as designed or evaluated rigorously, he is ignoring a long-standing admonition in the field of criminology: bad practice and bad research should not be confused with bad theory (Sampson and Laub, 2001). Perhaps more importantly, Farabee does not consider that desistance from crime may be affected by a variety of community-level factors, including community structure, resources, risk level, and collective efficacy, that are directly related to the level of formal and informal social controls exhibited in neighborhoods where offenders reside (before and after prison) (Pattavina, Byrne, and Garcia, 2006).

Even the most ardent supporter of individual offender rehabilitation programs recognizes that desistance from crime is most likely a consequence of person-environment interactions. Of course, it is one thing to recognize the complexity of the offender change process; it is quite another to do something about reframing the issue in terms of both individual and community change. There is a large body of research that demonstrates the importance of informal social controls (e.g., family, peers, school, job, mentors, marriage) throughout our lives (see, e.g. Gottfredson and Hirschi, 2001; and Laub and Sampson, 2001). Perhaps most notably, the research on intensive probation supervision programs conducted in the mid-80s demonstrated the importance of a "mixed model," incorporating treatment, informal control mechanisms, and formal control mechanisms (see, e.g. Byrne, 1989, Byrne, 1990; Taxman, Young, and Byrne, 2004). <sup>3</sup> Despite this research, we continue to rely on individual-level change strategies and ignore the larger, more difficult issue of community change, despite the concentrated cycling of a large number of offenders between institutional and community control (Clear, Waring, and Scully, 2005).

In his monograph *Rethinking Rehabilitation*, Farabee offers a number of specific recommendations for changes in our current sentencing and correctional control strategies that challenge the policy recommendations offered by advocates of offender rehabilitation (*See summary table*). In the following review of the surveillance vs. treatment debate, we offer our own critical examination of the treatment and deterrence research, and then present an alternative model for our corrections system that recognizes the need to develop *both* individual, offender-based rehabilitation programs *and* the community-based change strategies targeting the "at-risk" communities where many offenders reside.

### **Farabee's Correctional Control Model**

**Recommendation 1:** "Deemphasize prison as a sanction for nonviolent reoffenses and increase the use of intermediate sanctions...Furthermore, minor parole violations....should be punished by using a graduated set of intermediate sanctions, rather than returning the offender to prison" (p 63).

**Recommendation 2:** “Use prison programs to serve as institutional management tools, not as instruments of rehabilitation” (64).

**Recommendation 3:** “Mandate experimental designs for all program evaluations” (66).

**Recommendation 4:** “Establish evaluation contracts with independent agencies” (67).

**Recommendation 5:** “Increase the use of indeterminate community supervision, requiring three consecutive years without a new offense or violation” (68).

**Recommendation 6:** “Reduce parole caseloads to fifteen to one, and increase the use of new tracking technologies” (71).

Source: Farabee (2005)

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## 1. The Difference Between a Treatment and a Surveillance/Control-Based Corrections System

There appears to be a new understanding of the limits of an incarceration-based correctional control strategy emerging in this country, not only due to the cost of incarceration, but also due to the negative consequences of incarceration for offenders and communities (Jacobson, 2005; Travis and Visher, 2005; Clear and Cadova, 2003). After reviewing the six policy recommendations identified by Farabee and comparing them to the recent policy recommendations of several prominent treatment advocates (e.g., Jacobson, Cullen, Latessa, and Gendreau), at first glance it might appear that Farabee has embraced much of the liberal correctional reform agenda of the past two decades. Farabee’s control-based model is based on a recognition—shared by “liberal” treatment advocates—that we rely much too heavily on *incarceration* as an offender control strategy. In addition, there is a central role for community corrections programs in both treatment-oriented and Farabee’s control-oriented model of offender change. The difference—and it’s a critical one—is that Farabee would design community corrections programs that focused primarily on offender surveillance and control, while treatment advocates would design community corrections programs that emphasized the delivery of treatment to offenders in both institutional and community settings. Both models emphasize “crime control” effects, and both models define “success” in terms of individual “desistance” from crime, rather than changes in the crime rates overall in a particular community. <sup>4</sup> As we noted in our original review of *Rethinking Rehabilitation*, Farabee may or may not be correct when he declares that “*crime* is a choice,” but we are certain that *crime control* is a choice and the community control “choices” offered by Farabee are quite different from those offered by treatment advocates (Byrne and Taxman, 2005).

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## 2. New Directions in Offender Treatment and Control

For the purpose of this review, we examine two alternative views of the corrections system’s proper strategic focus: one model emphasizes the central role of offender treatment; the other dismisses its importance as an effective offender change strategy. To treatment advocates, the existing body of institution and community-based evaluation research demonstrates (once again) that “treatment” (for substance abuse, mental illness, and a range of other individual-level problems) is directly associated with both short-term and long-term offender change (in criminal behavior). To Farabee (2005), a review of this same body of research leads to a very different conclusion: *there is no strong link between provision of treatment and subsequent changes in the criminal behavior of offenders*. He points out that much of the treatment research is nonexperimental in design, utilizes misleading comparison groups and outcome measures, and offers—at best—mixed evidence of a treatment effect. For this reason, Farabee concludes that it

is time to move away from strategies based on offender treatment and to focus instead on new strategies of offender surveillance and control (Farabee, 2005).

From Farabee's perspective, the application of weak research designs by treatment evaluators is not only a function of conducting research in the real world; it is also due to the influence of funding sources in the public and private sector (i.e., funding-related bias), the pressure on academics to search for statistically significant subgroup effects in the hope of getting published (i.e., publication-related bias), and the political/religious affiliations of the researchers (i.e., research-related bias). Stated simply, Farabee sees the problem in the following terms: 1) researchers tell funding sources what they want to hear, because they are under pressure from universities and/or research organizations to obtain external funding; 2) the same individuals and groups developing treatment interventions are (often) conducting the evaluation of their effectiveness, 3) researchers overanalyze their data in the search for publishable findings; and 4) most researchers in the social sciences "hold liberal attitudes regarding the causes of social problems and how to solve them" (Farabee, 2005:20). These are serious allegations to be sure, and if Farabee's assessment is correct, then we certainly should be careful when we review the results of an evaluation that purports to have identified the latest treatment panacea (Finckenauer, et al., 1999). However, we suspect that this admonition may apply equally to both "liberal" and "conservative" research on the effectiveness of treatment and control-oriented correctional strategies. For this reason, the recent movement toward systematic, evidence-based research reviews of the research on criminal and juvenile justice intervention is a major step forward for the field of criminal justice in general and for corrections in particular (see for example Farrington and Welsh, 2005; and Welsh and Farrington, 2006).

After reviewing the available systematic reviews conducted through the Campbell Collaborative, it is clear that we need to conduct more rigorous evaluations of a wide range of criminal justice interventions, including both the "broken windows," problem-oriented policing strategies Farabee advocates be applied to corrections *and* the correctional treatment programs focused on in his review. Recent systematic reviews of problem-oriented policing (National Research Council, 2004), drug courts (GAO, 2005), and correctional treatment (Weisburd, Lum, and Petrosino, 2001), certainly underscore this view, because in each instance the results of these systematic reviews suggested that the initial, non-experimental research painted an overly optimistic portrait of the impact of the strategy under review. It seems obvious to even the casual observer that we need to conduct experimental research on a wide range of criminal and juvenile justice programs in order to improve the "science" underlying our policies and practices. Unfortunately, it has proven to be quite difficult to conduct quality, experimental research on criminal and juvenile justice strategies and programs.

Despite this research shortfall, we are beginning to conduct the type of independent, external, rigorous evaluation research needed to inform corrections policy and practice. At present, a small but growing body of scientific evidence based on experimental research on justice-related interventions does exist and we can examine the conflicting claims of treatment and control advocates in light of this empirical evidence. Farrington and Welsh (2005) recently identified 83 randomized field experiments conducted in the last two decades with "offending outcomes," compared to only 35 for the period 1957–1981. Their meta-analyses of these studies revealed the following:

we conclude that recent experiments show that prevention methods in general, and MST (multisystemic therapy) in particular, are effective in reducing offending. However, Scared Straight and Boot Camp programs cause an increase in offending. Correctional therapy, batterer programs, drug courts and juvenile restitution are [also] effective in reducing reoffending. There are indications that police targeting of "hot spots" places is effective in reducing crime, but the effect size is small (Farrington and Welsh, 2005:22).

Given the fact that the most comprehensive review of experimental research currently available supports the notion that the provision of treatment can change offender behavior, some observers might wonder *why* we are still debating this issue. The answer is simple: the overall effect sizes



identified in these meta analyses are modest (about a 10 percent difference in the desired direction between treatment and control groups), while the differences between treatment and control groups identified in individual studies are *not* generally statistically significant, often due to a combination of moderate differences between groups and small sample size. [Table 1](#) on the next page, taken from Farrington and Welsh's recent review of all experimental research conducted in corrections (Farrington and Welsh, 2005), highlights this issue (i.e. strength of association and direction vs. statistical significance). Included in the table are 14 experimental evaluations of correctional interventions with an overall effect size of 10 percent in the desired direction. However, only two of the studies included in this review identified statistically significant ( $p < .05$ ) differences in recidivism between treatment and control groups.

Paradoxically, both the evidence *in favor of* and the evidence *opposed to* rehabilitation is found in the same systematic review. Because we believe that effect size and direction across a number of studies are better indicators of the impact of a particular intervention than the alternative strategy of counting the number of studies with statistically significant differences, we do not find an *empirical* justification for Farabee's pessimistic view of the future of offender treatment and the prospect for offender change. However, it is important to recognize that unless large-scale experimental research is conducted on a wide range of correctional treatment programs, questions can and should be raised about the impact of these interventions on offenders.

Farabee's own exhaustive review of the treatment research highlights both the limitations of this body of research and the mounting evidence of effectiveness for specific modes of treatment. [5](#) As Cullen's recent review of the correctional treatment literature succinctly states: "the empirical evidence is fairly convincing...that treatment interventions are capable of decreasing recidivism. In contrast, correctional programs based on the principles of specific deterrence are notoriously ineffective" (2004:287). [6](#) One interesting point to consider is that the evaluations of both institution and community-based treatment programs conducted over the past three decades were often poorly funded, in large part because the provision of treatment in institutional and community settings was not a priority area for NIJ and other federal funding agencies. It is conservative ideology that has dominated the crime control scene for the past three decades (e.g., war on drugs, war on crime) and it is deterrence-based research that has received the bulk of the funding from federal agencies during this period; in many instances, this research attempted to affirm the surveillance and control-oriented initiatives *funded* by these same agencies, and many of the early assessments of these initiatives were *self*-evaluations. Consider just a few of these initiatives: weed and seed, mandatory arrest for domestic violence, zero-tolerance policing, gun violence reduction strategies, mandatory sentencing, boot camps, electronic monitoring and other surveillance-oriented community control programs. As Farabee has observed about the field of rehabilitation, the early non-experimental evaluation research offered considerable support for each of these deterrence-based initiatives, but the subsequent (and more rigorous) evaluations—using better research designs—offered a much more pessimistic view (Cullen, 2005). [7](#)

Our point is simple: apply the same review criteria to *both* rehabilitation-based and control-oriented research and see what you find. The fact that we identify this same pattern when we examine research on *both* liberal and conservative crime control policies suggests two things: 1) conspiracy theories need to be applied to *both* bodies of research (including Farabee's own analysis, published by the American Enterprise Institute); and 2) despite the alleged conspiracy, quality research testing the underlying assumptions of both liberal and conservative initiatives has been conducted. Indeed, it is the recent failure of conservative crime control strategies to demonstrate effectiveness that has been one of the main reasons that "treatment" has reemerged as a key feature of the latest wave of federal initiatives, such as drug courts and offender reentry (Byrne, 2004; Cullen, 2004).

In addition to his call for more rigorous, independent evaluations, Farabee also offers specific recommendations for both sentencing and corrections that have implications for the design and implementation of residential community corrections programs. His first (two-part) recommendation is to "*de-emphasize prison as a sanction for nonviolent re-offenses and increase the use of intermediate sanctions*" (Farabee, 2005:62). We doubt Farabee would get much of an argument from "liberals" (or more correctly, treatment advocates) with this two-part

recommendation. If we expanded the alternatives to incarceration that typically fall under the name of intermediate sanctions, then we could potentially reduce the size of the federal and state prison population by almost *fifty* percent. As Farabee observed,

although in 2002 about half (49 percent) of state inmates were sentenced for violent crimes, about a fifth (19 percent) were sentenced for property crimes, and a fifth (20 percent) were sentenced for drug crimes. During that same year, over half (57 percent) of federal inmates were serving sentences for drug offenses, and only 10 percent were in prison for violent offenses. Taken together, we can see that the majority of incarcerated offenders in the United States are serving sentences for nonviolent offenses (2005:64).

There would appear to be a place for residential community corrections programs in this strategy, since these programs are typically identified as one of a number of possible intermediate sanctions (Byrne, Lurigio, and Petersilia, 1992). For example, Lowenkamp and Latessa's recent research findings (2005) offer support for the use of residential community corrections programs as a direct sentence option for "high-risk" offenders; low- and moderate-risk offenders could be sanctioned using one of the other forms of intermediate sanctions (e.g., day fines, house arrest/electronic monitoring, community service, day reporting centers, and/or intensive probation supervision).

In addition, residential community corrections programs could be used as part of a structured hierarchy of non-incarceration sanctions for the large number of probation and parole violators who are currently reentering prison in numbers equal to the number of "new" prison commitments (for reconviction) each year. Ironically, this "dual role" for residential community corrections (as a halfway-in and a halfway-back control strategy) was first proposed by Latessa over a decade ago (Latessa and Travis, 1992). However, we suspect that there would be one important difference between Farabee's RCC design and the Latessa design: Farabee would emphasize the surveillance and control features of residential programs, while Latessa would emphasize the quantity and quality of treatment provided in these same settings (Latessa, 2004).

Farabee suggests that public opinion generally and public policy makers in particular would have no problem with our continued reliance on incarceration for nonviolent offenders "if it appears to serve as a deterrent, [but] unfortunately, this has not proven to be the case" (Farabee, 2005:62). Our own review of public opinion research reveals no such support for costly, ineffective prison and jail terms for nonviolent offenders, particularly those with drug, alcohol, and/or mental health problems. More problematic, it appears that while his policy recommendations on the need to deemphasize institutional sanctions flow logically from the negative research findings on the deterrent effects of incarceration (see, e.g., Decker, Wright and Logie, 1993; Welsh and Farrington, 2005; Blumstein, 2004; and Levitt, 2004), the same cannot be said for his review of deterrence in community settings. Farabee examines intermediate sanctions research, arguing that "the research to date supports only the modest claim that they [intermediate sanctions] cost less than prison and do not appear to *increase* recidivism" (Farabee, 2005:63). Our own review of this body of research suggests that it tells us a bit more, particularly about the inability of surveillance and control-oriented intermediate sanctions (i.e., intensive supervision, electronic monitoring, and boot camps in particular) to reduce recidivism among targeted offenders. As Farabee has suggested, the early non-experimental research on each of these three intermediate sanctions was quite positive, but the more rigorous evaluations led to a very different view of effectiveness (Byrne and Pattavina, 1992). Indeed, it now appears that a *combination* of treatment and surveillance/control strategies is the key to recidivism reduction in these programs (Byrne, 1990). For some reason, Farabee has not considered the policy implications of these research findings, which support the development of initiatives that balance these surveillance and treatment components.

One study often cited by proponents of intermediate sanctions is the multi-site evaluation of intensive supervision programs by the RAND Corporation in the late 1980s (Petersilia and Turner, 1993). In this study, selected offenders (in Oregon) were given a choice: participate in an intensive supervision program with strict program requirements (such as curfews, random

drug testing, mandatory employment and treatment) or go to prison (for about six months, on average). Almost one-third of the offenders refused to participate; in effect, they chose prison over intensive supervision. While Farabee and others have argued that “the more criminal justice experience offenders have, the less punitive they perceive prison to be relative to intermediate sanctions” (2005:63), we believe a very different thought process is at work here. For offenders who chose prison, it is certainly possible that a short period of *lifestyle interruption* is preferable to the prospect of (forced) *lifestyle (and life-course) change* .

We should also point out that offenders do not always make the best life-course decisions. When offenders “choose” prison, they are making a bad choice, not only for themselves (in terms of the negative effects of incarceration on their employment prospects, family, personal relationships, and living situation upon release), but also for their community (in terms of the negative effects of incarceration on community “stability,” (Clear and Cadova, 2003). When viewed in this context, the use of mandatory treatment in a residential facility for older (mid-30s) “high-risk” offenders represents one example of how a combination of treatment *and* control can have a positive effect on offenders, while minimizing the level of community destabilization associated with an offender’s entry into—and release from—prison.

The fact that the evidence of effectiveness reported in treatment evaluations is modest (A 10 percent overall reduction is reported by Welsh and Farrington, 2005) is not surprising, given the staffing and treatment resource constraints faced by correctional program developers across the country. <sup>7</sup> Rather than focusing limited financial resources on the punitive features of intermediate sanctions, we would argue that it is much more cost-effective to expand both the quantity and quality of treatment resources available to intermediate sanctions in general and residential community corrections in particular (Welsh, 2004).

Farabee has also offered a series of recommendations related directly to those offenders who will go to prison (or jail) in his model: convicted violent offenders. First, he argues that we should “use prison programs to serve as institutional management tools, not as instruments for rehabilitation” (64). Second, he recommends that we “increase the use of indeterminate community supervision, requiring three consecutive years without a new offense or violation” (68). And third, he advocated that we reduce parole caseloads to fifteen to one, and increase the use of new tracking technologies” (Farabee, 2005:71).

The phrase most often associated with successful treatment models such as the one described in our HIDTA (High Impact Drug Treatment Area) evaluation (Taxman, Byrne and Thanner, 2002) is *continuity of treatment* . The underlying assumption of models based on this strategy is that for offender change to occur, what happens in prison—in terms of treatment for a variety of individual problems, such as mental illness, substance abuse, educational/employment deficits, etc.—must be followed up in both residential and outpatient community treatment settings. As Latessa (2004) has recently observed, this is a difficult task, given the resistance to change found in both the institutional and community corrections system in this country. However, “continuity of treatment” throughout the reentry process appears to be a critical component of the new wave of reentry partnership initiatives currently being implemented across the country (Taxman, Byrne and Young, 2002).

A review of the research on prison-based treatment programs reveals that the provision of treatment *in prison* is directly related both to the offender’s behavior while in prison and to an offender’s subsequent life-course choices (to return to crime or remain crime free) upon return to the community (Byrne, Taxman, and Hummer, 2005). It is not simply a short-term prison management strategy that could be replaced by the provision of non-treatment programs, such as recreation (Farabee, 2005). Evidence to support this view can be viewed in every major review of the prison treatment evaluation research literature released in the last decade (see, e.g., Farrington and Welsh, 2005; and Mitchel, MacKenzie, and Wilson, 2006 for an overview). While the provision of treatment in prison will not eliminate the negative consequences of incarceration on the subsequent life-course “events” that likely will await offenders upon release from prison (employment, marriage/divorce, living situation, participation in crime), it may minimize these effects.

Perhaps the most controversial recommendation for change offered by Farabee is found in his argument for three years (minimum) of mandatory post-release supervision, to be extended if the offender commits a new crime or technical violation during this period of post-release supervision. Until the offender is able to demonstrate that he/she has changed, community supervision and control will remain in place. To ensure that the two elements of deterrence that Farabee views as critical are in place (certainty and celerity), it will be necessary to decrease caseload size dramatically while concomitantly improving the technology of community control (e.g. GPS systems). These are critical policy recommendations that can and should be field tested in the near future.

In Farabee's model of correctional control, it is critical that offenders take responsibility for their own behavior. If they think they may need some form of treatment, then they should obtain it. The cost of such voluntary treatment would still be the responsibility of the state, perhaps through "offering vouchers to parolees to cover the expenses of certain kinds of community-based treatment for offenders who believe they are unable to change on their own" (Farabee, 2005:69). The option of residential treatment is never directly mentioned, perhaps because Farabee takes the view that "the more time an offender spends in the community—assuming he is under close supervision—the more likely he will adopt and practice behaviors associated with a lawful lifestyle" (Farabee, 2005:66). However, current treatment research suggests something quite different: some offenders (i.e., those at a high risk to recidivate) need the time spent in residential treatment to make a successful transition from institutional to community control (Lowenkamp and Latessa, 2005). While in these residential facilities, the offender can continue to receive treatment for mental health, substance abuse, health, and other problems first addressed in prison settings.

It is our contention that Farabee's strategy would place both the offender *and* the community at risk and no amount of surveillance and control would reduce this risk. One in every five offenders leaving prison today have significant mental health problems (Clear, Byrne and Dvoskin, 1993; Lurigio, Rollins and Fallon, 2004). It has been estimated that up to 90 percent of our current prison population have a substance abuse problem, but fewer than 10 percent receive appropriate treatment while in prison. In terms of health, a significant number (up to 40 percent) of returning offenders have a communicable disease (RAND, 2003). Add to these three factors the potential criminogenic consequences of negative prison culture (Byrne, Taxman, and Hummer, 2005), the offender's isolation from the community (Maruna, 2004), and the rather obvious immediate problems associated with obtaining employment, reconnecting with family and finding a suitable place to live, and the need for transitional assistance becomes obvious. When viewed in this context, the provision of treatment in both institutional and community corrections programs is perhaps the most effective system-wide (community) crime control strategy currently available. Farabee's model of community supervision, by design, would deemphasize the treatment component of community control and focus instead on the surveillance activities of community corrections personnel.

In order to fully implement the deterrence-based community supervision model advocated by Farabee (with higher levels of detection for both criminal behavior and technical program violations), much smaller caseloads (15 to 1) would be needed to give probation and parole officers the time needed to monitor offender movements and behavior in the community. There is one aspect of smaller caseloads and more face-to-face contacts between probation/parole officers and offenders that deserves mention here: the relationships that develop between officers and offenders during supervision. Farabee argues for interactions that will be *outcome-* oriented (e.g., Did you get a job? Did you pass your random drug test? Did you violate your curfew? Did you get rearrested?) rather than *process-* oriented (e.g. How is your job? Have you been going to treatment? Have you made contact with your family?) It appears he bases this recommendation on the notion that for deterrence to work, community corrections officers would need to "detect" violations at least 30 percent of the time (similar to getting a community's clearance rate for a particular reported crime type over 30 percent). While such a "tipping point" analogy might sound plausible in the aggregate, there is no evidence that we could find supporting its application to the supervision of individual offenders. In contrast, there is a body of research

supporting the use of motivational interviewing and other related behavioral management strategies by line probation and parole officers as an effective case management strategy (see for instance Taxman, et al., 2004).

Our review of the correctional change literature suggests that power coercive change strategies are less likely to be effective than normative reeducative change strategies (Taxman, Sheppardson, and Byrne, 2004). Smaller caseloads only make sense if the emphasis is placed on the development and implementation of treatment strategies for offenders; the transformation of community corrections officers into police officers is *not* a strategy based on sound empirical evidence. We tried this approach in the 1980s and early 1990s with intensive supervision, electronic monitoring, and other surveillance-oriented programs. It doesn't work (Byrne, Lurigio and Petersilia, 1992; Petersilia, 2005).

A review of the research on formal and informal social control mechanisms underscores the limitations of individual-level change strategies, regardless of whether the focus of the intervention is surveillance *or* control. There is considerable research suggesting that informal social controls are more effective than formal social controls, at both the individual level (Hirshi and Gottfredson, 2001) and the community level (Sampson, Raudenbush, and Earls, 1997; Sampson, Morenoff, and Raudenbush, 2005). However, it is certainly plausible to suggest that the relationship that develops between a probation/parole officer and an offender—in conjunction with other influences, such as family, peers, work, neighborhood—could represent an important informal social control mechanism. With smaller caseloads and closer contact, it seems plausible to suggest that offenders will consider *the consequences of their decisions* in terms of the impact of these actions on their relationship with their parole officer. We agree with Farabee that there is a potential deterrent effect that may operate as a result of increased contact between officers and offenders; but it will more likely occur as the result of the “bond” that develops between these two individuals, not because of either the certainty of detection/apprehension (i.e., the magical 30 percent tipping point for detection) or the celerity of a probation/parole officer's punitive response. Because Farabee argues that offenders need to remain both crime free and technical violation free for three consecutive years, we anticipate that a significant number of offenders would remain under community surveillance and control for decades. The cost of such a control-based strategy would be prohibitive, while the consequences for communities—particularly high-risk neighborhoods with large concentrations of poor minority offenders—are potentially devastating (Clear and Cadova, 2003).

There is certainly an alternative approach to offender “control”—and change—in community settings that should be considered, based on the assumption that smaller caseloads may be needed, but for a very different purpose. As Sampson and Laub's recent research on crime through the life-course has demonstrated (Sampson and Laub, 2004), desistance occurs as a consequence of “identity shifts” for some offenders, leading to new ways of viewing key lifestyle choices (including work, family, drug use, and criminality). The key turning points in an offender's life-course identified by Sampson and Laub include: 1) marriage, 2) work, 3) military, and 4) residential relocation. It is certainly possible that the effect of smaller caseloads and a supportive relationship between offenders and probation/ parole officers will be manifested in stronger offender ties to family, work, the probation/ parole officers, and the community. If this occurs, then we suspect that there will be significant changes in offender (criminal) behavior, due in part to the effect of informal social control, at the individual and community level.

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### **Conclusion: The Link Between Individual Change and Community Change**

The previous review has identified two very different sets of criminal justice policy recommendations: one (Farabee) is based on classical criminology and two-thirds of the deterrence argument (i.e., certainty and celerity are the keys to offender control); the other treatment (or rehabilitation) camp is based on positivist assumptions about crime causation and the central role of treatment in the offender change process. Clearly, our “choice” of crime control policies has implications for sentencing and community corrections that are important to

understand. In this review, we have examined the links between/among theory, research, and policy identified by both Farabee and treatment advocates, while also offering our own perspective on the need to develop initiatives that integrate both individual and community change strategies. By this point, it should be clear that we view the surveillance vs. treatment debate as largely irrelevant, because it focuses on the *individual* offender and ignores the community context of change/desistance from crime.

The recent development of offender reentry initiatives has renewed interest in initiatives that target both at-risk offenders and at-risk communities. It is becoming increasingly clear that only incremental, short-term changes in offender behavior should be expected from the full implementation of evidence-based practices in both adult and community corrections. In large part, this is because the treatment research highlighted in these evidence-based reviews focused on *individual-level* change strategies. If we are interested in long-term offender change, we need to focus our attention on the *community* context of offender behavior, focusing on such factors as community involvement in crime prevention (Carr, 2003; Pattavina, Byrne, and Garcia, 2006), collective efficacy (Sampson, Raudenbush, and Earls, 1997), community risk level (e.g., communities with higher proportions of first-generation immigrants, particularly Latinos, will have lower violence levels; Martinez, 2002) and community culture (Sampson and Bean, 2005). Our basic premise is supported by a review of the research we cite here: we must develop intervention strategies that recognize the importance of person-environment interactions in the desistance process and incorporate both individual and community change into the model.

Figure one (see next page) presents one possible model of offender reentry, highlighting both the importance of treatment (assessment, placement, quality, and continuity) and the need to integrate both formal and informal social controls at each stage in the offender reentry process. While attention to individual-level problems and treatment needs is a critical component of the reentry model we depict here, program developers need to recognize that each community has a unique set of informal and formal social control mechanisms that will also influence these individuals and affect the desistance process.

It is our view that a review of the treatment research provides support for the continued development of both institution-based and community-based offender rehabilitation programs. While we agree with Farabee that intermediate sanctions can and should be used for many of the nonviolent offenders (e.g., property and drug offenders in particular) currently in our federal and state prison system, we find no empirical justification for abandoning the treatment component of intermediate sanctions and utilizing program resources to improve the surveillance and control components of these programs. The challenge now is to develop initiatives (such as a civic engagement model of restorative justice) that focus on both individual and community change (Bazemore and Stinchcomb, 2004; Clear and Cadova, 2003), because it is becoming increasingly clear that you cannot realistically expect offenders to change unless you begin to change the long-standing problems in their “home” communities (such as poverty, collective efficacy, culture). Farabee’s control-based corrections model ignores the larger issue of community change completely, while offering a vision for individual offender change that is simply not supported by a review of the available research evaluating both treatment-based and deterrence-based correctional interventions. While advances in the new technology of surveillance and control offer a tempting “quick fix,” we suspect that may actually only exacerbate the problem, both for offenders and communities.

[Figure 1](#)

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*Federal Probation's* publication of the articles and review is not to be taken as an endorsement of the material by the editors, the Administrative Office of the U.S. Courts, or the Federal Probation and Pretrial Services System.

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Table 3. Correctional experiments (14).

<i>Publication, location</i>	<i>Initial sample</i>	<i>Conditions</i>	<i>Results (N)</i>	<i>Effect size d (%)</i>
Lewis (1983), California	108 male delinquents age 14-18	E = Scared Straight C = no treatment	12 months arrests: E 81.1% (53) C 67.3% (55)	-0.41 (+21)
Cook and Spurrison (1992), Mississippi	176 male delinquents, mean age 15	E = Scared Straight C = no treatment	12 months offenses: EB 1.32 (97) EA 0.43 (97) CB 1.25 (79) CA 0.38 (79)	-0.03 (+7)
Peters et al. (1997), Cleveland	About 354 male delinquents	E = Boot Camp C = confinement	9 months convictions: E 72% (182) C 50% (172)	-0.52 (+44)*
Peters et al. (1997), Denver	About 230 male delinquents	E = Boot Camp C = confinement or probation	9 months convictions: E 39% (124) C 36% (106)	-0.07 (+8)
Peters et al. (1997), Mobile	About 526 male delinquents	E = Boot Camp C = probation (mostly)	9 months convictions: E 28% (187) C 31% (339)	0.08 (-10)
CYA (1997), California	632 male delinquents, mean age 17	E = Boot Camp C = confinement	12 months arrests: E 60.7% (313) C 58.0% (243)	-0.06 (+5)
Greenwood and Turner (1993a), Ohio	150 male delinquents, age 15 or over	E = Paint Creek C = usual training school	12 months arrests: E 50.7% (73) C 61.3% (75)	0.24 (-17)
Robinson (1995) Canada	4072 male offenders, mean age 29	E = Reasoning and Rehabilitation C = Other	12 months convictions: E 21.3% (1,673) C 24.8% (369)	0.11 (-14)
Ortmann (2000), Germany	228 male prisoners	E = social therapy prison C = usual prison	5 years convictions: E 60.4% (111)	0.18 (-11)



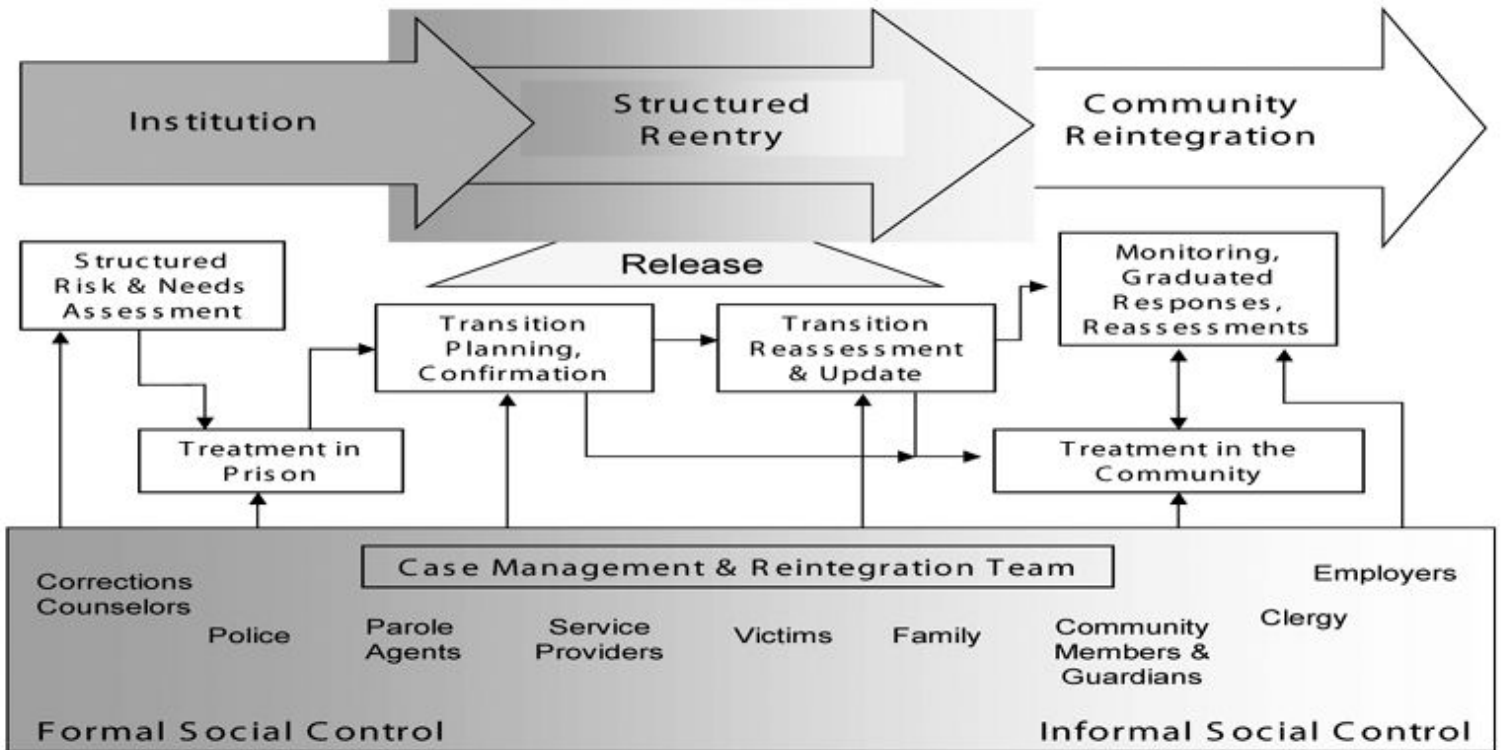
Author (Year), Location	Sample	Intervention (E) / Control (C)	Outcomes	Effect Size (d) (95% CI)
Armstrong (2003), Maryland	256 male inmates, mean age 21	E = moral reconnection therapy C = no treatment	E 66.7% (111) C 67.9% (112) 2.3 years convictions: E 64.5% (110) C 64.7% (102)	0 (0)
Inciardi et al. (1997), Delaware	367 drug-involved inmates	E = therapeutic community C = no treatment	18 months arrests: E 43% (179) C 53.9% (180)	0.24 (-20)*
Dugan and Everett (1998) Washington	145 drug-involved inmates	E = therapeutic community C = no treatment	2 year arrests: EM 4.5 (61) ES 6.3 (61) CM 3.4 (56) CS 5.2 (56)	-0.20 (+32)
Wexler et al. (1999), San Diego	715 drug-involved inmates, mean age 30	E = therapeutic community C = no treatment	3 years reincarceration: E 68.9% (289) C 75.1% (189)	0.17 (-8)
Marques et al. (1994), California	229 volunteer male sex offenders	E = Cognitive behavioral treatment C = No treatment	34 months sex arrests: E 10.4% (106) C 13.4% (97)	0.16 (-22)

Effect size shows standardized mean difference (d), with relative percentage difference between experimental and control conditions in parentheses.

\*p < 0.05

E: Experimental, C: Control, EB: Experimental Before, EA: Experimental After, CB: Control Before

CA: Control After, EM: Experimental Mean, ES: Experimental SD, CM: Control Mean, CS: Control SD



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## Sex Offender Management in the Federal Probation and Pretrial Services System

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**WHEN WE TALK** about sex offenders, who are we really talking about? On any given day, we can see such headlines as, “Dozens Charged in International, Internet-Based Child Pornography Investigation” <sup>[1]</sup> or “Federal Government Cracks Down on Online Child Pornographers.” The national and local media’s spotlight on crimes against children at times magnifies stories for purposes of sensationalism. Nevertheless, law enforcement/community corrections officers and treatment providers all agree that sex offenders pose significant risks to vulnerable populations in the community and require specialized and intensive management in the community. In the Federal Probation and Pretrial Services System (FPPSS), a “sex offender” is an individual who has any prior state or federal conviction for a sexual offense. For many, the term “sex offender” conjures up a wide-array of feelings, thoughts, and beliefs ranging from intense anger, rage, and disgust to beliefs that all sex offenders should be castrated or at least sentenced to life in prison without the possibility of parole. Although these are valid feelings and beliefs, the reality of sex offenders being apprehended and convicted is quite different.

**Myth** : “The majority of sexual offenders are caught, convicted, and in prison.”

**Fact** : Only a fraction of those who commit sexual assault are apprehended and convicted for their crimes. Most convicted sex offenders eventually are released to the community under probation or parole supervision.

Even when offenders are convicted of a sex offense, very few spend the remainder of their lives behind bars. While sex offenders constitute a large and increasing population of prison inmates, most are eventually released to the community. In fact, according to the Bureau of Justice Statistics, on any given day in 1994 an estimated 234,000 convicted sex offenders were under the care, custody, or control of community corrections agencies, and on average, nearly 60 percent of those released were under some form of community supervision. <sup>[2]</sup> Short of incarceration, community supervision allows the criminal justice system the best means to maintain control over offenders, monitor their residence, and require them to work and participate in treatment. <sup>[3]</sup> In the last 10 years, FPPSS has seen a steady increase in the numbers

of sex offenders charged with and convicted of some form of sexual offense. As a result, there is growing interest in providing community supervision for this population as an effective means of reducing the threat of future victimization.

In order to effectively manage sex offenders in the community, officers need to become knowledgeable about sex offender characteristics and types. Additionally, they need to know the patterns of victim selection and interests. Acquiring this knowledge will help officers differentiate between the types of sex offenders they are managing, and, more importantly, allow the officer to consider the risk variables at hand.

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## **Implications for Federal Probation and Pretrial Services Officers**

Our definition of the term “sex offender” emphasizes the word “conviction.” This is not intended to de-emphasize the need for individuals *charged* with a sex offense to be carefully monitored for “high risk” behaviors that could place vulnerable individuals, particular children, in harm’s way. However, unlike probation officers, pretrial services officers also need to bear in mind the importance of maintaining the *presumption of innocence* as well as a defendant’s *right against self-incrimination*. At the pretrial services stage, the right against self-incrimination is invoked when a court—independently or at the recommendation of a pretrial services office—requests that a sex-offense-specific evaluation be conducted to determine possible risk to the community. This right against self-incrimination becomes an issue when a defendant is compelled during an evaluative process to disclose information or evidence that may incriminate him or her in the alleged instant offense or in some offense that is yet unknown to law enforcement officials. Although it is a struggle for some pretrial services officers, all officers must continuously strive to balance the need for public safety with the need to maintain and protect the rights of all defendants.

As noted in the Federal Judicial Center’s *Special Needs Offender Bulletin on Sex Offenders*: “Federal jurisdiction over sex crimes...is based on constitutional grants of authority to regulate interstate or foreign commerce, and military posts, national parks, and Native American reservations.” <sup>4</sup> In accordance with Title 18 USC subsection 1153 and other applicable statutes, the United States District Courts have exclusive jurisdiction over all major crimes occurring in Indian territories. Therefore, crimes that would typically fall within the jurisdiction of municipal, state, or tribal courts fall within the jurisdiction of U.S. District Courts. This holds major implications for federal officers responsible for supervising defendants or offenders on Indian reservations <sup>5</sup> (whose task may differ drastically from officers who supervise sex offense-related cases in non-Indian Country districts). Federal officers supervising cases in Indian Country or remote rural locations grapple with geographical constraints, lack of adequate or available community resources, and local political climates, all of which may vary from non-Indian Country districts.

The following illustration may shed light on the unique challenges officers in Indian country encounter versus the challenges experienced in a large city or urban environment where resources may be plentiful and readily available:

*In order to get a perspective on the unique challenges experienced by federal officers supervising mental health and sex offenders in a remote location, in 2001, I conducted a program review of the mental health treatment program in the Western District of North Carolina. As part of the review, I accompanied a Senior U.S. Probation Officer on a routine field supervision of sex offenders. During this particular field supervision, which spanned one 8-hour workday, we were scheduled to see two sex offenders and one sex offender treatment provider. In order to accomplish this, we had to drive approximately 240 miles, and we still were only able to make face-to-face contact with two of the three people we sought to see (the treatment provider and one offender). For many officers, this excursion may seem unimaginable or even far-fetched. However, for many officers supervising sex offenders in Indian Country and/or in rural or remote locations, this is part of their “routine.”*

The geographical constraints are major in most Indian Country districts. In some districts, the closest sex offense-specific treatment provider is 100 to 300 miles from the defendant or offender's home. Many of the defendants and offenders are faced with little to no public transportation services and limited access to private vehicles; when these options are available, many simply do not have the financial means to travel 100 to 300 miles to receive services. Fortunately, federal probation and pretrial services have been very astute in identifying creative solutions to the unique challenges faced by officers in remote and rural areas. These creative solutions range from hiring Native American probation officers who live on or near a reservation to contracting with treatment providers who provide mobile services. In addition, in January of 2000, OPPS designated a position to support these districts with technical assistance, supplemental funding (if available), identification of available resources, and ongoing communication via a national electronic forum that assists officers in managing mental health and sex offenders in the community.

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## **The Keys to Effective Sex Offender Management**

### *KNOWLEDGE: "One Size Does Not Fit All"*

Pedophiles, rapists, child molesters, child traffickers, and Internet child pornographers are all classified as sex offenders. The reality is that sex offenders are not a homogeneous group. On the contrary, they are a very heterogeneous group who come from all walks of life, professions, and lifestyles. They range from the "dirty old man hiding in alley ways," to the highly educated professor, law enforcement officer, and teacher. Physically, sex offenders are indistinguishable from you or me—which is essentially why it is critical for probation and pretrial services officers to be aware of who these sex offenders are and, just as important, the potential risk they pose to the community.

Officers are generally cautioned not to make overall assumptions and generalizations about sex offenders. What may work for one sex offender may not necessarily work for another. Sex offenders vary in their levels of risk as well as in their sex-specific interests (e.g., some prefer male child victims while others prefer adult female victims). Nevertheless, the key issue is that sex offenders vary in one way or another, and " *one size does not fit all* ." Therefore, FPPSOs should be guided by Monograph 109, the national policy for the *Federal Supervision of Offenders*. [6](#)

### *SKILLS: "Specialized Training is Key to Successful Sex Offender Management"*

We often hear the phrase, " *Knowledge is Power* ." In the case of supervising federal sex offenders, knowledge *is* power, and many vulnerable children—both known and unknown to the system—depend on an officer's knowledge to protect them from sexually deviant individuals under community supervision. The primary goals in the supervision of sex offenders include, but are not limited to: 1) public safety, 2) preventing the victimization or re-victimization of children by sex offenders, and 3) serving as "the eyes and ears" of the court and ensuring that the general and special conditions ordered by the court are strictly adhered to during a defendant/offender's term of supervision.

Community supervision of sex offenders can be more effective when FPPSOs are adequately trained in the areas of identification, evaluation, and treatment/management of sex offenders. To achieve this objective, the Federal Judicial Center (FJC), the education and research agency for the U.S. Courts, has produced several national satellite training programs in the areas of sex offender management. In addition, OPPS has provided officers (via national, local, and/or regional training programs) with national trends, resource information and general training in the area of sex offender management.

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## Traditional Mental Health Treatment versus Sex Offense-Specific Treatment

A key point that has been driven home by OPPS in the past six years is that sex offenders cannot be effectively managed in the community using “traditional” mental health treatment practices. [Table 1](#) illustrates the differences between traditional mental health treatment and sex offense specific treatment. Sex offense specific treatment is defined as “interventions used to help sex offenders accept responsibility; increase level of recognition; and focus on the details of their sexual behavior, arousal, fantasies, planning and rationalizations of their sexually deviant thoughts and behavior.” [7](#) Treatment may include objective physiological and psychological evaluations for ongoing assessment of the offender’s progress and risk of re-offending. Officers must know the major differences between the two types of treatment, so they can effectively work with this population.

