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HANDBOOK ON PROBATION SERVICES

Guidelines for
Probation Practitioners and Managers

prepared by
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Preface

The importance of probation as a non-custodial measure is recognized by the international community as evidenced by the formulation, in 1988, of the United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules), and their subsequent adoption by the Eight (8th) UN Congress on the Prevention of Crime and the Treatment of Offenders in 1990. A first step towards a better understanding and more effective implementation of the Tokyo Rules came in 1993 with the development of the Commentary on the United Nations Standard Minimum Rules for Non-Custodial Measures. This Handbook has, as one of its main aims to serve as an instrument to guide and facilitate the comprehension, and, therefore, the implementation of, the Tokyo Rules, not only in countries where probation already exists, but also in countries interested in such a system. In other words, this Handbook is designed to assist countries in giving effect to the Tokyo Rules.

Will probation survive into the 2000s? While there might be some doubts, given the problems and adaptive challenges, one can only suggest that there is tremendous potential for probation as an alternative to incarceration particularly in countries where the prison systems usually face extreme problems of overcrowding, and where probation is considered closer to traditional ways of dealing with offenders. One thing is clear. Whilst probation and its administration are expensive, they are no where near, financially or socially, as expensive as incarceration.

Problems, both of a philosophical and structural nature, do exist. These must be addressed if probation is to take its rightful place. The history of correctional thought, organizational structure and practice has been described as a progression of fads, flavors of the month, new paradigms - all embraced with great enthusiasm and hope and abandoned with chagrin and often malice. So it is true of probation practice, probation management and research - especially that driven by the new policy imperatives of governments faced by budget crisis, which have resulted in a lack of faith in the very bureaucratic structure designed to serve them and driven by a public mood that is cost conscious and not at all in favor of "leniency". Probation as a concept is in a crisis needing reinvention, support and partners.

Organizationally, probation at a comparative international level appears to be static, as if time has stood still. New technologies, attempts at evaluation standards, new roles and organizational structures are resisted. Little, if any, international knowledge or technology transfer occurs - and probation services continue to operate, as some have said as "criminal justice islands".

A review of the literature on the probation service is, with few exceptions, academically driven, either dated or desk top studies, or unpublished conference papers (Burnett 1996b: 5). Much of what is presented is very inwardly focused and often anecdotal in nature. Conferences appear to deal with the same issues and orientation, and generally, the services have failed to embrace either new methods, technologies/instruments and alliances. The partnerships proposed have generally been the traditional ones - those with the court and the offenders. Other partners within the criminal justice system, the prisons, police and NGOs are not engaged to their full extent - and all to the detriment of probation services and potential alliances.

The field of practice itself continues to be split between the care or custody continuum and these two very different orientations exist within and between practice in the Commonwealth countries as well as in North America. Probation Services appear to suffer from a void in true visionary as well as stable leadership, and the connections made, are themselves inward and parochial - lacking an international perspective and/or flavor. Research itself also seems to be parochial - relying on the same sources and themes, especially within the country of practice.

While it is generally acknowledged that impressive gains have been made in the last two decades regarding our knowledge of 'what works', there is the sobering reality that far too little of this knowledge is available, read or used by practitioners, managers, scholars, and particularly policy makers. If the concept of the experimenting society is to prosper in the rehabilitation area, three major obstacles must be removed. These impediments are the theoreticism that exists at the scholarly and policy-making level, the failure to effect technology transfer from the experts to the practitioners, and the dearth of suitable training programs. (Gendreau 1996: 151)

While legislation regarding probation is generally clear and precise, and while probation has proved to be a humane and cost effective alternative to imprisonment, it has not been demonstrated whether or not offenders in the community have truly benefited. The impact of probation has rarely been systematically evaluated and there have only been a few independent appraisals of the implementation of probation to determine whether a genuine probation service has been established which is capable of achieving and carrying out the legislative objectives. In fact, this very difference between acceptance and practice may in fact explain the decline of probation in South Australia and elsewhere, especially in developing countries and countries in-transition.

The management and administration within probation appears not to have recognized the danger signals and, has thus failed to embrace new directions based upon solid research findings. It has been suggested that these various managements were, and are, not sufficiently secure and in charge in order to put forward a firm agenda with politicians or experienced enough such that the organizational changes they were required to make under a variety of government wide initiatives and strategies were acknowledged and embraced with enthusiasm by those they led.