Federal Probation and Pretrial Services officers have been advised through formal and informal training to seek and work with treatment providers who not only have advanced degrees, but also adhere to the standards and practices of the Association for the Treatment of Sexual Abusers (ATSA)—the national organization that sets the standards for the evaluation and treatment of sexual abusers and/or the standards established by a state regulatory board for the evaluation and treatment of sex offenders. Federal officers also receive guidance in identifying qualified sex offender treatment providers through the referral sources available through the Safer Foundation Society and ATSA.

### *ABILITIES: “The Officer’s Tool Box”*

To address challenging issues officers confront that include sex offender management, OPPS has designated a full-time position in the area of mental health. For issues involving sex offender management, OPPS has created “tools” that can assist officers in their everyday work. These tools include:

- **Updated information on sex offender resources, statistics, and information** via the judiciary’s Federal Judicial Television Network (FJTN), *News and Views*, *Federal Probation* and national, local, and regional sex offender symposiums.
- **A national electronic forum for officers working with mental health and sex offender cases**.
- **Technical assistance, community resource development, legal opinions, conferences, etc.** that can increase awareness and understanding of sex offenders.
- **Increases in the mental health budget.** The mental health budget in the last six years has nearly tripled, making it easier for officers to contract for services when needed;
- **Increased number of available treatment services officers can utilize and contract for to effectively manage sex offenders.**
- **Enhanced quality of the statement of work for contracted sex offender treatment services.**
- **Sex offender management resources for officers.**
- **Assistance with Identification of Qualified Treatment Providers.** Officers can obtain from OPPS a listing of all available sex offender treatment providers in their district.
- **Provisional Information Regarding Sex Offenders Being Released From the Federal Bureau of Prisons (BOP).** Every two months, OPPS receives a roster of all the sex offenders who are being released from the BOP within the next 150 days. The roster is then made available to probation officers via our OPPS web home page.

## Sex Offenders on Post-Conviction Supervision [8](#)

For the purposes of this article, statistics on sex offenders under post-conviction supervision in FPPSS were analyzed to identify the treatment methods used to most effectively manage this population. During the 12-month period analyzed (7/1/04–6/30/05), a total of 2,199 sex offenders in FPPSS received contracted services for sex offender treatment. This total, however, did not include pretrial defendants and may not represent all sex offenders in the federal probation system, as some sex offenders may have received non-contracted treatment services in their respective districts. Unfortunately, due to limitations of the current PACTS database system, we were unable to accurately identify those offenders who received non-contracted sex offender treatment services. Individual sex offenders under post-conviction supervision were identified through sex offender project codes, [9](#) problem codes and/or treatment condition types, as well as through statutory requirements available in the National PACTS Reporting system (NPR).

**Myth** : “Treatment for sex offenders is ineffective.”

**Fact** : Treatment programs can contribute to community safety because those who attend and cooperate with program conditions are less likely to re-offend than those who reject intervention.

As shown in [Table 2](#), Group Counseling and Individual Counseling were by far the most utilized methods for treating sex offenders in terms of number of offenders treated, total dollars spent, and average dollars spent per offender treated. This finding is not surprising, as many mental health professionals consider counseling to be the most effective means of addressing various forms of deviant behavior. Information regarding a sex offender’s sexual criminal history is deemed tenuous at best by mental health professionals, particularly because most of it is obtained through self-reports from the offenders in interviews or standardized questionnaires. [10](#) Fear of legal reprisal often prevents offenders from revealing information beyond their current legal situation. [11](#) Thus, it is virtually impossible to be certain of the full extent of the offender’s sexual history.

Polygraph testing is considered the most effective means of validating the accuracy of an offender’s self-reports. In [Table 2](#), two sex offender project codes represent polygraph exams: 5022 (Polygraph Examination) and 5023 (Maintenance/Monitoring). For the purpose of identifying the amount spent per project code, these two codes were placed in the table separately. However, for treatment purposes, these two codes are used almost interchangeably. The primary difference between codes 5022 and 5023 is that the Polygraph Examination (5022) is used to validate historical information as part of an initial assessment, whereas Maintenance/Monitoring (5023) is used to validate reports of recent sexual behavior by offenders and is often conducted every six months.

Combined, polygraph testing was used on nearly 44 percent of the 2,199 sex offenders during the 12-month period analyzed. One of the least used treatment services was the Sex Offender Treatment/Education Group, as only 80 sex offenders received this form of treatment. One possible explanation for this may be that offenders received educational materials and information during their group counseling sessions, hence reducing the need to duplicate the effort. Penile plethysmographs were used to treat the fewest sex offenders (55). This may be due to the intrusiveness of the procedure as well as the fact that the primary purpose of the plethysmograph is to identify gender and age preferences and sexual arousal to deviant and non-deviant stimuli. Another factor that may reduce the use of penile plethysmograph is that districts may lack the trained professionals necessary to perform the procedure. It should also be noted that some project codes such as 5021 and 5025 may be underrepresented in this analysis due to some districts, for example, California Central, using them as part of their Sex Offender Specific Evaluation Report (5012).

**Myth** : “The cost of treating and managing sex offenders in the community is too

high—they belong behind bars.”

**Fact :** One year of intensive supervision and treatment in the community can range in cost between \$5,000 and \$15,000 per offender, depending on treatment modality. The average cost for incarcerating an offender is significantly higher, approximately \$22,000 per year, excluding treatment costs.

With the exception of Group and Individual Counseling, all the sex offender project codes had an average cost per offender treated below the national average of \$933. The national average is somewhat inflated due to the total amount of money spent on group and individual counseling, which constitutes roughly 80 percent of the total dollars spent on sex offender treatment services. However, when we subtract both group and individual counseling project codes from the expenditures, the national average is greatly reduced to \$488 per offender treated.

It is not uncommon for sex offenders to receive more than one form of sex offender treatment services during their period of supervision. In fact, PACTS data used for this article indicate that, on average, sex offenders received at least four different forms of treatment services [12](#) (see [Figure 1](#)). Therefore, the total number of offenders treated (4,803) will appear to exceed the total number of offenders in the system (2,199). In actuality, the total number of sex offenders treated is merely the number of offenders in the system receiving multiple combinations of treatment services.

Out of the 94 federal Probation and Pretrial Services districts, 83 districts used at least one of the available sex offender treatment project codes. Of the 83 districts that contracted out for sex offender treatment services, 20 districts [13](#) used at least six different project codes (see [Figure 1](#)). Most districts used between 3 and 5 sex offender project codes, with 4 being the most frequently used number. Only two districts (Rhode Island and the Virgin Islands) used only one sex offender project code during the 12-month period analyzed. Eleven districts [14](#) did not report using any of the sex offender project codes; meaning they did not acknowledge paying for any sex offender treatment services.

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## Costs

Overall, districts spent a little less than \$4.5 million on contracted sex offender treatment services during the 12-month period analyzed (see [Table 2](#)). This equates to an average cost of \$53,965 per district that contracted out for sex offender treatment services. Arizona spent the most on sex offender treatment services (\$388,584), followed closely by South Dakota (\$380,958) and California Central (\$262,177). Although Arizona spent the most money on sex offender treatment services (\$388,584) and provided services for the greatest number of offenders (198), the average amount they spent on each offender (\$1,963) was less than eight of the top 10 districts listed in [Table 3](#). California Northern, which spent the largest amount per offender treated (\$5,278), paid out close to a \$1,000 more than the next closest district, which was California Central. With the exceptions of Arizona and Missouri Eastern, the remaining top ten districts spent, on average, more than \$2,000 to treat each of their sex offenders.

It appears that districts are making a concerted effort to provide some form of treatment services to the sex offenders under their jurisdiction. Although districts are utilizing several different treatment methods, there are still a few project codes that are not being used.

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## Endnotes



*Federal Probation's* publication of the articles and review is not to be taken as an endorsement of the material by the editors, the Administrative Office of the U.S. Courts, or the Federal Probation and Pretrial Services System.

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# Table 1: Differences Between Traditional Mental Health Treatment and Sex Offense-Specific Treatment

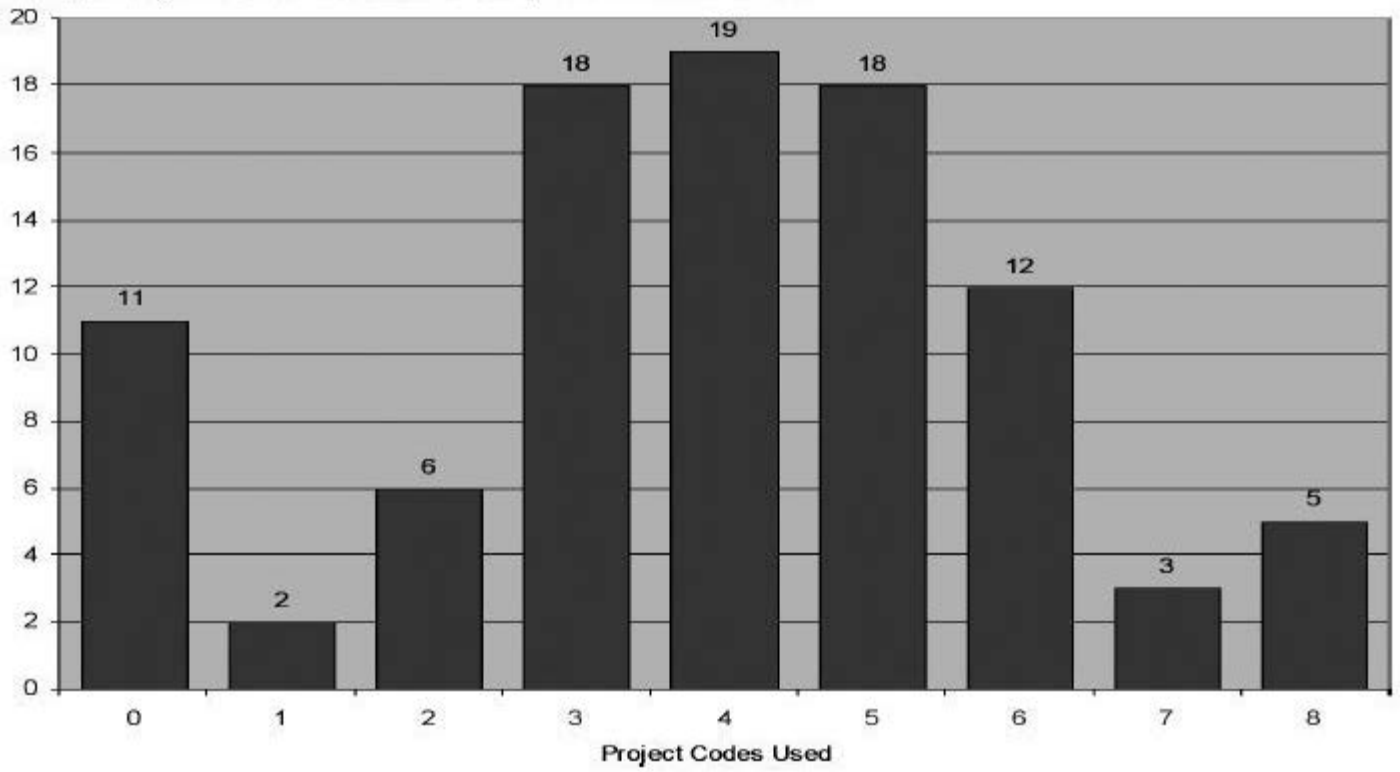
Traditional Mental Health	Sex Offense-Specific Mental Health
Trust is a “given”;	Trust is never fully gained. All information is subject to verification;
The “individual” is the primary client in treatment (centered on “individual”)	The “community” and “public safety” is primary (victim-centered)
Treatment participation is voluntary;	Treatment participation is mandated by the court;
Accountability is not a major concern;	Accountability is critical;
Confidentiality is maintained and assured;	Confidentiality is limited;
Family involvement is limited;	Family involvement is required and critical to the treatment process;
No need for external controls or verification;	External controls critical to effective treatment and use of polygraphs, plethysmographs and other monitoring tools used to verify information self-reported;
Individual treatment is the preferred method of treatment	Group is the preferred method of treatment;
Client defines treatment goals and objectives;	Treatment team defines treatment goals and objectives;
Liability of treatment provider is low;	Liability of treatment provider is high;
Limited collateral contacts;	Frequent collateral contacts;
Behavioral lifestyle changes “recommended”;	Behavioral lifestyle changes must adhere to strict standards and/or court mandates;

**Table 2: Sex Offender Project Codes and Expenditures**

<b>Project Code</b>	<b>Description</b>	<b>Number Treated</b>	<b>Sum</b>	<b>Average</b>
6022	Group Counseling/Sex Offender	1,546	\$2,064,858	\$1,336
6012	Individual Counseling/Sex Offender	1,405	\$1,509,352	\$1,074
5012	Sex Offender Specific Evaluation Report	521	\$324,492	\$623
5023	Maintenance/Monitoring	481	\$232,663	\$484
5022	Polygraph Examination	479	\$227,772	\$476
5025	Abel Assessment & Report	129	\$38,810	\$301
6032	Family Counseling/Sex Offender	107	\$29,302	\$274
6090	Sex Offender Treatment/Education Grp	80	\$36,284	\$454
5021	Penile Plethysmograph	55	\$15,586	\$283
	<b>Total</b>		<b>\$4,479,119</b>	

**FIGURE 1.**

*Frequency of Sex Offender Project Codes Used*



**Table 3: Top 10 Districts by Total Money Spent on Sex Offender Treatment**

<b>Rank</b>	<b>District</b>	<b>Project Codes Used</b>	<b>Sex Offenders</b>	<b>Total Spent</b>	<b>Avg. per Offender</b>
1	Arizona	8	198	\$388,584	\$1,963
2	South Dakota	6	120	\$380,958	\$3,175
3	California Central	5	61	\$262,177	\$4,298
4	New York Eastern	5	76	\$259,362	\$3,413
5	California Northern	8	37	\$195,276	\$5,278
6	Florida Middle	7	96	\$194,080	\$2,022
7	Maryland	6	58	\$160,370	\$2,765
8	Montana	6	50	\$140,317	\$2,806
9	Missouri Eastern	4	70	\$132,881	\$1,898
10	Illinois Northern	6	38	\$105,560	\$2,778

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## Sex Offenders on Federal Community Supervision: Factors that Influence Revocation

[Endnotes](#)

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**SEX OFFENDERS ARE** often considered an enigma in our society as very few people can truly understand what motivates them to commit the crimes that they commit. For many people, the mere mention of the word “sex offender” invokes images of some type of psychotic child molester or out of control rapist. Currently, there is no known literature to support the belief that most sex offenders are psychotic, at least not in the traditional sense of the word. When it comes to defining sex offenders, it is not uncommon for treatment providers, researchers, and law enforcement professionals to use a variety of definitions to identify this special population of offenders. However, for the purposes of this article, sex offenders are defined as “individuals who have a history of criminal sexually deviant behavior” <sup>1</sup> that may or may not include their instant offense.

Many sex offenders have stable employment, a social support system of family and friends, and no previous criminal history. Some are even prominent members of their community. <sup>2</sup> In the past several years, the prevalence of sex offenders in the criminal justice system has increased. State legislators and Congress have instituted legislation that mandates sex offender registration and public notification, longer prison sentences for certain sexual crimes, and stricter enforcement of existing laws. <sup>3</sup> Despite changes in legislative and sentencing practices, most offenders convicted of a sex crime will eventually be supervised in the community—either immediately following adjudication or shortly after completing a jail or prison sentence. <sup>4</sup>

In the Federal Probation and Pretrial Services System (FPPSS), the probation office in each of the 94 judicial districts is responsible for tracking offenders in their jurisdiction. This tracking is conducted through the Probation and Pretrial Services Automated Case Tracking System (PACTS). At the end of each month, districts submit their case data into a national repository housed in the Administrative Office of the U.S. Courts (AO), Office of Probation and Pretrial Services. Since PACTS was not implemented until 1998, the data analyzed for this article begins in 1999 and concludes in 2005. Sex offenders were identified through sex offender project codes, <sup>5</sup> problem codes and/or treatment condition types, as well as through statutory registration requirements available in PACTS. As a result, PACTS recognized 7,617 sex offenders <sup>6</sup> under post-conviction supervision from 1999 to 2005.

The purpose of this article is to explore the general demographics of sex offenders and factors

that may contribute to their success or failure on federal post-conviction supervision. Primary factors analyzed in this study include employment status at the beginning and/or end of supervision, treatment conditions mandated by the courts, and risk factors such as whether the offender had a prior criminal offense and risk prediction scores. In addition, comparisons were made between and within sex offender case groups. Between-group comparisons included all sex offender cases in the federal system (all cases), cases that were active on the date when the data was retrieved (active cases), and cases that were closed either successfully or as a result of a revocation (closed cases). Within-group comparisons were only made with closed cases.

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## Demographics

The demographic and social backgrounds of those who commit sexual offenses are so diverse that it is difficult to develop a profile that accurately depicts the “typical” sex offender. <sup>7</sup> Sex offenders come in an assortment of age groups, races, religious backgrounds, and criminal histories. Likewise, not every sex offender poses the same level of risk to the community or requires the same type of supervision or treatment regiment. For instance, a male offender convicted of exposing himself to an adult female poses less of a threat to society than a convicted child molester or rapist. <sup>8</sup>

Since males have historically dominated the sex offender population, <sup>9</sup> the following demographic information will focus primarily on male offenders, even though the attached appendices capture both male and female offenders. As [Appendix A](#) shows, the majority of sex offenders in the FPPSS are male (95.5 percent), non-Hispanic (90.3 percent), U.S. citizens (96.4 percent), and white (64.3 percent). From 1999 to 2005, PACTS data indicated that white males accounted for a little more than 64 percent of the FPPSS sex offender population and were on average 41 years old. Black males constituted slightly more than 16 percent of all sex offenders and were 37.5 years of age. American Indian and Alaska Native <sup>10</sup> men made up 17 percent of the sex offender population and had an average age of 35.5 years. When comparing these figures to those presented in [Appendix A](#), it is plain to see that males clearly are responsible for an overwhelming percentage of federal sex offenses. During the seven-year period analyzed, the average overall age of the 7,617 sex offenders was 39.2 years.

### *Education*

Studies have shown that education is correlated with reduced criminal behavior and improves the chances of obtaining employment after release from prison. <sup>11</sup> Generally, individuals who enter the criminal justice system do not possess much education beyond the high school level. According to the Bureau of Justice Statistics (BJS), <sup>12</sup> fewer than 48 percent of the 75,859 offenders convicted of a federal crime during the fiscal year 2003 <sup>13</sup> had obtained a high school diploma or equivalent and slightly less than 30 percent actually finished high school.

In general, sex offenders tend to be a little more educated than other offenders. Roughly 23 percent of the sex offenders identified in PACTS reportedly had less than a high school education and more than 34 percent had either a high school diploma, or GED, or graduated from vocational school (see [Appendix B](#)). In addition, nearly 10 percent of the sex offenders had obtained an undergraduate degree, compared to fewer than 6 percent of the general offender population reported on by BJS.

Although sex offenders are in general more educated than other offenders, their education alone does not prevent them from engaging in criminal sexually deviant behavior or, in some cases, having their supervision revoked. However, according to the cross-tabulation of sex offenders’ revocation status (revoked or not revoked) based on their education level presented in [Appendix C](#), the more educated a sex offender is, the less likely he or she is to have his or her supervision revoked. Interestingly, even though a GED (General Equivalency Diploma) is considered to be equivalent to a high school diploma, the two are not equal in terms of revocation rates. Sex offenders who received a GED had a revocation rate nearly 16 percentage points higher than

those who actually graduated from high school (53.4 percent to 37.7 percent respectively). Nearly 63 percent of the sex offenders who did not complete high school had their supervision end with a revocation, while less than 38 percent of those who did finish high school received the same result. Moreover, the revocation rate decreased by more than half when sex offenders obtained a college degree (reduced from 38 percent to 17 percent). However, when sex offenders attended college, but did not finish, they had their supervision revoked 32.5 percent of the time. In comparison, when they completed college, sex offenders had their rate of revocation drop to 17 percent.

### *Employment*

One of the most important factors associated with a successful transition from prison back to the community is the ability of offenders to obtain stable employment. A lack of stable employment has been identified as one of the primary factors associated with a return to criminal behavior. <sup>14</sup> Having a legitimate job paying a living wage lessens the chances of re-offending following a release from prison. <sup>15</sup> Several studies have reported that a criminal record significantly impairs a person's ability to find stable and legal employment, as well as to develop earnings potential. <sup>16</sup> Crime and employment, therefore, appear to have formed an inverse relationship: as employment increases criminal involvement decreases. In other words, individuals who are stably employed and earning a living wage are less likely to engage in criminal activity.

Attaining employment can be a formidable task for sex offenders, as many employers are reluctant to hire them due to the stigma associated with a sex offense, and most sex offenders are restricted by special conditions attached to their supervision (for example, avoiding places frequented by children). <sup>17</sup> A survey of employers in five major cities across the United States revealed that two-thirds of them would not knowingly hire any ex-offender and at least one-third checked the criminal histories of their most recently hired employees. <sup>18</sup> Not only do returning offenders encounter reluctant employers, but they are also excluded from working in certain fields, such as law, real estate, medicine, nursing, physical therapy, and education. <sup>19</sup> The prohibited fields of employment are even greater for sex offenders, as many have special conditions—such as restricted computer and Internet usage or no contact with minors—that can severely reduce employment options.

Time out of the labor market is another factor that hinders an ex-offender's ability to obtain stable employment and reduces potential earnings. During the time they spend in prison, many individuals may lose work skills, be unable to gain valuable work experience, and sever interpersonal connections and social contacts that could lead to legal employment opportunities upon release. <sup>20</sup> This is especially true for those who, for whatever reason, do not participate in vocational/employment or educational programs during their period of incarceration. Several studies looking at the impact of incarceration on future employment have concluded that as time spent in prison increases (net other background factors), the likelihood of participating in the legal economy afterward decreases. <sup>21</sup> If the ex-prisoner experiences difficulty in securing even menial forms of legitimate employment, further crime may likely become an increasingly attractive alternative. Although time served in prison is an important factor when assessing the impact of incarceration on employment opportunities for all offenders, this variable was not available in the data analyzed for this study.

One of the limitations of the PACTS data analyzed is that it only captured employment status at two stages of an offender's supervision—start and end. This failed to account for changes in employment status during supervision, length of each employment, and the type of employment (full or part-time). Since most offenders receive, on average, between three and five years of supervision, it is highly probable that many offenders have had periods of employment that were not recorded in PACTS. Not all offenders who start their supervision employed will end it that way, nor will those who start their supervision without a job necessarily be unemployed at the end of their supervision term. In an effort to account for those offenders who were either employed or unemployed at both stages of their supervision (start and end), a new variable was created for the purposes of this study. Although employment changes during supervision still



could not be addressed, this new variable provided the ability to analyze changes at the start and end of a sex offender's supervision.

Many of the sex offenders in this study entered the federal probation system following a period of incarceration. Hence, they were more likely to start their supervision without stable employment. Although most, if not all, offenders under some form of community supervision are required to obtain and maintain employment, it is unrealistic to expect that all newly released offenders will start their supervision with employment. So, theoretically, more offenders should be unemployed at the beginning of their supervision than at the end of it. As established earlier in this article, education can substantially improve an individual's chances of obtaining employment. [Appendix D](#) displays a cross-tabulation of sex offenders' employment status based on their education level at the start of their supervision. As expected, sex offenders who had low levels of education (less than high school) had higher percentages of unemployment, both at the beginning and at the end of their supervision, than sex offenders with higher levels of education (some college or more). At least 59 percent of the less educated sex offenders began and ended their supervision without any reported employment, compared to slightly more than 35 percent of the more highly educated sex offenders. Sex offenders who completed college tended to fare the best in terms of securing employment, as nearly 36 percent were employed by the end of their supervision and more than 29 percent had jobs both at the start and end of their supervision.

[Table 1](#) outlines the employment status of post-conviction sex offenders in FPPSS who had their cases closed, either successfully or due to a revocation, during 1999 to 2005. [22](#) (It should be noted that cases considered to be active at the end of the study period were not included in the employment analysis.) Consistent with offender employment statistics, the majority of the federal sex offenders began their supervision with no employment. In fact, 73 percent of the sex offenders were unemployed at the start of their supervision term. Nearly 48 percent of the sex offenders reported no form of employment at the start and end of their supervision. Of that 48 percent, more than 63 percent had their supervision end as the result of a revocation. However, sex offenders employed at the end of their supervision had success rates between 83 and 88 percent.

Among sex offenders who began their supervision without a job, more than 25 percent ended their supervision with some form of employment. An interesting note is that nearly three times as many sex offenders started and ended their period of supervision unemployed as the number of sex offenders who were employed at both of those stages of their supervision (1,688 to 624 respectively).

Nearly 88 percent of the 624 sex offenders who were employed both at the start and at the end of their supervision successfully complied with the terms and conditions of their supervision (see [Table 1](#)). In comparison, less than 37 percent of those unemployed at both stages of their supervision completed their supervision term. [Table 1](#) reveals an interesting trend regarding employment status and revocations: Sex offenders who were employed only at the start of their supervision had revocation rates very similar to those who were unemployed at both the beginning and the end (63.4 percent and 61.9 percent revoked respectively). These findings suggest that although employment in general is important, having employment at the end of one's supervision term is significantly more associated with sex offender's success than merely having a job at the beginning of that term. This should encourage probation officers to work diligently to assist sex offenders with meeting their employment needs.

The most compelling finding regarding employment status is that nearly 57 percent of the post-conviction sex offenders whose cases were closed (successfully or revoked) during the study period ended their supervision without employment. What makes this finding even more alarming is the fact that 66 percent of these individuals had at least a GED and more than 32 percent had some college education (see [Appendix B](#)). Even 54 percent of those who started and ended their supervision unemployed had, at minimum, a GED, which suggests that they were capable of obtaining at least some form of employment. Another interesting dynamic is that less than 9 percent of the sex offenders in this study were released from the Federal Bureau of Prisons from 1999 to 2005 after sentencing. This means that the bulk of the sex offenders who

came into FPPSS between 1999 and 2005 entered either after completing a jail term (less than one year) or straight from the community. Either way, they had greater chances of starting their supervision term with some form of employment.

### *Treatment Conditions*

Many traditional methods of supervision, such as home visits, collateral contacts, and drug and alcohol testing, have been utilized by the courts to monitor and supervise sex offenders. Unfortunately, these methods often prove inadequate to supervise the sex offender population, nor are they designed to address sex offense histories or individual patterns of offending. Hence, special conditions of supervision are becoming more prevalent for sex offenders. These special conditions of supervision can be used to serve at least two general purposes: 1) to provide additional protection to the community, and 2) to assist in helping the offender address deviant behaviors. Sex offense-specific conditions, in particular, have emerged as one of the key tools in managing this particular population of offenders. [23](#)

[Table 2](#) displays a cross-tabulation of the percentage of sex offenders revoked as a result of violating treatment conditions mandated to them by the courts. At first glance, it appears that sex offenders who were not mandated to receive any form of treatment fared better than those who were required to get treatment. In fact, the “no treatment conditions” mandated group did extremely well in terms of completing their supervision, especially when compared to those who received all three forms of treatment: sex offender (SO), mental health (MH), and substance abuse (SA) treatment (79 percent to 35 percent not revoked respectively). On the surface this seems like the reverse of what should make sense, but when looked at from a judicial standpoint it makes perfect sense. Presumably, individuals who are considered the least likely to re-offend and who exhibit some ability to control themselves are less likely to have treatment conditions attached to their supervision. But individuals who are deemed most likely to re-engage in criminally deviant behavior and who demonstrate an inability to control themselves tend to have more treatment conditions attached to their supervision. Hence, it would be reasonable to expect sex offenders who have been given multiple treatment conditions to have the highest rates of revocation. As a result of having more treatment conditions attached to their supervision, these individuals also have more opportunities to be in noncompliance, particularly for “technical” reasons.

The group of sex offenders that received “no treatment condition” mandates differed significantly from the group of offenders who were ordered to receive some form of treatment. For example, it had the largest percentage of females (11.7 percent). One reason for this may be that women, who are generally considered to be less violent than their male counterparts, have traditionally received less severe sentences than men in the criminal justice system. [24](#) Another characteristic of this “no treatment conditions” mandated group, as shown in [Appendix E](#), is that although it had the fifth highest average RPI score (2.6), these sex offenders spent the third longest amount of time on supervision (26.2 months)—almost three months longer than the fourth longest group (23.5 months) and 0.4 months shorter than the second group (26.6 months).

It is important to remember that even though the group under study was identified as sex offenders, they were placed in this category simply because they had a history of criminal sexually deviant behavior and not necessarily because their instant offense was a sex offense. With that in mind, 49 percent of those in the no treatment conditions mandated group had prior criminal convictions, and almost 22 percent of this group was on community supervision directly as the result of a sex offense. This was second only to the group of offenders who received only substance abuse treatment (13.2 percent).

When treatment conditions were mandated by the courts, the sex offenders analyzed were most often ordered to receive some form of mental health treatment—either mental health treatment alone, or a combination of mental health and sex offender treatment or mental health and substance abuse treatment. This also held true for sex offenders whose current offense was a sex offense. Sex offenders court-ordered to receive sex offense-specific and substance abuse treatment comprised, on average, the youngest sex offenders (34.9 years) of the eight groups

instructed by the courts to receive some form of treatment (see [Appendix E](#)). This group also took the least amount of time to have their supervision revoked: 18.3 months. In comparison, sex offenders mandated to receive only mental health treatment had, on average, the oldest sex offenders (41.1 years) and they had the second highest average months to closure (26.6).

Earlier in this article, employment was shown to have a significant impact on the success or failure rate of federal sex offenders. Some have argued that treatment is the most important factor that influences a sex offender's success rate. While that may be a valid contention, the data in this study do not necessarily support that argument. [Appendix F](#) is a cross-tabulation of revocation by treatment conditions mandated, controlling for employment status. In defense of mandated treatment conditions, the data does not show the frequency of treatment (i.e., number of hours attended per week), the offender's level of participation, nor the quality of treatment services rendered. Regardless of the number or types of treatment conditions mandated, a sex offender's employment status significantly influenced his or her revocation rate (see [Table 2](#) and [Appendix F](#) for a comparison). As [Table 2](#) illustrates, 30 percent of the sex offenders who only received sex offense-specific treatment had their supervision revoked. In comparison, less than 6 percent of this same group of offenders who had employment both at the start and end of their supervision were revoked (see [Appendix F](#)). Furthermore, sex offenders mandated to receive sex offense-specific treatment only but lacking any known form of employment both at the start and end of their supervision, had their revocation rate increase 19 percentage points from 30.3 percent to 49.3 percent.

The most telling finding regarding the impact of employment on revocation rates is revealed in the comparison among sex offenders court-ordered to receive all three forms of treatment (sex offense-specific, mental health, and substance abuse). This group of sex offenders conceivably pose the most danger to society and, as evidenced in [Table 2](#), are the most likely to get their supervision revoked. However, when sex offenders in this group are employed both at the start and at the end of their supervision, their threat to society is seemingly greatly diminished. Without employment, this group has a revocation rate of 65 percent, but when they are employed at the start and end of their supervision, that rate decreases to a little more than 37 percent; this percentage is roughly the same as that of sex offenders identified by their RPI score as medium-risk (see [Figure 1](#)).

For treatment to work, the offender must actively participate in identifying his or her risky behaviors and in developing coping strategies to address them. Although treatment providers do provide assistance, offenders are solely responsible for controlling their sexually deviant impulses. If they choose to remain in denial or refuse to engage in treatment to help reduce their deviant interests, they become a greater risk for re-engaging in sexually deviant behaviors. [25](#) As most treatment providers and probation officers can attest, not all sex offenders are amenable to treatment; however, with the appropriate form of treatment (i.e., sex offense-specific) and willingness, many can learn to manage and control their sexually deviant behaviors. For those who are amenable to community-based treatment, sex offense-specific treatment conditions can help reduce future victimization and minimize risk to the community. [26](#)

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## **Risk Assessment Indicators**

### *Risk Prediction Index*

The Risk Prediction Index (RPI) is an eight-question prediction instrument used by federal probation officers to estimate or predict the likelihood of an offender recidivating during his or her period of supervision. RPI scores range from 0 to 9; with low scores representing a low risk of recidivating and high scores associated with a higher risk of recidivism. For the purposes of the RPI, recidivism is "any revocation of probation, parole, mandatory release, or supervised release; any arrest under federal, state, or local jurisdiction during the period of supervision; or any absconding from supervision." [27](#) The term recidivism typically implies a return to criminal activity; however, based on the definition used for the RPI, recidivism may also include non-

criminal behavior such as a technical violation of supervision. Therefore, the term revocation will be used instead of recidivism when describing behaviors (criminal or non-criminal) that led directly to a sex offender's supervision being revoked.

Static or unchanging characteristics of an offender are the factors primarily addressed on the RPI calculation worksheet. Some of those static characteristics include employment at the start of supervision, history of illegal drug use, number of prior arrests, and whether a weapon was used in the commission of the current offense. A couple of these static issues, specifically employment and prior conviction, will be addressed independently of the RPI. Some of the limitations of the RPI are most profound in employment, at least in terms of this particular study. <sup>28</sup> One of the drawbacks associated with the RPI is that it only measures employment at the beginning of an offender's supervision term. Because the RPI fails to account for any changes in employment, it treats employment as a static rather than a dynamic variable. In addition, the RPI fails to ascertain whether the offender's current employment is stable or sufficient enough to meet his or her basic needs or is able to satisfy their current debt obligations. <sup>29</sup> In terms of prior convictions, RPI does take into account up to 15 prior arrests. <sup>30</sup> For the purposes of this study, prior conviction was treated as a dichotomous variable and was analyzed independent of RPI in order to measure the potential association between it and post-conviction supervision revocations.

In [Figure 1](#), RPI scores were collapsed into three risk categories—low, medium, and high—based on the corresponding RPI score. The low-risk category includes RPI scores of 0 to 2, while scores between 3 and 5 make up the medium-risk category, and scores above 6 represent the high-risk category. Traditionally, sex offenders have relatively low RPI scores in relation to their perceived threat to society. Part of their low RPI scores can be attributed to their demographic make up. Sex offenders tend to be older, more educated, employed, and tend to have fewer prior convictions than non-sex offenders.

As displayed in [Figure 1](#), there was little difference in risk levels between all sex offender cases and those active at the time of this study. However, there were significant differences between cases that were closed due to adequate compliance and those that ended in a revocation. Nearly 6 out of 10 sex offenders who successfully completed their period of supervision were considered low risk in terms of recidivating while approximately 1 in 5 who were revoked were classified as low risk. Moreover, 40 percent of the offenders who had their supervision revoked were categorized as high-risk offenders. In comparison, only 13 percent of the cases closed successfully were considered to be high risk. Additionally, 38 percent of revoked cases were medium risk while 29 percent of successful cases were identified as medium risk.

One issue of concern for FPPSS, as well as for society in general, is whether the sex offenders we are dealing with today are posing a "higher risk" of re-offending than their historical counterparts. [Figure 2](#) outlines the average RPI score for each of the four categories during the seven-year period under review. With the exception of active cases, the average RPI score for sex offenders increased from 1999 to 2005. Even cases that were terminated successfully experienced periods of increase in average RPI scores over the years, particularly from 1999 to 2002. Coincidentally, the greatest average RPI score for both all and successful cases occurred in 2002. Active cases had their average RPI score peak in 2000, which preceded the year of its lowest average score of 3.0. As to be expected, revoked cases experienced the greatest increase in average RPI scores over the seven-year period and reached an average high of 5.0 in 2005.

Despite the best efforts of probation officers, some offenders will not or cannot obtain gainful employment and some will eventually violate the conditions of their supervision and have community supervision revoked. Even though we tend to place these individuals into one homogeneous group, there are some important differences in the level of risk that should be addressed. Sex offenders who had employment at both the start and end of their supervision had Risk Prediction Index scores significantly lower than offenders who were unemployed at the beginning and end of their supervision (see [Table 3](#)). This also held true for sex offenders who were employed only at the start of their supervision or only at the time of revocation. Furthermore, the increased estimated risk of offenders (RPI) also coincided with a shorter

average time to revocation. With the exception of sex offenders employed at the end of their supervision, the average time it took for these offenders to violate the conditions of their supervision tended to decrease as their RPI scores increased. Sex offenders who had no employment at the start or end of their supervision were revoked, on average, 5.2 months sooner than sex offenders employed at the start of their supervision and at the time of their revocation.

Although the RPI has been shown to be a reliable predictor of recidivism for federal offenders generally, [31](#) employment appears to be, at least for sex offenders, an equally important predictor of revocation. [Table 3](#) reveals a striking aspect about RPI score and employment: Even though this group of identified sex offenders had RPI scores that were nearly identical for two revoked groups (employed start only and employed end only), those who were employed only at the start of their supervision had revocation rates 3.6 times higher than those who were employed only at the end of their supervision (61.9 percent to 17.4 percent respectively). Even more revealing was the fact that sex offenders who were employed at the end of their supervision and not revoked had a higher average RPI score (3.0) than those employed only at the start of their supervision (2.3). According to the logic of the RPI, individuals with higher RPI scores should recidivate, or in this case, be revoked, at a higher rate than those who have lower score. As [Table 3](#) clearly shows, although sex offenders who were employed only at the end of their supervision had an average RPI score 0.7 points higher than sex offenders employed only at the start of their supervision, they were more than twice as likely not to get their supervision revoked (82.6 percent to 38.1 percent respectively). Granted, RPI uses an aspect of employment (start of supervision only) as a means of calculating an offender's risk, but employment is not a static variable; therefore, the risk level of at least two groups of sex offenders—those employed either at the start or end of supervision—may have changed during their period of supervision. However, these results still beg the question: what is the more influential factor when predicting a sex offender's likelihood of revocation, RPI score or employment status?

Findings illustrated in [Table 4](#) support the argument that employment and, more specifically, time of employment, have a more significant impact on the success or failure rate of sex offenders than RPI score. [Table 4](#) clearly shows the influence time of employment has on the result of a case, especially when you contrast the revocation rates of high-risk sex offenders against those sex offenders considered to be low risk. Almost 33 percent of the sex offenders who were high risk and employed at both the start and end of their supervision failed to successfully complete their supervision. In comparison, 38 percent of the low-risk sex offenders who were unemployed at both stages of their supervision had their supervision revoked. Even when you compare sex offenders who had some form of employment either at the start or at the end of their supervision, the influence of employment is undeniable. Sex offenders who were high risk but employed at the end of their supervision had a revocation rate of 31 percent while sex offenders who were classified as low risk and employed only at the start of their supervision were revoked nearly 44 percent of the time. Employment certainly appears to offset the risks of recidivating predicted by RPI.

### *Prior Conviction*

The assumption that an offender who has a prior conviction is more likely to commit another offense is a logical one. It is no accident that the federal sentencing guidelines capitalize on this very assumption by providing that an offender's prior criminal history can significantly influence the length of federal sentence imposed. In [Figure 3](#), it is clear to see that sex offenders who had their supervision revoked were more likely than other sex offenders to have been convicted of committing at least one prior criminal offense. In fact, three out of four revoked sex offenders had a prior conviction. In comparison, less than half of the offenders who successfully completed the terms and conditions of their supervision had a prior conviction.

[Appendix G](#) displays a cross-tabulation of a case's closed status (successful or revoked) by the level of prior conviction. Not surprisingly, the highest percentage of sex offenders had both prior misdemeanor and felony convictions, regardless of their closed status. Of course, those with misdemeanor and felony prior convictions were also most likely to have their supervision revoked: 61 percent compared to 39 percent who successfully completed their supervision. An

interesting finding among sex offenders with prior convictions was that more offenders with only a prior misdemeanor conviction were revoked than those who had a prior felony conviction (48 percent to 39 percent respectively). Although surprising on the surface, these percentages are nearly identical to the overall population of sex offenders in this study who had a prior misdemeanor conviction (48.4 percent) and those who had a prior felony conviction (39.3 percent).

[Table 5](#) is a cross-tab of employment status by revocation, controlling for prior conviction. This table builds on [Table 1](#) by taking into account sex offenders who did or did not have a prior conviction. As shown in [Table 5](#), when sex offenders had a prior conviction, their revocation rates increased for each employment category, with the biggest increase occurring in the employed at the start of supervision only group (11.3 percentage points).

Prior conviction, although influential, appears to have more of a moderating or conditioning effect on revocation rates, rather than a direct effect. In other words, prior conviction influences the strength of the association between employment status and revocation rather than directly affecting revocations. This last point is made evident by the fact that (when not controlling for prior conviction) the revocation rate for sex offenders in this study was 42.6 percent (see [Table 1](#)); taking into account prior conviction, the revocation rate increased only to 53.6 percent (see [Appendix H](#)). (For a look at how prior conviction influences the revocation rate for treatment conditions mandated see [Appendix I](#).)

### *Revocations*

Recidivism studies vary in terms of how they define or determine recidivism rates. According to Harris and Hanson, [32](#) some studies define recidivism as a revocation for a sex offense and others include all offenders who are merely charged with a new sex offense, regardless of conviction. Unfortunately, the data used in this study did not differentiate between revocations due to a new arrest or due to a new conviction, nor did it specify how many “violations” an offender received before actually getting his or her supervision revoked. The literature cautions against grouping various types of offenders and offenses into an ostensibly homogenous category of “sex offenders,” as this tends to mask distinctions in the factors related to recidivism causing differential results in re-offense patterns. [33](#) For instance, offenders who molest children of the same sex have different characteristics associated with their patterns of re-offending than incest offenders with opposite-sex victims. [34](#)

Also, it is important to differentiate between a new sex offense and a new non-sex offense when determining recidivism rates.

PACTS data describe three types of violations that can cause an offender’s supervision to get revoked—technical, major, and minor. A technical violation typically occurs when an offender fails to complete one or more conditions of his or her supervision that were mandated by the courts, either at sentencing or during the course of supervision. Technical violations (e.g., failure to attend group counseling sessions or failure to report contact with a minor) are not in themselves criminal offenses and therefore do not tend to result in a new arrest. An offender may receive a major violation if he or she commits a new felony offense while under supervision, such as robbery or rape. Minor violations usually involve misdemeanor offenses like simple assault or petty theft.

[Figure 4](#) shows the type of revocations sex offenders have commonly received over the past seven years. Technical violations represent the largest percentage of revocation violations (69 percent) followed by major violations (25 percent) and minor violations (6 percent) respectively. In the PACTS database, technical violations are broken down into four categories: general violations, nonpayment of financial penalties, absconding, and use of drugs. General violations can range from testing positive for drug use to failure to report for scheduled office visits.

Of the 1,042 violations reported during the study period, 62 percent were due to general violations (see [Appendix J](#)). Another 21 percent were the result of sex offenders using illegal

drugs and 16 percent were for absconding. In regards to the top offense for each category, new sex offenses accounted for close to 33 percent of the major violations and nearly 39 percent of the minor violations were caused by “other” minor violation offenses. Even though society in general considers sex offenders to be high risk for re-offending, the majority have their supervision revoked due to non-criminal offenses (technical violations) rather than for committing new felony offenses, particularly new sex offenses. In fact, as [Figure 4](#) shows, only 1 out of 4 sex offenders under federal post-conviction supervision committed a crime considered to be a major violation of the conditions of their supervision and less than 4 percent of the violators were revoked due to a new sex offense.

### *Revocation for a Sex Offense*

Offenders who fail to complete their term of supervision are often considered to be different from those who are able to satisfy the conditions of their supervision. This assumption is no different for sex offenders who violate their supervision due to committing a new sex offense or for those who violate as the result of a new non-sex offense. If this assumption is correct, then a different set of factors should be associated with the revocation of sex offenders who commit new sex offenses than for those who do not. Furthermore, if sex offenders commit a wide variety of offenses, responses from both a public policy and treatment perspective should be no different than is appropriate for the general criminal population. [35](#) However, a more specialized response is warranted if sex offenders tend to primarily commit sex offenses. [36](#)

Throughout this article, the focus has been on sex offenders in general and factors associated with their revocation rates. In this section, the focus will shift to within-group comparisons of sex offenders who had their supervision revoked, either as the result of committing a new sex offense or for a new non-sex offense. During 1999–2005, there were 7,617 sex offenders on federal post-conviction supervision, of which 1,507 had their supervision privileges revoked. Of those who were revoked, only 129 sex offenders were revoked due to committing a new sex offense, which means that the remaining 1,379 were revoked as the result of a non-sex offense or for a technical violation. Stated another way, less than 9 percent of the sex offenders in this study who had their supervision revoked violated their supervision by committing a new sex offense. This also means that approximately 91 percent of the sex offenders who were revoked had non-sex offense violations.

PACTS data shows some demographic differences between sex offenders revoked due to a sex crime and those revoked for non-sex crimes. Since this section deals exclusively with two groups of sex offenders—those revoked for committing a new sex offense and those revoked for a non-sex offense—the two groups will be referred to as “sex offense group” and “non-sex offense group,” respectively. The sex offense group was predominately white (70.5 percent) and the entire group comprised males who were, on average, 38.2 years of age. Almost 73 percent of this group had at least a high school diploma or GED, of which 42 percent received some college education. The non-sex offense group was 44 percent white, roughly 96 percent male, and were generally 35.2 years old. In terms of education, the greatest disparity between the two groups occurred after high school, as far fewer non-sex offense violators attended college than the sex offense group (18.5 percent to 41.9 percent respectively).

Sex offenses are considered to be major violations; thus all 129 sex offenders who violated as a result of a new sex offense received a major violation. Approximately 25 percent of the non-sex offense violators were revoked due to a major violation. Nearly 63 percent of the 129 offenders in the sex offense group had committed at least one other known criminal offense prior to their current offense. Of those with a prior record, slightly more than 49 percent had committed both a misdemeanor and a felony offense. Roughly 40 percent of the sex offenders were misdemeanants and 11 percent were felons. In comparison, just about 78 percent of the non-sex offense group had a prior criminal record. Out of this group, 61 percent had a misdemeanor and a felony on their record and only 9 percent were felons. In terms of the criminal behavior that placed these individuals in the criminal justice system, 76 percent of the violators for a new sex crime began their supervision as the result of a sex crime, while only 49 percent of the violators for a non-sex offense did so. Although these offenders had a history of criminal sexual behavior and some had

prior criminal convictions, only one of the sex offenders was identified as a career offender. A career offender is any defendant who is at least 18 years of age with at least two prior felony convictions for either a crime of violence or for a controlled substance. <sup>37</sup> A glaring deficiency regarding this definition of a career offender is that it fails to capture sex offenders convicted multiple times for either possession or distribution of child pornography, both of which are non-violent offenses.

As displayed in [Table 6](#), the majority of sex offenders who had their supervision revoked due to committing a sex offense were unemployed both at the start and at the end of their supervision (59.7 percent). Less than 8 percent had jobs at the start and end of their supervision. Similar to sex offenders in general who were revoked (see [Table 1](#)), 79 percent of the sex offense group were unemployed at the time of their revocation. In comparison, 85 percent of the revoked for non-sex offense offenders were unemployed either at the beginning or at the end of their supervision, while only 5 percent began and ended their supervision with a job.

A surprising finding is that the sex offense revocation group had a lower average RPI score than the non-sex offense revocation group—3.2 to 4.8 respectively (see [Appendix K](#)). Another unexpected result was the average months to revocation. On average, offenders who violated their supervision with a new sex offense took 6.8 months longer to get revoked than those who violated due to a non-sex offense. Although the comparison is within a sex offender population, these findings support Bonta and Hanson’s finding that many persistent sex offenders receive low risk scores on instruments designed to predict recidivism among the general offender population. <sup>38</sup>

[Appendix L](#) shows logistic regression results of revocation and the significant factors associated with it. Logistic regression calculates the probability of an event occurring or not occurring and presents the results in the form of an odds ratio (Exp(B)). The odds ratio in [Appendix L](#) is the number by which you multiply the odds of getting revoked for each one-unit increase in the independent variable (i.e., a variable in the equation). An odds ratio greater than 1 indicates that the odds of getting revoked increase when the independent variable increases; an odds ratio less than 1 indicates that the odds of getting revoked decrease when the independent variable increases. <sup>39</sup> Consistent with findings from other analyses within this study, employment status, specifically employment at both the start and end of supervision or simply employment at the end of supervision, played a significant role in the odds of a sex offender getting his or her supervision revoked. Sex offenders employed at both the start and end of their supervision had lower odds (0.108) of getting their supervision revoked than sex offenders not employed at those stages of their supervision. Stated another way, sex offenders employed at both the start and end of their supervision were 89 percent less likely to have their supervision revoked than sex offenders not employed at the start and end of their supervision. With the exception of RPI scores less than or equal to 2, RPI scores were statistically significant in the logistic regression model and the odds ratio steadily increased as the RPI score increased. In other words, as a sex offender’s RPI score increased, so too did his or her odds of getting revoked. As suspected, prior convictions increased the odds of a sex offender getting his or her community supervision privileges revoked. In fact, according to the logistic regression results, sex offenders with a prior conviction are 1.7 times more likely to have their supervision end with a revocation than those sex offenders who have no prior convictions.

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## Conclusion

In this study, factors associated with the ability of sex offenders to successfully complete the terms and conditions of their supervision were examined. By no means was this an exhaustive study of sex offenders in the Federal Probation and Pretrial Services System. Like all non-experimental research projects, this study was unable to control for all variables that may have had a significant impact on the results. Part of this was due to the limitations of the data captured in PACTS and part was due to the immeasurability of other variables. For instance, age of first offense, victim’s age or sex, prison time served, an offender’s motivation to not re-



offend, the quality of treatment received by the offender, the quality of an offender's relationship with his or her probation officer, the strength of an offender's support group, and opportunities to re-offend are only a few of the limitations of the data. Despite these limitations, this study did reveal some interesting findings that may be relevant to FPPSS.

Employment has been shown to have a stabilizing influence on offenders by involving them in pro-social activities, improving their self-esteem, assisting with meeting financial obligations, and structuring their time, and thus reducing opportunities to commit crimes. <sup>40</sup> A good job paying a living wage can deter illegal behavior by limiting opportunities for deviant behavior and by providing social incentives for crime-free behavior. <sup>41</sup> The vast majority of offenders returning to the community need to support themselves and their families financially, making it impossible for them to succeed without securing employment. Although employment can play a significant role in the success or failure of an offender's supervised release, this study found that employment at the beginning of a sex offender's supervision was generally not as important a predictor of success as employment at the end of their supervision. Regardless of whether their current offense was a sex offense, sex offenders employed at both the start and end of their supervision term were significantly less likely to violate the terms and conditions of their supervision by committing a new sex offense or for a general violation than sex offenders unemployed at both stages or those employed only at the start of their supervision. This gives credence to the argument that when an offender is employed is just as important as whether they are employed.

Even though these findings are revealing, they must be taken with a word of caution. This study was unable to account for spurious or unknown relationships between employment and revocation or for treatment conditions mandated and revocation. Individual sex offenders who were unable to secure or maintain employment by the end of their supervision period may have had some preexisting characteristics that were not amenable to obtaining steady legal employment. For instance, some sex offenders may have had poor interpersonal skills, behavioral problems, unstable or volatile family relationships, or unreported drug and/or alcohol problems, all of which are not conducive to holding meaningful employment.

Special treatment conditions assigned to sex offenders by the courts, although beyond treatment conditions provide a foundation for the development of a comprehensive case management plan, probation officers should tailor the specific supervision conditions in each sex offender's case plan to address individual risks and needs. <sup>42</sup> the initial control of probation officers, can also contribute to the success or failure of sex offenders. Depending on the issues identified in the pre-sentence investigation report, sex offenders may or may not receive court orders to participate in some formal treatment program (e.g., sex offender or mental health treatment). More intensive community supervision practices ensure that external controls are imposed upon sex offenders and can, in some instances, interrupt an offender's sex offending cycle. While these special

Although the Risk Prediction Index is used extensively in FPPSS to predict the likelihood of an offender re-offending during his or her period of supervision, it is not the most appropriate measure for sex offenders. The RPI is not designed for sex offenders, which may reduce its ability to accurately predict the likelihood of a sex offender reengaging in criminal sexual behavior. Sex offenders tend to score lower on the RPI in relation to their perceived or actual risk to society. Two possible factors that may contribute to sex offenders scoring lower on the RPI than their actual risk to society are their age and employment status. Even with these limitations, the RPI score was able to predict that sex offenders with higher RPI scores were more likely to get their supervision revoked than sex offenders with lower RPI scores, who, incidentally, were less likely to get revoked during 1999-2005. However, in order to more accurately predict the risk of re-offending for sex offenders, FPPSS should consider utilizing risk prediction tools designed specifically for this population of offenders.

As this study illustrated, although many sex offenders continue to engage in a variety of criminal offenses (see [Appendix J](#)), most sex offenders in FPPSS are not revoked due to committing a new sex offense. Revocations tend to be significantly higher for technical violations than for new

sexual offenses for individuals classified as sexual offenders in FPPSS. This finding contradicts the unfounded widespread belief that sex offenders are more likely to reoffend with a sex offense than with a non-sex offense.

Due to the limitations of the data, sex offenders identified in this study were grouped into one homogeneous group. As a result, no distinctions were made regarding the factors that influence revocation rates between the various types of sex offenders in the federal probation and pretrial system. In the future, FPPSS could benefit from developing a way to differentiate between the various types of offenders (e.g., child molesters and rapists) as they have varying rates of re-offending. The variation in recidivism rates suggests that not all sex offenders should be treated the same. Research has even suggested that offenders may actually be made worse by the imposition of higher levels of treatment and supervision than is warranted given their risk level. <sup>43</sup> Consequently, district offices that treat all sex offenders as “high risk” run the risk of over-supervising lower-risk offenders, which diverts resources (human and financial) away from the truly high-risk offenders who could benefit the most from increased supervision and treatment. <sup>44</sup>

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## [Endnotes](#)

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# Appendix A. Sex Offender Demographics by Case Status, 1999-2005

Demographics	All[1] Cases		Active[2] Cases		Closed Cases			
					Successful[3]		Revoked[4]	
	Total	%	Total	%	Total	%	Total	%
<b>Age (years)</b>								
Mean	39.2		40.3		39.5		35.4	
Median	38.0		39.0		38.0		34.0	
<b>Type of Citizen</b>								
U.S. Citizen	7,339	96.4	3,902	95.8	1,481	98.2	1,956	96.1
Legal Alien	98	1.3	62	1.5	5	0.3	31	1.5
Illegal Alien	73	1.0	51	1.3	4	0.3	18	0.9
Unknown	107	1.4	58	1.4	18	1.2	31	1.5
<b>Race[5]</b>								
Asian	137	1.7	80	2.0	12	0.8	35	1.7
Black	1,252	16.4	751	18.4	272	18.0	229	11.2
Native Indian/ Alaska Native	1,270	16.7	445	10.9	512	34.0	313	15.4
White	4,900	64.3	2,754	67.6	703	46.6	1,443	70.9
<b>Hispanic</b>								
Hispanic	632	8.3	374	9.2	99	6.6	159	7.8
Non-Hispanic	6,881	90.3	3,625	89.0	1,394	92.4	1,862	91.5
Unknown	104	1.4	74	1.8	15	1.0	15	0.7
<b>Gender</b>								
Male	7,269	95.5	3,880	95.3	1,459	96.8	1,930	94.8
Female	346	4.5	193	4.7	49	3.2	104	5.1

[1] N= 7,617 Does not include the 687 cases that were either transferred out or closed due to death or "other" reasons.

[2] N= 4,073

[3] N= 2,036

[4] N= 1,508

[5] Does not include Other, Corporation, or Unknown, which together totaled less than 1 percent.

## Appendix B. Education Level by Case Status, 1999-2005

Grade Level	All Cases		Active Cases		Closed Cases			
					Successful		Revoked	
	Total	%	Total	%	Total	%	Total	%
No Level	63	0.8	33	0.8	14	0.7	16	1.1
Elem. thru 8th	28	3.7	146	3.6	60	2.9	78	5.2
Some HS	1,430	18.8	680	16.7	278	13.7	472	31.3
GED	1,002	13.2	521	12.8	224	11	257	17
HS diploma	1,539	20.2	829	20.4	442	21.7	268	17.8
Vocational Graduate	65	0.9	39	1	17	0.8	9	0.6
Some college	1,669	21.9	919	22.6	506	24.9	244	16.2
College grad	746	9.8	425	10.4	266	13.1	55	3.6
Post-graduate	191	2.5	111	2.7	69	3.4	11	0.7
Unknown	627	8.2	370	9.1	159	7.8	98	6.5

## Appendix C. Revocation by Education Level at Beginning of Supervision, 1999-2005

Education Level at Beginning of Supervision	Revocation				Total
	Not revoked		Revoked		
	N	%	N	%	N
No level	14	46.7	16	53.3	30
Elementary thru 8th Grade	60	43.5	78	56.5	138
Some high school	278	37.1	472	62.9	750
GED	224	46.6	257	53.4	481
High school diploma	442	62.3	268	37.7	710
Vocational school graduate	17	65.4	9	34.6	26
Some college	506	67.5	244	32.5	750
College graduate	266	82.9	55	17.1	321
Post graduate	69	86.3	11	13.75	80

Pearson Chi-square = 312.500; df = 8; p<.001

## Appendix D. Education Level Beginning of Supervision by Employment Status, 1999-2005

Education Level Beginning of Supervision	Employment Status (Percents)				Total
	Unemployed Start & End	Employed Start Only	Employed End Only	Employed Start & End	N
No level	83.3	3.3	6.7	6.7	30
Elementary thru 8th Grade	59.4	8.7	18.8	13.0	138
Some high school	63.3	8.1	19.6	8.9	750
GED	50.5	12.1	24.1	13.3	481
High school diploma	41.1	11.0	27.6	20.3	710
Vocational school graduate	38.5	7.7	26.9	26.9	26
Some college	35.5	9.7	29.3	25.5	750
College graduate	27.2	7.8	35.6	29.4	320
Post graduate	25.0	6.3	43.8	25.0	80

Pearson Chi-square = 267.246; df = 24; p<.001

**Table 1: Sex Offender Employment Status for Cases Closed, 1999-2005**

Employment Status	All Closed Cases		Successful Cases*		Revoked Cases*	
	N	%	N	%	N	%
Unemployed Start & End of Supervision	1,688	47.6	617	36.6	1,071	63.4
Employed Start of Supervision Only	328	9.3	125	38.1	203	61.9
Employed End of Supervision Only	903	25.5	746	82.6	157	17.4
Employed Start & End of Supervision	624	17.6	547	87.7	77	12.3
<b>Total[1]</b>	<b>3,543</b>	<b>100</b>	<b>2,035</b>	<b>57.4</b>	<b>1,508</b>	<b>42.6</b>

\* Pearson Chi-square = 818.572; df = 3; p<.001

[1] Totals do not include cases closed due to a transfer, death, or "other" reasons.

**Table 2: Revocation Status by Treatment Conditions Mandated, 1999-2005**

Treatment Conditions Mandated	Revocation				
	Not revoked[2]		Revoked		Total
	N	Percent	N	Percent	N
No treatment mandated	236	79.2	62	20.8	<b>298</b>
Sex offender treatment only	122	69.7	53	30.3	<b>175</b>
Mental health treatment only	504	78.0	142	22.0	<b>646</b>
Sex offender & Mental health	305	70.1	130	29.9	<b>435</b>
Substance abuse treatment only	184	53.8	158	46.2	<b>342</b>
Sex offender & Substance abuse	71	44.1	90	55.9	<b>161</b>
Mental health & Substance abuse	361	47.3	403	52.7	<b>764</b>
All Three (SO, MH, and SA)	253	35.0	470	65.0	<b>723</b>
<b>Total</b>	<b>2,036</b>	<b>57.4</b>	<b>1,508</b>	<b>42.6</b>	<b>3,544</b>

Pearson Chi-Square = 404.022; df = 7; p<.001

[2] Does not include transfers, deaths, or “other” cases that were closed.



## Appendix E. Average Age at Start of Supervision, RPI Score, and Months to Case Closing for Treatment Conditions Mandated, 1999-2005

Treatment Conditions Mandated	Age at Start	RPI Score	Months to Close
No treatment mandated	37.62	2.6	26.2
Sex offender treatment only	40.10	2.0	23.5
Mental health treatment only	41.12	2.2	26.6
Sex offender & Mental health	40.36	2.1	26.7
Substance abuse treatment only	35.03	4.4	21.3
Sex offender & Substance abuse	34.93	4.5	18.3
Mental health & Substance abuse	37.55	4.4	20.5
All Three (SO, MH, and SA)	34.95	4.9	19.5

## Appendix F. Revocation by Treatment Conditions Mandated by Employment Status, 1999-2005

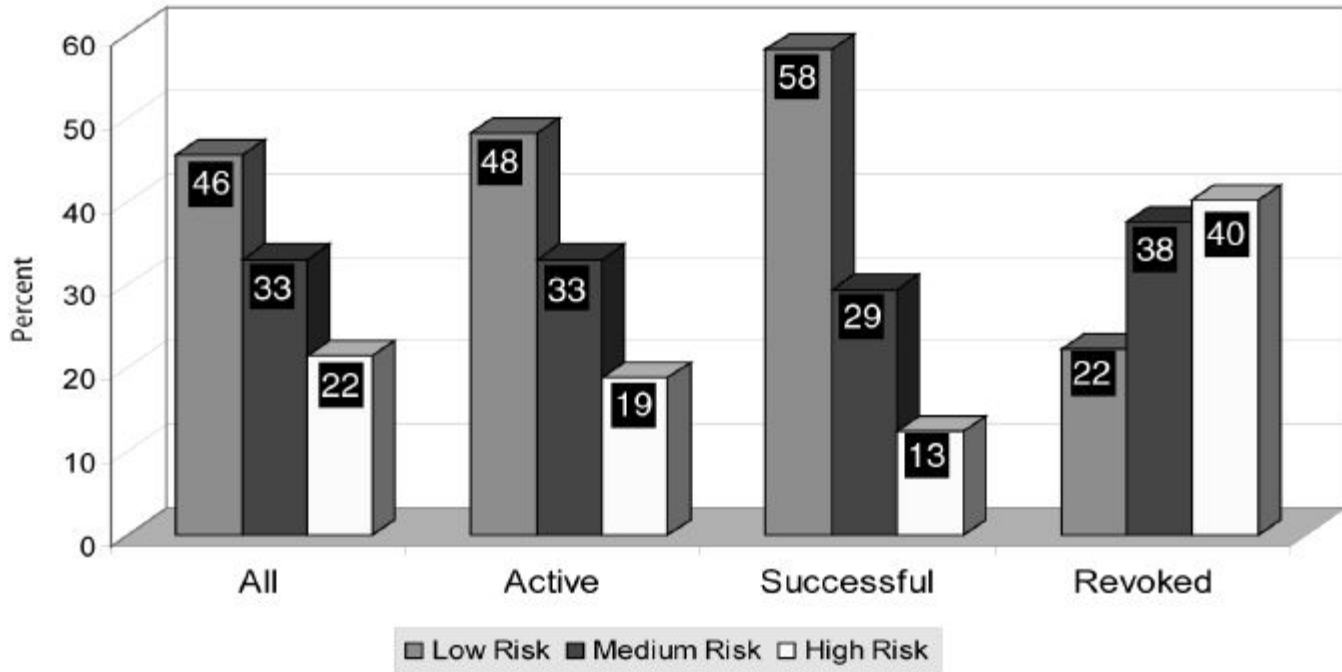
Treatment Conditions Mandated	Revocation*	Employment Status			
		Unemployed Start & End	Employed Start Only	Employed End Only	Employed Start & End
No treatment	Not revoked	57.6	74.2	90.9	91.7
	Revoked	42.4	25.8	9.1	8.3
Sex offense-specific	Not revoked	50.7	46.7	86.3	94.4
	Revoked	49.3	53.3	13.7	5.6
Mental health	Not revoked	61.4	51.1	91.9	92.3
	Revoked	38.6	48.9	8.1	7.7
Sex offense-specific and Mental health	Not revoked	50.6	56.7	85.2	90.6
	Revoked	49.4	43.3	14.8	9.4
Substance abuse	Not revoked	31.7	44.4	74.3	93.6
	Revoked	68.3	55.6	25.7	6.5
Sex offense-specific and Substance abuse	Not revoked	28.6	16.7	82.1	78.6
	Revoked	71.4	83.3	18.0	21.4
Mental health and Substance abuse	Not revoked	29.5	22.1	80.2	79.6
	Revoked	70.5	77.9	19.8	20.4
All three (SO, MH, and SA)	Not revoked	21.5	22.0	70.8	62.8
	Revoked	78.5	78.0	29.2	37.2

p>.001

\* Does not include transfers, deaths, or "other" cases that were closed

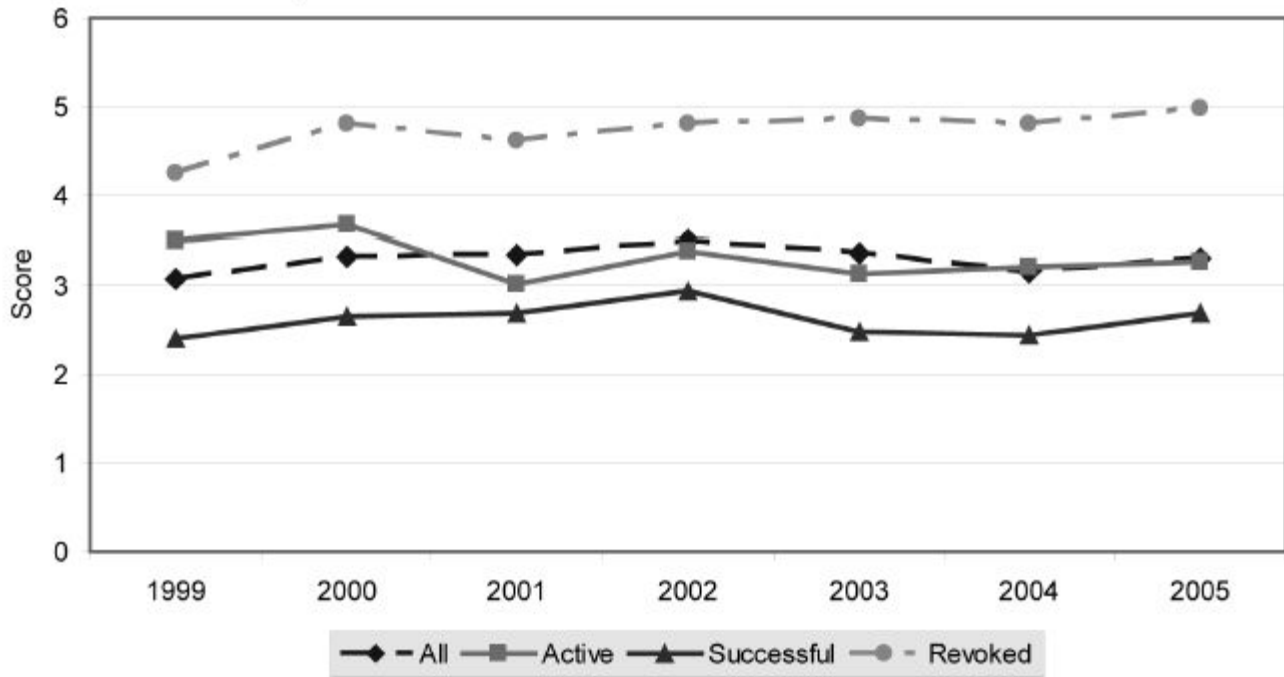
**FIGURE 1.**

*RPI Risk Level by Case Status, 1999-2005*



**FIGURE 2.**

*Average RPI Score by Case Status for Years 1999-2005*



**Table 3: Average RPI Score and Percent of Sex Offenders Revoked and Not Revoked by Employment Status, 1999-2005**

<b>Employment Status</b>	<b>Avg. RPI All</b>	<b>Avg. RPI R</b>	<b>% R</b>	<b>Avg. RPI NR</b>	<b>% NR</b>
Unemployed Start & End of Supervision	4.2	5.0	63.4	2.8	36.6
Employed Start of Supervision Only	3.4	4.1	61.9	2.3	38.1
Employed End of Supervision Only	3.2	4.3	17.4	3.0	82.6
Employed Start & End of Supervision	2.4	3.6	12.3	2.2	87.7

R = Revoked; NR = Not Revoked

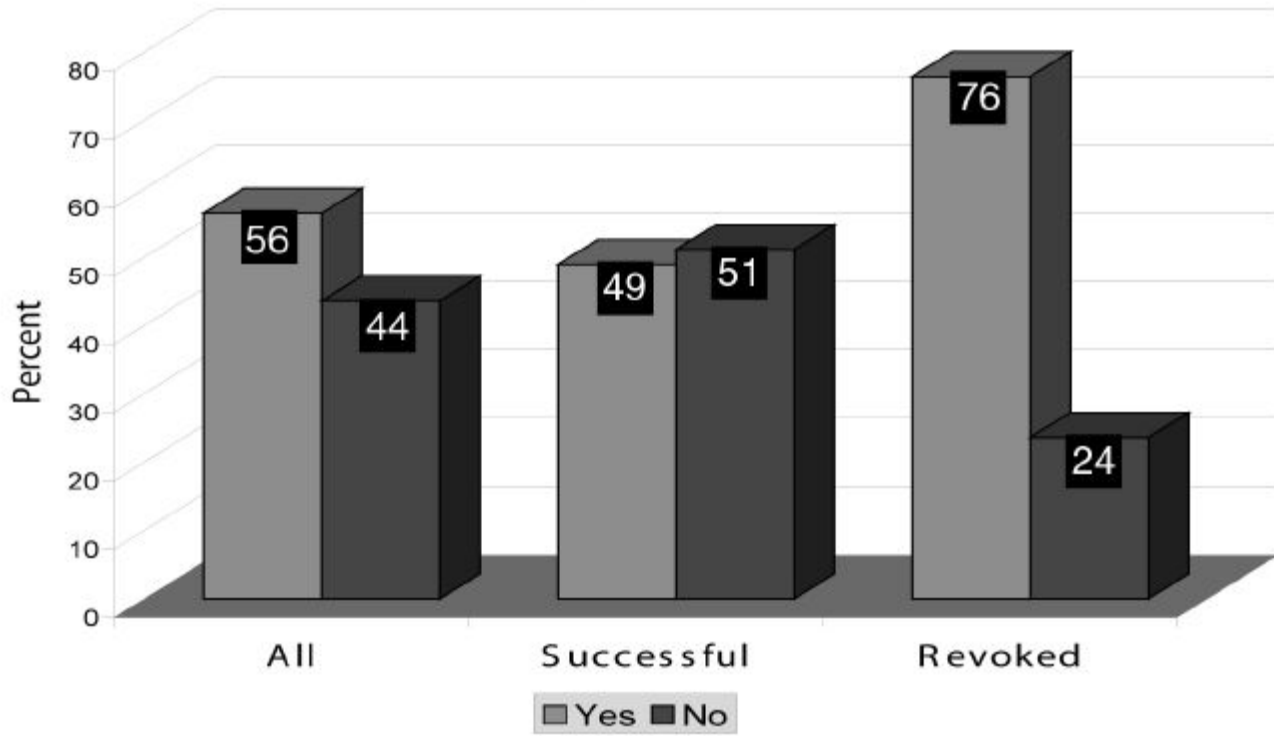
**Table 4: Closed Status by RPI Risk Level Controlling for Employment Status, 1999-2005**

Employment Status	Closed Status	RPI Risk Level		
		% Low	% Med.	% High
Unemployed Start & End of Supervision	Successful	61.9	30.1	16.7
	Revoked	38.1	69.9	83.3
Employed Start of Supervision Only	Successful	56.2	31.1	10.8
	Revoked	43.8	68.9	89.2
Employed End of Supervision Only	Successful	90.5	78.4	68.9
	Revoked	9.5	21.6	31.1
Employed Start & End of Supervision	Successful	92.8	82.4	67.3
	Revoked	7.2	17.6	32.7

p<.001

**FIGURE 3.**

*Sex Offenders with a Prior Conviction, 1999-2005*



## Appendix G. Closed Case Status by Level of Prior Conviction, 1999-2005

Level of Prior Conviction	Closed Case Status					
	Successful		Revoked		Total	
	N	%	N	%	N	%
Misdemeanor Only	375	51.9	348	48.1	<b>723</b>	<b>100</b>
Felony Only	173	61.3	109	38.7	<b>282</b>	<b>100</b>
Misdemeanor & Felony	448	39.2	695	60.8	<b>1,143</b>	<b>100</b>

Pearson Chi-square = 57.885; df = 2; p < .001



**Table 5: Revocations by Employment Status by Prior Conviction, 1999-2005**

Employment Status at Start and End of Supervision	Prior Conviction			
	No*		Yes**	
	Not Revoked	Revoked	Not Revoked	Revoked
Unemployed Start and End	56.3	43.7	26.8	73.2
Employed at Start Only	59.1	40.9	26.8	73.2
Employed at End Only	89.1	10.9	77.6	22.4
Employed at Start and End	93.3	6.7	81.5	18.5

\* Pearson Chi-square = 216.839, df = 3, p < .001

\*\* Pearson Chi-square = 552.659, df = 3, p < .001

## Appendix H. Closed Case Status by Prior Conviction, 1999-2005

Revocation	Prior Conviction			
	No		Yes	
	N	Percent	N	Percent
Not revoked	1,040	74.5	996	46.4
Revoked	356	25.5	1,152	53.6
<b>Total</b>	<b>1,396</b>	<b>100</b>	<b>2,148</b>	<b>100</b>

Pearson Chi-square = 273.886; df = 1; p<.001

## Appendix I. Revocations by Treatment Conditions Mandated by Prior Conviction, 1999-2005

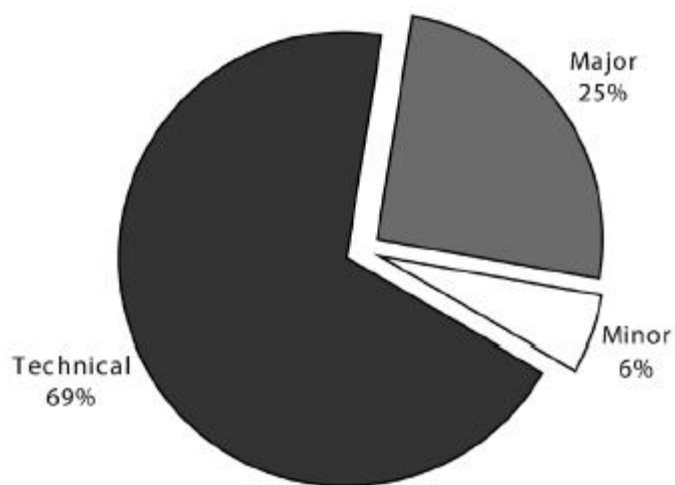
Treatment Conditions Mandated	Prior Conviction							
	No*				Yes**			
	Not Revoked		Revoked		Not Revoked		Revoked	
	N	%	N	%	N	%	N	%
No treatment mandated	141	93.4	10	6.6	95	64.6	52	35.4
Sex offender treatment only	86	78.9	23	21.1	36	54.5	30	45.5
Mental health treatment only	312	85.0	55	15.0	192	68.8	87	31.2
Sex offender & Mental health	205	78.2	57	21.8	100	57.8	73	42.2
Substance abuse treatment only	44	69.8	19	30.2	140	50.2	139	49.8
Sex offender & Substance abuse	31	64.6	17	35.4	40	35.4	73	64.6
Mental health & Substance abuse	135	63.7	77	36.3	226	40.9	326	59.1
All Three (SO, MH, and SA)	86	46.7	98	53.3	167	31.0	372	69.0

\* Pearson Chi-square = 143.631, df = 7, p < .001

\*\* Pearson Chi-square = 152.051, df = 7, p < .001

**FIGURE 4.**

*Types of Revocation Violations,  
1999-2005*



## Appendix J. Type of Revocation Offense, 1999-2005

Revocation Offense	Count	Percent
<b>Technical (N=1,042)</b>		
General violation	648	62.2
Use of drugs	220	21.1
Absconded	170	16.3
Non-payment of financial penalties	4	0.4
<b>Major* (N=382)</b>		
Sex offense	125	32.7
Misc. offense	59	15.5
Assault	40	10.5
Cocaine	32	8.4
Fraud	22	5.8
<b>Minor (N=83)</b>		
Other minor violation offense	32	38.6
Drunkenness, Disorderly conduct	22	26.5
Traffic violation	17	20.5
Petty theft	6	7.2
Simple assault	6	7.2

\* These violations only represent the top five major revocation offenses. The remaining 16 major revocation offenses range from a high of 5.24 percent (marijuana) to a low of 0.26 percent (escape).

**Table 6: Employment Status of Sex Offenders Revoked for a New Sex Offense and for a Non-Sex Offense, 1999-2005**

Employment Status	Sex Offense		Non-Sex Offense	
	N	Percent	N	Percent
Unemployed Start and End	77	59.7	994	72.1
Employed Start Only	25	19.4	178	12.9
Employed End Only	17	13.2	140	10.2
Employed Start and End	10	7.8	67	4.9
<b>Total</b>	<b>129</b>	<b>100</b>	<b>1,379</b>	<b>100</b>

# Appendix K. RPI Score and Months to Revocation for Sex Offenders Revoked For a New Sex Offense and for a Non-Sex Offense, 1999-2005

	Sex Offense		Non-Sex Offense	
	<b>RPI</b>	<b>Months to revocation</b>	<b>RPI</b>	<b>Months to revocation</b>
Mean	3.2	21.4	4.8	14.6
Median	3.0	18.0	5.0	12.0
Minimum	0.0	0.0	0.0	0.0
Maximum	9.0	59.0	9.0	68.0

## Appendix L. Logistic Regression of Revocations on Significant Factors

Variables in the Equation	B	S.E.	Wald	df	Sig.	Exp(B)
Employed Start of Supervision Only	0.149	0.138	1.159	1	0.282	1.160
Employed End of Supervision Only	-2.104	0.110	368.665	1	0.000	0.122
Employed Start and End of Supervision	-2.221	0.141	248.133	1	0.000	0.108
RPI = 1	-0.019	0.183	0.010	1	0.919	0.982
RPI = 2	0.222	0.168	1.754	1	0.185	1.248
RPI = 3	1.026	0.171	35.830	1	0.000	2.790
RPI = 4	1.040	0.175	35.262	1	0.000	2.830
RPI = 5	1.409	0.191	54.523	1	0.000	4.093
RPI = 6	1.640	0.208	62.279	1	0.000	5.154
RPI = 7	1.621	0.207	61.482	1	0.000	5.059
RPI = 8	1.924	0.221	75.656	1	0.000	6.850
RPI = 9	1.984	0.253	61.709	1	0.000	7.274
Prior Conviction (Yes)	0.533	0.099	28.966	1	0.000	1.704
Sex Offense (Yes)	0.040	0.088	0.204	1	0.651	1.041
Constant	-0.724	0.146	24.625	1	0.000	0.485



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## Restorative Circles—A Reentry Planning Process for Hawaii Inmates

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*Lorenn Walker*

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“**I’M SO SORRY**, I didn’t mean to hurt anyone,” softly sings the young dark haired Hawaiian, as he strums a well-used ukulele. It is a line from a song that he wrote. Ken is singing to a small circle of people sitting in old mismatched chairs at the prison where he has lived for two years. He is participating in the first Restorative Circle held in Hawaii. Sitting in the circle across from him is his aunt, who raised him since he was 10 years old. She became his guardian after his mother died. Sitting next to him is his girlfriend, who has raised their three young children for the last two years. His prison counselor sits next to his aunt, and a facilitator sits in the circle alongside a large easel where a woman stands holding a red felt pen.

Outside the circle, sitting in chairs along a wall, are the head of the Hawaii state Parole Board, the prison warden, and several prison counselors. They have come to observe this landmark process. As the man sings, his aunt and girlfriend sob, and the head of the parole board, a large man dressed in a black suit, quickly gets them napkins from a stack on a nearby table.

Ken’s song is his chosen “opening” for the circle. After he sings, everyone introduces themselves, and the facilitator says: “The purpose of this Restorative Circle is to assist Ken in creating a plan to help him reconcile with those harmed by his past behavior, and to help him find ways to meet his other needs for a successful life.” Ken is asked: “What are you most proud of that you’ve accomplished since you’ve been in prison?” He is prepared for the question and quickly responds, “That I have learned to stay focused. I can really set my mind to things now,

and do them, even when I get bored. I got my GED and I'm taking college classes. I'm gonna get my degree."

Ken is the first inmate to have a Restorative Circle at this Hawaii minimum-security prison. The Restorative Circle is part of a pilot reentry program that began in 2005.

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### **Restorative Circles Rationale**

A Restorative Circle is an approximately three-hour group planning process for individual inmates, their families and prison staff. The Circle results in a written *transition plan* for the inmate preparing to leave prison. The plan details his needs, which include the need for reconciliation with his loved ones, any non-related victims not present at the Circle, and the inmate himself. [1](#) Reconciliation is whatever the group determines is needed to repair the harm. It can be as simple as "staying clean and sober" and "forgiving myself."

The transition plan also addresses the inmate's other needs, such as housing and employment necessary for him to create a successful life. The plan also details exactly how he will meet these needs, i.e., "By May 5, 2005 Ken will write to the halfway house about getting a referral for living there."

A Circle makes it clear to inmates that they are responsible for their lives by the decisions that they make. This is a critical component of an effective reentry model (Taxman, 2004).

An inmate who develops a written transition plan has established a *blueprint* for what he will do during the remaining time in prison, making the time spent in lock up more productive and healthy. A Circle is not only beneficial when an inmate is exiting prison, but if provided when an inmate is first incarcerated, it can help repair or establish family relationships to make the prison experience more successful, since the incentive that a loved one is coming to visit or sending letters can have important impact on an inmate's daily life and his or her ability to be a model prisoner.

The Circles are modeled after a transition planning process developed in Hawaii for foster children aging out of state custody ( Walker, 2005). The process for emancipating foster youth and the Restorative Circle process for inmates are both based on restorative justice.

While restorative justice (RJ) is commonly thought of as a reconciliation strategy where offenders and their victims meet in a shared group process (Zehr, 1990), restorative justice is also an effective intervention for addressing many levels of social justice (Braithwaite, 2002) and may include processes that do not involve the primary victims and offenders (Walker, 2004).

Both the youth circle and Restorative Circle processes use the solution-focused approach for problem solving developed by Steve deShazer and Insoo Kim Berg (Berg & deShazer, 1993). Berg, the author of numerous books and articles on solution-focused brief therapy, was consulted throughout the development of both the youth circle and inmate Restorative Circle processes.

Restorative justice (RJ) focuses on meeting the *needs* of individuals and communities who have been affected by wrongdoing. It gives a voice to the people affected by wrongdoing to say what they need to repair any resulting harm (Zehr, 1990 & 2002). It gives victims and offenders the opportunity to determine how they can best reconcile in their particular situation, and to find what *justice* means to them. RJ transfers the power of determining justice from professional third parties such as judges, lawyers, and therapists, and instead asks those most affected by the wrongdoing what they need to best deal with their harm. Families of inmates, even those incarcerated for so-called *victimless crimes*, such as drugs, have suffered harm as a result of the inmates' behavior, and may therefore also be considered victims.

The solution-focused approach is a proactive learning strategy that uses specifically designed language skills to assist people in determining what they want and how to achieve their desired

outcomes (George, Iveson & Ratner, 1999). This process is in contrast to analyzing why problems exist and finding something or someone to blame for them. The solution-focused approach is a client driven process where therapists are considered facilitators who look for and compliment clients on their strengths, constantly asking how they have succeeded (“That’s great, you’ve been sober for the last two weeks. How have you managed to do that?” Berg, 1994)

The solution-focused approach fits naturally with RJ processes because both address problem solving in positive ways that can increase individual and community self-efficacy and empowerment (Bandura 1997; Johnson & Johnson, 1994). Both the solution-focused approach and RJ generate optimism and hopefulness for the future regardless of the past. Optimism is vital for individuals to develop coping skills and resiliency (Seligman, 1990). Restorative Circles, using the solution-focused approach, are powerful processes that can build relationships and community out of wrongdoing.

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### **Case Referrals and Inmate Interviews**

A brochure about the Restorative Circle process along with a one-page referral form are available for inmates in the prison administration office. Interested inmates fill out the form and give it to the social worker, who faxes it to the non-profit agency that provides the Circles.

Upon receiving the referral, a facilitator interviews the inmate at the prison in a solution-focused manner to gather information about his successes, competencies, and strengths, however small (Lee, Sebold & Uken, 2003), and ensures that the inmate takes responsibility for his past behaviors. Ken readily takes responsibility, saying, “I want to make amends with my family.”

Next the inmate is asked which of his loved ones he would like to invite to his Circle. Ken names his girlfriend Rachel, who is also the mother and caretaker of his children. Rachel lives with their children in another state. Ken also names his Aunt Marta, who raised him and lives in Honolulu. After listing which of his loved ones he hopes can attend his Circle, Ken is asked whom from the prison he wants to invite. Having a prison representative participate in the Circle is necessary for the inmate and the family to understand how the corrections system can work to assist with reentry and to provide information concerning the inmate’s efforts to rehabilitate while incarcerated. Ken names his primary drug treatment counselor as the prison representative he wants at his Circle. Inmates may also invite other inmate friends to their Circles if the prison permits their participation. Ken invites another inmate and the prison approves.

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### **Convening the Circle**

Most of the time necessary to conduct a Circle is spent in convening them. It takes about 10 hours to set up a Circle and arrange for all the participants to attend. The facilitator first calls Rachel and Marta to explain the process, and asks if they want to participate, which they both do. A date and time for the Circle is tentatively set, based on Rachel and Marta’s schedules. Later it will be confirmed with the prison staff and Ken’s counselor. Rachel will also be reimbursed half her airfare costs to travel to Hawaii. Rachel and Marta, like many of the inmates’ loved ones, have not seen Ken since he was imprisoned several years ago.

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### **Family Based**

Research shows that families are vital for successful inmate reentry (Council of State Governments, 2006; Sullivan, et al., 2002). For Asian and Pacific Islander inmates, “more than any other factor, family support ...helped to provide a feeling of hope” (Oh & Umemoto, 2005, p. 40).

Restorative justice approaches to prisoner reentry support family and community relationships (Bazemore & Stinchcomb, 2004) and Restorative Circles can repair and strengthen these relationships.

Typically during a Circle, family members will reach out with suggestions and support for the inmate in developing a transition plan. Often families invite inmates to live with them. Many inmates refuse, recognizing that they need to establish living arrangements for themselves in structured environments and not impose on their families. They want to practice their ability to remain drug and crime free, even though that frequently results in a longer prison stay while they wait for a vacancy in a secured living situation.

In Hawaii, like the rest of the United States, “family” can also include people who are unrelated by genetics or marriage, but who are emotionally attached and form a loving supportive group. They function as a traditional family. In Hawaii this is called a *hanai family*. In one Circle, none of the inmate’s related family participated because many were dysfunctional and others did not live in Hawaii. The inmate’s *hanai* family attended, however, and the Circle outcome was as positive as that for Circles where traditional family members participated.

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### **Restorative Circle Process**

After Ken sings his song to open his Circle, and tells the group what he is most proud of having accomplished since he has been in prison, each person, beginning with the prison counselor, say what they think Ken’s strengths are. The lengthy list, which includes “friendly, good sense of humor, loves his children, determined,” is gathered by the Circle recorder on the butcher paper. Ken is asked last what other strengths he has, and he volunteers a few more. Identifying strengths is a key feature of the solution-focused approach, which finds out what is working well in the client’s life, and how these positives might generate more successes.

Asking the inmate how he will deal differently with problems that will naturally arise after his release is an important feature of the Circles. Facilitators do not tell inmates and families how they should deal with problems, but instead ask questions so the inmates and families can find the solutions to their problems themselves. “What gives you hope you can stay off drugs?” is a typical question.

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### **The Need for Reconciliation**

Next, the Circle addresses Ken’s concrete needs for a successful reentry. The first need addressed is reconciliation. Ken is asked two RJ questions. First, “Who was affected by your past behavior that brought you to prison?” He names the people, among them Rachel and Aunt Marta. Second, he is asked: “How were they affected?”

After Ken explains how he thinks Rachel and Marta were affected, they are both asked the same questions and one more: “What might be done to repair the harm?” They both respond, “Ken needs to stay clean and out of prison.” Ken is asked, “How does that sound to you? Can you stay clean and out of prison?” Ken answers “Yes.” Ken is asked if he can fulfill everything that Rachel and Marta say they need him to do to repair the harm. All these points make up the reconciliation agreement, which will be included in Ken’s transition plan.