The probation and parole field is widely acknowledged to be "practitioner led" and as such, has yet to integrate the new political and public realities, new effectiveness research on "What Works" and with whom, into daily operational practice or, for that matter, to support the necessary "paradigm shifts" that will be required for probation to prosper and grow - let alone survive, into the new millennium. Practitioners and managers need to unite.

It was against this backdrop that this project commenced in early 1996, and eventually resulted in the International Training Workshop on Probation, co-sponsored by the Commonwealth Secretariat and the United Nations Interregional Crime and Justice Research Institute, and which included this UNICRI conceived and driven *Handbook on Probation Services: Guidelines for Probation Practitioners and Managers*.

It is our hope that this international review and endeavor, using the United Nations Minimum Standards - The Tokyo Rules as the framework for practice and especially following the 1995 joint UNICRI / UK Home Office study, *Probation Round*

the World, will result in a revitalized and renewed interest in, and re-evaluation of the efficiency and effectiveness of, probation as a non-custodial option both in developed and developing countries.

The financial support provided by the Commonwealth Secretariat, which has enabled over 20 developing countries to send representatives to this training workshop, as well as funds allocated for the printing of this "Handbook" and the proceedings of the Workshop, are also very much appreciated.

A special thanks to the contributors to, and critics of, this Handbook, in particular the probation staff from the Kenya Probation Service and its Director, Joseph Giteau, who were the first test site of an early draft version. Their insightful and constructive comments both guided and encouraged further research and development. The input and advice of the experts, who attended a meeting in Rome in mid-April, 1997, was instrumental to the further refinement of this "Handbook".

Special thanks are also due to the governments, institutions and NGOs which provided support to the experts meeting and in particular to the United Kingdom Home Office which, by supplying the work of two consultants, enabled continuity in the international work on probation.

UNICRI owes Renaud Villé, Associate Research Officer at UNICRI, "special thanks" for his timeless patience and perseverance in endlessly editing, formatting, commenting on and suggesting better ways to do the work related to the *Handbook on Probation Services* as well as for the planning and organization of the International Training Workshop on Probation.

UNICRI also would like to acknowledge the invaluable contribution of Jon F. Klaus, a Visiting Fellow from Canada, who researched and drafted the first and subsequent versions of the *Handbook on Probation Services*. Mr. Klaus has been made available to UNICRI through the generosity of the Correctional Service of Canada and its present Commissioner, Ole Ingstrup.

While certain Commonwealth country meetings did occur some 40 years ago, we believe that the International Training Workshop on Probation held from 2-5 July 1997, was the first truly international comparative meeting/workshop, involving practitioners and managers, as well as students and other interested community parties, from 31 countries representing virtually all geographical areas of the world.

What was even more heartening was the attendance by representatives of several countries which currently do not have probation as a sentencing option, but wish to consider it. We wish them success. We would like to again thank all of those individuals and organizations, whose representatives' input and advice resulted in the final version of this handbook. It is our hope that its distribution will assist in the development and revitalization of probation around the world.

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INTRODUCTION

Background to the project

Several initiatives have combined to assign a high priority to international and inter-regional collaboration, technical assistance and exchanges between nations in the field of criminal justice, the sentencing of offenders and corrections.

Among these are the Statement of Principles and Program of Action of the United Nations Crime Prevention and Criminal Justice Program adopted at the Ministerial meeting in Versailles in 1991, and General Assembly Resolution 46/152 of the same date, which accepted that Statement of Principles and Program of Action and called for the creation of the new Commission on Crime Prevention and Criminal Justice which held its inaugural meeting in 1992.

The Statement of Principles recognises that a humane and efficient criminal justice system, by contributing to the maintenance of peace and security, can be an instrument of equity, social justice and constructive social change, protecting basic values, human rights, and democracy. The international community is called upon to increase its support to technical co-operation and assistance activities for the benefit of all countries, including developing and smaller countries, and for the purpose of expanding and strengthening the infrastructure needed for effective crime prevention and viable, fair and humane criminal justice systems.

The administration of justice is one of the key components of governance. And governance may be the most single most important development variable within the control of individual states. *(Boutros Boutros-Ghali 1995: 45)*

International co-operation in crime prevention, criminal justice and in the search for alternatives to imprisonment, may include a large variety of functions and activities, including: assistance in drafting and reform of existing laws, development of organizational structures that support and guide the administration of criminal law, development of correctional agencies, including administrative agencies, international legal and correctional research assistance, the organization and conduct of research, and the organization of seminars, workshops, and training programs all designed to strengthen new or existing criminal justice initiatives.

The Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders (1990) adopted the UN Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules) and the resolution on Principles and Directions for Research on Non-Custodial Sanctions.

The latter emanated from UNICRI's research workshop on alternatives to imprisonment held at that Congress, highlighting the need for training and research on the use and effectiveness of non-custodial sanctions in order to facilitate informed decision-making, administration, credibility and acceptance.

Subsequent work revealed that, despite the wide use of probation and its popularity as one of the traditional non-custodial sanctions, no major interregional comparative study has been carried out recently.

This prompted the United Nations Interregional Crime and Justice Research Institute (UNICRI) and the British Home Office to commence a study on probation systems and services for adult offenders in ten countries including from the well resourced and heavily professionalized services of Britain (including parts of the old Commonwealth) and Israel, to the systemic and planned lay supervision in Japan and the community-based system recently established in Papua New Guinea.

The results of that project (Hamai et al. 1995) indicated a number of important issues in need of further study and practical development in order to promote probation as a credible and effective non-custodial sanction, especially in developing countries which, as a result of a large increase in prison populations and overcrowding, are looking at alternative and more cost-effective non-custodial options in order to more humanely deal with the offender and to divert offenders away from the correctional system.

Probation, unlike imprisonment, is not a corner stone of the system of penal sanctions. It is present in the common-law, Nordic Western European and Asian countries; it is starting to emerge in African and Central and Eastern European countries, and is almost absent in Latin America and most of the Arab world countries. Nor, as the International Crime (Victim) Survey reveals, does it have wide public support in the developing countries and countries in transition, where there tends to be a more punitive and retributive attitude, including on the part of victims (Zvekic and Alvazzi del Frate 1995).

In some of these areas, culture, tradition, poverty, geography, and prolonged civil and ethnic strife, have worked against the establishment or maintenance of a modern and effective probation delivery system.

The Handbook on Probation Services

PURPOSES OF THE HANDBOOK

The basic purpose of this Handbook is to assist in the revitalization of probation services and the raising of the profile of the utility of probation through the sharing of best practices, experiences and highlighting those issues that need to be addressed. It is also intended to provide assistance and guidance to those countries who are either in the process of, or are interested in, the establishment of probation, parole or other after-care services with a set of practical guidelines and needs assessment tools that will further define and guide the development, implementation and evaluation process. The handbook is not meant to be prescriptive and all inclusive, rather it outlines the major issues, organizationally and professionally, that various probation officers, managers and services have raised during the compilation of the UNICRI survey of Probation Round the World, as well as issues that were identified in other literature on probation. It is not intended to be a procedures manual nor a manual of standards but rather a guide for policy makers, legislators, managers and practitioners.

STRUCTURE OF THE HANDBOOK

The Handbook itself has been designed in three parts: first, the history of probation, the functions of probation and its legislative and court directed underpinnings. Second, that related to the professional responsibilities of the probation officer. Finally, that related to the management - including the Administrative and Organizational issues. The areas that are considered essential are outlined and followed by the highlighted United Nations Standard Minimum Rules, which became known as the Tokyo Rules of 1990. As outlined in the Commentary on the Standards:

The Tokyo Rules are not meant to be read as a detailed model for a system of non-custodial measures. Instead, they are based upon the general consensus of contemporary thought and experience. They seek to set out what are generally accepted as good principles and current good practice in imposing and implementing non-custodial measures. The development of more detailed rules with particular applicability to regional or sub-regional conditions, is to be encouraged. (United Nations 1993: 3)

The issues that have been raised are accented for the purposes of discussion and consideration and then are followed by what are considered to be thematically derived "Operational Guidelines" which are presented in an attempt to define "good probation practice". These "best practice" guidelines have been drawn from the early American Correctional Association Standards for Probation and Parole, the Canadian Criminal Justice Association Standards for Probation and the European Committee on Crime Problems - European Rules on Community Sanctions and Measures. They also are derived from standards of practice that various countries have attempted to introduce, either through procedures manuals (in particular the "Jarvis Manual" from the UK), manuals of standards, rules of conduct and practice from professional associations or from the literature itself, and finally from issues identified in readings of national and international probation/parole journals and the writings of line officers, supervisors and researchers. Given, however, that the majority of the literature deals with adult probation and adult probation systems, this emphasis is repeated here.