For any other family members and victims who were identified, but not at the Circle, inmates make specific plans for how they will reconcile with them. Sometimes they choose to write letters to them or plan to talk to them after their release. In all of the Circles conducted to date, an agreement to stay clean and sober has been included in each Circle as part of the reconciliation agreement.

Next the facilitator asks Ken and his family: “Are there any unrelated victims that you need to

consider reconciliation with?” Unrelated victims could be homeowners whose houses were burglarized, for example. In Ken’s case there were none, but in Circles where there are unrelated victims, inmates make plans for how they will reconcile with them. Sometimes inmates decide that reconciliation with unrelated victims who are also unknown to the inmates will simply be accomplished by their staying law abiding after release from prison.

Finally, at the conclusion of the Circle’s reconciliation phase, the facilitator asks the inmate: “Is there anything you want to say?” Inmates most often express remorse and thankfulness to their loved ones for coming to their Circle.

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### **Other Needs**

The group then considers Ken’s additional needs for a successful reentry back into the community. His needs for housing, employment, continued learning, emotional health (here drug treatment and other issues are addressed to maintain a healthy mental state), physical health, and any other unique needs, such as child care for parents, are expressed. Before addressing these needs, the facilitator explains to the group: “This is a brainstorming process. These ideas are only possibilities, not definite plans.”

After a list of possibilities is made for each need, the inmate is asked, “Which of these do you want to include in your transition plan?” The inmate chooses the possibilities that he or she wants to pursue. For housing options, the inmate must select at least three options.

It is vital that an inmate choose his own plan. It is more likely that he will follow a plan that he made, compared to one made for him. The less paternalistic the process, the more likely it will be to be effective (Roberts, 2002). This contrasts starkly with the usual prison processes, in which inmates are told what plans they have to fulfill.

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### **Scheduling Re-Circles**

After the group goes over all the inmate’s needs and he has selected the resources he will pursue, which will be included in his transition plan, the inmate is asked, “Who are your supporters? Who can you count on when you need someone to listen to you and help you?” The transition plan will include this list of people that the inmate identifies as his supporters.

Next the date for a re-Circle is set. The re-Circle follows up on how the transition plan has worked for the inmate. Nothing is permanent in life, and it is expected that the inmate’s plans will change. Also, the re-Circle can be an effective way to keep the inmate accountable for his or her plan. Having the group come together again to discuss changes is important. Re-Circles may be held any number of times that the group believes it will be helpful. Most are scheduled a few months after the inmate is released from prison.

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### **Circle Closing**

Beginning with the prison staff person, every person in the Circle compliments the inmate on something that they learned about him or her at the Circle or on anything else. This is a moving moment for inmates, who are more used to hearing about their failings in life. Often this concluding compliment stage identifies additional strengths of the inmate.

Finally, the Circle is closed with the inmate responding to the questions “How was this Circle for you?” and “Do you have anything else you’d like the people here to know?”

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## **Breaking of Bread**

The Circles are scheduled for three hours of time; any time left over is spent socializing and sharing refreshments with the inmate, family, prison staff, facilitator, recorder and any observers. An important element of RJ processes is eating some food together at the conclusion of the process. This part of the process is informal, but vital for further social capital building, and allows the inmate and his or her support group to decompress after the emotional exchanges that take place during the Circle.

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## **Written Circle Summary**

A few days after the Circle, the facilitator prepares the written Circle Summary. This normally five-page document contains much of the information and decisions made at the Circle. It lists the inmate's strengths, what he is most proud of having accomplished since being in prison, what he wants different in his life (his goals), the date for the re-Circle, and his transition plan, which includes the reconciliation agreement and the dates and duties that he and others at the Circle have agreed to carry out. Attached to the summary is a list of the Circle participants' signatures. The Circle Summary is mailed to each participant.

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## **Preliminary Outcomes of Program**

A total of 101 people have participated in the 17 Circles held thus far, including inmates, their family and friends, and prison counselors. An average of six people participated in each of the Circles. The smallest Circle had four, and the largest had nine participants. One participant, Rachel, came from another state, and six other participants came from neighbor islands. Over one half of the 17 inmates were of Hawaiian ancestry. Six minor children of three different inmates attended their fathers' Circles. Several adult children of inmates also attended their father's Circles. Sixteen Circles were held at the prison and one was held at a church after an inmate was released (the same church that he burglarized before being sentenced to prison).

Surveys of 99 participants at the 17 Circles were reviewed. The surveyed participants expressed overwhelming support for the Circles. Participants ranked eight different aspects of the Circle from *very positive*, *positive*, *mixed*, *negative*, and *very negative*. The measured variables included what participants believe about the transition plan developed at the Circle; whether they think the Circle expanded the inmate's support system, and whether the Circle helped them with reconciliation and forgiveness. Surveys of the inmates also asked if the "Circle helped me forgive myself and others."

Ninety-three of the surveyed participants found the Circles to be very positive and six found them to be positive. Only four participants—two prison counselors, one inmate, and the ex-wife of an inmate—indicated that any specific aspect of their experience of the Circle was less than positive. Only one participant out of 99 found any aspect of the process negative. (An inmate's ex-wife said that learning about "the inmate's strengths" was negative, but she rated her overall experience in the Circle as highly positive. She also believed that the Circle was healing for her two minor daughters, who were able to tell their father how deeply they were affected by his imprisonment.)

Survey respondents are also invited to write comments about what they liked best, and what could be improved on at the Circles. One 36-year-old inmate wrote, "I found out my strong points, people can help me, I have a good support system and my Dad said he loves me." The only critical comment by any participant was from an inmate's sister, who wrote that the process could be improved if: "It wasn't so structured and I didn't feel obligated to say something." Her mother at the same Circle, however, wrote, "Issues were brought out that had not been discussed in the past." Several Circle participants indicated relief that their families talked about things during their Circles that they never discussed before. For example, the family of one inmate who

has undergone a gender identification change discussed it for the first time. The family appreciated the comfort and support this brought all members as a result.

Many family members came to Circles after not seeing the inmate for several years. This made the inmates feel great gratitude, and offered them the opportunity to express their remorse.

The Circles are deeply emotional, so participants are prepared for this beforehand. The emotions may include sadness, shame, and joy. No one expressed hostility at a Circle, although some family members said things like, "It made me angry when he relapsed" in describing how they were affected by the inmate's behavior. One Circle observer indicated that she felt almost disrespectful being there—that it was something very private and personal for the family. On the other hand, another observer felt "privileged to be included in such a powerful and personal process."

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### **Impact on Families**

The families who participated in the Circles expressed great appreciation for the process. Many families have suffered a lot from the inmates' past behavior and they are used to hearing about and focusing on problems, blaming, and complaining. This program is *solution-focused*, so the Circles are *strength based* (i.e., what is *good* about the inmates, and how their strengths can help them have successful lives). Successful reentry back into the community is discussed and is the ultimate focus of the Circles.

Almost all inmates and family members cried at some point. Forgiveness and remorse were often extended at the Circles. Especially important were the expressions of guilt and responsibility that many family members felt because the inmate had engaged in destructive behaviors. Family members often felt that it was due to their failings as parents or siblings that the inmate behaved poorly, used drugs, or committed crimes. Every inmate whose family expressed guilt replied with things like, "It was not your fault," "It was my choice," or "You are not to blame."

Several families had conflicts between family members e.g., the inmate's mother versus the inmate's wife; the inmate's brothers versus another brother; a brother versus the father. The Circles succeeded in opening communication among family members and resolving disputes. In one case, the mother of an inmate who had prior conflicts with the inmate's wife said, "I want to thank Carol for raising my grandchildren so well. She's done a good job and our family appreciates that. She's also been a good wife to our son and stuck by him through thick and thin." The wife had worked hard to raise and support two children in high school who also attended the Circle. The teens were able to witness their grandmother acknowledge their mother's sacrifices. The teens also said at the Circle that their father's behavior and his imprisonment had caused them to speak disrespectfully to their mother—this opportunity for the youth to talk about their behavior (and share the shame they felt) helped repair the mother-child relationship.

In two of the Circles it was decided that inmates would be returning home to live with their parents. The Circle provided the opportunity for the family and the inmate to decide what would be expected of him when he lived at home, such as doing chores around the house, paying rent, and restricting whom he could invite home for visits. A behavioral contract was prepared for both families as part of the Circle.

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### **Future of Program**

Private grants will maintain the program until May 2007. After that the Hawaii state legislature will be asked to mandate and fund the program, making it available at all state prisons and jails. Circles should be offered to all interested inmates. The Circles should be provided by an independent organization and outsourced by the state so that it maintains neutrality and does not become a state-administered program.

An in-depth evaluation of the program also needs to be conducted. First, it should be evaluated to determine if it decreases recidivism and if it builds social capital. To test its effectiveness for decreasing recidivism, the Circles should be provided to 25 or more inmates in a randomized trial that would follow the inmates and a control group for a significant amount of time.

Second, an evaluation to measure the success of the Circles in increasing community and social capital building also needs to be conducted. Among the questions to consider is how effective the program is in developing social supports between the participants.

Circles also face two challenges from prison staff. First, the notion of empowering inmates in any way presents a challenge to some staff. In particular, the Circles require that inmates develop life plans without direction from staff. Skeptical staff may have difficulty with this, as it may be perceived as encroaching on their realm of responsibility. Second, Circles may be perceived to increase the workload of staff. Although the facilitator does most of the work, some things only prison staff can do, such as arrange space, obtain movement passes, and clear outside participants through security. Some staff feel overburdened with work, and fail to see the higher rehabilitative value of the Circles. These kinds of issues can be resolved by committed leadership within the prison.

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## **Conclusion**

Fifty percent of American inmates will return to prison within two years of their release and the rate climbs higher after that (U.S. Department of Justice, 2002). Our current justice system is successful at blaming and punishing people for wrongdoing, but it fails to prevent many offenders from doing it again. The system also fails to assist victims. Nonetheless, prisoner reentry efforts should not be judged solely on the basis of recidivism (Petersilia, 2004). The likelihood that the Circles increase social capital and provide healing for victims also justifies providing them.

Restorative Circles are a step in the right direction for true rehabilitation and reconciliation. Crime is an egocentric act. The wrongdoer's main focus is on getting what he/she wants. The Circle process helps inmates understand that their actions have impacts on their victims, their families, and the larger community. One inmate said, "I want to go back to my old neighborhood. I helped mess the place up, and I need to go back there and help make it better." That inmate's plan is the embodiment of Restorative Justice.

Rehabilitation must include addressing the harm that the criminal behavior caused and providing inmates the opportunity to take responsibility for their past actions. The Circles provide this opportunity. Circles will always benefit some of the family members who attend. Decreasing their guilt and shame is a worthy effort and one that justifies this program.

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## Motivational Interviewing for Probation Officers: Tipping the Balance Toward Change\*

\* Article content has been adapted from the forthcoming NIC monograph, *Talking with Offenders about Change: Integrating Motivational Strategies into Community Corrections*.

[References](#)

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[Motivational Interviewing Aligns With Evidence-Based Practice  
It Can Help The Officer Get “Back Into The Game” of Behavior Change  
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[Motivational Interviewing Will Change Who Does the Talking  
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**MOTIVATIONAL INTERVIEWING** (Miller & Rollnick, 1991) is a way of talking with people about change that was first developed for the field of addictions but has broadened and become a favored approach for use with populations in a variety of settings (Burke, Arkowitz & Dunn, 2002). It has been introduced to criminal justice in general (Birgden, 2004; McMurrin, 2002; Farrall, 2002) and probation efforts specifically (Walters, Clark, Gingerich, Meltzer, forthcoming, In Press; Clark, 2005; Ginsburg et al., 2002; Harper & Hardy, 2000; Miller, 1999). It represents a turn to moving probation departments into the “business of behavior change” (Clark, 2006).

This article will suggest several benefits from the importation of Motivational Interviewing into probation practice. This article posits eight reasons to consider the Motivational Interviewing approach:

*Why would probation officers want to use Motivational Interviewing in their day-to-day work?*

1. Motivational interviewing aligns with evidence-based practice.
2. It can help the officer get “back into the game” of behavior change.
3. It suggests effective tools for handling resistance and can keep difficult situations from

getting worse.

4. It keeps the officer from doing all the work, and makes interactions more change-focused.
  - Interactions are more change-focused when the officer understands where change comes from.
  - Change-focused interactions place the responsibility for behavior change on the offender.
  - Motivational interactions create an appetite for change in offenders by amplifying their ambivalence.
5. Motivational Interviewing changes who does the talking.
6. It helps prepare offenders for change.
  - Ask questions that raise interest
7. Motivational Interviewing changes what is talked about.
  - Eliciting “change talk” (self-motivational speech).
8. It allows officers to enforce probation orders and deliver sanctions without leaving a motivational style.
  - Addressing lying and deception
  - Addressing violations and sanctions

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## **1. Motivational Interviewing Aligns With Evidence-Based Practice**

Go back beyond the last two decades and you’ll find that criminal justice suffered from a lack of proven methods for reducing offender recidivism (Andrews & Bonta, 2003). Today, it is almost unimaginable that our field ever operated without practice methods being studied and empirically validated through rigorous science. Science-based methods for probation work continue through the National Institute of Corrections “Evidence-Based Policy and Practice” initiative (NIC, 2004). This article discusses Motivational Interviewing, a practice included among the eight principles of effective interventions to reduce the risk of recidivism. Within these eight principles, the second principle of evidence-based practice cites:

2. Enhance Intrinsic Motivation—Research strongly suggests that “motivational interviewing” techniques, rather than persuasion tactics, effectively enhance motivation for initiating and maintaining behavior change. (p.1)

This article attempts to lend substance to that recommendation by reviewing possible benefits offered to probation staff from the integration of motivational strategies into community corrections.

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## **2. It Can Help The Officer Get “Back Into The Game” of Behavior Change**

Historically, motivation has been viewed as a more-or-less fixed characteristic of offenders. That is, an offender usually presented with a certain motivational “profile” and until he was ready to make changes, there was not much you could do to influence his chances on probation. Under this model, the probation officer becomes an enforcer of the court’s orders, but not necessarily an active participant in the behavior change of the offender. One officer described his role:

The defendant, in consultation with his lawyer, negotiates for the consideration of probation supervision (and conditions) in lieu of jail time. In our initial meeting, and throughout our work together, I tell the probationer what is expected of him and make it clear what the penalties will be should he fail to comply. We have regular meetings to verify that he is making progress on his conditions and I

answer any questions he might have. If he breaks the law or shows poor progress on his conditions, I see to it that appropriate sanctions are assessed. Throughout the process, the probationer is well aware of the behavior that might send him to jail, and if he ends up there, it's his own behavior that gets him there.

Reflected in this statement is an officer who is essentially cut out of the change process, except as an observer. However, recent evidence suggests there may be quite a lot that an officer can do to influence probationer's chances of successfully completing probation. Motivational Interviewing places staff "back in the game" of behavior change.

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### **3. It Suggests Effective Tools For Handling Resistance And Can Keep Difficult Situations From Getting Worse**

Since motivation has been viewed more like a fixed offender trait, it has been thought that if offenders enter probation departments displaying little motivation, then the best strategy is to attempt to break through the probationer's denial, rationalization, and excuses.

- You've got a problem.
- You have to change.
- You better change or else!

Space prohibits a review of the many studies (Miller & Rollnick, 2002; Hubble, Duncan & Miller, 1999) that find a confrontational counseling style limits effectiveness. One such study (Miller, Benefield and Tonnigan, 1993) is telling. This study found that a directive-confrontational counselor style produced twice the resistance and only half as many "positive" client behaviors as did a supportive, client-centered approach. The researchers concluded that *the more staff confronted, the more the clients drank at twelve-month follow up*. Problems are compounded as a confrontational style not only pushes success away, but can actually make matters *worse*. Although many probation staff rightly object, "We're not counselors! —our job is to enforce the orders of the court," this claim only serves to highlight the need for strategies to help staff get back in the game of behavior change.

Other staff shy away from a heavy-handed approach, using instead a logical approach that employs advice or reasoning.

- Why don't you just...
- Do you know what this behavior is doing to you?
- Here's how you should go about this...

Unfortunately, both of these approaches can end up decreasing motivation. When these methods fail to begin behavior change, officers will ramp up their energy and begin to push—only to find the offender pushes back. Staff escalates the confrontation or reasoning, only to find the offender has escalated as well. Locking horns creates a downward spiral that satisfies neither. Research finds that when we push for change, the typical offender response is to defend the problem behavior.

- "You've got a problem"/"No, I don't"
- "Why don't you..."/"That won't work for me"
- "You better change or else!"/"Take your best shot!"

We clearly don't want to create a situation where the offender is only defending the "don't change" side of the equation. Part of the equation involves using known techniques to draw out more positive talk, while the other part of the equation is having a collaborative style where offenders feel more comfortable talking about change. For instance, research suggests that characteristics of the staff person—even in a brief interaction—can determine the motivation, and subsequent outcome, of the offender.

#### **4. It Keeps The Officer From Doing All The Work, And Makes Interactions More Change-Focused**

*Interactions are more change-focused when the officer understands where change comes from.*

Staff trained in Motivational Interviewing can turn away from a confrontational style or logic-based approaches as they become knowledgeable of the process of behavior change. Many in probation believe that the catalysts for change are the services provided to the offender, whether these involve treatment, the threat of punishment, advice, education or “watching them” and monitoring their activities. These conditions and services represent only part of the picture—and not necessarily the most important part. Research finds that long-term change is more likely to occur for *intrinsic* reasons (Deci & Ryan, 1985). Often the things that we assume would be motivating to the offender simply aren’t. Thus, motivation is, in part, a process of finding out what things are valued and reinforcing to the individual probationer.

*Change-focused interactions place the responsibility for behavior change on the offender.*

We use an attractive (and accurate) phrase when training the Motivational Interviewing approach, “When Motivational Interviewing is done correctly it is the offender who voices the arguments for change.” So, how does the officer do this? The first step in getting the offender thinking and talking about change is establishing an empathic and collaborative relationship. Staff can watch and listen to find out what the person values and if their current behavior is in conflict with these deeply-held values. Motivational Interviewing calls our attention to this key idea:

It is discrepancy that underlies the perceived importance of change: no discrepancy, no motivation. The discrepancy is generally between present status and a desired goal, between what is happening and how one would want things to be (one’s goals).

If there is a rift between what one values and current behavior, this gap is called “discrepancy.” It is within this gap that the material will be found for amplifying *the offender’s own reasons for change*. When working with offenders who see no problem with their illegal behavior, it is essential that an officer have the skills to create an “appetite” for change. Creating this appetite for change involves creating ambivalence.

*Motivational interactions create an appetite for change in offenders by amplifying their ambivalence.*

Motivational Interviewing assumes a certain degree of offender ambivalence (I should change, but I don’t want to). They literally feel two ways about the problem. To consider the Stage of Change theory (Prochaska & DiClemente, 1983) some probationers will enter our courts in the precontemplation stage, seeing their problem behavior as “no problem at all.” A few more enter probation supervision in the preparation or action stage, having acknowledged the problem during the first appointment and needing only minimal assistance to begin change efforts. Throughout this process, ambivalence is an internal battle between “I want to do this very much, but I know that I really shouldn’t.” This pull in two directions generally lies at the heart of compulsive, excessive behavior. The majority of probationers already have both arguments within them—a side that wants to be rid of the problem (pro change), and a side that doesn’t believe change is possible or beneficial (stay the same).

Staff have long been taught to see ambivalence as a classic form of “denial,” yet for the motivationally-inclined officer it demonstrates a reason for optimism! Rather than being a sign that a person is moving away from change, ambivalence is a signal that change may be on the horizon. *Ambivalence makes change possible—it is the precursor to positive behavior change.*

Offenders can change if they can successfully negotiate their ambivalence. The challenge therefore, is to first identify and increase this ambivalence, and then try to resolve it by creating discrepancy between the actual present and the desired future. The larger the discrepancy, the greater the desire to change. There will be a very small percentage of offenders who have no discrepancy or ambivalence over their current behavior—and no amount of strategies can create it where there is none to start with. However, the good news for probation staff is that a large majority of offenders will enter our departments with a certain amount of concern regarding their behavior. Whether the discrepancy can be harnessed for change depends on whether an officer understands how to recognize it—and use it—to elicit self-motivational speech.

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## 5. Motivational Interviewing Will Change Who Does the Talking

Training in Motivational Interviewing teaches techniques to strategically steer a conversation in a particular direction—yet steering in itself is worthless without the ability to move the conversation forward. Consider how probation officers often work much harder than their probationers. As part of a qualitative research project, Clark (2005a) videotaped actual office appointments between offenders and their assigned probation officers. The finding was that, in office visits averaging 15 minutes in length, officers “out-talk” offenders by a large margin. For instance, in one session, 2,768 words were spoken between officer and offender. The breakdown? The officer spoke a hefty 2,087 words out of this total while the probationer was allowed only 681 words. Another example demonstrates slightly less talking overall but the ratio of “talk-time” remained similar. Total number of words spoken in this interview was 1,740. The word count found the officer spoke a robust 1,236 words while the offender was relegated to 504. Although listening by itself is no guarantee of behavior change, using strategies to get the offender talking is a prerequisite to being an effective motivational interviewer.

In interactions like this, officers are literally talking themselves out of effectiveness. The problem is not so much that the officer is doing all the talking, but rather that *the offender is not*. It stands to reason that the more the officer is talking, the less opportunity there is for the probationer to talk and think about change.

Compliance can occur *without* the officer listening and the probationer feeling understood—the same cannot be said if one wants to induce behavior change.

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## 6. This Approach Will Help You Prepare Offenders for Change

When you get the offender talking, officers are taught to strategically focus on encouraging productive talk. Frequently, officers want to jump straight to problem solving.

However, this approach ignores the fact that most people need to be prepared for change. Getting offenders to do most of the talking is the first step, followed by preparing people to think about change. Motivational Interviewing trains staff in basic listening and speaking strategies:

- Ask Open Questions
- Affirm Positive Talk and Behavior
- Reflect What You are Hearing or Seeing
- Summarize What has Been Said

These four techniques (sometimes referred to by the “OARS” acronym, for Open Questions, Affirm, Reflect, and Summarize) will help an offender think about change, and help to gather better quality information so we can assist the person in planning. In some instances, we don’t need offenders to talk much, especially when officers are simply gathering information or documenting compliance. But in other instances, when staff are focused on behavior change, the use of OARS will increase the probability that the probationer will speak more—and think more—in a more productive direction. These techniques become a “gas pedal” for conversations.

[Figure 1](#) illustrates some of the markers that help to determine whether the interaction is a good one, that is, whether the probationer is moving closer towards change.

### ***Ask Questions that Raise Interest***

Open questions can help a person resolve their ambivalence in a more positive direction. They help tip the balance toward change. For instance, here are some questions that ask specifically about the offender's reasons for change:

#### Drawbacks of Current Behavior

- What concerns do you have about your drug use?
- What concerns does your wife have about your drug use?
- What has your drug use cost you?

#### Benefits of Change

- If you went ahead and took care of that class, how would that make things better for you?
- You talk a lot about your family. How would finding a job benefit your family?
- How would that make things better for your kids? Here are some questions that ask about desire to change:
  - How badly do you want that?
  - How does that make you feel?
  - How would that make you feel differently?

Here are some questions that ask about perceived ability to change

- How would you do that if you wanted to?
- What would that take?
- If you did decide to change, what makes you think you could do it?

Finally, here are some questions that ask about specific commitments the offender will make to change:

- How are you going to do that?
- What will that look like?
- How are you going to make sure that happens?

Since our questions partially determine the offender's responses, we pick questions that encourage more productive talk. When talking about matters of fact, this might be considered leading, but when talking about motivation we assume that every offender has some mixed feelings. The outcome is not fixed, and so we provide every opportunity for offenders to talk and think about positive behavior change. Ideally, this becomes a reinforcing process: We ask questions to evoke change talk, the offender responds with positive statements, we reflect and reinforce what the offender has said, and the probationer continues to elaborate. With Motivational Interviewing, change talk stays front and center through amplification and reflection.

Another benefit from the use of OARS is evident in how it can move troublesome conversations back to productive ends. Unfortunately, a great majority of the responses typically used in probation tend to make bad situations worse. Initially listening to and trying to understand an offender's anger will lower frustration levels and make future conversations more productive. Understanding an offender's point of view is not the same as agreeing with it. As any argument must involve two people, the motivationally-inclined officer—using OARS—simply takes him or herself out of the mix. It takes two people to argue— *it is impossible to fight alone*. An angry and a combative attitude can often be reduced by simply reflecting back to the offender what they are feeling or thinking. The focus should not rest between the officer and the probationer (force and coercion) but rather between the probationer and *his or her own issues* (discrepancy

and ambivalence).

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## **7. Motivational Interviewing Changes What Is Talked About**

There is good evidence to suggest that people can literally “talk themselves in and out of change” (Walters, et al., 2002). For instance, there are linguistic studies that suggest that the speech of the provider sets the tone for the speech of the client, which in turn, influences the ultimate outcome (Amrhein, et al., 2003). In short, certain statements and questions—and especially a certain provider style—seem to predict whether people decide to change during brief conversations. Offenders may come in with a certain range of readiness, but what the officer says from that point on makes a difference in how the probationer speaks and thinks, and ultimately in how he or she chooses to behave.

### ***Eliciting “change talk” (self-motivational speech)***

There has been an increasing interest in short Motivational Interviewing sessions that have been able to match the improvement of several months of outpatient work. As a result, linguists (Amrhein, et al., 2003) began to study the speech content of these motivational sessions—the actual words spoken between a staff person and client—looking for what speech content proved to determine positive behavior change. What they found were five categories of motivational speech—desire, ability, reason, need and commitment language. These conditions have been placed in an easy-to-remember acronym of “DARN-C”:

- D esire (I Want to, prefer, wish)
- A bility (I Can, able, could, possible)
- R easons (I Should, why do it?)
- N eed (I Must, importance, got to)
- C ommitment (I Will, I’m going to...)

The researchers were quick to point out that not every dimension had to be voiced for behavior change to start. Simply getting the offender to verbalize one of the four constructs (DARN) might be enough. However, the same could not be said for Commitment. It was Commitment talk that actually predicted behavior change. For this reason, staff should be aware of techniques to help increase motivational talk in a general sense—especially navigating conversations towards commitment language.

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## **8. It Allows Officers to Enforce Probation Orders And Deliver Sanctions Without Leaving A Motivational Style**

### **Addressing Lying and Deception**

One troublesome feature of criminal justice is the presence of deception, whether by deliberate lies, half-truths or “holding back” of information. In response to violations or lack of progress, offenders sometimes lie (“I didn’t do it!”) or make excuses for behavior (“I did it but it’s not so bad”). The range seems endless: “Everybody does it” (consensus), “It’s not that bad” (minimization), “I needed the money” (justification), or “I didn’t mean to” (intention). With the coercion inherent in court jurisdiction, it is reasonable to expect deception from a certain percentage of those with whom we work. At the same time, it is important to understand that most offenders don’t routinely lie. In contrast to the stereotype of offenders as “deviants” who habitually manipulate others, most offenders bend the truth for pretty ordinary reasons. In fact, to some extent, lying, deception and falsehood—the hiding of our inner selves or outer behavior—is simply part of our social world. As with honesty, lying is one more natural continuum of human behavior. No different from other human conditions, it is not so much the presence or absence of dishonesty but the degree or amount that becomes a concern.



Why do people lie? Research (Saarni & Lewis, 1993) suggests that people make two assumptions about their own actions. The first involves the belief “I’m a good person” while the second assumes “I am in control most of the time.” Believing in these two assumptions is critical for maintaining a healthy psyche—these beliefs both protect and enhance our mental health. These assumptions also mean that we may guard ourselves or speak in a way that protects these assumptions. For instance:

1. A person will lie to “save face.” To save face is to protect a positive self-image—the beliefs that “I am a good person” and “I’m in control.”
2. A person will lie to save face for someone he or she cares about. Relationships are powerful motivators. This explains why abused children may lie to a protective services worker to protect their parent(s) and why one spouse cannot be compelled to testify against the other in a court of law. It creates a conflict to have to provide damaging information about someone with whom you have a close relationship.
3. A person will lie to protect a perceived loss of freedom or resources. There are penalties for admitting lawbreaking behavior, and so offenders must weigh the immediate penalties of telling the truth against the possibly worse, but less certain, penalties that might occur if they told a lie.

Any or all of these influences might be present—at any time—as a case progresses through a court system. Offenders constantly weigh their obligations to personal pride, important relationships, or the threat of a loss of freedom—all of this against what is expected of them.

*What can be done about it?*

First, the adage, “Don’t take it personal” is appropriate here. Taking full responsibility for poor outcomes can conflict with anyone’s self-perceptions as a “good” person and “in control.” Many offenders will deceive, not so much to con staff as to defend these assumptions within themselves—it involves a need for *self-deception*.

Second, a person will bend information in response to who is asking and how the question is being asked. The way an officer asks a question partially determines what kind of answer the offender gives. Said more strongly, some officers can actually encourage lies through their use of questions. Some officers believe that a confrontational style sends a message to the offender that he or she can’t be “taken in” by offenders, but research suggests it’s more the opposite. A harsh, coercive style can prompt a paradoxical response, where the harder the officer confronts, the more an offender feels like he has to lie to stay in control or save face. Lying becomes justified based on the personal style of the officer. Rather than evoking change, a confrontive personal style can leave an offender more entrenched in the problem, because it causes him to defend and make excuses for negative behavior.

Third, the probation field has long valued the ability to recognize deception and force the truth from offenders. As with any other profession, no one wants to be played upon, suckered or conned. Yet, trying to force people to admit their faults is exhausting work. In contrast, officers who have a positive, collaborative relationship with their probationers find that they are less likely to be lied to. A mutual working style makes honesty more likely. A motivational approach doesn’t handle deception by ignoring it, nor by getting agitated by it, but rather by taking a step back from the debate.

### **Addressing Violations and Sanctions**

One thing that makes probation officers unique is their conspicuously dual role. We help the probationer to plan, but dispense sanctions if he fails; we ask for honesty, but also report to the court. Indeed, it is understandable why some officers have a hard time navigating this dual role. The tendency is to move to one side—to become too harsh or too friendly—when a more middle-of-the-road approach is called for. In reality, probation officers are more like consultants, in that we manage the relationship between court and probationer. This is not as far-fetched as some would believe. In truth, we neither make decisions for the probationer nor for the court. If

we treat the position from the perspective of a consultant, we can avoid some of the pitfalls inherent in this dual role. Adopting this middle-of-the-road stance makes us not only effective advocates for the court, but also allows us greater power to influence the actions of the probationer.

Motivational Interviewing can make change more likely, but it is by no means a magic bullet. When violations occur, there are a couple of strategies for keeping a motivational edge.

### *1. Explain your dual roles (Become the “go-between”)*

Motivational Interviewing encourages officers to be honest with offenders about all aspects of their probation, including conditions, incentives, and sanctions. Officers should fully explain up front to the probationer about their dual role—yet do so as someone who represents “both sides.” For instance:

I want to make you aware that I have a couple of roles here. One of them is to be the court’s representative, and to report on your progress on the conditions that the court has set. At the same time, I act as a representative for you, to help keep the court off your back and manage these conditions, while possibly making some other positive steps along the way. I’ll act as a “go-between”—that is, between you and the court, but ultimately you’re the one who makes the choices. How does that sound? Is there anything I need to know before proceeding?

### *2. Address Behavior with an “Even Keel” Attitude*

Adopting a new approach like Motivational Interviewing is clearly a process. Even after an initial training, there is a common pitfall for many officers when compliance problems occur. At some point, if a probationer remains ambivalent (e.g., lack of progress), the officer believes it makes sense to move out of a motivational style and switch over to more coercive and demanding strategies. Staff who initially found the benefits of motivational work will justify heavy-handed tactics—perceiving them to be a natural response to resistance, even remarking that difficult offenders seem to be “asking for it.” A critical idea is missed— *there is a difference between enforcing sanctions based on lack of progress, and switching styles to a more heavy-handed approach*. One can enforce court orders and assess sanctions as appropriate, without leaving motivational strategies behind.

Force, for all its bluster, can often make a situation worse. This is especially true when addressing violations. Offenders may already be on the defensive about their progress, and an agitated officer can make the offender’s attitude worse. For this reason, we suggest that officers address violations with an “even keel” attitude, addressing the behavior, dispensing the appropriate sanction, but not getting agitated or taking the violation personally.

Motivationally-inclined officers offer their support—and their regrets—to the probationer who might be considering a violation of probation orders:

PO : “We’ve talked about this before. In another two weeks, you will be in violation of this court order. We have also talked about how it is up to you. You can certainly ignore this order but sanctions will be assessed.”

Probationer: “Darn right I can ignore it—this is so stupid!”

PO : “It seems unfair that you’re required to complete this condition. It feels to you like it might be a waste of your time.”

Probationer: “Yeah. I can’t believe I have to do this!”

PO : “It’s important that I tell you that my (supervisor, judge, responsibilities, policy, position) will demand that I assess a consequence if it’s not completed before the next two weeks.”

Probationer: “You don’t have to report this.”

PO : “Unfortunately, that’s part of my job. I have to follow orders here. So, this will be something I’ll have to do.”

Probationer: “You mean you can’t just let it go?”

PO : “No, I don’t have a choice. But—you have a choice, even if I don’t. Is there anything we can do to help you avoid these consequences before the end of the month (next meeting, court deadline)?”

Probationer: “I’ll think about it, it just seems unfair.”

A confrontational approach is always an option, but at this point simply recognizing the offender’s reluctance, and fairly informing him or her about what is likely to happen, can improve the likelihood that a decision for compliance will eventually overtake the emotions of the moment.

In this example, the officer refuses to leave the middle, neither defending the court’s order, nor siding with the offender to stop the sanction. When it comes to the specific sanction, the officer defers to the court, and re-emphasizes a collaborative relationship: “How do we (you, significant others and myself) keep them (the judge, the court, agency policy) off your back?” Finally, the officer emphasizes the offender’s personal responsibility. Offenders don’t have to complete their conditions; they always have the option of taking the sanction.

Motivational Interviewing steers clear of both the hard and soft approaches. The “hard” approach is overly-directive and defends the court’s authority (“You better do this!,” “Drop the attitude, you’re the one who broke the law,” “Don’t blame the court”). Less examined is the “soft” approach. This approach leaves the officer defending the probationer, (“I won’t tell this time—but don’t do it again,” “Do you know what the court would do if I brought this to their attention?”). A positive alliance is not the same as ignoring violations to keep a good relationship at any cost (“You better get it together or I’ll have to do something”), nor is it the same as allowing the situation to become personal and attempting to “out-tough” the offender (“I’ll lock you up!”). Both approaches miss the mark as they prevent the officer from occupying the “middle ground.”

A motivational approach is about finding the middle ground of a consultant who works with both sides (the court and the offender). Officers can work in partnership with the offender, while still being true to their court roles. Officers can respect personal choice, but not always approve of the offender’s behavior. By their skills and strategies, agents can supervise for compliance and, at the same time, increase readiness for change.

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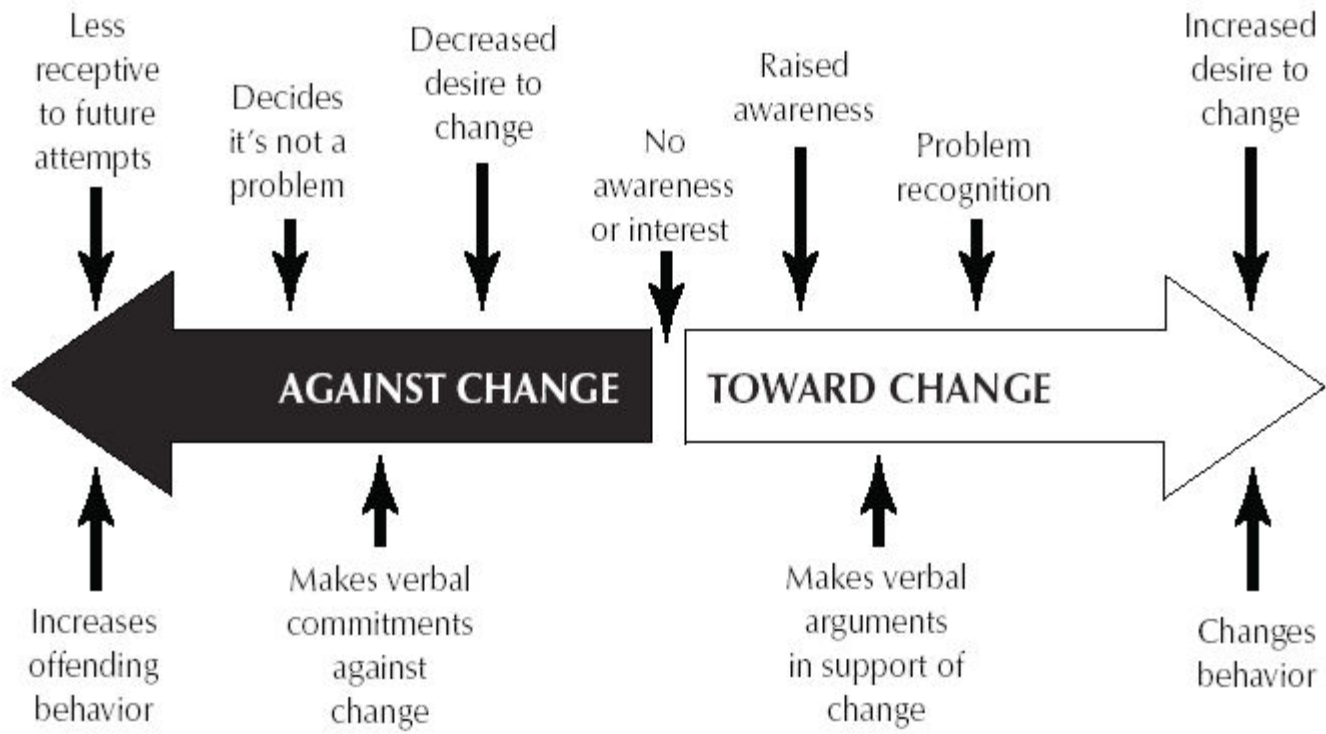
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**FIGURE 1.**



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## Power and Control Tactics Employed by Prison Inmates —A Case Study\*

\*The views and opinions expressed in this article are exclusively those of the author. In no way are they intended to reflect the philosophies or positions of the Federal Bureau of Prisons, Indiana Department of Correction, Correctional Medical Services, or Universal Behavioral Services.

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**THROUGHOUT THE COURSE** of my 31-year career as a correctional mental health professional, I have worked with countless prison inmates, both male and female, whose sole mission in life appeared to be the domination, exploitation, and/or humiliation of staff members. The tactics employed by inmates in the service of these objectives have ranged from the primitive and overt to the sophisticated and subtle. Sadly, many correctional employees have been victimized by such predation, and have incurred severe personal and professional losses in the process.

Elliott and Verdeyen (2002) suggested that inmates' efforts to con and manipulate staff are motivated by the *power orientation* (Walters, 1990), one of the eight primary thinking patterns underlying the criminal lifestyle. The power orientation is best described as the criminal's preoccupation with attaining a sense of dominion over others and absolute control over his or her environment (Elliott & Walters, 1997). This cognitive pattern consists of two crucial elements, first identified by Yochelson and Samenow (1976). When criminals are not in control of events and people in their immediate environment, they experience a *zero state*, in which they feel like failures, losers, or nobodies. In order to free themselves of this intolerable self-perception, they engage in a *power thrust* through which they reassert their sense of omnipotence and control, often at the expense of others (Walters, 1990).

In his chapter entitled "Getting Over the Shrinks," Samenow (1984) illustrated the different ways in which inmates try to deceive and outsmart counselors and other mental health professionals. Likewise, Sharp (2000), Cornelius (2001), and Allen and Bonta (1981) have described a host of ploys executed by criminals to control or obstruct staff. Elsewhere (Elliott & Verdeyen, 2002), I have catalogued 12 specific power and control tactics that I have frequently encountered in my clinical work with both state and federal prison inmates. Some inmates tend to prefer one tactic over another, while others are remarkably versatile in their attempts to deceive and manipulate staff. Likewise, the relative sophistication with which inmates engage in such gamesmanship is highly variable.

Over the course of a five-year period toward the end of my career with the Federal Bureau of Prisons, I enjoyed the challenge of working with an inmate whose versatility and creativity in seeking to exploit and manipulate staff have become legendary. He is, in my estimation, the

quintessential “con man,” whose “success” at outwitting and embarrassing prison staff resulted, at least in part, in his transfer from a state correctional system to the Bureau of Prisons. In the vignettes that follow, I will demonstrate how this inmate, hereafter referred to as “Larry,” employed each of the 12 power and control strategies. Several of these scenarios reflect my direct observations of or experiences with Larry, while the others are based on his own verbal or written accounts of his exploits. Each vignette is prefaced by a brief definition of the predominant underlying power and control tactic. More detailed descriptions of the 12 tactics can be found in the Elliott and Verdeyen article (2002).

**TESTING** refers to an inmate’s attempt to gather information about a staff member’s likes and dislikes, strengths and weaknesses, tendency toward leniency and gullibility, or anything else that points toward susceptibility to manipulation. Such information is usually “filed away” for strategic use at a later date.

*For a short while Larry was confined in the “Special Programs Unit” in a state prison. It was customary to hold a “community meeting” every Monday morning at which time inmates would share any grievances or other concerns regarding the operation of the unit. Confrontations of staff or fellow inmates were strictly prohibited, however. It was also understood that inmates were not to solicit personal information of any kind from staff members.*

*A brand-new housing unit officer was in attendance at one of the meetings. Larry decided to test the new officer’s gullibility and/or malleability. Larry noticed that the officer had brought a nice looking briefcase to work, and asked the staff member if it was a Christmas present. When the officer answered in the affirmative, Larry asked if he could take a look at it. The officer replied, “Sure, why not?,” and handed the briefcase to Larry.*

*Larry set the briefcase on the floor and proceeded to jump up and down on it. All of the inmates in attendance, and even some of the staff, erupted with laughter. Larry picked up the briefcase, returned it to the officer, and casually remarked, “I guess the commercial is true: A gorilla can jump on Samsonite without damaging it.” The unit officer, whose face was as red as an apple, quietly excused himself from the meeting while muttering obscenities under his breath. He was unable to live down the embarrassing experience for months.*

**DIVERSION** refers to the attempt of an inmate or group of inmates to distract a staff member from the task at hand in order to engage in nefarious activity. Escapes, assaults, and other serious acts of misconduct often occur when an employee falls prey to such a ruse.

*For two years, Larry had lived in the shadow of a high-profile inmate also housed on Death Row. (Larry had been sentenced to die by lethal injection after he murdered his cellmate in another prison.) On the eve of the high-profile inmate’s execution, Larry, a diabetic, took a syringe containing 95 units of insulin out of the hands of a physician’s assistant and injected the insulin directly into his veins. As a consequence of rapid and effective treatment by prison medical staff, Larry suffered no major physical damage.*

*Larry initially told staff that his action resulted from an impulsive decision to kill himself because he’d rather die by his own hand than “let the government take me out.” Larry was then placed in a special camera-equipped observation cell which had housed the high-profile inmate prior to his transfer to the lethal injection chamber. Larry was later overheard bragging to another Death Row inmate that he was now the “number one attraction on the Row,” and that he would do whatever he needed to do in order to remain in the cell that conferred that status.*

**EXTORTION** refers to any measure employed by an inmate that is intended to threaten, intimidate, or otherwise coerce a staff member into doing something which he or she should not or does not want to do.