What is probation?

HISTORY OF PROBATION

The origins of what is today known as “probation” can be traced to early English practices, and experienced a gradual development until the 19th century. During the 1880s, significant contributions were made by several other countries. In the 1870s, it began to receive acceptance in the USA. However, essentially it developed from the beginning of the twentieth century, although for various reasons - and in varying degrees - throughout Europe and North America.

Probation has its origins in two distinct traditions, common and civil law, but its historical development was also influenced by the development of the juvenile justice system, “positivism” in criminology and ideologies of control outside of the criminal justice system.

In the historical perspective, probation’s evolution reflects tensions between care, control and custody, discretion and individualism versus legalism, and rehabilitation/reintegration as opposed to repression.

From the 1800s to the present day, probation officers have tried in various ways to reform, remake, remould and restructure the lives of offenders into good, honest, law abiding citizens. It was after the Second World War, however, that the majority of strides were made that led to the development of the complex and modern probation service structures that now exist.

It was a time of great optimism in the efficacy of social work with offenders to achieve the ‘perfectibility of man’ and probation officers in the 1960s were part of a criminal justice system which was moving towards the rehabilitative ideal. (Whitehead 1990: 6)

‘Casework’ was the social work method by which the rehabilitation of offenders was attempted. In later years, probation officers resorted to other techniques, including group work, community work, task-centred work, family therapy, behavioural contracts, transactional analysis, reality therapy, behaviour modification and social skills, to name a few.

Twenty-five years ago, the probation service stood at the very heart of penal policy and penal practice.

It epitomised the progressive programmes of penal practice that had been developing since the 1890s and particularly since 1945, and which had become established as the central plank of official policy in the 1960s. It was the exemplar, the paradigm of the welfarist approach to dealing with crime and offenders.

It emphasised rehabilitation, resettlement, individualised social case-work, re-integration - a social welfare approach to social problems.

The problem of crime was understood as a problem of individuals and families in need of help and support, of communities that were disorganised and disadvantaged.

The focus of attention was not the crime itself - the instant offence being a matter of mostly legal concern - but instead the personal and social problems that underlay criminal behavior. Crime was a presenting symptom, a trigger for intervention, rather than the focal point for the probation officer’s action.

The probation service was the lead agency carrying forward a progressive programme of crime control through social intervention.

It was at the forefront of the effort to rationalise and humanise penal practice - to use expertise, social work techniques, criminological knowledge, and trained clinical judgement to deal with crime.

As such, it was part of, and drew support from a wider political project - the project of the welfare state, with its concerns for solidarity through state provision, integration, inclusiveness, and with the distinctive 'social' rationality - a style of reasoning, or a habit of thought that looked for social causes and social solutions to deal with any problem that emerged in the field of government.

Probation was also part of the wider structure of institutions and power relations that gave enormous authority and prestige to professional expertise.

The 'professional society' (as Harold Perkin has described 20th century Britain) reached its hey day in the 1960s with the expansion of the personalised social services and the creation of an extensive social work network, in which the probation service featured as a long-established, highly skilled agency, deriving authority from the court-based functions as well as its social work credentials.

In this professionalised context, social problems - including the problems of crime, delinquency, resettlement and family breakdown - were problems that required professional, social solutions, and more and more trained social workers. (*Garland 1997: 3*)

The 1970s and 1980s saw the emergence of results from Martinson's famous 1975, and often misquoted and misinterpreted, "nothing works" article, *The Effectiveness of Correctional Treatment*.

The movement and philosophy underpinning it that followed created a shift towards deterrence and humane containment as the motivation in sentencing. In the late 1970s and early 1980s, a "justice model" emerged as did the concept of "just deserts".

Incapacitation or the deprivation of liberty, became the methodology followed by "alternatives to imprisonment" (Erwin 1990) and in the 1990s, another correctional philosophy evolved; a combination or amalgamation of all the previous philosophies, but one that relies heavily on risk control techniques within crime reduction strategies.

Governments are now attempting to indirectly affect crime through non-state agencies and their citizens using terms such as crime prevention, partnerships, mobilization of communities, and restorative justice.

Regardless of the rhetoric, ever within this divulging of state responsibility, probation and parole can only be viewed as a form of "control".

The effect of attack on the value of probation, and many of its, then core values, led to a fundamental shift in direction that created a malaise that was recognized by many, especially the practitioners.