*While residing in a maximum security state prison, Larry established and maintained a reputation as a “broker” who could “acquire” virtually any item that he or another inmate might desire. For example, he managed to secure marijuana, handcuff keys, and even a .22*

*caliber pistol and shells. Not surprisingly, he relied heavily on certain staff members to bring in many of the illicit items he sought as well as to provide personal services such as taking his mail to a local post office and affording him unrestricted access to a telephone. One staff member even brought in federal tax forms, which Larry used to file bogus returns, thereby allowing several inmates to receive income tax refunds.*

*To guarantee the cooperation and loyalty of these carefully chosen prison employees, Larry maintained detailed records of the dates, times, locations, and amounts paid or received for all services rendered by his “agents.” He even paid for each staff member to use a long-distance calling card that was issued to a telephone number on the outside, thereby creating another device for tracking his “employees’” activities. Consequently, no one who “worked” for Larry could afford to steal from him or fail to follow through with an assignment. To do so would result in losing their jobs or facing criminal prosecution.*

**DISREPUTATION** refers to an inmate’s attempt to undermine a staff member’s authority and/or discredit his/her professional stature by impugning the employee’s competence and expertise. Usually, the inmate hopes that the staff member will lose status in the eyes of peers or supervisors.

*Larry managed to escape from a state prison shortly after the 6:00 a.m. count had been taken and cleared. He knew that no one would know he was missing for at least a few hours. Around 9:00 a.m., he called the institution and informed the Captain that he needed to conduct an emergency count. The Captain regarded the call as a prank and hung up the phone in anger. Larry proceeded to call Department of Corrections headquarters and report that a prisoner had escaped from the prison and the Captain had been notified but was uninterested.*

*Following his apprehension a few days later, Larry learned that the Captain had been severely reprimanded for failing to conduct an emergency count immediately after receiving the anonymous call. Larry proudly announced that he was the “anonymous” caller and was immediately transferred to a different institution in order to protect the Captain from allegations of retaliation against Larry in any way.*

**NEGOTIATION** refers to an inmate’s offer to exchange information or something else of value to staff for some kind of accommodation or dispensation desired by the inmate. This ostensible quid pro quo arrangement rarely turns out to be as beneficial to staff as it is to the inmate.

*One day Larry announced that he was embarking on a “hunger strike” to protest the lack of time and privacy he was offered during a recent visit with a Catholic nun with whom he had been corresponding. After several discussions with the Unit Manager, Chaplain, and Warden, it was decided that Larry would be permitted to meet with the nun in a room normally reserved for attorney visits. Larry agreed to resume eating and the first of several visits was scheduled.*

*Several weeks later, Larry announced that he wished to convert to Catholicism and presented a letter from the nun indicating that she would be willing to make arrangements for a local priest to perform the conversion ceremony. The request was approved and the ceremony was scheduled. However, less than a week before the event, the Warden received a call from the archbishop of the major metropolitan area closest to the institution. The archbishop stated that he would personally perform the ceremony for not only Larry but for another Death Row inmate as well.*

**RUMOR CLINIC** refers to an inmate’s dissemination of information, or more frequently misinformation, in order to malign a staff member’s character. Such “gossip” spreads quickly among the inmate population and, unfortunately, is sometimes perpetuated by other employees.

*Most federal prisons have a small cadre of staff who investigate potentially criminal activities such as homicides, serious assaults, escape plots, drug distribution, and incidents involving weapons. As a consequence of his entrepreneurial and often criminal exploits in state prisons, Larry was frequently a subject of interest to the investigator in one particular federal prison.*



*Larry was often placed in segregated housing while the chief investigator followed up on information or suspicion that the inmate was engaging in criminal behavior "behind the walls."*

*Larry soon reached the point at which he had "suffered" enough at the hands of the investigator. He managed to gain access to a typewriter, obtain a copy of a memo from the Captain to the Warden, and alter the memo to read as follows:*

*"It has come to my attention that Lt. \_\_\_\_\_ [the chief investigator] was recently arrested in the \_\_\_\_\_ club, a well known gay bar in \_\_\_\_\_ Missouri. Lt. \_\_\_\_\_ is a member of the well known militant gay activist group "Act Out." It is my opinion that his actions have created embarrassment and damaged the reputations of men and women employed here. Staff morale is at an all time low. Immediate disciplinary action should be taken against Lt. \_\_\_\_\_."*

*After purchasing photocopy cards from the prison commissary, Larry made 100 copies of the memorandum. With the assistance of other inmates, copies were posted on each housing unit bulletin board and on every table in the dining hall. Although the allegations against the investigator were found to be spurious, he was nonetheless subjected to stressful and time-consuming scrutiny by Internal Affairs officials.*

**REVENGE** refers to an inmate's effort to retaliate against a staff member because of perceived mistreatment or neglect. Although revenge can assume virtually any form, it often involves an inmate's submission of a formal grievance or initiation of a lawsuit against an employee.

*At some point during his first year of confinement on Death Row (at the prison where I was employed as a psychologist), Larry asked me if he could receive a copy of a routine mental status report I had recently completed on him. (Such reports are required for all inmates who are confined in a "special housing unit" every 30 days.) Consistent with agency policy, I provided Larry with a copy of that report, the content of which was utterly unremarkable: No psychopathology was noted and the inmate's attitude and demeanor were assessed in generally favorable terms. However, Larry vehemently objected to my failure to cite his positive contributions to morale in the unit as well as his availability to speak with officials who tour the unit. I explained to Larry that 1) I had not directly observed the behavior for which he wanted "credit," and 2) such matters did not fall under the purview of the "30-Day Review" report.*

*Several days later I was summoned to the Associate Warden's office. The "AW" informed me that I could no longer utilize the standard monthly review form. Larry had pointed out to the Warden that the form was explicitly designed for use in conventional special housing units (e.g., disciplinary segregation, protective custody, administrative detention, etc.). The Warden agreed that a separate form should be used for inmates on Death Row. Accordingly, I was directed to develop such a form, submit it to central office for review and approval, and, in the meantime, write considerably more extensive narrative reports on Death Row inmates in lieu of the 30-Day Review form.*

**INGRATIATION** refers to a ploy whereby an inmate attempts to endear himself or herself to a staff member by doing or saying something for which the employee feels a sense of gratitude and possibly an inclination to reciprocate in some way. However, the inmate is always careful not to explicitly ask for such reciprocity.

*During our first meeting following his admission to Death Row, Larry chronicled his history of contacts with mental health professionals. He spoke at length regarding his involvement in "regular therapy sessions" with a psychologist at his previous institution. Larry stated that he had learned more from Dr. \_\_\_\_\_ than he had from "all the other shrinks put together." I told him that I was glad that he found his working relationship with Dr. \_\_\_\_\_ to be so meaningful and productive. However, I advised him that "regular" counseling sessions were highly unlikely at this time and place.*

*A week or so later, I received a call from the Death Row unit manager who reported that Larry*

was most anxious to see me. Upon my arrival, he told me that he had received a letter from Dr. \_\_\_\_\_, who indicated that I was “one of the most highly respected psychologists in the Bureau” and a “stand up guy” as well. Larry further stated that Dr. \_\_\_\_\_ had suggested that I “would do the right thing by him (Larry),” and the “quality of sessions” with me would more than compensate for their in- frequency. As I started to respond with an expression of gratitude for Dr. \_\_\_\_\_’s comments, Larry asked, “So when can we have our first private session?”

**SPLITTING** refers to a maneuver whereby an inmate pits one staff member against another in an effort to curry favor or undermine one or both employees. It is a manifestation of the classic military strategy known as “divide and conquer.”

*At any given time, up to three psychologists, including me, made regular rounds in the Death Row unit where Larry was housed. During a routine mental status check conducted by a female psychologist, Larry informed her that he knew that she was assigned to work with family members of victims of another Death Row inmate whose execution was imminent. The psychologist neither confirmed nor denied the information, and redirected the conversation to Larry’s mental status. The inmate, undeterred, commended Dr. \_\_\_\_\_ for providing an “important and much needed service to those poor souls.”*

*Later in the same week, Larry asked to speak to a male psychologist who was interviewing an inmate in a nearby cell. Larry remarked, rather indignantly, that he found it “outrageous and inappropriate” that Dr. \_\_\_\_\_(the female psychologist) was permitted to make rounds in Death Row. He asserted that “there’s no way that she can do right by the guys in this unit since her loyalties are to the “other side” (victim’s families). Besides, most of the guys want you to be the unit psychologist since you’re going to be with us the day of the execution. Plus that, you seem to be less judgmental about us than Dr. \_\_\_\_\_(female psychologist).” The male psychologist replied, “I see your point. I’ll take this up with the chief psychologist.”*

**BOUNDARY INTRUSION** refers to an inmate’s attempt to establish a personal relationship with a staff member. The goal of this type of power-based maneuver is to neutralize the employee’s status as an authority figure and “level the playing field” with the inmate.

*During a stint in a state prison, Larry’s job assignment was that of “head clerk” in the kitchen. His duties included assigning jobs to other inmates, scheduling kitchen officers’ hours of duty, ordering supplies from the outside warehouse, and preparing purchase orders for outside vendors. The kitchen supervisor signed the paperwork, but otherwise left the operation to Larry, thereby offering him untold freedom and perquisites of which he took full advantage.*

*One day the “boss” (kitchen supervisor) disclosed that his wife suffered from a chronic illness and needed someone to look after her. However, he revealed that he didn’t have the money to pay for a companion for his wife. Larry promptly stated that he knew of an agency that handled legal immigrants who, for room, board, and a small stipend, would perform housekeeping duties and provide companionship for the elderly or infirm. He offered to find the agency’s phone number and give it to the boss, who eagerly accepted the offer. Two weeks later, a 25-year-old Hispanic female, highly recommended by the agency, moved into the boss’s home.*

*Within days, the boss told Larry that things were starting to go missing, people were calling for the new housekeeper day and night, and his wife reported considerable discomfort with the situation. He stated that he had decided to cancel the arrangement, but no one ever answered when he called the agency’s number that Larry had given him. The boss further indicated that his next step was to call the Better Business Bureau. Larry suggested that the boss might want to think twice about doing so. He informed his supervisor that there was no agency and that his wife’s caretaker was the girlfriend of one of the other inmates working in the kitchen.*

**SPHERE OF INFLUENCE** refers to an inmate’s exploitation of political, financial, or other personal resources to undermine staff authority or circumvent established policy and procedure. Such resources can be located either inside or outside the prison.

*One day Larry informed the Unit Manager that an execution date had been set for one of the inmates on Death Row. The Unit Manager responded that he was unaware of this development, and questioned the accuracy of Larry's information. Nevertheless, the Unit Manager, who had found Larry's "news reports" and predictions to be uncannily accurate, called the Warden to see if he had heard anything about the establishment of an execution date. The Warden replied that he had not.*

*Several hours later, the Warden called the Unit Manager and told him that an execution date—the one cited by Larry—had just been announced by the Justice Department. At the Warden's direction, the Unit Manager went to Larry's cell and asked him how he knew in advance about the execution date. Larry smiled and replied that he learned of the date during a phone call with a friend who managed his website. The Unit Manager, utterly incredulous, asked Larry what he meant by "my website." The inmate retorted, "Oh, yeah. You didn't know that I have my own website, which deals with all kinds of information about capital punishment? Let me give you the web address so you can check it out."*

**SOLIDARITY** refers to an organized attempt by a group of inmates to compel staff to undertake a course of action considered favorable, or abandon an initiative deemed unfavorable, to the inmates. Solidarity is often based on the inmates' geographic origin, ethnicity, religious affiliation, or gang membership.

*For approximately two years, Larry was one of only three white inmates housed in the Death Row unit. Larry quickly convinced the other two that their survival would hinge on the extent to which they "hung tight together." In reality, racial conflict was never a problem within the unit since most if not all of the inmates were preoccupied with filing appeals and/or establishing comfortable daily routines. Larry, however, perceived and sought to exploit an opportunity to enhance his status and reputation both within and beyond the Death Row unit.*

*First, at Larry's suggestion, all three inmates alleged that they were the subject of discriminatory treatment by the Justice Department, which was being criticized for the disproportionate number of minority inmates sentenced to death. The three white inmates argued that they were "sacrificial lambs" in the sense that their appeals for mercy or clemency would fall on deaf ears; according to Larry, the Justice Department would "have to kill us to prove that it's not just the Blacks who are getting the needle." Larry made sure that this concern was prominently featured on his web site. Unit staff, quite understandably, found themselves "walking on egg shells" around and "going the extra mile" for these inmates.*

*Second, and again at Larry's behest, the three inmates entered into an agreement to "tell their stories to the world." This initiative culminated in the publication of two books incorporating autobiographies, accounts of experiences living on Death Row, and even an alternative explanation for why one of the three had committed the crime which led to his death sentence. Although one of the inmates was not listed as a co-author of either publication, he was both a source of information for and primary subject of both. The management of telephone contact and correspondence between the inmates and publishers became a major problem for staff. For example, it became necessary to house the three inmates close to each other due to their need to communicate with one other as well as attorneys, agents, and others concerned with the publications .*

## **Summary and Conclusion**

This case study was intended to illustrate 12 common expressions of the power orientation, one of the eight primary criminal thinking patterns identified by Walters (1990). The subject for this study is an actual prison inmate that I knew over a period of five years. Although he serves as an exemplar for the 12 power and control tactics, correctional staff are sure to encounter various manifestations of these ploys regardless of the inmate population and individual prisoners with whom they work.

Through the identification and exemplification of all 12 power and control-seeking maneuvers, it

is my fervent hope to protect correctional employees from sacrificing their careers or personal lives by succumbing to such tactics. In earlier publications (Elliott, 2002; Elliott & Verdeyen, 2002), I have outlined both prevention and intervention strategies that correctional staff can use to effectively combat these and other manifestations of the power orientation.

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## Convicted Drunk Drivers in Electronic Monitoring Home Detention and Day Reporting Centers: An Exploratory Study

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**IN THE UNITED STATES**, the use of varied intermediate sanctions has been spurred by a fiscal need for supervision and treatment of offenders that are less expensive than long-term imprisonment, and a judicial need to find constitutional alternatives to traditional imprisonments to restrain jail/prison overcrowding. Typically, intermediate sanctions are conceptualized as punishments located on a continuum between prison and traditional probation (Tonry, 1997). These sanctions are intended to permit rational allocation of correctional and sanctioning resources to safely supervise minor offenders in community-based correctional programs while confining serious offenders behind bars (Parent, Dunworth, McDonald, and Rhodes, 1997). Two intermediate sanctions that are increasingly being implemented across the United States since the 1980s are electronic monitoring home detention (EMHD) programs and day reporting centers (DRCs).

The first EMHD program for adult offenders was established in Palm Beach County, Florida in 1984 by the Palm Beach County Sheriff's Department in-house arrest work release program (Brown and Roy, 1995). In 1986, the Crime and Justice Foundation in Boston worked with Hampden County Sheriff's Department in Springfield, Massachusetts, to start the first DRC in the United States (Curtin, 1996). Both these programs are utilized by our criminal justice system at pre-trial stage as well as post-trial stage, and both these programs are non-residential; hence, the common factor is that the participants in both programs are allowed to remain at home and continue their employment and/or education (Lurigio, Olson, and Sifferd, 1999).

In the U.S., empirical studies on the EMHD programs have been reported since the late 1980s, while such studies focusing on DRCs have been available since 1990. Both these programs across our country include varied types of offenders as participants, e.g., offenders charged with and also convicted for drunk driving, property offenses, and personal offenses (Martin, Lurigio, and Olson, 2003; Finn and Muirhead-Steves, 2002).

However, previous researchers have paid scant attention to convicted drunk drivers sentenced to these two programs. Even when they focused specifically on convicted drunk drivers, they

examined them in only one of the two programs. In other words, previous researchers did not conduct a comparative study on convicted drunk drivers when they were sentenced to EMHD as well as DRC programs. This study focused on those convicted drunk drivers who were sentenced to these two programs and also completed their sentences in a southwestern Indiana county from January 2002 through December 2003. In this Indiana county, convicted drunk drivers are sentenced to EMHD and DRC programs. Specifically, the objective of this exploratory study was to compare the two groups [EMHD and DRC] of similar offenders in terms of their “exit status.”

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## **Previous Research**

As specified in the previous section, the focus here is on convicted drunk drivers sentenced to EMHD and DRC programs in an Indiana county during the study period. Hence, discussion on previous research findings on these two community-based programs is presented in two sub-sections.

### *EMHD*

According to Finn and Muirhead-Steves (2002), EMHD is being utilized as a) pretrial supervision of criminal defendants, b) an alternative to revocation of individuals supervised on probation and parole, and c) an additional component of probation and parole supervision. The eligibility/selection criteria for placement of offenders in EMHD vary across the nation. A review of previous research points out that the majority of these programs involve non-violent offenders and those with non-violent offense histories (Roy, 1999, 1997; Zhang, Polakow, and Nidorf, 1995; Brown and Roy, 1995; Baumer, Maxfield, and Mendelsohn, 1993; Coopridge, 1992; Lilly, Ball, Curry, and Smith, 1992; Vaughn, 1991, 1987; Clarkson and Weakland, 1991; Kuplinski, 1990; Charles, 1989; Ball, Huff, and Lilly, 1988; Bloomberg, Waldo, and Burcroff, 1987; Lilly, Ball, and Wright, 1987). Also, some programs supervise only those offenders who are sentenced to jail for a given number of days (Roy, 1999; Lilly, Ball, and Wright, 1987). In contrast, some programs exclude offenders who have pending charges or have a history of absconding (Kuplinski, 1990). Finally, some programs exclude offenders who have multiple felony convictions, require in-patient drug/alcohol treatment, or are serving intermittent sentences (Brown and Roy, 1995).

Overall, previous researchers have focused on various aspects of these programs, such as the monitoring devices, cost analysis, percentages of offenders successfully exiting these programs, factors predictive of successful exit, and also post-program recidivism. Despite the differences in selection criteria, previous research reports reveal that 57 percent to 97 percent of offenders had successfully exited their programs ( Roy, 1999). As for “exit status,” several previous researches had focused on this issue. For instance, results from the national survey conducted by Renzema and Skelton (1990) reveal that an offender’s age and sentence length were predictive of “exit status.” Older offenders (over 35 years of age) had more likelihood to successfully exit their programs; that is, age and successful exit were inversely related. Regarding sentence length, Renzema and Skelton (1990) reported that as the sentence length exceeded 180 days, the likelihood of successful exit increased. The finding on an offender’s age has been supported by other previous research findings (Roy, 1999, 1997; Brown and Roy, 1995; Roy, 1994; Lilly, Ball, Curry, and McMullen, 1993). However, the finding on an offender’s sentence length from the national survey has not been supported by other research reports (Roy, 1999, 1997; Brown and Roy, 1995).

Previous researchers have also found several other factors to be significantly related to “exit status”: charge reduction (offenders whose original charges were reduced were more likely to fail, compared to those whose charges were not reduced), employment status (unemployed offenders were more likely to fail than employed offenders), gender (male offenders were more likely to fail than female offenders), previous convictions (offenders with previous convictions were more likely to fail compared to their cohorts with no prior) (Roy, 1999; Lilly, Ball, Curry, and McMullen, 1993), income (offenders with \$10,000 or less annual income were more likely

to fail compared to those with more than \$10,000 annual income) (Lilly, Ball, Curry, and McMullen, 1993), number of prior offenses (offenders with more than three prior offenses were more likely to fail than those with fewer than three priors), substance abuse history (offenders with substance abuse history were more likely to fail compared to offenders with no such history), and prior institutional detention (offenders who had history of prior institutional detention were more likely to fail than their cohorts with no such history) (Brown and Roy, 1995; Roy, 1994).

A review of previous research reports indicates that various types of convicted offenders (such as drunk drivers, property offenders, and those convicted for personal offenses) are sentenced to EMHD programs across the U.S. To date, only a handful of researchers have focused exclusively on convicted drunk drivers. The most recent one conducted by Courtright, Berg, and Mutchink (2000) examined the factors statistically significantly related to successful exit from the EMHD program administered in Western County, Pennsylvania. Although the authors did not clearly indicate the percentage of offenders who successfully exited the program during their one-year study period, they reported that employment, marital status, and prior offenses were significantly related to successful exit. Courtright, Berg, and Mutchnick (2000) had conducted an earlier study on the same type of offenders sentenced to the same program in 1997; however, this earlier study focused on cost analysis only. Lilly, Ball, Curry, and McMullen (1993) conducted a seven-year study on convicted drunk drivers sentenced to EMHD program administered by the Pride Incorporated in Palm Beach County, Florida. The authors reported that 97 percent of the participants successfully completed their sentences during the study period. They also reported that gender (male offenders had higher percentage of failure than female offenders), age (offenders who were over 40 years of age had higher percentage of successful completion than younger offenders), employment (unemployed offenders had higher percentage of failure than employed offenders), and income (offenders who had over \$10,000 annual income were more successful than those with less than \$10,000 annual income at completing their sentences successfully) were statistically significantly related to the offenders' successful exit from the program. In another study, Tuthill (1986) examined post-program recidivism among sixty convicted drunk drivers who successfully exited the EMHD program in Lynn County, Oregon, during a one-year study period in 1985; only three participants recidivated. No other analysis was conducted by the author.

### *DRC*

In general, DRCs vary from one jurisdiction to another in terms of program emphasis. On the one hand, several programs accent the availability of treatment services for offenders who would otherwise not have those services available to them (Lurigio, Olson, and Sifferd, 1999; McBride and VanderWaal, 1997; Lucas and Bogle, 1997a, 1997b; Parent, Byrne, Tsarfaty, Valade, and Esselman, 1995; Diggs and Piper, 1994). On the other hand, many programs emphasize other issues. Programs such as the southeastern North Carolina DRC emphasize surveillance, not treatment (Marciniak, 1999). However, one common goal of all DRCs in the U.S. is cost savings. For instance, the DRCs in Hampden County, Massachusetts, Harris County, Texas, Maricopa County, Arizona, and Orange County, Florida, identify cost savings as their primary goal (Parent et al., 1995; Diggs and Piper, 1994). In addition, restraining or reducing jail/prison overcrowding is a mandate of the Massachusetts, Texas, and Arizona DRCs just mentioned (Parent et al., 1995). Furthermore, some programs, such as the Cook County, Illinois DRC, emphasize improving the percentage of court appearances among pre-trial offenders (Lurigio et al., 1999).

DRCs in the U.S. also vary widely in their target populations. The majority of DRC participants are substance abusers or have a history of substance abuse (Parent et al., 1995). Also, some DRCs target probation violators, both felons and misdemeanants (Marciniak, 1999). In addition, some DRCs in Virginia accept referrals from judges and parole boards as well as probation and parole officers (Lucas and Bogle, 1997a, 1997b). While some DRCs target non-violent offenders, graduates of various residential programs, and pre-trial defendants (Roy and Grimes, 2002; Lurigio et al., 1999; Parent et al., 1995), other DRCs like the Salt Lake City, Utah DRC target only probationers and parolees (Bureau of Justice Assistance, 2000).

According to previous research findings, the percentages of successful exit from DRCs by adult offenders ranged from 13.5 percent to 84 percent. The lowest percentage (13.5 percent) of successful completion has been reported by Marciniak (1999) in a southeastern North Carolina DRC; the highest percentage (84 percent) was reported by Diggs and Piper (1994) in Orange County, Florida. So far, only a few researchers have focused on the factors related to failure or unsuccessful exit of offenders from DRCs, Humphrey (1992) reported five factors—continued drug use, absconding, non-compliance with program rules, and loss of job as well as loss of residence. Among all the published reports available to date, only Marciniak (1999) used statistical analysis to ascertain the factors statistically significantly related to offenders' "exit status;" they were: employment, education, and living situation.

As for post-program recidivism among offenders who successfully exited DRCs, few previous researchers have concentrated on this issue. To date, only six published reports have done so. In all six, the authors measured recidivism in terms of rearrests on new charges. Clear information about the percentages of post-program recidivism is available from the following four studies: 1) 44 percent in the Salt Lake City, Utah DRC (Bureau of Justice Assistance, 2000); 2) 22 percent in the Fairfax County, Virginia DRC (Orchowsky, Lucas, and Bogle, 1997); 3) 20 percent in the Metropolitan DRC, Boston (McDevitt, Domino, and Baum, 1997); and 4) 14.9 percent in the Maricopa County, Arizona DRC (Jones and Lacey, 1999).

However, regarding convicted drunk drivers sentenced to DRCs, only one published study has been available to date. Jones and Lacey (1999) investigated convicted drunk drivers sentenced to the Maricopa County, Arizona DRC. More specifically, the authors focused on repeat drunk drivers. They reported that almost 15 percent of those who successfully exited the DRC had recidivated during their study period. No further analysis was conducted by the researchers. However, one significant fact was that all the offenders in this DRC were released from jail early to be placed in that program. The length of time they spent in that DRC was equal to their remaining jail time.

In sum, this review of previous research findings on EMHD and DRC programs makes clear that so far very few researchers have focused exclusively on convicted drunk drivers sentenced to these community-based programs. As mentioned earlier, in this southwestern Indiana county, convicted drunk drivers are sentenced to EMHD and DRC programs. Previous researchers have investigated convicted drunk drivers sentenced to either EMHD or DRC programs in other jurisdictions across the U.S. They have not conducted any comparative study on convicted drivers when these offenders are placed on EMHD and DRC programs in the same jurisdiction. As the same type of offenders are sentenced to these two programs administered by the same community corrections office in the Indiana county, it is worth conducting an exploratory study comparing the two groups of offenders. In this study, the subjects included those convicted drunk drivers who were sentenced by the County Superior Court to these two programs and also completed their sentences from the beginning of January, 2002 through the end of December, 2003. The EMHD group was compared with the DRC group in terms of their "exit status."

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## **Method**

### *Data Sources and Subjects*

The data were coded from individual offender case files maintained by the County Community Corrections Office. Initially, all the convicted drunk drivers who were sentenced to EMHD (130 individuals) and DRC (67 individuals) programs and exited the programs (during the two-year study period) were included in this study. However, due to inconsistencies in the available information, 12 subjects from EMHD and 16 subjects from DRC were dropped. Hence, this study included 118 subjects in EMHD and 51 subjects in DRC. Detailed information regarding each subject's prior offense history, prior sanctions, and post-program recidivism was collected from the Criminal History Information System maintained by the County Superior Court.



The following independent variables have been used in this study: age, race, sex, marital status, offense (drunk driving) class, charge reduction, sentence type, sentence length (i.e., the number of days spent by each subject in each program), prior OWI offense, prior jail commitment, prior imprisonment, prior community corrections placement, prior drug/alcohol offenses, and prior drug/alcohol counseling. The mean age of subjects was 38.6 years in DRC (range 19 to 64 years), and 35.1 years in EMHD (range 27 to 65 years). About 90 percent of the subjects in both groups were “whites” (coded 1) and the remaining 10 percent (approximately) were “non-whites” (coded 0). Also, the majority of the subjects were “male” (male coded 1, and female coded 0) (80.4 percent in DRC and 87.3 percent in EMHD). The majority of the subjects were “not married” (married coded 1, and not married coded 0) (66.7 percent in DRC and 78 percent in EMHD). As for offense class, 76.5 percent of the subjects in DRC and almost 56 percent in EMHD were “misdemeanants” (coded 0); the remaining subjects were “felons” (coded 1). The original charges were reduced (charge reduced coded 1, and not reduced coded 0) by the Court for two subjects (4 percent) in DRC and thirtyfive subjects (29 percent) in EMHD.

In the southwestern Indiana county, these convicted drunk drivers were placed in EMHD in three ways: as an additional condition of their probation sentence (coded 1), as direct commitment (in lieu of jail sentence; coded 2), and as sentence modification (jail sentence modified after spending specific amount of time in jail; coded 3); in DRC, they were placed as a condition of probation sentence and as sentence modification. In both programs, the majority of the subjects were placed as a condition of probation (98 percent in DRC, and 78.8 percent in EMHD). Twenty-four subjects were sentenced in EMHD as direct commitment. Also, each group included one individual placed as sentence modification. As for sentence length, the range in DRC was 14 to 475 days, while in EMHD the range was 40 to 365 days. Regarding prior OWI offense, the two groups of subjects varied. Seventyeight percent of the subjects in EMHD had such history compared to thirty-nine percent of their cohorts in DRC. The majority of the subjects had no prior jail commitment coded 0; 94.1 percent in DRC and 85.6 percent in EMHD) as well as no prior imprisonment (coded 1; 88.2 percent in DRC and 98.3 percent in EMHD). However, about 53 percent of the subjects in DRC group and almost 80 percent of their cohorts in EMHD group had history of prior community corrections placement (coded 1, and no such history coded 0). As for prior drug/alcohol offenses (coded 1, and no prior drug/alcohol offenses coded 0), about 98 percent of DRC subjects and about 85 percent of EMHD subjects had such records. Also, about 41 percent of DRC subjects and almost 79 percent of EMHD subjects had documentations of prior drug/alcohol counseling (coded 1, and no prior drug/alcohol counseling coded 0).

The outcome measure of this study was “exit status.” This variable was dichotomized as “successful” (coded 1) and “failure” (coded 0).

### *Recoding of Independent Variables*

The independent variables included two continuous variables—age and sentence length. Each of these two variables was recoded to be categorized into two groups for data analysis. Age was categorized into “group I” (up to 35 years) and “group II” (more than 35 years). Likewise, sentence length was categorized into “group I” (up to 180 days) and “group II” (more than 180 days).

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## **Results**

As the previous literature has suggested, DRC and EMHD programs differ in their overall purposes. For example, typically DRC programs are utilized as a mechanism for reducing jail and prison overcrowding as well as the overall costs of correctional systems (Barton and Roy, 2005). Likewise, EMHD programs have consistently been used for both pretrial supervision, and an added component to probation and parole (Finn and Muirhead-Steves, 2002). That being said, any program may negatively impact the ultimate cost savings should an offender be unsuccessfully released from the program and in some instances diverted back to incarceration. Therefore, this exploratory study seeks to examine whether any relationship exists between the

following characteristics of drunk drivers placed in DRC and EMHD and their exit status: age group; offense class; sentence length; prior community corrections placement; prior alcohol or drug counseling; and prior jail detention.

Overall, the present study indicates that the majority of both DRC and EMHD participants did successfully exit the program (DRC=51 percent; EMHD=76 percent). However, this leaves unclear what characteristics of offenders increased their propensity for success or failure. Therefore, a separate chi-square analysis examining the relationship between the observed and expected frequencies for drunk driving offenders sentenced to both Day Reporting Center and Electronic Monitoring/Home Detention participants was conducted. This analysis will guide the researchers for future studies to further explore the depth of the relationships. Results of the analysis are presented below.

#### *Age Group and Exit Status*

Traditionally when examining the age of offenders sentenced to both DRC and EMHD programs, the research suggests that EMHD programs are prone to include older offenders (those above 35). DRC programs appear to vary in the age of participants. As previously mentioned, the average age for program participants in this study is 38.6 years in DRC (range 19 to 64 years), and 35.1 years in EMHD (range 27 to 65 years). Upon first review, the results reveal that the majority of DRC participants are over the age of 35 (63 percent) while the majority of EMHD offenders are under the age of the 35 (58 percent). This is significant since recent life course theories suggest that as an individual ages, he or she is less likely to participate in criminal behavior (Sampson & Laub, 1993). From this proposition we would expect that older participants would be more likely to succeed than younger participants. A cursory review of the data indicates this proposition is true. [Table 1](#) presents the results from a chi-square analysis testing the significance of the relationship for each of the groups. Findings suggest that significant differences exist between age groups and exit status for EMHD participants only ( $p < .02$ ; Cramer's  $V = .207$ ). Therefore, this finding warrants further exploration.

#### *Offense Class and Exit Status*

Previous research assessing the relationship between offense class and exit status indicates that a significant number of programs exclude felony offenders from entering their program at all. Although it does appear that Day Reporting Centers are more inclined to accept felony offenders than are Electronic Monitoring/Home Detention programs, research assessing the differences in the two groups, particularly for drunk driving offenders, is non-existent. In the current study, both misdemeanor and felony drunk driving offenders were included in the program. Therefore, it is important to ascertain whether any relationship exists between offense class and outcome.

[Table 2](#) reports the results assessing the relationship between offense class and exit status. Approximately three-fourths of the offenders for both programs are misdemeanants (DRC=39, 76 percent; EMHD=90, 76 percent). Cross-tabulations were run using chi-square test for significance comparing the success rates for both groups. Overall, the results indicate that the majority of offenders participating in either program were successfully released (DRC=51 percent; EMHD=76 percent). These results indicate there is no significant relationship for DRC participants. However, a significant relationship does exist between offense class and EMHD program participants (Cramer's  $V = .347$  and  $p < .0001$ ). Of particular interest is the difference in outcome for felony offenders. Although the majority of felony offenders did successfully complete the program (60 percent), a significant number did fail (40 percent). Therefore, this relationship is worth further inquiry.

#### *Sentence Length and Exit Status*

When examining exit status, it is important to consider the overall amount of time an offender spends in a program. To date, no studies have examined the length of stay in Day Reporting Center programs and exit status. However, for electronic monitoring program participants, Renzema and Skelton (1990) found that sentence lengths exceeding 180 days increased the

likelihood of a successful exit from the program.

[Table 3](#) presents the results examining the relationship between both Day Reporting Centers and Electronic Monitoring and exit status. Overall, the majority of both DRC and EMHD participants (94.1 percent and 85.6 percent respectively) participated fewer than 180 days in either program. Using a chi-square analysis test of significance, we find no differences in the groups. One probable explanation for this finding is that so few offenders participated more than 180 days that the cell sizes were sufficiently small enough to not allow for any variation, therefore, resulting in no significant differences. In spite of these findings, there were a couple of noteworthy results. DRC participants sentenced to less than 180 days were almost evenly split between successful completions (52 percent) and failures (48 percent). Conversely, the majority of EMHD participants sentenced to less than 180 days successfully completed the program (85 percent). Because there were only three offenders in the DRC program sentenced to more than 180 days, their results are by chance alone. However, 17 EMHD offenders were sentenced to more than 180 days. Of these offenders, the majority (77 percent) failed the program. Even though these findings were not significant, they do warrant further exploration.

#### *Prior Community Corrections Placement and Exit Status*

Previous research assessing the effectiveness of Day Reporting Centers and Electronic Monitoring/Home Detention programs has focused on the type of program participants (pre-trial, probation, community based, etc.), level of participation (i.e., number of days in program), program and post-program recidivism, and comparisons between offenders in community-based alternatives and those with prior prison placements (Parent & Skelton, 1995). However, research to date has not focused on the relationship between prior placement in community corrections programs and exit status. The present study includes a nominal level measurement indicating whether the offenders have any form of prior community corrections placement. Results from this analysis are presented in [Table 4](#). Overall, data reveal that 54.9 percent of DRC participants and 79.6 percent of EMHD participants did have some sort of prior community corrections placement. Using the chi-square test of association, the results indicate there are no significant differences between the expected and observed frequencies. Although they were not significant, there were a few noteworthy findings. Of those DRC participants who were placed in some form of community corrections, approximately 54 percent did successfully complete the DRC program, while 49 percent who did not have any prior placement also successfully completed the program.

The chi-square analysis revealed that there were significant differences between the observed and expected frequencies for the EMHD program ( $p < .05$ ), unlike the DRC program. The majority of EMHD participants (76 percent) successfully exited the program. For those with prior community corrections placement, 70 percent successfully completed it, while 100 percent of those who were previously placed successfully completed. These findings suggest that it may not be prior placement that is explaining successful completion. They are, however, worthy of further more detailed exploration.

#### *Prior Alcohol or Drug Counseling and Exit Status*

Previous literature examining the impact of community-based corrections indicates that those who participate in individual and/or group counseling, which includes AA, are significantly more likely to successfully exit the placement (English, Chadwick & Pullen, 1999). Since this study specifically examines offenders convicted of drunk driving, it is important to examine the relationship between any prior counseling and exit status. A review of data reveals approximately 43 percent of DRC and 79 percent of EMHD participants reported participating in some form of prior alcohol or drug counseling (see [Table 5](#)). Of those who participated, 55 percent of DRC and 70 percent of EMHD participants successfully exited the program. A chi-square test of association indicates that there were no significant differences between the observed and expected frequencies for either the DRC or EMHD. Although this measure was not significant, the evidence does suggest that some form of prior counseling may influence successful completion of the programs.

## *Prior Jail Detention and Exit Status*

As previously mentioned, DRC and EMHD program participants become involved at various stages of the process. More specifically, research suggests that offenders who have had prior contact with the system, such as prior institutional detention (Brown and Roy, 1995; Roy, 1994), are more likely to fail. Therefore, it is important to examine the relationship between prior placement in jail or detention and exit status. A measure indicating prior jail detention was included in the study. Results from cross-tabulations located in [Table 6](#) reveal that only 5.8 percent of DRC and 14.4 percent of EMHD participants had experienced some prior jail detention placement. Of those that did have some form of prior placement, 67 percent of DRC and 53 percent of EMHD participants failed to successfully exit the program. The chi-square analyses further revealed no significant differences between the observed and expected frequencies. One explanation for the finding is the low number of participants in both categories who had been previously detained.

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## **Conclusion**

This exploratory study expands the current literature by assessing the relationship between drunk driving offenders sentenced to either a Day Reporting Center or Electronic Monitoring/Home Detention program and exit status. Using cross-tabulations and chi-square analysis, results were presented in six different categories: age group; offense class; sentence length; prior community corrections placement; prior alcohol or drug counseling; and prior jail detention. To summarize, the results indicate that older offenders (those over 35) and those convicted of a felony were more likely to successfully complete the program than younger offenders and those convicted of a misdemeanor. These results support the previous literature, which suggests that as offenders age they are more likely to have a greater stake in conformity or more to lose by incarceration (Sampson and Laub, 1993). Therefore, we would expect this finding. Likewise, those offenders who have committed felony offenses rather than misdemeanors may fear that the outcome of failing the program is incarceration. Therefore, they may be more inclined to take advantage of the services offered in the programs and successfully meet all of the programmatic requirements.

One area of significant interest was the relationship between sentence length and successful completion of the program. Previous research has suggested that sentence lengths of more than 180 days improve the likelihood of successful completion (Renzema and Skelton, 1990). Our study did not support this contention. Although not significant, the majority of offenders (DRC=67 percent; EMHD=85 percent) sentenced to more than 180 days failed to successfully complete the program, while only 48 percent of DRC and 15 percent of EMHD offenders sentenced to fewer than 180 days failed. One explanation for the difference between our study findings and those of Renzema and Skelton (1990) is that the great majority of offenders were sentenced to fewer than 180 days; therefore, the likelihood of completion was greater. For example, only 3 DRC offenders and 17 EMHD offenders were sentenced to more than 180 days. One way to further assess the relationship between these findings is to examine the participants over a longer period of time so that more offenders with lengthier sentences are included in the study.

When assessing the relationship between prior community corrections placement, a divergent picture arose. Although neither relationship was significant, the findings did reveal that 70 percent of those EMHD offenders who had some form of prior placement and 100 percent of those who had no prior placement did successfully exit the program. DRC participants, however, were not quite as successful. Although the majority of those who had some form of prior community corrections placement did successfully exit (54 percent), those who had no prior placement did not (49 percent). One explanation for the difference could be the level of supervision the offenders in EMHD receive. In this system, sentences are given on a continuum of seriousness. EMHD is viewed as the last option in this continuum. Therefore, those offenders with prior placement may understand the significance of successful completion and thus be more likely to follow the rules and complete the program. These distinct differences, even though not

significant, are worthy of further assessment.

As mentioned, previous research indicates that individuals who participate in some form of individual or group counseling, which includes Alcoholics Anonymous, are significantly more likely to successfully exit the program (English, Chadwick, and Pullen, 1999). Our findings did not support this contention. Although the majority in both groups who had participated in some form of counseling did successfully exit (DRC=55 percent; EMHD=70 percent), the differences were not significant. One important finding was that the majority of those DRC participants who did not have any prior counseling were less likely to successfully complete the program (48 percent) than those offenders in EMHD (100 percent). These results do not provide the complete picture; therefore, these findings are worthy of further exploration.

Finally, previous literature indicates that offenders who have prior contact with the system are more likely to unsuccessfully (fail) exit the program than those who have not had prior contact (Brown and Roy, 1995; Roy, 1994). We examined this relationship for both groups of offenders. The findings from the cross-tabulations supported this proposition. The majority of offenders in both DRC and EMHD who had previous contact with the system were more likely to fail (DRC=67 percent; EMHD=53 percent) than those offenders who had no prior contact (DRC=46 percent; EMHD=19 percent). These findings suggest that more attention to offenders needs to be given earlier in the process. There is some cause for concern or alarm for the successful outcome of offenders with previous contact. This is especially disturbing when unsuccessful exit from a program may result in the incarceration of the offender. As the jail and prison populations become further overcrowded, this finding is noteworthy.

Overall, this study is exploratory in nature. It was designed to provide preliminary results and identify areas worthy of further exploration. Future research should focus on the significant differences or relationships particularly for EMHD offenders. Each of the identified categories is worthy of further exploration.

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**Table 1: Age Groups and Exit Status**

Exit Status						
	DRC			EMHD		
Age Groups	Success	Failure	Total	Success	Failure	Total
0-35	9 (47%)	10 (53%)	19 (100%)	57 (84%)	11 (16%)	68 (100%)
36+	17 (54%)	15 (46%)	32 (100%)	33 (66%)	17 (34%)	50 (100%)
Total	26 (51%)	25 (49%)	51 (100%)	90 (76%)	28 (24%)	118 (100%)

EMHD:  $p < .02$ ; Cramer's V = .207

**Table 2: Offense Class and Exit Status**

Exit Status						
	DRC			EMHD		
Offense Class	Success	Failure	Total	Success	Failure	Total
Misdemeanor	20 (51%)	19 (49%)	39 (100%)	59 (89%)	7 (11%)	66 (100%)
Felony	6 (50%)	6 (50%)	12 (100%)	31 (60%)	21 (40%)	28 (100%)
Total	26 (51%)	25 (49%)	51 (100%)	90 (76%)	28 (24%)	118 (100%)

EMHD:  $p < .0001$ ; Cramer's  $V = .347$

**Table 3: Sentence Length and Exit Status**

Exit Status						
	DRC			EMHD		
Sentence Length	Success	Failure	Total	Success	Failure	Total
Up to 180 days	25 (52%)	23 (48%)	48 (100%)	86 (85%)	15 (15%)	101 (100%)
>180 days	1 (33%)	2 (67%)	3 (100%)	4 (23%)	13 (77%)	17 (100%)
Total	26 (51%)	25 (49%)	51 (100%)	90 (76%)	28 (24%)	118 (100%)



**Table 4: Prior Community Corrections Placement and Exit Status**

Exit Status						
	DRC			EMHD		
Prior C.C. Placement	Success	Failure	Total	Success	Failure	Total
Yes	15 (54%)	13 (46%)	28 (100%)	66 (70%)	28 (30%)	94 (100%)
No	11 (49%)	12 (51%)	23 (100%)	24 (100%)	0 (0%)	24 (100%)
Total	26 (51%)	25 (49%)	51 (100%)	90 (76%)	28 (24%)	118 (100%)

EMHD:  $p < .05$

**Table 5: Prior Alcohol or Drug Counseling and Exit Status**

<b>Exit Status</b>						
	<b>DRC</b>			<b>EMHD</b>		
<b>Prior Alcohol or Drug Counseling</b>	<b>Success</b>	<b>Failure</b>	<b>Total</b>	<b>Success</b>	<b>Failure</b>	<b>Total</b>
Yes	12 (55%)	10 (45%)	22 (100%)	65 (70%)	28 (30%)	93 (100%)
No	14 (48%)	15 (52%)	29 (100%)	25 (100%)	0 (0%)	25 (100%)
Total	26 (51%)	25 (49%)	51 (100%)	90 (76%)	28 (24%)	118 (100%)

**Table 6: Prior Jail Detention and Exit Status**

<b>Exit Status</b>						
	<b>DRC</b>			<b>EMHD</b>		
<b>Prior Jail Detention</b>	<b>Success</b>	<b>Failure</b>	<b>Total</b>	<b>Success</b>	<b>Failure</b>	<b>Total</b>
Yes	1 (33%)	2 (67%)	3 (100%)	8 (47%)	9 (53%)	17 (100%)
No	26 (54%)	22 (46%)	48 (100%)	82 (81%)	19 (19%)	101 (100%)
Total	27 (53%)	24 (47%)	51 (100%)	90 (76%)	28 (24%)	118 (100%)

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## The Effect of Gender on the Judicial Pretrial Decision of Bail Amount Set

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**SCHOLARS HAVE LONG** been interested in learning whether males and females are treated differently by criminal justice officials, including police, prosecutors, judges, and probation officers. Research has examined the effect of gender on police discretion. For instance, Visher (1983) found some evidence that the gender of the suspect influences arrest decisions, although this depends on the perceived (masculine or feminine) type of criminal behavior of the woman. Additionally, Visher found that older white female suspects were less likely to be arrested than younger African American female suspects. Women defendants who conform to traditional gender role stereotypes are likely to be treated more leniently than men who are suspected of the same offenses.

Women who violate gender role expectations, however, do not receive preferential treatment. For example, Chesney-Lind (1987) found that women who commit traditionally “masculine” crimes are expected to be treated more harshly than men. Yet, other research suggests that as women progress further into the criminal justice system, they are more likely to receive preferential treatment from a judge at sentencing than they are from the police officer making an arrest or the prosecutor seeking an indictment (Kempinen, 1983; Kruttschnitt 1984; Spohn & Welch 1987; Willison 1984; Spohn 1999).

Research has also examined the effect of gender on charge reduction and probation. Farnworth et al. (1991) employed data collected from the California Attorney General’s Bureau of Criminal Statistics, 1988, for felony arrests. The researchers found females twice as likely as males to receive probation and slightly more likely than males to have their charges reduced (Farnworth et al., 1991). When the researchers focused on comparing females to males, overall “the evidence suggested a tendency toward less severe sanctioning of females, particularly in the decision to incarcerate; and white females appeared to be treated with particular deference” (Farnworth et al. 1991:68).

Studies have also examined for gender bias in conviction (Farrington and Morris 1983) and probation (Ghali & Chesney-Lind, 1986; Nagel et al., 1982). These studies suggest that women defendants are treated more leniently than men. Gruhl et al. (1984), examining the incarceration decision, found that female defendants were treated either similarly to or more leniently than male defendants.

Spohn (1990), using data on defendants charged with violent felonies in Detroit, found males are more likely to be sentenced to prison, and their expected minimum sentence (EMS) is 292 days longer than the EMS for females. Again, Spohn's study corroborates other studies finding that female defendants receive more lenient treatment. On the other hand, Hagen, Nagel and Albonetti (1989) and Unnever, Frazier & Henretta (1980) found no statistically significant effect of gender on sentencing. After examining the decision to charge in 400 robbery and burglary cases in Jacksonville, Florida, Albonetti (1992) reported that race and gender had no effect on the prosecutors' decision to reduce charges.

Another decision stage in the criminal justice process that has often been overlooked by researchers although it deserves attention is death penalty sentencing. The limited research in this area suggests that female defendants receive more lenient treatment than male defendants. For instance, Rapaport (1991), in her analysis of defendants charged with murder or non-negligent manslaughter between 1976 and 1987, found that 14 percent were women while only 2 percent of the prisoners on death row were female. However, Rapaport (1991) cautions that this finding may be misleading, since 1) felony murder is rarely committed by women, 2) male murder defendants are four times more likely to have a prior conviction than females, and 3) females are significantly less likely to be accused of murdering multiple victims. Thus, one would expect that the representation of women on death row would be significantly lower than that for males.

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## **Literature Review: Gender and Bail**

Most studies examining for gender differences in criminal justice proceedings have focused primarily on the sentence phase; research examining gender differences at earlier stages of the criminal justice process, including pretrial release and bail, is less common, though no less important. This study seeks to augment our knowledge of gender bias in criminal justice processing by examining another crucial stage in the criminal justice system, the judge's decision regarding bail amount. The importance of this decision can be seen in the U.S. Supreme Court's interpretation of the Eighth Amendment's provision on bail that was set out in *Stack v. Boyle* (342 U.S. 1). In particular, Justice Fred Vinson, writing for the Court, pointed out that:

This traditional right to freedom before conviction permits the unhampered preparation of a defense, and serves to prevent the infliction of punishment prior to conviction. Unless this right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle, would lose its meaning.

Kruttschnitt and McCarthy (1985:158) refer to the decision whether or not to grant bail and the amount of bail set as "the terms under which a defendant may be allowed to remain free in the interim between arrest and case disposition." The importance of this decision cannot be overemphasized. Reiman (1990:83) points out that defendants unable to make bail are punished even though they may be innocent. Furthermore, there are several implications on subsequent criminal court proceedings for those unable to make bail. Defendants who cannot post bail are placed in detention while awaiting trial, and (as the *Stack v. Boyle* decision implies) are thereby effectively prevented from assisting in the preparation of their defense. More specifically, pretrial detention prevents the accused from locating evidence and witnesses (who may only be known to the defendant by an alias or street moniker) and having more complete access to counsel (Inciardi, 1984:451; Rankin, 1964). More than 30 years ago, Rankin (1964) analyzed data from the Manhattan Bail Project and noted that it was unwise to disregard the impact of pretrial detention, since detained defendants were more likely to be convicted. Albonetti (1991) echoed this finding. In addition, once convicted, defendants who have been detained are more likely to

be sentenced to prison than those who have obtained pretrial release (Goldkamp, 1985). Moreover, research evidence indicates that defendants who are convicted at trial and were unable to post monetary bail are likely to receive longer prison sentences (Rhodes, 1985).

As mentioned, research on gender disparity in criminal justice processing had focused primarily on sentencing. One early study that departed from this trend was conducted by Nagel and Weitzman (1971). Although their study considered only a few control variables, the researchers concluded that females were more likely than males to be released before trial.

Studies examining for a gender effect on bail prior to 1984 have basically concluded that gender does not affect a judge's bail decision after controlling for relevant legal and extra-legal variables (Goldkamp & Gottfredson, 1979; Nagel, 1983). However, Katz and Spohn (1995), using data derived from the Detroit Recorder's Court on defendants charged with violent felonies, found that females were significantly more likely than males to be released prior to trial. In particular, the researchers found that white females, white males, and African American females were more likely than African American males to be released. With respect only to African American defendants, Katz and Spohn (1995) found that African American males received higher bail amounts than did their African American female counterparts. More specifically, they found that judges imposed higher bail on African American males in five types of offenses: "cases in which the most serious charge was assault; cases in which the defendant had no prior felony conviction; cases in which the defendant did not use a gun in committing the crime; cases in which the victim and the offender were acquaintances; and cases in which the defendant did not have a private attorney" (Katz & Spohn, 1995:175).

Steury and Frank (1990) analyzed data from a weighted sample of nearly 2000 felony cases from Milwaukee County, Wisconsin. Their bivariate analysis indicated that females were more likely than males to be granted lenient pretrial release terms, to receive lower bail amount when bail was set, to spend shorter periods of time in jail before trial, and to gain release pending trial.

An important issue in conducting social science research deals with interactions between independent variables. Some researchers examining for a gender effect in bail decisions have been cognizant of the interaction of gender with other variables. For instance, Daly (1987) reported that being married and having children was more salient for women than for men on bail outcomes in New York City's lower court. Kruttschnitt (1984) also found similar effects, observing that female defendants were more likely to be released on their own recognizance than male defendants if the offense was less serious and young children were living in the home.

In a longitudinal study encompassing 16 years, Kruttschnitt and McCarthy (1985) found that the interaction of familial social control and gender significantly affected pretrial release for women differently than it did for men. In this context, familial social control refers to the different relationship and responsibilities that females and males have with families. In particular, in six of the years analyzed, there was a significant difference for women with the interaction of family control, whereas there was a statistically significant relationship for men in only one year.

Examining two cities in two different regions, New York City and Seattle, Washington, Daly (1989) found that married female defendants in New York City, regardless of the presence of children, were more likely to be released than single women without children. However, she found that the effect of family responsibilities may not be consistent for all races/ethnic groups. Daly observed that married African American females with dependents were more likely than similarly situated Hispanic females to enjoy pretrial release. Daly reported that among African American women in Seattle, the presence of children in the family had a greater effect on pretrial release than it did among white female defendants with children.

Using data derived from a sample of non-narcotics felony arrests made in a northern Florida border county from 1985–1986, Patterson and Lynch (1991) trichotomized their dependent-variable bail schedule compliance: 1) below schedule amount, 2) above schedule amount, or 3) within schedule amount. The researchers found that white females were significantly more likely than others (white males, Hispanic males, black males, Hispanic females, black females) to

receive a bail amount below schedule guidelines, suggesting that “white females, in particular, are placed in a privileged position relative to other groups, controlling for the effects of legally relevant decision making criteria” (Patterson & Lynch, 1991, p. 51). So, while the researchers found that among white Americans, females received more lenient bail treatment than males, among African Americans, female defendants are treated no differently than their male counterparts (Patterson & Lynch 1991).

Generally, the literature reveals that judges treat male and female defendants differently in reaching bail decisions; that is, females are afforded more lenient treatment (Goldkamp & Gottfredson, 1979; Nagel, 1983; Steury & Frank, 1990). Once certain legal and extra-legal variables are controlled for, differences may remain but dissipate (Goldkamp & Gottfredson, 1979; Nagel, 1983). Marital status and family variables are perhaps given more weight in bail decisions concerning females than in those concerning males (Daly, 1987; Kruttschnitt, 1984; Kruttschnitt & McCarthy, 1985).

Prior research has also shown an interaction between race/ethnicity and gender; for example, there are differences in the judicial treatment of African-American female defendants and white female defendants (Patterson & Lynch, 1991). As well, white female defendants are more likely to receive lower bail amounts or release on recognizance (ROR) than non-white males and females, and white males (Katz & Spohn, 1995; Patterson & Lynch, 1991).

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## **Theoretical Considerations**

When sex differences *are* found in criminal justice decision making, the system is almost always harsher on men than women (Daly, 1994). Moreover, the sentencing literature shows that “gender differences favoring women are more often found than race differences, favoring whites” (Daly, 1989, p.137). Disparity in treatment between males and females in criminal justice has led to the “chivalry” and “paternalism” hypotheses. The “chivalry” hypothesis that emerged a half century ago (Pollack, 1950) advances the thesis that predominantly male-dominated actors in key positions of the criminal justice system have a traditional, chivalrous attitude toward women defendants, and therefore treat them with more leniency than male defendants. The chivalry perspective posits that women are placed in a position of high esteem because they are considered incapable of serious criminal behavior and that part of the male role is to serve as the protector of women (Moulds, 1978).

However, the chivalry explanation does not account for research findings that under some circumstances women fare worse than their male counterparts. Therefore, some analysts have adopted the “paternalism” variant of the chivalry hypothesis. Paternalism refers to the attitude held by men that women are childlike and are not fully responsible for their behavior, criminal or otherwise, and therefore need protection (Crew, 1991). Paternalism, like chivalry, advances that judges and other court officials try to protect women as the “weaker sex” from the stigma of a criminal record or the harshness of incarceration (Daly, 1987). Indeed, some researchers consider chivalrous and paternalistic treatment to be synonymous (Daly, 1987). However, paternalism is different from chivalry in that it does not necessarily result in a more lenient treatment of female defendants. While paternalism can result in less severe sanctions for females, it can just as readily impose harsher penalties to serve the purpose of keeping females in traditional, submissive roles (Horowitz & Pottieger, 1991). When women behave in ways that are in harmony with traditional female roles of purity and submission, they receive lenient or preferential treatment. However, when women violate these standard role expectations, they may be dealt with more severely than their male counterparts (Horowitz & Pottieger, 1991).

A strand of paternalism called the “evil woman” hypothesis has been suggested to supplement the paternalism hypothesis. The evil woman hypothesis contends that women who violate gender-role expectations and behave in an “unlady like” fashion are punished harshly for the double violation of gender and legal norms and, therefore, are denied the chivalrous (and lighter) dispositions reserved for “normal” women (Erez, 1992, p. 107). The “evil woman” theory

advances that the benefits of a chivalric attitude are not bestowed on all women. To earn these benefits, Steury and Frank (1990) point out, a woman must conform to cultural expectations of female character and behavior (passive, submissive, respectable, and engaging only in “female” crime). Women who deviate from these expectations by displaying aggressiveness, toughness and low status, and committing violent crimes, may not receive the benefit of chivalrous treatment, and in fact may be treated more harshly than males (Visher, 1983).

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## Methods

**Hypothesis:** This research investigates whether gender differences exist in the dollar amount of bail set by judges after the possible effect of legal and extra-legal variables is taken into account. Specifically, this study tests the following hypothesis:

**H1:** Even after legal and extralegal variables are controlled, female defendants will receive lower bail amounts than male defendants.

The above hypothesis allows one to assess the notion that when legal factors are considered, the judicial decision of bail amount set does not treat females differently than males. Confirmation of the above hypothesis will support the Focal Concern theory; that is, that judges consider extra-legal factors in their bail decisions. Moreover, if males are treated more harshly than females, even after controls are applied, the tenets of legal theory will be cast into doubt in regard to this decision.

### *Data and Variables*

The data for this study came from District Court files of Lancaster County, Nebraska, which includes Lincoln, the state capital and second largest city in Nebraska. The data set contains information on all white, African American, and Hispanic persons accused of felony offenses who were eligible for bail in 1996. Analyses were done only on those cases for which information on all relevant variables was available. The N is 869 (161 females and 708 males).

When setting bail, among the factors judges usually weigh are the seriousness of the crime, prior criminal record, and strength of the state’s case (Inciardi, 1984). Legal factors such as these may play a legitimate role in the setting of bail amounts (Senna & Siegel, 1996). Extra-legal demographic or social characteristics, such as sex, ethnicity, race, social class, or the demeanor of the defendant, should not be legitimate factors in making bail decisions. Adhering to prior research, this paper too, will employ several independent and dependent variables alluded to above.

*Dependent Variable.* The dependent variable is the dollar amount of bail set by the judge to insure the appearance of the defendant at trial. This continuous variable ranges from \$00.00 to \$500,000.

*Legal Independent Variables.* The legal variables controlled for are offense seriousness and prior criminal record. Offense seriousness is a dummy variable based on Nebraska’s statutorily defined four-point index of seriousness of the felony (Type 4=least serious, Type 1=most serious). <sup>1</sup> Type 4 felony is the omitted category in regressions. Prior criminal record is a continuous variable measured by the total number of felony and misdemeanor arrests preceding the instant offense. Previous research has demonstrated that seriousness of the offense and prior record are important predictors of outcomes at various stages of the criminal justice system; specifically, judges’ bail decisions (Albonetti, 1989; Frazier, Bock & Henretta, 1980; Goldkamp & Gottfredson, 1979; Nagel, 1983).

*Extra-legal Independent Variables.* The major extra-legal independent variable is sex (male = 0, female = 1). The other extra-legal variables are age (a continuous variable), type of attorney (public = 0; private = 1) <sup>2</sup>, place of residence, and race, which is created as a dummy variable consisting of variables for whites, African Americans, and Hispanics, Asians and Native



Americans, with whites being the comparison category in the additive multiple regression model. Place of residence is a dummy variable consisting of four elements: those living in Lancaster County; those living in Nebraska, but not Lancaster County; those with an address in a state other than Nebraska; and transients, those with no address. The Lancaster County element is the omitted category in the regression equations.

The extra-legal control variables are consistent with prior research: age (Bynum and Paternoster, 1994), area of residence (Ozzane, Wilson & Gedney, 1980; Patterson & Lynch, 1991), type of attorney (Farnworth & Horan, 1980; Turner & Johnson, 2003), and race (Turner, Secret & Johnson, 2003).

Of these, residency is less commonly employed. It was used as a control variable because the residency of defendants might plausibly affect bail decisions; one might expect judges to see non-residents as having a greater risk of non-appearance than those with ties to the community. [Table 1](#) presents summary statistics on the variables used in the analyses.

### *Statistical Methods*

The analysis proceeds in two steps. The first is a t test to determine if there is a statistically significant difference in mean bail amount set for males and females. The second stage of analysis uses multiple regressions to assess the independent effect of gender on bail amounts after controlling for the combined effects of the six independent variables available for this study. Multiple regressions are computed for three models: 1) a simple additive effects model, 2) a model for females only, and 3) a model for males only. To estimate the amount of variance explained, we employ the R<sup>2</sup> derived from the regression equation analysis.

The independent variables of the regression models were checked for multi-collinearity with the calculation of “tolerance,” the percentage of variance of a variable that is not shared with other independent variables in the model (Hamilton 1992, p.133). Thus, higher levels of tolerance indicate less multi-collinearity. According to Hamilton (1992, p.134), “Low tolerance (below .2 or .1) does not prevent regression but makes the results less stable” and implies that tolerance values as low as .60 are acceptable. In all models, no independent variable has a tolerance lower than .872.

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## **Results**

*Bivariate Analysis.* To determine if the average female defendant was given a bail amount significantly different than the amount given to the average male defendant, a t test was computed (see [Table 2](#)). The result supports our hypothesis. The average bail amount for the female defendants of \$7,468.94 was \$3,672.71 less than the average for males. The difference is significant ( $t=2.233$ ,  $p=.026$ ).

*Multivariate Analysis.* The second level of analysis is an additive OLS regression that controls for variables that might systematically differ between males and females, thus leading to the results of the t test. The results of the additive model are presented in [Table 3](#). The percent of variation explained by this model is 8.9.

After controls for legal and extralegal variables have been put in place, the regression shows a different result. While females, all else being equal, still show bail amounts that are lower than those of males (by \$2,579.62 on average) the difference is no longer significant. In this model, offense seriousness, residence, and being Hispanic were the significant predictors of bail amounts. Those charged with the two most serious categories of crimes had significantly higher bails. Those charged with Type 1 felonies received bail amounts \$15,564.60 greater than those charged with Type 4 felonies ( $p<=.008$ ); type 2 felonies received bail amounts that were \$16,989.60 higher ( $p<.0005$ ). Age was also significant ( $p<=.007$ ), such that for each additional year of age, bail amounts increased, on average, by \$232.77. Those with residence outside of Nebraska were given bails \$3,290.23 higher than those received by residents of Lancaster

County. The bails given to transients were even higher, but within sampling error. Finally, Hispanics received bails that were \$11,039.22 higher than those given to whites. Native Americans and Asians actually received lower bail amounts, but within sampling error.

*Group Specific Models.* Another way to analyze the data is to calculate the regression coefficients for the two groups separately (Meithe & Moore, 1986). Comparisons of the resulting regression coefficients for the groups show the different ways in which the independent variables affect males and females

### *Females*

The model for females (see [Table 4](#)) explains 30.2 percent of the variation in bails for these defendants. [3](#) Only those charged with the most serious crimes (Felony 1) receive significantly higher bail amounts, on average \$88,664.73 more than those charged with the least serious offenses ( $p < .0005$ ). African American females are given bails that are higher than those given white females, by an average of \$4,504.04, but this is within sampling error ( $p = .086$ ).

### *Males*

Compared to the females, the model for males (see [Table 5](#)) explains little of the variations in bails ( $R^2 = .088$ ). For males, four variables were significant: age, Felony 2, being the resident of a state other than Nebraska, and being Hispanic. The coefficients tend to reflect those in [Table 3](#), showing the impact that the higher number of males in the sample had on the overall analysis. Those charged with the second most serious crimes received bails that were \$18,498 higher than those accused of the least serious crimes. Each year of age added \$245 to a male defendant's bail. Those from addresses outside of Nebraska paid \$9,206.64 more, and Hispanic males were given bails that were \$8,964.39 higher than white males.

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## **Discussion/Conclusions**

It was pointed out earlier in this article that when sex differences are found in criminal justice decision making, the system is almost always harsher on men than on women, leading to the "chivalry" and "paternalism" hypotheses. Given that the additive model reveals that neither males nor females are more likely to receive statistically significant higher bail, neither "chivalry" nor "paternalism" seems to be an applicable explanation of male and female outcomes of bail decisions in Lancaster County, Nebraska. Moreover, when controlling for the four interactions of gender with the legal variables of 1) felony seriousness, and 2) prior arrests, and with the extralegal factors of 3) race and 4) age, it was found that women and men did not receive a statistically significant different bail amount set. This finding of equal bail set for women and men does not lend support to the "paternalism" explanation for the data, time, and place examined in this study, that women fare worse than their male counterparts in criminal justice outcomes.

In the gender/race interaction model, both white females and non-white females were found to receive lower bail amount set than white males. The Table shows that white females had a bail amount set that was substantially less than that of their white male counterparts. On the other hand, the amount of bail set for non-white females was only slightly less than that of white males. Non-white males, on the other hand, had a higher bail amount set than white males. These findings might appear to be consistent with the hypothesis that white female defendants will receive a lower bail amount than non-white female defendants. However, again, the analysis indicates that the findings are within sample error. Therefore, on balance, there were no race/gender differences to support the hypothesis that white females will receive lower bail amounts than nonwhite females. When examining for race differences in bail amount set for females and males separately, with structural controls, it was found that neither white men and women nor non-white men and women displayed a statistically significant difference in the amount of bail set.

When tested for gender differences in bail amount set for whites and non-whites separately, with structural controls, for neither racial group was there a statistically significant gender difference in bail set. Males of both groups tended to receive higher bail amounts set than their female counterparts. Interestingly, however the gender difference is nearly 10 times greater among non-whites than among whites, suggesting that judges are not as likely to apply, equally for both racial groups, a “chivalry” or “paternalism” view that translates into more lenient treatment for females. In short, the examination from the racial/ethnic intra-group perspective indicates that males may be more likely to receive harsh bail outcomes than females. However, the lack of statistical significance suggests that this finding must be treated as tentative.

The intragroup analyses concluded that, among women, the legal variables of offense seriousness and prior record, and the extralegal variables of type of attorney and jurisdiction (residence within the State, but outside Lincoln) hold more explanatory power for the judicial decision of bail amount set than do any other variables employed in the study. Among men, seriousness of the offense and type of attorney also help explain the bail amount decision. However, the only other variable that exerts statistically significant explanatory power is jurisdiction (residence outside the state).

It appears that judges might feel that men who reside in a state other than Nebraska do not have social and/or economic ties strong enough to bring them back to Lincoln for their day in court. On the other hand, women who live outside of the state may have sufficiently strong family, social, and economic ties to make them as predisposed to return to Lincoln for their day in court as those who live in Lincoln. Perhaps women who reside outside of Lincoln are seen as a flight risk for the same reasons as men who live outside of state. That is, their family ties might make them unlikely to return to the jurisdiction for trial.

The analysis shows, among both men and women, that type of attorney makes a consistently statistically significant difference in bail amount set. Defendants who employ the services of private attorneys fare worse, with respect to bail set, than those who utilize the legal services of state appointed counsel. Prior research has shown that private attorneys may be more effective than court appointed attorneys in obtaining favorable pretrial release decisions for their clients (Holmes et al., 1996). Thus, this study’s results appear inconsistent with previous research in indicating that defendants who utilize public defenders are not disadvantaged vis-à-vis defendants who utilize private counsel.

At the outset it was hypothesized that even after controlling for legal and extralegal variables, female defendants would receive lower bail amounts than male defendants. Although females did indeed receive less bail than did males, the result was within sample error, leading to rejection of the hypothesis. It was also hypothesized that white female defendants would receive lower bail amounts than non-white female defendants. The analysis revealed that white female defendants did indeed receive lower bail amounts than nonwhite females. But, again, the findings were within sample error, so the hypothesis is not supported. In fact, the analysis showed, as expected, but within sample error, that white females had the lowest bail amount set. Moreover, as hypothesized, the analysis also showed that non-white females had the second lowest amount of bail set, while white males had the third lowest and non-white males had the highest bail set.

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**Table 1: Sample Means/Percentages**

<b>Variables</b>	<b>Mean</b>	<b>SD</b>	<b>N</b>	<b>%</b>
<b>Dependent Variable</b>				
Bail Amount Set	10,461,208	25,291,129	869	
<b>Independent Variables: Legal</b>				
Prior Arrests	4.86	4.130	869	
Felony			869	
Type 4 (least serious)			43.7	50.3
Type 3			315	36.2
Type 2			98	11.3
Type 1 (most serious)			19	2.2
<b>Independent Variables: Extra-Legal</b>				
Age	28.2716	9.84991	869	
Sex			869	
Female			161	18.5
Male			708	81.5
Race			869	
White			524	60.3
African American			233	26.8
Hispanic			55	6.3
Native American			24	2.8
Asian			33	3.8
Counsel			869	
Private			310	35.7
Public			559	64.3
Jurisdiction			869	
Lincoln			707	81.4
Nebraska Not Lincoln			70	8.1
Other State			65	7.5
Transient			27	3.1

**Table 2: T Test for Difference in Bail Amounts for Females and Males**

	<b>N</b>	<b>Mean</b>	<b>Std. Dev</b>	<b>t</b>	<b>df</b>	<b>Sig. (2-tailed)</b>	<b>Mean Difference</b>	<b>Std. Error Difference</b>
Female	161	7468.94	16479.5033					
Male	708	11141.65	26857.7740	2.233	380.260	.026	-3672.71	1644.88

**Table 3: Regression Coefficients for Bail Amounts Comparing Males to Females**

	Unstandardized Coefficients		Sig.	Tolerance
	B	Std. Error		
(Constant)	1516.467	3314.303	.647	
Age	232.771	86.512	.007	.940
Priors	-206.967	207.965	.320	.925
Counsel (private)	-382.080	1776.608	.830	.941
Felony 3	1836.757	1821.606	.314	.889
Felony 2	16989.596	2782.196	.000	.880
Felony 1	15564.599	5871.843	.008	.924
Nebraska	204.259	3095.112	.947	.961
Other State	7667.674	3290.225	.020	.910
Transient	-5210.528	4871.246	.285	.954
African American	-378.195	1961.523	.847	.903
Hispanic	11039.222	3556.468	.002	.909
Asian	4111.971	4499.377	.361	.922
Native American	-4298.456	5122.460	.402	.967
Female	-2579.622	2178.942	.237	.951

**Table 4: Regression Coefficients for Bail Amounts set for Females**

	Unstandardized Coefficients			
	B	Std. Error	Sig.	Tolerance
(Constant)	1605.791	3995.624	.688	
Age	33.190	117.521	.778	.941
Priors	143.492	300.810	.634	.926
Counsel (private)	3843.195	2335.381	.102	.877
Felony 3	298.272	2298.927	.897	.873
Felony 2	5696.144	4771.039	.234	.945
Felony 1	88664.728	13161.995	.000	.948
Nebraska	5094.559	3752.836	.177	.910
Other State	-912.354	3811.673	.811	.943
Transient	-1642.770	9323.999	.860	.951
African American	4504.038	2605.255	.086	.927

**Table 5: Regression Coefficients for Bail Amounts Set for Males**

	Unstandardized Coefficients			
	B	Std. Error	Sig.	Tolerance
(Constant)	2615.978	3875.187	.500	
Age	245.393	100.898	.015	.925
Priors	-285.865	238.692	.231	.936
Counsel (private)	-1440.289	2086.835	.490	.939
Felony 3	1828.355	2160.080	.398	.876
Felony 2	18498.082	3142.727	.000	.872
Felony 1	8680.435	6860.845	.206	.910
Nebraska	-1576.850	3698.100	.670	.966
Other State	9206.636	4007.697	.022	.882
Transient	-5684.618	5407.110	.293	.951
African American	-2040.321	2288.189	.373	.892
Hispanic	8964.390	3950.775	.024	.907
Asian	3129.224	4916.171	.525	.908
Native American	-3950.181	5701.639	.489	.967
Male	2615.978	3875.187	.500	.925



## Accomplishments in Juvenile Probation in California Over the Last Decade

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**OVER THE PAST** ten years, probation departments across the state of California have seen important changes in the way they do business. Beginning with Title IV-A-EA in 1993, departments began a system-wide “sea change” from a focus on suppression, enforcement, and monitoring of youthful offenders to a focus on families and on rehabilitative and therapeutic approaches (Turner, et al., 2003). With the Comprehensive Youth Services Act/Temporary Assistance to Needy Families (CYSA/TANF) essentially replacing the Title IV-A-EA program in 1995, training conducted by departments on the 23 CYSA/TANF-eligible services and objectives helped to reinforce this message to line staff working directly with youths. <sup>1</sup>

CYSA/TANF also affected the local county contexts in which probation departments operate. One of the requirements of the CYSA/TANF legislation was that departments undertake a formal planning process that included the input of key agencies, service providers, and community groups involved in juvenile and children’s issues in the county. This increased the likelihood that CYSA/TANF funds would be used to address identified service delivery gaps within the counties and that CYSA/TANF funded programs would fit into a larger overall county plan for addressing children’s needs. CYSA/TANF helped encourage coordination with, and collaboration between, probation and other county agencies and local service providers by providing funding to bring all parties to the table. In addition, CYSA’s mandate that federal TANF funds be used to encourage the development of interagency family case plans, to address multiple needs of families, and to use available community resources to provide services to this population contributed to this increase in coordination and collaboration. Finally, CYSA/TANF enabled probation to become a more viable player in the county with respect to children’s issues in general, with CYSA/TANF funds serving as a key incentive for other agencies and service providers to partner with probation in addressing these issues.

There were also other factors at work. Prior to and contemporaneous with CYSA/TANF, other grant programs (e.g., Juvenile Challenge Initiative) also required as a condition of funding that

multi-agency planning bodies be formed, and mandated collaboration as a term of the award. Taken together, the effects of these programs has been to increasingly foster a system-wide approach to addressing juvenile issues at the local level.

Despite the acknowledgment of the importance of these efforts, no integrated description of these and other probation initiatives exists; nor have analyses of the potential impact of this “sea change” on youth outcomes been examined. This article addresses this gap.

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## Methods Used

This analysis is primarily descriptive. Our task was to describe major probation initiatives during the past decade and to link these efforts with potential impacts on youth crime and other outcomes. The initiatives under study include the Juvenile Crime Enforcement and Accountability Challenge Grant Program, CYSA/TANF, the Repeat Offender Prevention Program (ROPP) and the Juvenile Justice Crime Prevention Act (JJCPA).

Such an endeavor is difficult for a variety of reasons. We did not have the opportunity to “hold everything else constant” to measure the impacts of such changes. Many other changes relevant to youths’ lives have occurred over the past decade in California, including major economic changes in the state, immigration policies, and perceptions of personal safety. For example, the ethnic mix of youths in California has changed dramatically over the past decade. The Hispanic population under age 20 increased by 27 percent from 1994 to 2003, while white and black populations of the same ages decreased (by 12 percent for whites and 8 percent for blacks). <sup>2</sup> Another example is unemployment in California, which declined from an annual average of 8.6 percent in 1994 to a low of 5.0 percent in 2000, but by 2003 had risen again to 6.8 percent. <sup>3</sup>

Our description of probation initiatives is gathered based on available documentation from literature searches, and information provided by the Chief Probation Officers of California (CPOC) and by individual county agencies on:

- Legislative background
- Goals
- Services provided
- Target groups
- Interagency collaborations
- Funding levels

Information about probation initiatives comes primarily from program descriptions and reports of outcomes issued by the California Board of Corrections (BOC). Information about the CYSA/TANF initiative is taken from the RAND evaluation of the program (Turner, et al., 2003).

Our data on outcomes are drawn from publicly available sources such as the census, FBI crime rates, and information gathered and reported by the California Board of Corrections. In general, we attempted to gather data covering a decade, usually from 1994 through 2003. In some instances data were available only for a limited time (e.g., data on completion of high school were available only for selected years between 1990 and 2000). In addition, whenever possible we have obtained comparable data for the U.S. as a whole in order to provide a baseline for examining California trends.

Although we will not be able to draw firm conclusions regarding the impact of initiatives on outcomes, we can note the temporal proximity between initiatives and outcomes that might suggest how the initiatives impacted youths and their families. <sup>4</sup> Other states that have invested more, or less, than California in probation initiatives may show similar trends to those in California over the same time period. To the extent that we see similar outcome trends but dissimilar patterns of probation initiatives across different states, observed changes may be part of a national trend rather than the result of California initiatives

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## **Youths Involved in California's Juvenile Justice System**

The juvenile correctional system in California comprises several options for youths in California, including formal and informal probation, confinement in juvenile hall, assignment to juvenile ranch or camp, transfer to the California Youth Authority (CYA), and transfer to adult court for disposition. A large number of youths are involved in the system. Youths can be referred to probation in California through several sources—law enforcement, schools, parents, or other community agencies. In 2003, 50 of the 58 California counties reported a total of 154,954 youths referred to probation (California Attorney General, 2005). In the same year, the standing population in the halls was 6,434 youths. An additional 4,466 youths were in camps. The CYA institutional population at year-end 2003 was 4,534. Probation is the agency responsible for all these youths, with the exception of offenders sentenced to the CYA. Probation is the linchpin in county juvenile justice systems, collaborating with all the stakeholders as a youth moves through the system (Administrative Office of the Courts, 2003).

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## **Programs and Initiatives**

### *Title IV-A-EA*

Title IV-A of the Social Security Act of 1935, as amended, established Aid to Families with Dependent Children (AFDC), administered by the Department of Health and Human Services. California's Department of Social Services, through the state's Health and Human Services Agency, administered the AFDC program in the state and determined how Title IV-A funds were spent (California Department of Social Services, 2005). All youths who were removed from their homes by a court order were potentially entitled to participate in the Emergency Assistance (EA) program of Title IV-A (Chief Probation Officers of California, 2005). California probation departments claimed reimbursement for eligible expenses under the Title IV-A-EA program from July 1993 through December 1995. Title IV-A-EA funding for county probation departments was approximately \$150 million in fiscal year (FY) 1994/1995 and \$120 million in FY 1995/1996 (Turner, et al., 2003). Under Title IV-A-EA funding, probation departments began adding services aimed at reducing juvenile crime. Examples include case management services, gang intervention programs, and parenting skills training.

### *Juvenile Crime Enforcement and Accountability Challenge Grant Program*

In 1996 the California Legislature initiated the Juvenile Crime Enforcement and Accountability Challenge Grant Program as a major effort to determine what approaches were effective in reducing juvenile crime. The initial Challenge Grant provided \$50 million to help counties identify, implement, and evaluate locally developed community-based projects that targeted at-risk youths and young offenders. During the first 18 months of the Challenge Grant program, the BOC awarded over \$45.9 million in demonstration grants to 14 California counties. In 1998, the Legislature amended the Challenge Grant legislation and provided \$60 million in additional funding for new demonstration grants. Of the \$60 million allocated by the Legislature, the BOC awarded over \$56 million in three-year grants to 17 counties. County projects included a broad spectrum of interventions, and served more than 5,300 at-risk youths and juvenile offenders (California Board of Corrections, 2004a).

The BOC's mandated report to the Legislature on the Challenge Grant II program noted that results varied by age and gender. The projects had a significant impact on males 15 years of age and older by reducing arrests, reducing felony arrests, and increasing the rate of successfully completing probation (California Board of Corrections, 2004a, p. 12). The projects also made a highly significant difference in juvenile justice outcomes for older youths, both males and females, when the risk factor of substance abuse is taken into account (California Board of Corrections, 2004a, p. 12). However, an evaluation of the effects of Challenge funding on *overall*

crime rates in counties—not just improvements for program participants contrasted with similar youths not receiving the programs—revealed little or no overall reduction in arrests (Worrall, 2004).

### *Repeat Offender Prevention Program*

Repeat Offender Prevention Program (ROPP) was one of several initiatives undertaken by the Legislature in 1994 to respond to rising juvenile crime rates. ROPP funding began in FY1996/1997 and helped support six-year demonstration projects in seven counties. An eighth county (San Francisco) also took part in the last four years. The annual allocation for ROPP was \$3.8 million. Each county developed its own program or programs, with an emphasis on a multi-disciplinary, multi-agency team-oriented approach. The fiscal year 2000/2001 state budget not only provided funding for existing ROPP programs, but also provided \$5.7 million to support first year start-up activities for new projects and directed the BOC to award grants on a competitive basis. The BOC awarded available funds to eight counties, which are referred to as ROPP II (California Board of Corrections, 2002).

In its mandated report to the Legislature on the ROPP (which included only the eight counties originally funded), the BOC reported that nearly 1,800 juveniles received services under ROPP. The BOC also reported that ROPP juveniles attended significantly more days of school, improved their grade point average, and were less likely to fall below grade level. ROPP projects also significantly increased the rate at which juveniles successfully completed restitution and community service, and reduced the percentage of positive drug tests. Significantly fewer ROPP youths were on warrant status (California Board of Corrections, 2002).

### *Comprehensive Youth Services Act/Temporary Assistance to Needy Families*

When the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) was enacted, it created a new welfare program, Temporary Assistance to Needy Families (TANF). The Welfare-to-Work Act of 1997, which implemented TANF in California, replacing the state's AFDC with the California Work Opportunity and Responsibility to Kids (CalWORKs) program and also created another program, the Comprehensive Youth Services Act (CYSA), which was enacted in FY 1997/1998, to fund juvenile probation services. California's allocation of PRWORA funds was increased initially by \$141 million in the first year and \$168 million in subsequent years, based upon probation departments' claiming for services provided. Counties began CYSA implementation in FY 1997/1998. Counties used CYSA/TANF to fund services and programs across the continuum of options, from prevention/early intervention through custody (Turner, et al., 2003).

### *Juvenile Justice Crime Prevention Act*

In 2000, the California Legislature passed the Schiff-Cardenas Crime Prevention Act, which authorized funding for county juvenile justice programs and designated the BOC as the administrator of funding. A 2001 Senate bill extended the funding and changed the program's name to the Juvenile Justice Crime Prevention Act (JJCPA). This effort was designed to provide a stable funding source to counties for juvenile programs that have been proven effective in curbing crime among at-risk and young offenders. JJCPA currently supports 193 collaborative programs implemented in 56 counties to address locally identified needs in the continuum of responses to juvenile crime. Budget allocation for JJCPA was \$121 million for the first year of the program. Counties reported that 98,703 minors participated in JJCPA programs during the first year of the program. JJCPA program youths had a lower arrest rate than minors in the comparison group. Completion of restitution and community service rates were higher for JJCPA juveniles (California Board of Corrections, 2003). An additional \$116.3 million was allocated for the second year of JJCPA programs, during which 110,658 at-risk youths and young offenders received services. Second-year JJCPA youths had lower arrest and incarceration rates than comparison group youths, and more JJCPA youths completed court-ordered community service than comparison group youths (California Board of Corrections, 2004b). In its third year, \$116.3 million was allocated for JJCPA funding, and 106,055 youths were served through JJCPA

programs. Fewer third-year JJCPA youths were arrested than comparison youths, and more successfully completed probation and court-ordered community service (California Board of Corrections, 2005).

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## Indicators of Change

### *Juvenile Population*

California's juvenile population, i.e., persons aged between 10 and 17, grew more than twice as rapidly from 1994 through 2003 than the national average. In California, the increase was from 3,509,800 in 1994 to 4,519,800 in 2003, an increase of 29 percent. Comparable national numbers were 29,452,456 in 1994 and 33,498,951 in 2003, a gain of only 14 percent. [5](#)

### *Criminal Justice Indicators*

**Juvenile Arrest Rates.** Perhaps the most widely quoted indicator of crime is arrest rate. Juvenile arrest rates have been declining steadily in California over the most recent ten years for which data are available. Overall, juvenile arrests have also dropped for the U.S. as a whole. While national rates declined more than did California's rate from 1996 through 2001, the national rate actually rose in 2002. Arrests per 100,000 juveniles for felony or misdemeanor offenses in California have fallen from 6,550 in 1994 to 4,228 in 2003, a decline of 35 percent. The decline has been more pronounced since 1998. [6](#)

Adult and juvenile arrest rates were virtually identical in California from 1994 through 1999, but beginning in 2000, juvenile rates declined more steeply than did the adult rates. While we cannot draw any definitive conclusions, we note that the timing of the improvement of juvenile arrest rates, relative to adult arrest rates, coincides with California's large initiatives aimed at reducing juvenile crime. [7](#)

**Juvenile Incarceration Rates.** Like arrest rates, juvenile incarceration rates dropped sharply over the ten-year reference period, from 109.0 per 100,000 juveniles in 1994, to 32.4 per 100,000 in 2003, a decline of 70 percent over ten years. The decline was not uniform, with incarcerations increasing slightly from 1994 to 1995 and again from 1997 to 1998. In all other years, however, the rate was lower than in the previous year, and the decline between 1995 and 1997 was particularly steep. [8](#)

**California Youth Authority.** First admissions make up roughly 85 percent of all admissions to the CYA in any given year, and the average stay is roughly three years. New admissions declined from 3,640 in 1993 to 1,310 in 2002, a drop of 64 percent. However, some of this decline is most likely due to the fact that in 1997, the fee structure for charging counties for CYA commitments changed, giving counties an incentive to use county-based placements for lower level offenders rather than send them to CYA. The standing population of CYA youths also fell over the same period of time, from 8,556 in 1993 to 5,954 in 2002, a 30 percent decline. [9](#)

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## Juvenile Camps, Ranches, and Halls

Since 1999, the BOC has surveyed juvenile detention facilities in California on a monthly basis, and has issued quarterly reports that include information about juvenile population in ranches and camps, as well as in juvenile halls. Between the beginning of 1999 and the end of the third quarter of 2004, the standing population in ranches and camps has declined from 4,869 to 4,260, a 13 percent drop. During the same period of time, juvenile hall populations also fell by 9 percent, from 6,980 at the beginning of 1999 to 6,335 in the third quarter of 2004. [10](#)

### *Non-Criminal Justice Indicators*

In addition to measures of arrest and incarceration rates, we examined trends in other aspects of juvenile life that may have potentially been influenced by recent county probation initiatives. We chose the non-criminal justice indicators to reflect goals of the initiatives as well as indicators for which we could obtain data for California and the nation. For example, goals of CYSA/TANF included the reduction of the number of out-of-wedlock births and reduction in the use of governmental benefits by families. Challenge required information on school measures. JJCPA programs collect information on school outcomes in many counties. We were not able to find exact data to match initiative goals and outcomes, but were able to examine trends in teen pregnancy rates, percentage of children living in poverty, and rates of completion of high school.

**Teen Birth Rates.** The teen birth rate in California declined from 71.3 per 1,000 females aged 15 to 19 in 1993, to 41.4 in 2002, a drop of 42 percent over a ten-year period. The decline was gradual throughout the period. For the U.S. as a whole, the decline was less than in California, going from 59.0 per 1,000 females aged 15 to 19 in 1993 to 43.0 in 2002, a drop of 27 percent. After having a higher teen birth rate than the national average from 1994 through 1999, California had a lower rate than the country as a whole from 2000 through 2002. [11](#)

**Children Living in Poverty.** The percentage of children living in poverty declined somewhat between 1994 and 2002, [12](#) both in California and in the U.S. as a whole. In 1994, 50.3 percent of children in California were living at or below 200 percent poverty. By 2002, the percentage had declined to 41.2 percent of children, a decline of 18 percent. During the same period, the U.S. rates declined from 43.8 percent to 38.2 percent, a drop of 13 percent. [13](#)

In 1994, 13.4 percent of California children in poverty were also without health insurance. By 2002, that number had fallen to 8.8 percent, a decline of 34 percent. The comparable figures for the U.S. as a whole declined from 9.7 percent to 7.5 percent during the same time period, a fall of 23 percent. [14](#)

**Completion of High School.** Data on rates of high school graduation among persons aged 18 to 24 are available only in three-year averages for the years 1990–1992, 1994–1996, and 1998–2000. During that time, California’s graduation rate has increased from 77.3 percent to 82.5 percent. The U.S. average, by contrast, has remained unchanged at 85.7 percent for the same period. [15](#)

### *Summary of Outcome Findings*

In summary, we have seen arrest rates for juveniles declining at the same time probation referrals and incarcerations were dropping. Teen birth rates have dropped and the number of children living in poverty has improved, as have high school graduation rates. Many of the same patterns seen in California over the past ten years are similar to those in the U.S. as a whole, although we see somewhat larger changes for California on some measures. Similar patterns for the state and nation raise the question of whether such trends may be driven by factors operating on a national, rather than a state, level.

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### **Comparing California to Other States**

In order to put California’s trends in perspective, we looked at states that were somewhat comparable in their approach to probation, yet differed in some important dimensions as well. Unfortunately, the only reliable available indicators of change across states are juvenile arrest rates, so we will confine our analysis to arrest trends.