Over the course of the last two decades, and at an accelerating pace over the last five years, the field of crime control and criminal justice has been reconfigured in important ways. The probation service is deeply implicated in that transformation, though its relation to the process has been problematic.

The service gives the impression of being caught up in a current that is sweeping it away from its bearings and it is caught between trying to resist and trying to swim with the tide.

This is a strange position for the service to find itself in. After half a century of being in the vanguard of progressive change, the probation service now appears as a conservative force, straining to hold on to a framework that is fast disappearing. (*Garland 1997: 1*)

Independent of the philosophical orientation, debate and controversy, probation has, nonetheless, proven useful as a non-custodial sanction, one that offers assistance and guidance as well as punishment.

Increasingly, once again, probation is viewed as a realistic public policy option - the imposition of a cheap, efficient and cost-effective, non-custodial punishment for offenders whose crimes are not deemed to justify the imposition of higher level and more expensive custodial options.

The early diversion of offenders from incarceration is becoming an increasing factor in departmental planning of programs and services for offenders.

Offenders are selectively targeted at the pre-sentence stage of the judicial process in which courts are encouraged to use prisons as the penalty of last resort and to promote the use of community based alternatives.

In an international context of rising crime, however, there is also the necessity of developing a non-prisoncentric penal framework (*Hamai et al. 1995: 105*).

Thus, there is a growing recognition that probation must once again form a vital and dynamic part of an integrated criminal justice strategy that includes crime prevention, policing, victim recognition and support, and the management of offenders.

... probation is not a 'thing' to be taken or left but a set of ideas and possibilities to be used creatively and strategically to solve local problems of criminal justice ...

[It is] a framework into which locally feasible and desirable solutions may be fitted into. (*Harris 1995: 207*)

The promotion of community sanctions or alternatives to incarceration on the basis of arguments that they are too exclusively economic or short term, especially if they rely on partial or simplistic data, can be disastrous over the long term

... more generally speaking, there is risk of losing sight of the values, the less tangible, but more fundamental objectives, which should be at the heart of our philosophy and our policy in the field of criminal justice

... Community sanctions should not be considered primarily alternative solutions to incarceration, but as measures having value in themselves and seeking objectives other than those sought by imprisonment (*Landreville 1995: 56*)

CASE FOR PROBATION

The arguments in favour of probation and other

... non-custodial sanctions are essentially the mirror image of the arguments against imprisonment. First, they are considered more appropriate for certain types of offences and offenders.

Second, because they avoid “prisonisation”, they promote integration back into the community, promote rehabilitation, and are therefore, more humane.

Third, they are generally less costly than sanctions involving imprisonment. Fourth, by decreasing the prison population, they ease prison overcrowding and thus facilitate the administration of prisons and the proper correctional treatment of those who remain in prison. (*Zvekic 1994*)

Independent of the relevant research on both effectiveness and cost-benefit, it must be clearly kept in mind that probation is every bit as effective and considerably cheaper as imprisonment and additionally, “... reliance on imprisonment as the ‘normal’ punishment has clear humanitarian, ethical, and social costs” (*ibid.*).

While little material exists on exactly what probation costs, in Canada, research done on the parole system indicated that in 1992/93, it cost approximately \$10,951 per year to keep an individual under supervision while costs of federal penitentiary incarceration averaged \$52,953 per year (*Correctional Service of Canada 1993*).

Even when community penalties are compared en bloc to imprisonment, community penalties have re-conviction rates no lower than prison, and at a fraction of the cost.

Some community-based programmes aim to achieve the equivalent of prison’s incapacitative effect, reducing or eliminating offending for the duration of the treatment.

Electronic monitoring is one example. In a sense, some treatment programmes for drug-dependant offenders are another.

American research suggests that the later are substantially cost-effective, and that the benefits accrue mainly during the period of treatment. (*Rydell and Everingham 1994, in Hough 1997: 1*)

FUNCTIONS OF PROBATION

“Probation as a sentencing disposition is a method of dealing with specially selected offenders and consists of the conditional suspension of punishment while the offender is placed under personal supervision and is given individual guidance or ‘treatment’” (*United Nations 1951: 4*).

The probationer acquires a status due to the limited rights and special duties to which he or she is subjected.

“Probation may also refer to a system (private or public) which administers the delivery of specific services, and is commonly considered a subsystem of a broader system of criminal justice.