Using FY 1998 budgets published by the National Association of State Budget Officers [16](#) and U.S. Census estimates of juvenile population in each state, we calculated per capita juvenile justice expenditures in states where probation was decentralized rather than administered at the state level. Of the 18 such states, we selected 7 large states for comparison: Colorado, Illinois, New York, Ohio, Oregon, Pennsylvania, and Texas. In FY 1998, California budgeted \$172 to

juvenile justice for each person aged 10 to 17 in the state. Some of the comparison states spent more per juvenile than California, some spent less, and some had a comparable budget. We note also that recent initiatives may have changed juvenile justice allocations significantly since FY 1998 in some states. In addition, the use of per capita expenditures may mask important differences in how states allocate their resources—either for community-based or custody institutions.

We will now briefly describe the approach each comparison state has taken in organizing and administering its juvenile justice services, with an emphasis on recent initiatives. We draw these descriptions from individual state profiles compiled by the National Center for Juvenile Justice (NCJJ).

#### *States with Lower Per Capita Spending Than California*

**Illinois.** In FY 1998, the Illinois state budget for juvenile justice was \$66 per juvenile, less than half what California spent. In recent years, the state has changed its approach to juvenile justice to emphasize rehabilitation. In 1998, Illinois codified “formal station adjustments,” which are similar to California’s “delayed entry of judgment,” increasing parental involvement in the juvenile’s rehabilitation and adding conditions such as curfew, youth court, mediation, and community service in lieu of formal probation. In 2003, Illinois established a pilot program called “Redeploy Illinois,” using fiscal incentives to encourage counties to provide services to nonviolent juvenile offenders at the local level rather than in the state correctional system. As of 2003, Illinois also operates 91 youth courts for first-time nonviolent offenders ( National Center for Juvenile Justice, 2005a).

**Texas.** In FY 1998, Texas spent \$68 per juvenile on juvenile justice. Since 2001, Texas has been targeting juvenile offenders with mental health needs in their Special Needs Diversionary Program, and evaluations have shown the program to be effective in limiting out-of-home placements for these youths, as well as reducing costs compared to higher-rate residential rates. Like Illinois, Texas has also attempted to increase parental involvement, giving parents an opportunity for input that judges may consider in making disposition decisions ( National Center for Juvenile Justice, 2005b).

**Juvenile Arrest Rates.** Juvenile arrest rates have fallen in Illinois and Texas over the past decade, just as they have in California. At the beginning of the decade, Illinois had a lower juvenile arrest rate than California, while the rate in Texas was higher. The same was true at the end of the decade, and the rates of reduction were comparable in the three states.

#### *States with Per Capita Spending Comparable to That of California*

**New York.** The state of New York budgeted \$135 per juvenile in FY 1998. In recent years, the state has placed increased emphasis on comprehensive assessment of risk and needs for juvenile offenders, and on the goal of balanced and restorative justice. A customized form of the Youth Assessment and Screening Instrument (YASI) is being utilized by an increasing number of counties. Driven in part by the increasing number of detentions, Erie and Albany Counties have also collaborated with the Office of Children and Family Services (OFCS) to develop alternatives to detention. Unlike in California, New York courts cannot directly place juveniles in local or private residential facilities. Youthful offenders are instead placed with OFCS, which operates all juvenile facilities ( National Center for Juvenile Justice, 2005c).

**Colorado.** Colorado spent an average of \$128 per juvenile in FY 1998 on juvenile justice programs. The state’s Youthful Offender System (YOS) operates as a middle ground between adult prison and the juvenile system for serious youthful offenders, somewhat similar to California’s CYA, but YOS utilizes behavioral redirection, short-term boot camp, structured residential placement, and educational programs. In addition, several Colorado communities have established Multi-agency assessment centers, which offer detention screening and a thorough assessment to determine appropriate interventions and support ( National Center for Juvenile Justice, 2005d).

**Ohio.** Ohio, which budgeted \$153 per state juvenile in FY 1998, has initiated policies that give fiscal incentives to juvenile courts to develop local community-based disposition programs or to contract with community-based organizations to provide these services. Youths at risk of expulsion and first-time misdemeanor offenders are often referred to diversion programs, which may include community service, truancy services, electronic monitoring, mediation, and unofficial probation. Some Ohio counties also use teen courts as a diversion program ( National Center for Juvenile Justice, 2005e).

**Juvenile Arrest Rates.** Arrest rates per 100,000 juveniles have declined in each of the comparison states over the past decade, although the patterns are not identical. While California's decrease has been steady, New York saw a dramatic fall in juvenile arrests between 1995 and 1997, and continues to have the lowest juvenile arrest rate among states with budgets comparable to that of California. Despite a spike in rates in 1996, Ohio's pattern has been similar to California's, although rates have been lower in Ohio throughout the decade than in California. Colorado's juvenile arrest rates have been consistently higher than California's, and the most significant drop in Colorado's rates have occurred since 2000.

#### *States with Higher Per Capita Spending Than California*

**Oregon.** Oregon, which spent \$274 on juvenile justice for each youth in FY 1998, responded to an all-time high juvenile arrest rate in 1996 by adopting the Juvenile Crime Prevention (JCP) programs, aimed at preventing high-risk youths from committing or repeating offenses. Youths are targeted based on problems in at least two areas among school, peer, behavior, family, and substance use. Services include direct interventions (such as substance abuse treatment, tutoring, or family counseling), case management (including coordinated review and monitoring of a youth's needs and services), and support services (including the provision of basic needs services, such as housing assistance or medical assistance). Evaluation of JCP has shown its effectiveness in reducing recidivism ( National Center for Juvenile Justice, 2005f; Oregon Criminal Justice Commission, 2003).

**Pennsylvania.** Pennsylvania budgeted \$343 per state juvenile in FY 1998, the highest rate of any state. A 1976 state law provides financial incentives to counties to expand the range of community-based services rather than rely on state institutions. As a result, there are more than 500 programs for delinquent youths in Pennsylvania. A 1995 law established balanced and restorative justice as the state's model for juvenile justice. Unlike most states, district attorneys' offices and juvenile probation departments are responsible for providing services for crime victims. Specialized probation includes community-based, school-based, intensive, aftercare, and substance abuse programs ( National Center for Juvenile Justice, 2005g).

**Juvenile Arrest Rates.** After peaking in 1996, juvenile arrest rates have fallen substantially in Oregon, although they still remain higher than comparable rates in California. Despite its massive spending on juvenile justice and its emphasis on community-based programs, Pennsylvania is one of the few states in the country to see a recent increase in its juvenile arrest rate, beginning in 1999.

#### *Summary of Comparison State Juvenile Arrest Rates*

An examination of our comparison states shows that each of these states—with the notable exception of Pennsylvania—experienced reductions in juvenile arrest rates over the past decade. All have instigated new initiatives during the decade in attempting to curb juvenile crime, but we are not able to directly link the initiatives to the reduction in arrest rates in any state, including California. Some comparison states started and ended with higher rates than California, while others started and ended with lower rates than California. Only Pennsylvania saw an actual increase in juvenile arrest rates, despite the country's highest per capita juvenile budget in the country.

There seems to be little connection between the amount of a state's budget for juvenile justice and the change in its juvenile arrest rate. Although rates in Oregon and Pennsylvania suggest that



large juvenile justice expenditures may be the result of high rates of juvenile crime, the difference in arrest patterns between Oregon and Pennsylvania suggest that budget alone is not the determining factor in reducing juvenile arrests.

It may be significant that although Pennsylvania spends more on juvenile justice than any other state, it has not launched major new initiatives over the past decade, but only continued the same approach it has used since 1976. Every other comparison state, by contrast, has recently initiated new programs. Although no two states have offered identical initiatives, a general pattern of increasing local community-based, often multi-agency, approaches targeting at-risk youths and first-time nonviolent offenders is apparent. Several states, including California, have also embraced an emphasis on balanced and restorative justice.

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## Conclusions

Overall, juvenile arrests and incarcerations in California have fallen over the past ten years, even as admissions to CYA dropped significantly and more juveniles were serviced locally. In addition to criminal justice outcomes, teen pregnancy rates have dropped, the numbers of youths living below the poverty level has gone down, and graduation rates have increased. These positive measures are concomitant with probation initiatives. But does this mean that probation programs were responsible for these positive changes in youths' lives? This is a difficult question to answer definitively.

Over the past decade, California youths have shown higher overall rates on most criminal justice and non-criminal justice measures than those of U.S. youths taken as a whole. California's trend on many measures mirrors nationwide trends, suggesting that something other than these initiatives may be at work. For example, the economy in California and nationwide (as measured by unemployment rates) improved during much of the decade examined. However, on certain measures, such as arrest rates and teen pregnancy rates, the decline over the past decade has been greater for California youths than for U.S. youths as a whole. This suggests that California benefited from unique influences, which may include differences in demographic trends or the programs and initiatives for juveniles begun in California over the last decade. When we compared California with seven other large decentralized states, we found that each of these states—with the notable exception of Pennsylvania—experienced reductions in juvenile arrest rates over the past decade. All except Pennsylvania have instigated new initiatives during the decade in attempting to curb juvenile crime, but we are not able to directly link the initiatives to the reduction in arrest rates in any state, including California.

It is important to note, however, that statewide evaluations of recent initiatives in California have shown that criminal justice outcomes for program participants have generally been better than those for youths in routine probation programming, indicating the importance of this type of programming for at-risk and probation youths in California. Our ability to understand how the delivery of different services under these initiatives impacts youth justice and non-justice outcomes could be enhanced if better data were available on the types of youths who participated in the programs and the services that they received. With these data we could more definitively point to the program components that seem to make the most difference for youths with different needs.

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## The Role of Prerelease Handbooks for Prisoner Reentry\*

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**PRERELEASE PROGRAMS ARE** a growing priority in correctional systems throughout the nation to prepare prisoners for their reintegration into society. Several states with formal reentry programs report that recidivism rates for those who complete prerelease programs are significantly lower than for those who elect to be released without any programming (Finn, 1998; Nelson & Trone, 2000). These preliminary findings demonstrate that prerelease programs that focus on issues such as education, job skills, community resources, drug abuse, housing, rules of community supervision, life skills, personal identification, and family reunification, are an integral part of preparing prisoners to return home.

Currently, only a small minority of the approximately 600,000 state prisoners being released each year undergo a multi-session, formalized prerelease program. Angiello (2005) reports that only ten percent of prisoners discharged in 1997 participated in any prerelease programs. Also, the majority of the state prison prerelease programs are voluntary, and according to Austin (2001), are available primarily in minimum-secure facilities. Other factors limiting participation in specific prerelease programs include: limited availability of programs, prisoners with serious mental health issues or gang membership, prisoners who are maxing out, and seriously violent prisoners (Corrections Compendium, 2004).

The fact that so many released prisoners receive no prerelease preparation supports the creation of a prerelease handbook to guide reentry. While such a handbook is only a small part of an ideal, comprehensive prerelease program, a user-friendly, informative book focused on basic reentry challenges could offer prisoners an additional form of support as they go about the task of reintegrating themselves into their communities.

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### Role of Reentry Handbooks

Nationwide, the use of prisoner reentry handbooks is relatively new, with fewer than 25 known jurisdictions using them. Some of these localities, however, have been using them for years. In New York City, for example, *Connections: A Guide for Ex-inmates to Information in New York*

*City* (Likosky, 1984) has been published and continually updated since the early 1980s. A county or city specific resource handbook is a potentially valid supplement to other prerelease programming prisoners receive. In localities where such programming is minimal, a handbook may also serve as the primary guide for ex-offenders as they reenter their communities.

The need for strong discharge planning materials, including reentry handbooks, assumes even more importance with an increasingly large number of prisoners being discharged unconditionally without any community supervision. According to the Bureau of Justice Statistics, “about 112,000 state prisoners were released unconditionally through an expiration of their sentence in 2000, up from 51,288 in 1990” (Hughes & Wilson, 2005). State prisoners being discharged for “maxing out” their sentence now represent approximately 20 percent of those who are released (Travis, 2005). This means that many ex-offenders miss one of the most important elements of community supervision, in receiving referrals to community resources and information to support their reintegration into society. For the unconditionally released population, a handbook may be their only resource.

In addition, for years health care providers have been developing and assessing written discharge planning materials, including handbooks, to help their patients minimize anxiety, adhere to their therapies, improve illness-related communication skills, and retain information (Moult, Frank & Brady, 2004: 166). The utility of these written materials in the medical field supports parallel uses in corrections. Prisoners who use a well-designed reentry handbook should have a more comprehensive understanding of what services can help them with their reentry before and after they return home.

Reentry handbooks are also a valuable resource for correctional staff and parole officers who assist prisoners with basic discharge planning and identification of resources. Prisons are often geographically distant from the areas where most prisoners will return (and may even be located in a different state). Because most of the staff’s work is inside the institutions, staff often do not have access to on-the-ground information about things like basic government services, community organizations, local housing authority rules, employers, and transportation options in particular communities. Further, they are limited in the amount of time they can spend researching that information for each inmate. It is not uncommon in the facilities for the ratio to be 300 inmates to one social worker. Neither prisoners nor staff know every need, challenge, or question a prisoner will have post-release, and typically this information is not readily available in one place. In order to mitigate the problems discharge planners face, county or city specific resource guides should be distributed as part of a comprehensive prerelease program.

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## **Handbook Design**

There are presently no standards for the development of handbooks for guiding the reentry process (Mellow & Christian, 2005). To examine this issue, the authors spoke with several reentry experts, representatives of state corrections and parole departments, local practitioners, prisoners, and parolees. Several states also provided the authors with materials they use in their reentry efforts, including two that sent comprehensive training manuals. In addition, more than 15 reentry handbooks from around the nation were reviewed, which provided the authors with a better understanding of the various formats and content used when developing written prerelease materials.

This paper also incorporates qualitative data from an assessment by the first author of a non-random convenience sample of 40 ex-offenders who used *The Essex County Smart Book: A Resource Guide for Going Home* (hereinafter referred to as the *Smart Book* ) prior to release (Fishman & Mellow, 2005). The interviews were semi-structured and lasted approximately 10 minutes each. Appendix A contains the survey used to assess the *Smart Book* prior to release and can be used by other jurisdictions to assess their own discharge planning materials.

The following recommendations can help correctional systems formulate reentry handbooks for

their prerelease population. These suggestions are based solely on the authors' content analysis of existing handbooks and an accumulation of opinions from corrections researchers, practitioners, and ex-offenders. It should be stressed that though this potentially new tool may provide valuable assistance in the reentry process, careful evaluation is essential at each stage of development and post-implementation.

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## **Recommendations for the Development of Reentry Handbooks**

### *Provide an honest and hopeful introduction*

Ex-offenders are embarking on a reentry process with the odds stacked against them: They have not acted independently for a long period of time, they have lost social connections, and they may face discrimination because of their past offenses. An accurate reminder of these challenges, balanced with an optimistic viewpoint, is necessary for developing realistic expectations and an appropriate level of preparedness. An example of this style of writing is found in the introduction of the Tucson, Arizona handbook, *Guidelines for Getting Out* (Tucson Planning Council, 2005, p.2)

The transition to life after prison is a big challenge, and this brochure is designed to help you through this exciting but often difficult time. If you take to heart the following suggestions we think these resources can help you to be successful with rebuilding.

**Do your homework.** Make as many arrangements for yourself as you can before you get out. Use this brochure to write to agencies for help.

**Give yourself time to adjust.** Don't try to accomplish everything right away. Take time alone or with family and close friends only. Be patient with yourself and know it might take you a while to reach your goals. You may feel depressed or overwhelmed. This is normal—just take some time to heal.

**Ask for help.** There is an answer to every question you have. All you need to do is ask. This does not make you weak, it makes you smart. Call the agencies in this pamphlet. If they can't help you, ask them who can. Keep asking until you get the right answer.

In addition to the points above, the introduction should serve as a call to the individual that his or her true intentions before and upon release will play a large part in whether or not he or she truly makes a turnaround.

### *Provide letters of support and sponsorship from other ex-offenders*

An effective follow-up to an honest introduction could be several very brief, encouraging letters from successful ex-offenders that also serve to endorse the handbook. Developing an immediate sense of support and providing examples of others' successes could serve as motivational tools for carefully considering the handbook and the reentry process altogether. As one ex-offender noted, after using the *Smart Book*, "information is good, but tell us how to go about it, tell us what others experienced." In the reentry guide *Making it Happen & Staying Home* (Whitaker, 2005) positive statements by ex-prisoners are dispersed throughout:

There's people out here that are here to help you. All you gotta do is push past it and ask for it. When you're on that ride on the way home, just remember, you're not alone. It's gonna be difficult and hard. You might want to give up but it can be done. So just come on home. LINDA (p. 23).

Been in the game since I was twelve. By the time I was 22, I was through. I gave up the game because I had children and I didn't want them comin' into the jail to see me. I'm soft but I know where I come from. RAY (p. 5).

*Prioritize crucial first steps, include a reference list for less immediate issues*

The decision to prioritize issues for inclusion in a handbook is necessary to keep the resource brief, but likely to cause reasonable debate. The common issues and services that seem to be most relevant to initial release are obtaining identification, housing, clothing, food, employment, healthcare, and substance abuse treatment. In addition, only certain aspects of each area can be covered in order to prevent creating a massive manual. For instance, information on obtaining sufficient employment and healthcare is feasible, but trying to include an entire job manual or descriptions of health insurance options should be left for another resource. Others would argue that issues like voting rights, women's issues, religious community directories, and family reunification must also be included. A small section at the end of the handbook devoted to "Additional Areas" could provide some references for getting answers about each of these. A reentry handbook should focus on the immediate, crucial aspects of moving toward life stability within the first few months after release—true self-sufficiency and social reintegration should be handled through other routes.

*Incorporate the handbook into a training curriculum with in-person support*

The most effective way of preparing prisoners for reentry, according to many practitioners, is through in-person prerelease instructional programs. Introducing the handbook and its contents during prerelease classes could familiarize inmates and give them a chance to make arrangements before release to increase the likelihood of success. At the same time, going through the handbook and highlighting each section can reduce any misconceptions about its purpose. An ex-offender noted during the *Smart Book* assessment that some of the prisoners quickly rejected the handbook because they saw a list of basic services and thought it was targeted at the homeless. Having a handbook tied to a prerelease curriculum allows for familiarity to be developed and provides a convenient refresher of in-person training post-release.

*Provide the handbook well ahead of release to help prepare a smoother transition*

If a prisoner does not already have photo identification, a birth certificate, and a social security card upon release, the reentry process is likely to be even more difficult. This is because virtually all legitimate jobs and many housing options require identification documents. With the cooperation of the Department of Corrections, prisoners could receive an instructive handbook six to twelve months prior to release and begin the sometimes arduous process of obtaining these items. Fortunately, most identification requests can begin in prison by filling out applications and mailing them in. For example, those who used the *Smart Book* prior to release were able to begin the process of obtaining social security cards and birth certificates, wrote to the Department of Motor Vehicles for their abstracts, applied for their credit reports, and inquired about their veterans' status.

Since the average prerelease reentry program is six months long (Corrections Compendium, 2004), the handbook could be introduced at the beginning of the prerelease curriculum and referenced throughout its course. In addition, having the handbook in advance could allow prisoners to consider employment, housing, and other topics ahead of release, weighing the feasibility and benefits of their options. However, to maximize the use of the handbook prior to release, service providers willing to receive collect calls from prison need to be highlighted in the handbook. As one prisoner using the *Smart Book* prior to release said, "I couldn't contact no one, no money to make calls, and no free phone call numbers."

*Include content that helps to address specific challenges*

Sample text of job letters, resume layouts, calendars, and notes sections (among others) can make handbooks more engaging and effective in helping a prisoner plan for reentry. They can also assist individuals to present themselves to employers and housing administrators in a more favorable and professional way. Also, including specific forms for obtaining identification documents (photo id or driver's license, birth certificate, social security card) can accelerate the application process. If the forms cannot be provided, step-by-step instructions for obtaining them

should be. A reentry handbook from Tennessee includes the following letter requesting a job interview (Harris & Adams, 2001 p. 57)

Dear Mr. Abraham,

I am writing in response to your advertisement in the Knoxville News Sentinel last week for a Supervising Housekeeper.

As a supervising housekeeper, I have three years experience in all the aspects of commercial housekeeping. I worked as a supervising housekeeper for the Red Roof Inns in Chattanooga. I also received a certificate from the State of Tennessee in commercial cleaning and worked for the Tennessee Department of Corrections in a commercial cleaner's position for six years.

I feel your company, as a major motel chain, could benefit from my skills. I will look forward to hearing from you.

Thank you for your time.

Sincerely,

*Include maps of cities, transportation routes, and the locations of major service providers*

Maps of geographic areas with different service providers marked can be an excellent source of information, especially for those with minimal reading skills. An excellent example of this type of resource is the *Baltimore City Street Outreach Information Card* (2004). Designed for the homeless population of the city, the map is small, simple, and provides locations for many services. A map like this could be integrated into a handbook as a foldout from the back cover.

*Include informative, motivational text, being considerate of prevalent literacy levels*

While many handbooks list services in areas of importance to ex-offenders, text with practical advice about each major issue is less common. In addition, much of the text produced for previous handbooks has been well above the literacy level of its audience (Mellow & Christian, 2005). Most prisoners cannot read above a sixth grade level (Haigler et al., 1994). Because of this, the complexity and length of text in a handbook must be compatible with the literacy levels of the population. Providing accessible text with practical advice in an encouraging tone could reinforce lessons encountered in inperson training, or help make up for the lack of a training program. A reentry handbook from Washington, DC is a good example of writing to the audience at the literacy level the majority can comprehend. The following are bullet points listed in their handbook on how to improve skills (Sullivan, 2002, p. 5).

- If you do not read or write well, enroll in a literacy class.
- If you lack a high school diploma or GED (*General Education Development*), get one.
- If you have enough time to take a basic skills course (*like writing or math*), do it. All of us get rusty in our basic skills when we do not use them for awhile.
- If you have time to take a vocational training class (*like computer repair, word processing, or graphic arts*), do it. It will greatly improve your chances of finding a well-paying job.

*Develop area-specific handbooks*

Though handbooks as proposed in this article should have additional features besides lists of service providers, they should still include some of the latter. Creating area-specific handbooks is advantageous because it reduces the number of service-providers listed, making the book less bulky and easier to navigate. In addition, a single map of services can be customized for each

major area rather than having a series of maps for the whole state in one handbook. This recommendation is also feasible due to the large majority of ex-offenders who reenter society in concentrated areas within most cities (Rose and Clear, 2003). It would also be important, however, to provide ways of obtaining handbooks for other areas should an ex-offender choose to relocate.

*Include only service providers committed and accessible to the ex-prisoner population*

The major reason for the excess length of some handbooks is the exhaustive list of service providers under many categories for an entire city. While this provides the maximum number of options, it can also include service providers that require fees or that are not familiar with or committed to the ex-offender population. It can be very frustrating when an ex-offender contacts a service provider, only to discover that the location is overloaded or cannot provide a service for some other reason. In addition, the larger the list of providers, the more difficult it is to update on a yearly basis. Some research should go into the service providers in each city's handbook in order to identify the groups that are most able and willing to assist those in the reentry process. These providers should make up the bulk of the listings found in each section of the handbook. The authors of the *Smart Book* contacted every provider to verify that they would be interested in working with ex-prisoners before putting their agency and programs in the handbook. In several cases, shelters, food pantries, and employment agencies asked not to be included in the handbook.

*Be sensitive to language barriers*

The issue of developing foreign language versions for certain jurisdictions is also important to consider. For example, 19 percent of the state and federal prison population is Hispanic (Harrison & Beck, 2005). Though not all Hispanics use Spanish as their language of choice, it is an issue that needs to be further explored at the local level in order to insure that all prisoners have written prerelease materials they can understand.

*Include a clear description of the community supervision policies and regulations*

Many states have a zero tolerance policy in effect for ex-prisoners under community supervision. That is, parole officers have no discretion in choosing whether to report violations. This can make it more difficult for ex-offenders to stay out of court, or possibly prison, for even the most minor breach of their requirements. The seriousness of this policy and the consequences it can lead to should be clearly stated in a handbook, stressing the importance of adhering to community supervision rules in every detail.

*Consider overall sponsorship of the handbook*

While corrections departments and community service providers will play large roles in developing localized handbooks, publishing their names as official sponsors may have negative effects. Ex-offenders may blame the Department of Corrections for their years of confinement, and service providers may be viewed as soft and out of touch with the culture of prisons. Because of this, care should be taken to ensure that any sponsors' names placed on the handbook are respected by the ex-offender population.

*Plan for the long-term maintenance of the handbook*

Updates to service provider lists and narrative content are likely to be needed on a regular basis. Add to this the fact that thousands of handbooks will need to be printed for ex-offenders each year, and the project takes on a substantial cost. Committing the appropriate resources for the long-term success of the handbook will be crucial in sustaining its impact. Fortunately, many correctional systems have their own printing presses and may be able to provide copies at a discounted rate. In addition, the budget for the program should be relatively easy to predict over future years with detailed statistics on prisoners to be released.

*Keep the handbook small, portable, and discreet*



Following this recommendation will make the handbook reasonable and attractive for ex-offenders to carry with them. If possible, the handbook should be transportable in a back pants pocket. Bright colors and obvious titles should be avoided. These small design features are likely to have important effects on usage of the handbook.

#### *Consider the inclusion of cognitive skills summaries*

One of the newer innovations in prisoner rehabilitation is the use of cognitive skills training. Helping prisoners learn new problem-solving skills, concern for others, social skills, and more can help them navigate every challenge of reentry, from job and housing hunting to family reunification. While these skills have traditionally been taught in intensive training courses, some or all may translate well into brief, readable summaries and interactive exercises. A section of a handbook dedicated to these topics could serve as an excellent refresher for content from active training programs, or as a simple, stand-alone introduction to important cognitive skills.

#### *Evaluate reactions before and after publication of the handbook*

Objective evaluation of the handbook to refine the first edition and subsequent revisions is the only way to gauge effectiveness. Focus groups and questionnaires can be used with prisoners, corrections staff, and reentry experts to help improve content. Follow-up surveys of ex-offenders who receive the handbook, including those who succeed in reentry and those who fail, can provide insights as to its effectiveness. More detailed job information, for example, was a recurring theme when prisoners were asked “How would you make the *Smart Book* better?” As one prisoner stated, “give us a list of employers that hire people with convictions.” Better housing information was also recommended, with less emphasis on shelters and more details on how to obtain affordable, long-term housing, even if one has a drug conviction on his or her record. As handbooks for ex-offenders are relatively new in their conception, objective measures will be crucial in establishing the validity of these efforts.

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## **Conclusion**

Discharge planners and prisoners face many challenges within the reentry process. A convenient and accessible handbook with descriptions of these challenges, advice for addressing them, and links to the most helpful services could boost the success rate for many ex-offenders. Though not a comprehensive solution to reentry, prerelease handbooks have the potential to be a valuable tool to supplement, or, if no other alternatives are available, to substitute for a formal prerelease program.

We recommend that states and/or localities develop pocket-sized community transition handbooks, designed to provide prisoners returning to society with basic information and contacts to facilitate community reentry. A guide such as this would serve as an organized, succinct reference resource for individuals preparing for reentry, and to continue referencing after their release from prison. As a secondary benefit, it may also help correctional staff in assisting inmates with their pre-release planning.

[Essex County Smart Book Interview Questionnaire](#) [PDF]

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## Appendix A

### Essex County Smart Book Interview Questionnaire\*

[This questionnaire will be read to the individual. Please take notes on a separate sheet of paper or in the margins if one runs out of space.]

<b>Name:</b>	<b>Date of Birth:</b> _____/_____/19____	<b>Date of Interview</b> _____/_____/2006
<b>State #:</b>	<b>Race:</b> check one <input type="checkbox"/> White <input type="checkbox"/> Latino <input type="checkbox"/> Black <input type="checkbox"/> Other _____	
<b>Facility:</b>	<b>Gender:</b> <input type="checkbox"/> Male <input type="checkbox"/> Female	
<b>Housing Unit:</b>	<b>Interviewer:</b>	

*I'd like to ask you some questions about the Essex County Smart Book: A Resource Guide for Going Home.*

1. Who gave you the <i>Smart Book</i> ?
2. Approximately how many days, weeks or months have you had the <i>Smart Book</i> ? _____ Days _____ Weeks _____ Months
3. What were you told about the <i>Smart Book</i> when it was given to you?
4. How much time have you spent reading the <i>Smart Book</i> ?
5. Was the <i>Smart Book</i> easy to read? <input type="checkbox"/> Yes <input type="checkbox"/> No Why? <b>[explain in your own words]</b>
6. Which of the programs or agencies have you contacted since receiving the <i>Smart Book</i> ? <b>[explain in your own words and specify pre and post release if on parole.]</b>
7. If the program, agency or information was not helpful, please explain why?
8. Are there any programs, agencies and/or information that you read about in the <i>Smart Book</i> that you did not know about before you were given the <i>Smart Book</i> ? If so, can you list them? a. b. c. d.
9. Did the <i>Smart Book</i> include all the information that you need to know? <input type="checkbox"/> Yes <input type="checkbox"/> No <b>[explain]</b>
10. How would you make the <i>Smart Book</i> better? <b>[explain in your own words]</b>
11. Have you ever participated in any other programs in Essex County that you have not yet mentioned? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes: which ones

12. Will the services listed in this <i>Smart Book</i> help you in the future? <input type="checkbox"/> Yes <input type="checkbox"/> No Why or why not?
13. Does this <i>Smart Book</i> help you understand the availability and location of services you wouldn't have had otherwise? <input type="checkbox"/> Yes <input type="checkbox"/> No Explain:
14. I would now like to ask you about specific services you have or plan to use in the near future.
a. <b>Prisoner:</b> Can you tell me where you plan to live once you are released? Did the <i>Smart Book</i> help you locate this place? <input type="checkbox"/> Yes <input type="checkbox"/> No
b. Have you figured out if you need any identification documents? If so, can you tell me where you plan to go to obtain them? Did the <i>Smart Book</i> help you locate these identification services? <input type="checkbox"/> Yes <input type="checkbox"/> No
c. Can you tell me any places where you plan to go to get your medical needs met? Did the <i>Smart Book</i> help you locate these medical services? <input type="checkbox"/> Yes <input type="checkbox"/> No
d. Can you tell me any places where you plan to go for job assistance? Did the <i>Smart Book</i> help you locate these job assistance services? <input type="checkbox"/> Yes <input type="checkbox"/> No
15. Can you name agencies or programs that you have used in your past? a. Was the agency/program helpful? <input type="checkbox"/> Yes (explain) <input type="checkbox"/> No (explain) b. Was the agency/program helpful? <input type="checkbox"/> Yes (explain) <input type="checkbox"/> No (explain) c. Was the agency/program helpful? <input type="checkbox"/> Yes (explain) <input type="checkbox"/> No (explain)
16. In school, what was the last grade you completed: <input type="checkbox"/> 8th grade <input type="checkbox"/> 8th-11th grade <input type="checkbox"/> High school graduate <input type="checkbox"/> GED <input type="checkbox"/> Technical/vocational <input type="checkbox"/> Some college <input type="checkbox"/> College grad or more
17. Is there anything you'd like me to tell the people who wrote the <i>Smart Book</i> ?
*Questions & survey adapted from Kirkland, G. (2001). <i>Client Interview Questionnaire</i> . Isaiah House, East Orange, NJ.

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## John Augustus, Father of Probation, and the Anonymous Letter

[References](#)

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**JOHN AUGUSTUS WAS** born in Woburn, Massachusetts , in 1785. Voluntarily and unofficially, he assisted minor offenders, including men, women, and children, for 18 years, until his death in Boston in 1859 at the age of 75. With the exception of “A Report Of the Labors of John Augustus” (a thin book of 104 pages, and undersized at 6 x 9 inches), he left little documenting his work. Some of the few remaining traces of his life and work include a picture of his home in Lexington, Massachusetts (where he lived from 1811 to 1828), a photo of his tombstone, and some case files of the offenders he unofficially supervised. Pictures of the aforementioned can be found in the 1939 edition of the book. The book contains no personal or familial information except in relation to his work.

Another important remaining historical item is an anonymous letter, “in reply to certain inquiries, made by a benevolent gentleman...relative to the past philanthropic labors of Augustus.” While many criminal justice students are familiar with Augustus’ book, few are acquainted with the letter. Although the letter was not originally intended for the press, the writer subsequently released it, hoping that it would “strengthen the hands of Augustus.” The letter is entitled “The Labors of Mr. John Augustus, The Well-Known Philanthropist, From One Who Knows Him.” It was made available for private circulation in Boston during December of 1858.

The letter was subsequently shown to Augustus, who said in acknowledgement, “I have examined your letter, and have found but few details in it requiring correction, and these of unimportant character. The main statistical statements are true; and I thank you for your solicitude in a matter which I have so much at heart” (Anonymous, 1858:1). Although the writer’s name was not attached to the nine-page letter, it was stated that it was written by a person who knows Augustus.

### **Contents of the Letter**

The writer of the letter notes that not only does the law punish the offender indiscriminately for his/her crime, but throughout his life, even after he has atoned for his wrongdoing. He becomes subject to “scorn and finger-pointing suspicion which most of our people arrogate to themselves as a special duty.” As a result he suffers a loss of self-esteem whereas one kind word may have prevented this (Anonymous, 1858:4).

The letter writer notes similar consequences for the female offender, stating that “it is enough for

the world to know that she has done wrong, and at once the door of mercy and kindness is closed against her, and she is shut out, to associate only with those who would plunge her soul deeper in the pit of error (Anonymous, 1858:5).” The writer finds, however, that unlike most in the community, Augustus is unwilling to shun the wrong-doer, but instead opens the door of his own home to help the “wanderer from virtue” (Anonymous, 1858:5). He further writes that when Augustus first commenced his unpaid labors, he bailed out of the Police Court individuals who were common drunkards. Helping to improve their behavior while he held them under informal control for a short time, he was so successful in improving their behavior that often the judge would impose a small fine instead of imprisonment.

The letter-writer recounts that originally “Augustus confined his Philanthropy to the male sex...” but after a year his “attention was called to the claims of women who were common inebriates, some of them mothers of families, some of them young girls fresh from the toils of heartless seducers, who had abandoned them. Others, not inebriates, who, charged with petty crimes, or having crimes imputed to them, had no power of defense but what their simple denials included” (Anonymous, 1858:6-7). Although it is not noted in the letter, Augustus also worked with children, some as young as six and seven years old (Augustus, 1852:42).

The anonymous letter-writer further records the “petty prosecution” suffered by Augustus as his workload increased, reporting that “As the number of cases accumulated with Augustus, so did his cares and troubles” (Anonymous, 1858:7). It was noted that police and other officers received a fee of less than a dollar if there was a conviction in a case where they had testified, as well as an extra fee for a warrant or writ resulting in the incarceration of a defendant. Inasmuch as Augustus would bail out many defendants who would otherwise have been imprisoned, officers often suffered financially from his labors. Augustus’ book states that officers would sometimes wait until Augustus was outside of the courtroom, before calling a case in which he was likely to bail out the defendant. Through this subterfuge a defendant would be hurried before the judge, often convicted, and thereby enabling the officers to collect small fees (Augustus, 1852:63).

Both the letter and Augustus’ book further recount that he originally “operated principally in the Police Court; but...later extended his efforts to the Municipal Court, where their results were more important, and his labors and responsibilities were more onerous” (Anonymous, 1858:7).

Moreover, the anonymous letter is replete with praise for the work of Augustus “...in raising the fallen—reforming the criminal, and in attending to the offices of philanthropy, which, by the blessing of heaven, are so promotive of benefit to individuals, and good to society” (Anonymous, 1858:8). The letter writer informs us, for example, “...that, out of nearly two thousand persons for whom he has become responsible, only ten have proved ungrateful for his goodness, and by absconding, suffered him to be defaulted and to be sued (four times, I believe,) for the amounts for which he had become bail” (Anonymous, 1858:8).

In contrast, the writer observes that “Mr. Augustus has had his villifiers, who have taxed him with selfishness, insincerity, and a great many things equally unjust and uncharitable.” Examples of the attacks on Augustus, including some printed in the newspapers, can be found in his book. One of the most vicious was that of a Mike Walsh, of the *Daily Print* of 1848 (Augustus, 1852:78-79). He accuses Augustus of benefiting financially from his charitable work, and that he “seems to have a great itching for notoriety, and dollars.” Walsh asks who ...“gave him a license to take uncontrolled possession of every woman that is brought up, or comes up to the Police and Municipal Courts?” (Augustus, 1852:79). In addition he charges Augustus with using the courts to bleed “thousands, and of gratifying his other propensities” (Augustus, 1852:79). Walsh ends his verbal attack by referring to Augustus as a “Peter Funk philanthropist, and pea-nut reformer,” and states that “unless he conducts himself henceforth with a great deal more propriety, we shall take it upon ourselves to teach him decency” (Augustus, 1852:79).

Sadly, the letter-writer records the emotional and physical difficulties experienced by Augustus in the course of his demanding volunteer work. The writer notes that “As the number of cases accumulated with Mr. Augustus, so did his cares and troubles” (Anonymous, 1858:7). Moreover, although Augustus had the use of some moderate wealth early on from his bootmaker business,

“The unceasing calls made upon his time destroyed his business...; but, absorbed in the good he was daily doing, he nevertheless continued it steadily and undeviating, undeterred by any discouragement of a pecuniary nature” (Anonymous, 1858:8). The author of the letter backs up his account through the inclusion of a chart, taken from court records between the years of 1842 and 1858, that showed the number bailed and the amount of bail posted by Augustus during this period. The letter writer also notes that “...a few friends have privately furnished him with funds which he has religiously spent for purely philanthropic objects” (Anonymous, 1858:58-9).

Augustus himself revealed his financial difficulties near the end of his book. On the last page of his book he notes that his “time has not been spent in getting out books, but in getting persons out of jail.” He asks those who wish to provide him with “assistance by pecuniary aid or otherwise” to visit him at his residence. Somewhat despondently, he ends his book with the promise that “It will, I trust, afford peculiar satisfaction to those who have aided me to know, that the funds which they have contributed have not been misapplied” (Augustus, 1852:104).

As is true of many volunteers and charitable workers, Augustus sacrificed himself for the good of others. Unquestionably, he appropriately deserves the title of “the Father of Probation.”

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## Juvenile Focus

By Alvin W. Cohn, D.Crim.  
*Administration of Justice Services, Inc.*

### **Juvenile Lifers**

American prisoners are serving life sentences for crimes they committed before they could vote, serve on a jury, or gamble in a casino—in short, before they turned 18. A survey conducted by the newspaper found that criminals convicted as juveniles are serving life terms in 48 states. The story cites a recent study by Human Rights Watch and Amnesty International that found that more than 2,200 inmates in the U.S. serving life sentences with no chance for parole for crimes they committed as juveniles. The study found only three other countries with such inmates: South Africa (with four), Israel (with seven), and Tanzania (with one).

### **Homework**

Most parents say their children get the right amount of homework and most teachers agree, according to an AP-AOL Learning Services poll. Even among the parents and teachers who say the load assigned these days is out of whack, more of them say it is too light; i.e., not too heavy. In fact, 57 percent of parents and 63 percent of teachers say the amount is just right; 23 percent of parents and 25 percent of teachers say there is too little homework assigned. Parents are generally content with the demands that homework places on their own time, with 64 percent saying they have little trouble finding time to help, and 57 percent saying they spend just the right amount of time helping out.

### **Preemies**

Many very premature infants appear to play catch-up by early adulthood, reaching levels of education and employment similar to those of normal-weight children, report Canadian researchers. The mostly reassuring results come from a study of the development of 166 premature babies born in the late 1970s and early 1980s. The babies weighed two pounds or less. The infants have been tracked from their birth into childhood and beyond. The results contrast with less favorable outcomes in other long-term studies, but the Canadian children had benefits other preemies lacked. Most were white, from economically stable two-parent families, and their health care was insured by Canada's national health care system.

More than 80 percent of those in both the preemie and normal-weight groups graduated from high school; about a third of each group was pursuing college or other postsecondary education when the study was written. Nearly half of the preemies and only slightly more of their peers had permanent jobs. More preemies were unemployed and not in school in early adulthood (39 vs. 20) because of mental and/or physical disabilities related to their premature births. Forty of the preemies had a disability.

### **Illegal Drug Use**

Americans 12 and older who say they have illegally used the following drugs recently, according to the Substance Abuse and Mental Health Services Administration:



Marijuana—14.6 million  
Prescription Drugs—6 million  
Cocaine (non-crack)—1.5 million  
Inhalants—600,000  
Methamphetamine—600,000  
Crack Cocaine—500,000  
Ecstasy—500,000  
Heroin—200,000  
LSD—100,000

The nation's most extensive study of drug use among youths indicated recently that illicit drug use is down or holding steady. However, the 2005 "Monitoring the Future" study by the University of Michigan found that abuse of sedatives, OxyContin, and inhalants is rising. It said 55 percent of high school seniors reported using OxyContin during the previous year, which represents a jump of nearly 40 percent since 2002.

However, teenage girls, having caught up to their male counterparts in illegal drug use and alcohol consumption, now have the dubious distinction of surpassing boys in smoking and prescription drug abuse. In fact, more young women than men started using marijuana, alcohol, and cigarettes. Adolescent girls who smoke, drink, or take drugs are at a higher risk for depression, addiction, and stunted growth. And because substance abuse often goes hand in hand with risky sexual behavior, they are more likely to contract a sexually transmitted disease or become pregnant. In 2004, the last year for which data are available, 1.5 million girls began drinking; 730,000 started smoking cigarettes, and 675,000 began smoking marijuana.

### **Child Support Enforcement**

To help with planning outreach to the changing client population, child support enforcement professionals can check out the following reports:

- Getting to Know the Future Customers of the Office of Child Support: Projections for 2004-2009. [www.acf.dhhs.gov/programs/cse/pubs/reports/projections/index/html](http://www.acf.dhhs.gov/programs/cse/pubs/reports/projections/index/html).
- U.S. Census Bureau national and state projections for U.S. population. <http://www.census.gov/population/www/projections/popproj.html>.
- The U.S. Census Bureau report on fertility patterns (2004) [www.census.gov/prod/2005pubs/p20-555.pdf](http://www.census.gov/prod/2005pubs/p20-555.pdf).
- U.S. Census Bureau report on Hispanic population of the U.S., also includes projected population 2000-2050 <http://www.census.gov/population/www/socdemo/hispanic.html>.
- The U.S. Hispanic Economy in Transition: Facts, Figures, and Trends (2005 Edition) [Secure.hbinc.com/product/view.asp?id=176](http://Secure.hbinc.com/product/view.asp?id=176).

### **Nonmarital Births in 2004**

- 88 percent of births to teenage women were nonmarital
- 52 percent of births to women in their twenties were nonmarital
- Hispanics: 32 percent of births were nonmarital; Blacks: 62 percent; Asians: 24 percent; Whites: 25 percent.
- Cohabitation increases the likelihood that a woman will have a nonmarital birth.

For the overall U.S. population:

- Less-educated women, with a high school diploma or less, have higher birth rate.
- Women not in the labor force have a higher birth rate and higher average number of children.

### **FBI Data**

The volume of juvenile arrests for drug abuse violations involving all drug types increased 23 percent from 1994 to 2003, the FBI reports. When an individual is arrested for a drug abuse violation, the reporting agency indicates the type of drug in one of four categories: opium or cocaine and their derivatives, marijuana, synthetic narcotics, and dangerous non-narcotic drugs.

The number of arrests of juveniles for three of the four drug types increased, except for opium or cocaine, which decreased 51 percent. In 1994, 61 percent of juveniles arrested for drug abuse violations were white; however, by 2003, that number had risen to 75 percent. Male juveniles were more frequently arrested for drug abuse violations than female juveniles at an average rate of 6:1. However, the report indicates that female juveniles were arrested at a younger age for drug abuse violations than male juveniles. For additional information: [www.fbi.gov/ucr/ucr.htm](http://www.fbi.gov/ucr/ucr.htm)

The FBI also reports that the 2004 Uniform Crime Reports included an analysis of violent crimes against infants, based on a limited amount of information that was available. Even with incomplete data, the FBI said the infant victimization report is the most comprehensive ever provided and is one of the few sources of information on victimization of infants and young children. (See the source above for additional information.)

### **Rights of Youth**

The National Center for Juvenile Justice has prepared a guide for protecting the rights of youth under supervision. The guide covers the laws and regulations that govern research involving human subjects. See: <http://ncjj.servehttp.com/irb/index.html>.