Probation may as well refer to a process that encompasses a variety of operational activities, including investigatory and supervisory practices.

Probation in a larger context is a method of punishment with a socio-pedagogic basis characterized by a combination of supervision and assistance.

It is applied under a free system (no fee) to offenders selected according to their criminal personality, the type of crime, and their receptiveness, in relation to a system whose aim is to give the offender the chance to modify his/her approach to life in society and to take a place in the social environment of choice without the risk of violating a social penal norm again. (*Cartledge et al. 1981, in Harris 1995: 3-4*)

There is not a unified notion of what constitutes probation but there are clear indications that almost all probation systems and practices tend to adjust and match developments of time and place in terms of culture, economics, politics and criminal justice philosophies while preserving some key features of its origin and, in virtually all cases, the professional identity and orientation of probation officers.

Probation across the world is in a state of flux and in some cases, a state of crisis, albeit to varying degrees and for varying reasons. The further development or introduction of probation, as the case may be, into a criminal justice system must build on existing social structures and supports by working to enhance what is already there. Probation is not an external solution to internal problems of criminal justice, penology or governance, but a possible framework into which locally feasible and desirable solutions may be fitted.

For probation to be effective or where there is a planned introduction of probation as an effective and cost-efficient non-custodial sanction, the following legislative and legal pre-conditions should either exist or be established either in law, policy and procedures or in professional rules of practice.

Legislative framework

UNITED NATIONS STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES

- 3.1 The introduction, definition and application of non-custodial measures shall be prescribed by law.
- 3.2 The selection of a non-custodial measure shall be based upon an assessment of established criteria in respect of both the nature and gravity of the offence and the personality and background of the offender, the purposes of sentencing and the rights of the victim.
- 3.3 Discretion by the judicial or other competent independent authority shall be exercised at all stages of the proceeding by ensuring full accountability and only in accordance with the rule of law.
- 3.4 Non-custodial measures imposing an obligation on the offender, applied before or instead of formal proceedings or trial, shall require the offender's consent.
- 3.5 Decisions on the imposition of non-custodial measures shall be subject to review by a judicial or other competent independent authority, upon application by the offender.
- 3.6 The offender is entitled to make a request or complaint to a judicial or other competent independent authority on matters affecting his or her individual rights in the implementation of non-custodial measures.
- 3.7 Appropriate machinery shall be provided for the recourse and, if possible, redress of the grievance related to non-compliance with internationally recognised human rights.
- 3.8 Non-custodial measures shall not involve medical or psychological experimentation on, or undue risk of physical or mental injury to the offender.
- 3.9 The dignity of the offender shall be protected at all times.
- 3.10 In the implementation of the non-custodial measures, the offender's rights shall not be restricted further than was authorised by the competent authority that rendered the original decision.

Probation as an alternative to a custodial measure should be clearly defined in legislation, acts or regulations which should also include precise criteria for the selection of individuals for probation orders based upon age, nature of the crime, and exclusionary criteria which must include concomitant rights and responsibilities of the probationer.

Issues

While acknowledging that all countries should strive to observe them, the UN Minimum Rules are not legally binding under international law. They do, however, represent a strong moral commitment based on international consensus.

Most countries, however, adhere to all or some of them. It should be kept in mind that these are minimum rules acceptable in contemporary society and represent ethical and professional guidelines for practitioners and managers to follow in developing and ensuring good practice.

Role of probation within the criminal justice system

The role of the executive and the legislative branch, the judiciary, the police, prison service and probation including relevant social service agencies should be clearly defined and roles and relationships established.

It is especially important that it be made clear that probation has an integrated and integrative role within the criminal justice system delivery program.

- Courts are instruments and interpreters of criminal justice policy.
- At the point of sentence, a professionally and lawfully guided judicial selection occurs, that is based on moral as well as legal criteria.

It should be established that this selection can be enhanced by the provision of relevant, socio-psychological, and economic information and other data relevant to the offender, and that this is the role of social workers/probation officers.

Issues

The Green Paper 'Strengthening Punishment in the Community' (Home Office 1995), contained several proposals designed to increase the confidence of sentencers and the public in community sentences.

It can be read as a 'marketing strategy' for selling community penalties to sentencers or as a political manifesto designed to emphasise punishment (through compliance with 'tough' and intrusive conditions) rather than rehabilitation or reform, and to substitute judicial for professional judgement on the form which the conditions should take.