### **CASA**

The National Court Appointed Special Advocate (CASA) Association has conducted a survey of judges and juvenile court commissioners who hear juvenile dependency cases to solicit their views regarding the role played by CASA and guardian ad litem (GAL) volunteers in supporting judicial decision-making and court processes.

Overall, respondents reported that the work of these court-appointed volunteers has proven beneficial to judicial decision-making and to the children and families served.

Survey results will be used to improve services provided by CASA/GAL programs and volunteers.

The executive summary and full report of the survey's findings are available at [http://www.casenet.org/program-management/evaluation/judges\\_survey\\_report.htm](http://www.casenet.org/program-management/evaluation/judges_survey_report.htm).

For additional information about CASA, visit <http://www.nationalcasa.org>.

### **Tech Innovations**

Teenagers have some high expectations about what technology might bring over the next decade, according to a study conducted at the Massachusetts Institute of Technology. For example, 33 percent of teens predicted that gasoline-powered cars would go the way of the horse and buggy by 2015. Just 16 percent of adults agreed. Meanwhile, 22 percent of teenagers predicted desktop computers will become obsolete a decade from now, while only 10 percent of adults agreed.

### **Crime Reporting**

The National Institute of Justice sponsored research that has found that only one-third of colleges and universities comply with federal rules for reporting campus crimes. The study "Sexual Assault on Campus" investigates the strengths and weaknesses of response policies and practices, formal and informal adjudication processes, and individual and institutional barriers to reporting. See: [www.ojp.usdoj.gov/nij/pubs-sum/205521.htm](http://www.ojp.usdoj.gov/nij/pubs-sum/205521.htm).

### **OJJDP Announces Updates to Statistical Briefing Book**

The following updates to the specified data analysis tools in the Office of Juvenile Justice and Delinquency's (OJJDP's) *Statistical Briefing Book* have been prepared:

- *Census of Juveniles in Residential Placement Databook* provides access to national and state data detailing the characteristics of juvenile offenders in residential placement facilities. Users can view profiles for the United States and particular states or create state comparison tables. This tool has been updated to include data through 2003.
- *Easy Access to the FBI's Supplementary Homicide Reports: 1980–2003* provides access to

more than 20 years of national and state data detailing the characteristics of homicide victims and offenders. This tool has been updated to include data through 2003.

- *Easy Access to Juvenile Populations: 1990–2004* provides access to 15 years of national, state, and county population data. Users can view population profiles for a single jurisdiction or create state or county comparison tables. This tool has been updated to include data through 2004.

Access OJJDP's Statistical Briefing Book at <http://ojjdp.ncjrs.org/ojstatbb/index.html>.

### **Publications of Interest**

- “*NIJ Journal 253*” (32 pp.) (JR 000253). This issue of the NIJ Journal features articles on a wide range of topics, beginning with a look at new uses for DNA identification. Other features address domestic violence, how technology serves criminal justice, and law enforcement issues.
- “*How the Justice System Responds to Juvenile Victims: A Comprehensive Model*” (NCJ 210951) (12 pp.) introduces the concept of a juvenile victim justice system. Part of OJJDP's Crimes Against Children Series, the bulletin reviews the case flow processes for the child protection and criminal justice systems and describes their interaction.
- “*National Drug Control Strategy*” (41 pp.) (NCJ 212940) discusses President Bush's drug control strategy. This strategy seeks to prevent the initiation of drug use, describes initiatives that treat drug users, and outlines the Administration's work at home and abroad to disrupt the availability of illicit drugs.
- OJJDP announces the availability of “*How the Justice System Responds to Juvenile Victims: A Comprehensive Model*.” This 12-page bulletin was written by Drs. David Finkelhor, Theodore Cross, and Elise Cantor.
- Part of OJJDP's *Crimes Against Children* series, the bulletin introduces the concept of a juvenile victim justice system and reviews the case flow processes for the child protection and criminal justice systems, describing their interaction.
- OJJDP has released a guide for planning community-based or regional facilities to provide secure confinement for serious, chronic, and violent juvenile offenders. The publication, *Planning Community-Based Facilities*, also outlines a process for their development within a comprehensive juvenile justice plan.

### **Marijuana and Brain Disorder**

Heavy use of marijuana may put adolescents who are generally predisposed to schizophrenia at greater risk of developing the brain disorder, according to researchers at the Zucker Hillside Hospital in Glen Oaks, NY. They studied the brains of a group of adolescents: healthy, non-drug users; heavy marijuana smokers; and schizophrenic patients. The researchers said the language/auditory pathway continues to develop during adolescence, making it most susceptible to neurotoxins introduced into the body through marijuana use. The National Institute of Drug Abuse estimated 5.6 percent of 12th-graders reported daily use of marijuana in 2004.

### **Youth Risks**

In the course of an average day, children routinely face risks as high as one in 250 of an injury requiring hospitalization or a visit to the emergency room. For young people 15 to 19, the cumulative risk of dying in an accident is as high as one in 100,000 each day. For healthy children older than six years, according to the American Medical Association, American Sports Data, Inc., the number of permanent disability injuries per million instances of participation include (with Level IV injuries resulting in emergency room contact or hospitalization in parentheses). [The total number of injuries is in brackets]

- Football: 42 (500) [3,800]
- Soccer: 38 (300) [2,400]
- Basketball: 58 (300) [1,900]
- Baseball: 61 (300) [1,400]
- Skateboarding (800) [800]

### **Foster Care**

Lacking proof from most of the states, federal officials are concerned that many foster children are not being visited regularly by caseworkers. Only 19 states and the District of Columbia were able to produce computer-based reports detailing how often such visits occurred in fiscal 2003, according to a report prepared by the Inspector General of the Department of Health and Human Services. Seventeen of those states required monthly visits; yet, five reported that fewer than half of their foster care children were visited that frequently. Another five states reported a visitation rate of 75 percent or less. Nationally, about 500,000 children are in foster care, a number that has been declining in recent years.

### **Substance Abuse**

The Substance Abuse and Mental Health Services Administration released a study on the relationship between a youth's propensity for substance abuse and the mental health of the mother. According to the report, an adolescent living with a mother who had a serious mental illness had an increased risk of alcohol or illicit drug use compared with a youth living with a mother who did not have a serious illness. See: <http://oas.samhsa.gov/2k5/motherSML.cfm>

### **Family Violence**

The rate of family violence fell by more than one-half between 1993 and 2002, reflecting the general decline in overall crime during the same period, according to the Bureau of Justice Statistics. Family violence accounted for 11 percent of all reported and unreported violence between 1998 and 2002. Of these offenses against family members, 49 percent were a crime against a spouse, 11 percent a parent attacking a child, and 41 percent an offense against another family member. Seventy-three percent of family violence victims were female and 76 percent of persons who committed family violence were male. Simple assault was the most frequent type of family violence. Drugs or alcohol were involved in 39 percent of the cases of victimization. In 20 percent of the incidents, the offender had a weapon. See: [www.ojp.usdoj.gov/bjs/abstract/fvs.htm](http://www.ojp.usdoj.gov/bjs/abstract/fvs.htm).

### **Juvenile Victimization**

Juveniles 12–17 years old, like all other age groups, experienced a decline in violent crime victimizations from 1993 through 2003, with younger teens, 12 to 14 years old, having the largest decreases. The Bureau of Justice Statistics said the violent crime victimization rate fell from an estimated 130 victims per 1,000 teenagers in 1993 to about 60 per 1,000 in 2003 for juveniles ages 12 to 17. The decline occurred in all crime categories and among all racial and ethnic groups. The violent crime rate for younger teens fell by about 59 percent during the decade, compared to 50 percent for those ages 15 to 17 and 53 percent for adults. Juveniles were more than twice as likely as adults 18 years old and older to be victims of violent crime. See: <http://www.ojp.usdoj.gov/bjs/abstract/jvo03.htm>.

### **Police and Teens**

The National Crime Prevention Council in conjunction with The Allstate Foundation has developed a program to improve relations between police and teenagers. The new publication, *The Law and You*, revises the first edition released in 1998. NCPC said the new version features a series of video vignettes to provide neutral ground for an informed discussion by teens and law enforcement officers about what young people should—and should not—do if they are stopped or visited by police. Four vignettes represent possible encounters: shoplifting arrest, traffic stop, loud party, and a drug bust. The vignettes are designed to launch discussions of the viewpoints of both officers and youth and how encounters such as these can produce the best possible outcomes in any set of circumstances. For additional information, contact (800) 607-2722, select option 6.

## Youth Courts

The American Youth Policy Forum has announced the availability of an overview of youth court programs, including their characteristics and benefits. Topics covered include program completion and cost, results, return on investment, and sustainability. See: [www.aypf.org/pubs.htm](http://www.aypf.org/pubs.htm).

For youth court data for 2000 that profiles more than 1.6 million delinquency cases, see: <http://ojjdp.ncjrs.org/publications/PubAbstract.asp?pubi=12208>.

## School Vandalism

The Office of Community Oriented Policing Services (COPS) has released an 80-page guide discussing the problem of school vandalism, risk factors, and solutions. The guide, entitled *School Vandalism and Break-Ins* outlines questions police can ask to analyze their local problem; and describes response strategies, citing information from evaluative research and police practice. See: [www.cops.usdoj.gov/mime/open.pdf?item=1560](http://www.cops.usdoj.gov/mime/open.pdf?item=1560).

## Seat Belts

The percentages of people aged 8 and older wearing seat belts have increased:

### Males:

- 2002 – 72 percent
- 2003 – 77 percent

### Females

- 2002 – 79 percent
- 2003 – 84 percent

## Mentoring

The National Mentoring Center, supported by OJJDP, announces the availability of *Sustainability Planning and Resource Development for Youth Mentoring Programs*. The guide features a comprehensive look at how youth mentoring programs can create their own custom resource development plans. Subjects covered include planning strategies, corporate giving, foundations, government grants, individual giving, local events, ethics of fundraising, and board involvement. See: [www.nwrel.org/mentoring/pdf/sustainability.pdf](http://www.nwrel.org/mentoring/pdf/sustainability.pdf).

Among the solicitations to be found on the OJJDP's Current Funding page are the following recent additions that address mentoring:

- **Mentoring Initiative for System Involved Youth: OJJDP's Mentoring Initiative for System Involved Youth** was established to support the development and enhancement of mentoring programs for youth involved in the juvenile justice system, reentry, and foster care. The initiative seeks to promote collaboration among community organizations and agencies committed to supporting mentoring services for such system involved youth.
- **Evaluation of Mentoring Initiative for System Involved Youth:** This evaluation will assess the four mentoring sites receiving awards under OJJDP's Mentoring Initiative for System Involved Youth, which will provide funds to faith- and community-based, nonprofit, and forprofit agencies to enhance and expand existing mentoring strategies; programs to develop, implement, and pilot test mentoring strategies and programs designed for youth involved in the juvenile justice system, reentry, or foster care. For further information, including eligibility requirements, for the above programs, visit their respective solicitations as follows:
  - Mentoring Initiative for System Involved Youth  
<http://ojjdp.ncjrs.gov/grants/solicitations/06mentoringinitiative.pdf>.
  - Evaluation of Mentoring Initiative for System Involved Youth  
<http://ojjdp.ncjrs.gov/grants/solicitations/06mentoringeval.pdf>.

For additional OJJDP funding opportunities, visit the Current Funding page at <http://ojjdp.ncjrs.gov/funding/FundingList.asp>

### **Diabetes**

Roughly two million U.S. children ages 12 to 19 have a pre-diabetic condition linked to obesity and inactivity that puts them at risk for full-blown diabetes and cardiovascular problems, according to the Centers for Disease Control and Prevention and the National Institutes of Health. Researchers examined the prevalence of abnormally high blood sugar levels after several hours without eating, a condition called impaired fasting glucose. One in 14 boys and girls in a sample had the condition; among the overweight adolescents, it was one in six. Intensive lifestyle interventions, including physical activity and improving diet may help prevent prediabetes from progressing in children, the study finds. More healthful school lunches are also recommended.

### **Youth and Gambling**

The number of young people who gamble with cards at least once a week has risen 20 percent over the past year, according to a survey of 24 to 22-year-olds by the 2005 National Annenberg Risk Survey of Youth. Researchers estimate that nearly three million young people in the U.S. gamble with cards on a weekly basis, and may also gamble online regularly. According to the self-identified weekly online gamblers surveyed, more than half said they had at least one of the symptoms of a gambling addiction, such as preoccupation, overspending, and withdrawal. About 10 percent of those who acknowledged gambling at least once a month said they had owed an average of \$74 in gambling debts at least once. The study found that monthly gambling of all types occurred among 37 percent of high school and 50 percent of college males in 2004.

### **Lead Levels**

Lead in paint, soil, water, and elsewhere may not only affect children's intelligence, but also cause a significant proportion of violent crime, a researcher at the University of Pittsburgh School of Medicine reports. They suggest that the federal government needs to do more to lower lead levels in the environment, and that parents need to think more about where their children may be getting exposed. One study cited indicates that the average bone lead levels of 190 juvenile delinquents were higher than those of adolescents not charged with crimes. The study suggests that between 18 and 38 percent of delinquencies in the Pittsburgh area could be attributed to lead toxicity. Another tested 300 delinquents and found that those with higher lead levels reported more aggressive feelings.

### **Juvenile Crime Data**

The National Institute of Justice (NIJ) has released "*Co-Offending and Pattern of Juvenile Crime.*" Observers of juvenile crime have long noted the prevalence of co-offenses, i.e., offenses that involve more than one offender. Drawing on NIJ-funded research, this report focuses on how cooffending is related to the age of offenders, recidivism, and violence and discusses the implications of these findings for policy and practice. See: <http://www.ncjrs.gov/pdffiles1/nij/210360.pdf>.

### **Project Safe Child Initiative**

The growing threat of sexual exploitation crimes committed against children through the Internet is a disturbing and unacceptable trend. The Department of Justice is committed to the safety and well-being of every child and has placed a high priority on protecting and combating sexual exploitation of minors. As a consequence, Project Safe Childhood, an initiative designed to protect U.S. children as they navigate the Internet, was announced.

The need for Project Safe Childhood: As technology advances and as the Internet becomes more accessible, the number of computer-facilitated sexual exploitation crimes committed against children—including child pornography offenses and "traveler" or enticement crimes—will only continue to grow. The goal of Project Safe Childhood is to enhance the national response to this growing threat to America's youth.

- In fiscal year 2005, federal prosecutors charged 1,447 child exploitation cases involving

child pornography, coercion and enticement offenses against 1,503 defendants.

- This year, the Department of Justice will award more than \$14 million to the **Internet Crimes Against Children (ICAC)** program, a national network of 46 regional task forces funded by the Department's Office of Justice Programs. The ICACs are key partners in Project Safe Childhood.
- Although progress has been made, a more coordinated partnership involving the state, local, and federal law enforcement entities and nonprofits involved in Internet safety and the prevention of child exploitation is needed.
- Integrated federal, state, and local efforts to investigate and prosecute child exploitation cases: Each U.S. Attorney will partner with ICAC Task Forces that exist within his or her district and other federal, state, and local law enforcement partners working in the district to implement Project Safe Childhood. Working with these partners, U.S. Attorneys will develop district-specific strategic plans to coordinate the investigation and prosecution of child exploitation crimes; efforts to identify and rescue victims; and local training, educational, and awareness programs.
- Major case coordination by the Criminal Division: The Department's Child exploitation and Obscenity Section, in conjunction with the FBI's Innocent Images Unit, will fully integrate the Project Safe Childhood Task Forces into pursuing local leads generated from its major national operations.
- Increased federal involvement in child pornography and enticement cases: Given the beneficial investigative tools and stiffer punishment available under federal law, U.S. Attorneys and the federal investigative agencies will be expected to increase the number of sexual exploitation investigations and prosecutions. The goal is to ensure the worst offenders get the maximum amount of jail time possible.
- Training of federal, state, and local law enforcement: Members of the Project Safe Childhood Task Forces will attend training programs facilitated by the National Center for Missing and Exploited Children (NCMEC), the ICAC program, and other ongoing programs, in order to be taught to investigate and prosecute computer-facilitated crimes against children, as well as to pursue leads from national operations and from NCMEC's CyberTipline and Child Victim-Identification programs.
- Community awareness and educational programs: Project Safe Childhood will partner with existing national public awareness and educational programs that exist through NCMEC and the ICAC Task Force program, in order to raise national awareness about the threat of online sexual predators and to provide the tools and information to parents and youngsters seeking to report possible violations.

### **Juvenile Populations: 1990–2000**

These data are available online at: <http://ojjdp.ncjrs.org/ojstatbb/ezapop/>. This web application provides access to 15 years of national, state, and county population data. Users can view population profiles for a single jurisdiction or create state or county comparison tables. This tool has been updated to include data through 2004.

### **Juvenile Victims: A Comprehensive Model**

OJJDP announces the availability of "**How the Justice System Responds to Juvenile Victims: A Comprehensive Model.**" This 12-page bulletin was written by Drs. David Finkelhor, Theodore Cross, and Elise Cantor. Part of OJJDP's **Crimes Against Children** series, the bulletin introduces the concept of a juvenile victim justice system and reviews the case flow processes for the child protection and criminal justice systems, describing their interaction. See: <http://ojjdp.ncjrs.gov/publications/PubAbstract.asp?pubi=210951>

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## REVIEWS OF PROFESSIONAL PERIODICALS

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### The Prison Journal

Reviewed By Sam Torres

“Are All Correctional Officers Created Equal? An Analysis of the Supreme Court Decision in *Richardson v. McKnight*,” by D. Shichor (2005 Vol. 85, No. 4, 420-444).

In the case of *Richardson v. McKnight* (1997), the U.S. Supreme Court reached a narrow five to four decision, deciding that private correctional workers are not entitled to the same qualified immunity defense enjoyed by similar persons employed by governmental entities. The article by Shichor discusses issues surrounding both the majority and minority opinions of the Court.

Historically, through the 1970s, the federal courts followed a “hands off” policy in regard to prisons and prisoner due process rights, deeming prisoners to be “slaves of the state.” The courts, recognizing that they were not trained or knowledgeable in penology, chose to allow wardens the freedom and discretion to operate their institutions without outside interference. Judges were likewise reluctant to interfere for fear of undermining the structure and discipline of the prison. However, in the 1980s, during a conservative resurgence in criminal justice administration, an interest in private prisons emerged. A major uncertainty that immediately surfaced as private companies sought to expand their operations revolved around the legal status of private correctional officers working for companies under contract with state and federal agencies.

The operation of private jails and prisons continues to be controversial, primarily because critics contend that the administration of punishment generally, and the operation of jails and prisons specifically, is the sole responsibility of the government. Private correctional workers, however, fulfill a function similar to public agency employees, and thus private companies believe their employees are deserving of qualified immunity similar to that enjoyed by government workers. Qualified immunity, in contrast to absolute immunity, protects government workers from liability so long as they do not violate “clearly established” (p. 424) rights. *Richardson v. McKnight* (1997) addresses the daily operation of correctional facilities, and in doing so differentiates between public and private employees regarding qualified immunity.

In *Richardson v. McKnight* (1997), Ronnie Lee McKnight, a Tennessee prison inmate serving his sentence in a facility run by the private corrections company of Corrections Corporation of America (CCA), filed a constitutional tort action against two CCA correctional workers, claiming that they injured him by placing him under excessive physical restraints. The two workers claimed to enjoy qualified immunity because they were acting under the color of the state. The U.S. District Court judge ruled against the workers, finding that they were not entitled to immunity from lawsuits. The Sixth Circuit likewise upheld the District Court’s ruling that private prison workers are not entitled to the same immunity enjoyed by government employed correctional officers. The Supreme Court affirmed the Circuit Court in a 5–4 decision.

Justice Breyer addressed several issues in writing the majority opinion. He noted that that there

has been no clearly established tradition of immunity for workers employed by a private prison company. Furthermore, the majority opinion concluded that the immunity doctrine's main purpose was to maintain the government's ability to perform its traditional function. Correctional workers employed by the government possess qualified immunity as a result of their status as public employees. Qualified immunity, Justice Breyer wrote, protects "the public from unwarranted timidity on the part of public officials." The majority opinion notes that the Court has never granted any kind of immunity to private persons who perform the same or similar functions as a government worker.

The majority also determined that the two private correctional workers overlooked certain differences between the functions and statuses of private and governmental workers, including the belief that private companies carry sufficient insurance to protect individual employees in the case of lawsuits. The Supreme Court concluded that the differences between public and private prisons indicate that private companies are free of many civil law restraints and are not compelled to operate exactly like government agencies.

The minority opinion written by Justice Scalia was based on a "functional" analysis of the correctional officer's tasks. The minority felt that immunity should be determined on the basis of the public function being performed by the employee. Judge Scalia felt that the lack of qualified immunity for private workers would negatively impact their performance because of the greater exposure to lawsuits, and that immunity is needed for the same reasons that the majority gave for workers in government prisons. The authors also review the legal literature and conclude that more legal scholars support the "functional" approach of the minority over the "traditional" approach of the majority that feels immunity should be determined on the basis of the public function being performed by employees.

Shichor then provides a criminological analysis of the decision, addressing the issues of government monitoring, free market and free competition, employee motivation, and the functional approach. As noted, the minority opinion uses the "functional" approach to support their conclusion that correctional workers perform the same tasks whether they are in private or public prisons, and thus are also entitled to qualified immunity. Shichor concludes that although *Richardson v. McKnight* can be viewed as a setback for the private prison industry, the justifications are a mixed bag of pro and con arguments for privatization in corrections. A 1998 U.S. Department of Justice study, according to the author, has resulted in negligible financial consequences and higher insurance premiums have been marginal. Shichor concludes that it is unclear whether this case will have a major impact on the privatization of corrections.

In this article, Shichor has presented an excellent analysis of *Richardson v. McKnight*, citing justifications for both the majority and minority opinions. He presents the theoretical, penological, and legal issues concerning the arguments presented by the majority and minority opinions and concludes that thus far the impact of this decision on private corrections has been minimal, and that more legal scholars support the "functional" approach of the minority opinion over the "traditional" approach of majority.

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## **John Augustus, Father of Probation, and the Anonymous Letter**

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## **Review of Professional Periodicals**

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### **Crime Control Strategies and Community Change**

<sup>1</sup> Farabee does not discuss the “broken windows probation” model developed by John DiIulio and his colleagues on The Reinventing Probation Council (2000). For a critique of this model, see Taxman and Byrne (2001). Unlike Farabee, who focused on individual offender change, the Reinventing Probation Council argued strongly that the “bottom line” for community corrections is the crime rate in their community, not offender recidivism. In subsequent articles, members of the council have embraced our view that “treatment” must be a core feature of community corrections (see, e.g. Rhine, 2001).

<sup>2</sup> In their recent discussion of the need for a “civil engagement” model of reentry, Bazemore and Stinchcomb (2004) discuss reintegration and life-course intervention. They argue, for example, that “civic service experience may accomplish this [desistance] in two ways: (1) by developing participants’ public image through increasing skills as human capital, and (2) by creating opportunities for the development of more affective connections associated with social support” (18). This is an intriguing avenue for future research, because it moves the discussion of the policy implications of life-course criminology beyond the “good marriages and the desistance process” discussions now available (see, e.g., Laub, Nagin, and Sampson, 2001). In addition to restorative justice-based and life-course-based research, it would certainly make sense to consider the prospects for individual offender change within the general framework of person-environment interactions (Gottfredson and Taylor, 1986), focusing specifically on the impact of community-level, informal social controls (i.e. collective efficacy) on offender reintegration. Clear and Cadova (2003:77-79) offer an interesting discussion of the impact of these community-level factors on offenders *and* the communities in which they reside.

<sup>3</sup> Given the recent attention focused on Hirschi and Gottfredson’s “General Theory of Crime,” Laub and Sampson’s “Life-Course Perspective,” and most recently, Sampson and colleague’s research demonstrating the importance of community-level, informal social controls (i.e.



collective efficacy) as a violence prevention strategy, it is surprising that Farabee did not review this important body of research.

[4] Clear and Cadova (2003:78) offer a somewhat different view of the role of community corrections. From a community justice perspective, it is “not only how an offender is behaving, but also how that offender’s situation—in or out of prison—affects the people who are not under correctional authority.”

[5] We agree with Sampson and Laub’s assessment that “the effectiveness of rehabilitative interventions in reducing criminal behavior is not as dismal as common wisdom (“nothing works”) allows” (2001:255). They go on to argue that it is important to distinguish between/among bad theory, bad research (e.g., design choice, analytic procedures and criterion problems), and bad practice (in terms of program design and implementation). Farabee’s review of the treatment research identified a number of effective interventions, including those based on cognitive restructuring (Pearson, et al. 2002) and multifactor initiatives (Antonowicz and Ross, 1994).

[6] The most recent example of a deterrence-based intervention that received a very favorable initial evaluation (Kennedy, et al. 2001) was “operation cease-fire,” a strategy to reduce gun violence in Boston. Attempts to replicate the Boston model in Los Angeles were unsuccessful (see, Tita et al., 2005) and the initiative “did not have the *desired deterrent effect*” (20). The recent negative evaluation research reviews of problem-oriented policing generally (National Research Council, 2004), and the underlying assumptions of “broken windows” policing in particular (Sampson and Raudenbush, 2001; Taylor, 2001; Sampson and Raudenbush, 2004), should also be examined. Sampson and Raudenbush (2004:1) challenge the empirical foundation of the “disorder causes crime” thesis, which is a central tenet of the broken windows model. Their research revealed that “it is the structural characteristics of neighborhoods, as well as neighborhood cohesion and informal social control— *not levels of disorder* —that most affect crime (4). More recently, these same researchers presented findings from their long-term study of Chicago neighborhoods that revealed that strategies consistent with the broken windows model “may have only limited payoffs in neighborhoods inhabited by large numbers of ethnic minority and poor people. The limitations on effectiveness in no way derives from deficiencies in the residents of such neighborhoods. Rather, it is due to social psychological processes of implicit bias and statistical discrimination as played out in the current (and historically durable) racialized context of cities in the United States. In other words, simply removing (or adding) graffiti may lead to nothing, depending on the social context” (Sampson and Raudenbush, 2004:337). Given the current concentration of offenders in a small number of “high risk” communities across the country (Byrne and Taxman, 2004), it appears that “broken windows”- based strategies would not have the deterrent effect proposed.

[7] Farrington and Welsh point out that one of the problems with previous reviews of the effectiveness of a wide range of criminal justice interventions is the tendency on the part of reviewers to mistake statistical significance for strength of association (or effect size). They observe that “... a statistically significant result can reflect either a large effect in a small sample or a small effect in a large sample. [For this reason] it is important to measure effect size.” (Farrington and Welsh, 2005:21). The rule of thumb they used in their meta-analysis of the effects of interventions combined significance and effect size differences, with a 10 percent or greater difference being the criterion of effectiveness.

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## **Sex Offender Management in the Federal Probation and Pretrial Services System**

[1] Department of Justice Press Release (March 15, 2006).

[2] Lawrence A. Greenfield. “Sixty Percent of Convicted Sex Offenders are on Parole or Probation,” *Bureau of Justice Statistics* News Release, February 2, 1997 (Department of Justice).

<sup>3</sup> Center for Sex Offender Management (2000) “Myths and Facts About Sex Offenders.” Silver Spring, MD.

<sup>4</sup> Orlando, Dennise. *Special Needs of Offenders Bulletin: Sex Offenders*. Washington , D.C. : Federal Judicial Center (September 1998).

<sup>5</sup> There are 562 federally recognized Indian Tribes in the United States and approximately 297 Indian Reservations.

<sup>6</sup> Office of Probation and Pretrial Services (2005). “The Supervision of Federal Offenders, Monograph 109.” Washington, D.C.: Administrative Office of the U.S. Courts.

<sup>7</sup> Office of Probation and Pretrial Services (2005). “Simplified Procurement Procedures for Treatment Services.” Washington, D.C.: Administrative Office of the U.S. Courts.

<sup>8</sup> Source: National Treatment Database (NTD); data retrieved 10/19/05.

<sup>9</sup> Project codes are billing codes used to track expenditures on specific types of services. Examples of sex offender project codes include polygraph examinations or sex offender specific evaluations and reports.

<sup>10</sup> Hindman, Jan & James M. Peters (2001). “Polygraph Testing Leads to Better Understanding Adult and Juvenile Sex Offenders.” *Federal Probation* , 65 (3): 8-15.

<sup>11</sup> Ibid.

<sup>12</sup> The average number of project codes used was 4.42.

<sup>13</sup> See Appendix 1 for more detailed information.

<sup>14</sup> Alabama Middle, Georgia Middle, Guam, Indiana Southern, Kentucky Western, Michigan Eastern, Northern Mariana Islands, Pennsylvania Middle, Puerto Rico, South Carolina, and West Virginia Southern.

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## **Sex Offenders on Federal Community Supervision: Factors that Influence Revocation**

<sup>1</sup> Orlando, Dennise (1998). “Sex Offenders.” *Special Needs Offenders Bulletin* . Federal Judicial Center, No. 3, September.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Lane Council of Governments (2003). “Managing Sex Offenders in the Community: A National Overview.” U.S. Department of Justice, Office of Justice Programs.

<sup>5</sup> Project codes are billing codes used to track expenditures on specific types of services. Examples of sex offender project codes include polygraph examinations or sex offender specific evaluations and reports.

<sup>6</sup> Total does not include the 687 cases that were either transferred out or closed due to death or “other” reasons.

<sup>7</sup> Center for Sex Offender Management (2002). “An Overview of Sex Offender Management.” Washington, D.C.: Office of Justice Programs, U.S. Department of Justice. July.

<sup>8</sup> Orlando, Dennise (1998). “Sex Offenders.” *Special Needs Offenders Bulletin* . Federal

Judicial Center, No. 3, September.

<sup>9</sup> Langan, Patrick A., Erica L. Schmitt, & Matthew Patrick A., Schmitt, & R. Durose (2003). "Recidivism of Sex Offenders Released from Prison in 1994. *Bureau of Justice Statistics*. Washington, D.C.: Bureau of Justice Statistics, 2003."

<sup>10</sup> In PACTS, these groups are classified as Native Indian and Eskimo respectively.

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<sup>12</sup> Bureau of Justice Statistics (2004). "Compendium of Federal Justice Statistics, 2003." Washington, D.C.: Bureau of Justice Statistics. September, NCJ 205368.

<sup>13</sup> The federal government's fiscal year begins on October 1 and ends on September 30.

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<sup>16</sup> Boshier, Roger. (1974). "Does Conviction Affect Employment Opportunities?" *British Journal of Criminology*. 14: 264-68; Bushway, Shawn. (2000). "The Stigma of a Criminal History Record in the Labor Market." In J.P. May (Ed.). *Building Violence: How America's Rush to Incarcerate Creates More Violence*. Thousand Oaks: Sage. Cited in Jeremy Travis, Amy L. Solomon, & Michelle Waul (2001). "From Prison To Home: The Dimensions and Consequences of Prisoner Reentry." The Urban Institute; Pager, Devah. (2003). "The Mark of a Criminal Record." *American Journal of Sociology*. 108 (5), 937-975.

<sup>17</sup> Center for Sex Offender Management (2002). "Time to Work: Managing the Employment of Sex Offenders Under Community Supervision." Washington, D.C.: U.S. Department of Justice, January.

<sup>18</sup> Holzer, Harry J. (1996). *What Employers Want: Job Prospects for Less-Educated Workers*. New York: Russell Sage. Cited in Jeremy Travis, Amy L. Solomon, & Michelle Waul (2001). "From Prison to Home: The Dimensions and Consequences of Prisoner Reentry." Washington, D.C.: The Urban Institute.

<sup>19</sup> Travis, Jeremy; Solomon, Amy L.; & Waul, Michelle. (2001). "From Prison to Home: The Dimensions and Consequences of Prisoner Reentry." Washington, D.C.: The Urban Institute.

<sup>20</sup> Western, Bruce, Jeffrey Kling, and David Weiman (2001). The Labor Market Consequences of Incarceration. *Crime and Delinquency* (47) 410-27; Robert Sampson and John Laub. 1997. A Life-course Theory of Cumulative Disadvantage and the Stability of Delinquency.

<sup>21</sup> Hagan, John. & R. Dinovitzer. (1999). "Collateral Consequences of Imprisonment for Children, Communities and Prisoners." In Michael Tonry & Joan Petersilia (Eds.). *Prisons*. Chicago : University of Chicago Press.

<sup>22</sup> PACTS data does not distinguish between individuals who are unable or unavailable for work (i.e., students, those on disability, or homemakers) and those who are simply unwilling or unable to obtain work. Nor does PACTS account for individuals who are "underemployed."

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<sup>24</sup> Nagel, Ilene H. & Barry L. Johnson (1994). "The Role of Gender in a Structured Sentencing

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<sup>25</sup> Orlando, Dennise (1998). “Sex Offenders.” *Special Needs Offenders Bulletin* . Federal Judicial Center, No. 3, September.

<sup>26</sup> Ibid.

<sup>27</sup> Federal Judicial Center. (1997). “RPI Profiles: Descriptive Information about Sex Offenders Grouped by Their RPI Scores.” Federal Judicial Center: Washington, D.C.

<sup>28</sup> See “The Supervision of Federal Offenders, Monograph 109” for other RPI limitations.

<sup>29</sup> Office of Probation and Pretrial Services (2005). “The Supervision of Federal Offenders, Monograph 109.” Washington, D.C.: Administrative Office of the U.S. Courts.

<sup>30</sup> Federal Judicial Center. (1997). “RPI Profiles: Descriptive Information about Sex Offenders Grouped by Their RPI Scores.” Federal Judicial Center: Washington, D.C.

<sup>31</sup> Federal Judicial Center. (1997). RPI Profiles: Descriptive Information about Sex Offenders Grouped by Their RPI Scores. Federal Judicial Center: Washington, D.C.

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<sup>35</sup> Center for Sex Offender Management (2001). “Recidivism of Sex Offenders.” Washington, D.C.: Office of Justice Programs, U.S. Department of Justice.

<sup>36</sup> Ibid.

<sup>37</sup> PACTS Statistical Reporting Guide.

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<sup>40</sup> Curtis, Russell L. & Sam Schulman (1984). “Exoffenders, Family Relations, and Economic Supports.” *Crime and Delinquency* , 30 (4), 507-528.

<sup>41</sup> Rakis, John. (2005). “Improving the Employment Rate of Ex-Prisoners.” *Federal Probation*, Washington , D.C.: Administrative Office of the U.S. Courts, 69 (1), 7-12.

<sup>42</sup> Ibid.

<sup>43</sup> Andrews, D. A., & James Bonta (2003). *The psychology of criminal conduct*, Third Edition. Cincinnati, Ohio: Anderson Publishing.

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## Restorative Circles—A Reentry Planning Process for Hawaii Inmates

<sup>1</sup> This study was comprised of male inmates; however, the program is suitable for female inmates as well. In 2006 it will be expanded to a women's medium security prison.

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## The Effect of Gender on the Judicial Pretrial Decision of Bail Amount Set

<sup>1</sup> Nebraska felony classifications and concomitant punishments for each:

Class I Death

Class IA Life imprisonment

Class IB Maximum life imprisonment; Minimum- twenty years imprisonment

Class IC Maximum-fifty years imprisonment; Mandatory minimum—five years imprisonment

Class ID Maximum-fifty years imprisonment; Mandatory minimum—three years imprisonment

Class II Maximum-fifty years imprisonment; Minimum—one year imprisonment.

Class III Maximum—twenty years imprisonment, or twenty-five thousand dollars fine, or both; Minimum—none

Class IV Maximum—five years imprisonment, or \$1000.00 dollars fine, or both; Minimum—none.

*Revised Statutes of Nebraska Annotated*, 1995, Chapter 28, Section 105.

<sup>2</sup> Lancaster County utilizes the public defender system for representation of indigent defendants.

<sup>3</sup> Because there were so few female defendants who were not white or African American, only white or African American defendants are included in this regression. Of those not considered, one was Asian, two were Native American, and four were Hispanic.

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## Accomplishments in Juvenile Probation in California Over the Last Decade

<sup>1</sup> In addition to creating a new welfare program in California—the California Work Opportunity and Responsibility to Kids (CalWORKs) program—the Welfare-to-Work Act of 1997 also created another new state program: CYSA, which was enacted in fiscal year (FY) 1997/1998 to fund juvenile probation services. The CYSA had three basic goals: (1) keep probation youths from further crime, (2) help probation and at-risk youths develop essential skills to avoid dependence on public assistance (Section 18220(j) WIC, or Welfare Institutional Code), and (3) help achieve four overarching federal TANF goals: (a) provide assistance to families so youths may be cared for in their homes; (b) reduce dependence of needy parents on government benefits by promoting job preparation, work, and marriage; (c) encourage formation/maintenance of two-parent families; and (d) prevent/reduce incidence of out-of-wedlock pregnancies.

<sup>2</sup> Source: <http://ca.rand.org/stats/popdemo/popraceageUS.html> .

<sup>3</sup> Source: <http://www.labormarketinfo.edd.ca.gov/cgi/dataanalysis/AreaSelection.asp?tableName=Labforce>.

<sup>4</sup> In addition to the changes in probation, we note that other factors in the same time frame

may have influenced changes in youth behaviors and criminal justice outcomes, both in California and at the national level. These factors include economic trends, increases in the numbers of police officers provided by the federal Community Oriented Policing program (COPS) and the introduction of “get tough” measures such as California’s three strikes statute and the federal Violent Offender Initiative/Truth in Sentencing (VOI/TIS) program that required offenders to serve 75 percent of their sentences for violent offenses in order to receive federal funds for prisons.

<sup>5</sup> Sources: <http://www.census.gov/popest/national/asrh/NC-EST2004/NC-EST2004-02.xls>, <http://www.census.gov/popest/archives/1990s/nat-agesextxt>, <http://www.census.gov/popest/states/asrh/tables/SC-EST2004-02/SC-EST2004-02-06.xls>, and <http://www.census.gov/popest/archives/1990s/#state>.

<sup>6</sup> Sources: [http://justice.hdcdojnet.state.ca.us/cjsc\\_stats/prof03/00/3C.htm](http://justice.hdcdojnet.state.ca.us/cjsc_stats/prof03/00/3C.htm), [http://justice.hdcdojnet.state.ca.us/cjsc\\_stats/prof03/00/4C.htm](http://justice.hdcdojnet.state.ca.us/cjsc_stats/prof03/00/4C.htm), <http://ca.rand.org/stats/popdemo/popraceage.html>, [http://justice.hdcdojnet.state.ca.us/cjsc\\_stats/prof03/00/3C.htm](http://justice.hdcdojnet.state.ca.us/cjsc_stats/prof03/00/3C.htm), [http://justice.hdcdojnet.state.ca.us/cjsc\\_stats/prof03/00/4C.htm](http://justice.hdcdojnet.state.ca.us/cjsc_stats/prof03/00/4C.htm), [http://www.fbi.gov/ucr/cius\\_03/pdf/03sec4.pdf](http://www.fbi.gov/ucr/cius_03/pdf/03sec4.pdf), [http://www.fbi.gov/ucr/Cius\\_97/95CRIME/95crime4.pdf](http://www.fbi.gov/ucr/Cius_97/95CRIME/95crime4.pdf), [http://www.fbi.gov/ucr/Cius\\_97/96CRIME/96crime4.pdf](http://www.fbi.gov/ucr/Cius_97/96CRIME/96crime4.pdf), [http://www.fbi.gov/ucr/Cius\\_97/97crime/97crime4.pdf](http://www.fbi.gov/ucr/Cius_97/97crime/97crime4.pdf), [http://www.fbi.gov/ucr/Cius\\_98/98crime/98cius22.pdf](http://www.fbi.gov/ucr/Cius_98/98crime/98cius22.pdf), [http://www.fbi.gov/ucr/Cius\\_99/99crime/99c4\\_01.pdf](http://www.fbi.gov/ucr/Cius_99/99crime/99c4_01.pdf), [http://www.fbi.gov/ucr/cius\\_00/00crime4.pdf](http://www.fbi.gov/ucr/cius_00/00crime4.pdf), [http://www.fbi.gov/ucr/cius\\_01/01crime4.pdf](http://www.fbi.gov/ucr/cius_01/01crime4.pdf), [http://www.fbi.gov/ucr/cius\\_02/pdf/02crime4.pdf](http://www.fbi.gov/ucr/cius_02/pdf/02crime4.pdf), [http://www.census.gov/popest/archives/1990s/st\\_age\\_sex.html](http://www.census.gov/popest/archives/1990s/st_age_sex.html), and [http://www.census.gov/popest/national/asrh/2003\\_nat\\_res.html](http://www.census.gov/popest/national/asrh/2003_nat_res.html).

<sup>7</sup> Sources: [http://justice.hdcdojnet.state.ca.us/cjsc\\_stats/prof03/00/3B.htm](http://justice.hdcdojnet.state.ca.us/cjsc_stats/prof03/00/3B.htm), [http://justice.hdcdojnet.state.ca.us/cjsc\\_stats/prof03/00/4B.htm](http://justice.hdcdojnet.state.ca.us/cjsc_stats/prof03/00/4B.htm), [http://www.fbi.gov/ucr/cius\\_03/pdf/03sec4.pdf](http://www.fbi.gov/ucr/cius_03/pdf/03sec4.pdf), [http://www.fbi.gov/ucr/Cius\\_97/95CRIME/95crime4.pdf](http://www.fbi.gov/ucr/Cius_97/95CRIME/95crime4.pdf), [http://www.fbi.gov/ucr/Cius\\_97/96CRIME/96crime4.pdf](http://www.fbi.gov/ucr/Cius_97/96CRIME/96crime4.pdf), [http://www.fbi.gov/ucr/Cius\\_97/97crime/97crime4.pdf](http://www.fbi.gov/ucr/Cius_97/97crime/97crime4.pdf), [http://www.fbi.gov/ucr/Cius\\_98/98crime/98cius22.pdf](http://www.fbi.gov/ucr/Cius_98/98crime/98cius22.pdf), [http://www.fbi.gov/ucr/Cius\\_99/99crime/99c4\\_03.pdf](http://www.fbi.gov/ucr/Cius_99/99crime/99c4_03.pdf), [http://www.fbi.gov/ucr/cius\\_00/00crime4.pdf](http://www.fbi.gov/ucr/cius_00/00crime4.pdf), [http://www.fbi.gov/ucr/cius\\_01/01crime4.pdf](http://www.fbi.gov/ucr/cius_01/01crime4.pdf), [http://www.fbi.gov/ucr/cius\\_02/pdf/02crime4.pdf](http://www.fbi.gov/ucr/cius_02/pdf/02crime4.pdf), [http://www.fbi.gov/ucr/cius\\_03/pdf/03sec4.pdf](http://www.fbi.gov/ucr/cius_03/pdf/03sec4.pdf), <http://www.census.gov/popest/archives/1990s/nat-agesex.txt>, <http://www.census.gov/popest/national/asrh/NC-EST2003/NC-EST2003-02.xls>, and <http://www.census.gov/popest/national/asrh/NC-EST2003/NCEST2003-01.xls>.

<sup>8</sup> Source: <http://ag.ca.gov/cjsc/glance/data/13data.txt>.

<sup>9</sup> Source: <http://www.cya.ca.gov/research/2004-12YEAR.pdf>.

<sup>10</sup> Source: <http://www.bdcrr.ca.gov/joq/jds/QuerySelection.asp> for juvenile halls, <http://www.bdcrr.ca.gov/joq/jds/QuerySelection.asp> for juvenile ranches and camps.

<sup>11</sup> Source: <http://www.mchdhs.ca.gov/documents/ppt/Teen%20birth%20rate%20press%20release%20based%20on%202000%20Census%205-19-04.ppt>.

<sup>12</sup> The numbers referred to in this section are actually three-year averages, which we have represented as the middle year of the three for discussion purposes. Thus, for example, the 50.3 percent of children represented as living in poverty in 1994 is actually the average percentage of 1993, 1994, and 1995.

<sup>13</sup>

Sources: <http://www.census.gov/hhes/hlthins/liuc95.html>,  
<http://www.census.gov/hhes/hlthins/liuc96.html>, <http://www.census.gov/hhes/hlthins/liuc97.html>,  
<http://www.census.gov/hhes/hlthins/liuc98.html>, <http://www.census.gov/hhes/hlthins/liuc99.html>,  
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<http://www.census.gov/hhes/hlthins/liuc02.html>, and  
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