It proposed integrating the existing range of probation orders, supervision orders, attendance centre orders, community service orders and curfew orders into a single 'community sentence', allowing sentencers considerable freedom in specifying the precise elements of supervision, reparation and restriction of liberty in the sentence.

The outcome may be closer co-operation between probation and social services and the courts, more rigorous professional practice and greater use of community sentences rather than imprisonment.

All of these are to be welcomed.

However, some difficulties can be anticipated. In the first place, there is greater scope for tension and conflict between the sentencer and the

probation staff over the type of judgement which each is required to make and their accountability for the outcome.

Secondly, tough conditions may result in high failure rates, with significant proportions of offenders ending up in prison for offences which would not in themselves be thought to justify sentences of imprisonment. (Tonry 1995, in Hough 1997: 1)

Thus, numerous probationers might be 'breached' for minor technical violations of probation orders.

Sentencing options

UNITED NATIONS STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES
8.1 The judicial authority, having at its disposal, a range of Non-Custodial measures, should take into consideration in making its decision, the rehabilitative needs of the offender, the protection of society and the interests of the victim, who should be considered whenever appropriate.

The range of non-custodial measures could include, individually or in combination:

| | |
|--|--|
| Informal or formal diversion | Service - community restitution |
| Deferred prosecution | Service - victim restitution |
| Verbal sanctions | Community Service Order |
| Conditional or unconditional discharge | Medical including (alcohol and drugs) or psychiatric treatment with or without probation |
| Status penalties | Probation supervision |
| Confiscation or an expropriation order | House arrest with or without 'electronic monitoring' |
| Fines | Intermittent or Week-end detention |
| Financial compensation/restitution | Incarceration or incarceration followed by supervision |
| 'Conferencing' | |
| Mediation | |
| Monetary - victim restitution | |
| Monetary - community restitution | |

Legal framework

Normally a probation order can be ordered by any court for any offence where the law provides for it and in respect of any person who has attained the age of criminal responsibility. Offences for which probation is frequently excluded include those normally considered to be the most serious in a society, (e.g., murder, treason, etc.). It can be prescribed after conviction as an alternative to incarceration or for a fixed period after incarceration. In the latter case, this is normally referred to as parole although in some countries, probation supervision can also follow incarceration.

Emerging trends in probation

MEDIATION

Mediation, for which there is already an extensive and tested body of practice, is another area where consideration is being given by a number of countries for probation service involvement and is a core technique of restorative justice. However, the choice of a particular mediation or practice model of application to victims and offenders influences both the appropriateness of the process and the potential of agreements. The following, which flowed out of the 12th CEP Seminar on “Mediation and Probation”, therefore, should be addressed when contemplating implementation:

- Need for legal system to undergo a fundamental paradigm shift before acceptance.
- Reparation before repression! While prevention and mediation is commonly practiced in schools and in the juvenile justice sphere, and is seen to be the most appropriate systemic response, what makes it so ill suited for adults - many of whom are involved in illegal behavior for the first time?
- Accountability and performance measurement. The diversity of practice and wealth of models make statistical analysis impossible. Differences exist in both goals and objectives, organizational; structure, qualifications and training, organizational location (government or private) as well as access criteria.
- Question as to who is the real victim as offenders themselves have often been earlier victims of both individual and community assault, ostracism and marginalization.
- Mediation as a legal or social work response.
- Is mediation a sanction in and by itself?
- Appropriateness for all crimes, i.e., domestic violence and murder. UK excludes crimes of domestic and racial violence and especially manslaughter and murder, while Norway and Germany, as well as many developing countries, have no exclusionary criteria.
- Other exclusionary criteria such as age, previous offenses, denial of offense, type and nature of crime.
- Inclusion, however, of very minor transgressions may result in “net widening”.
- Administration: Professional (i.e., UK) or Volunteer (i.e., Norway). Reporting arrangements to government or community board. Legal status, immunity and indemnity.
- Rights of victim to testify.
- Right of offender to legal counsel during mediation.
- Duty or requirement of mediator to testify and legal standing and protection.
- Impartiality and ‘neutrality’ of mediator.
- Potential problem of perception if privatized - just seen as another money making scheme for the organizers. Also, if privatized, then needs of victims becomes just someone else’s problem - other than that of the individual,

community and state.

- How to sell! Must be packaged and sold within a larger criminal justice audience and “restorative justice framework” that begins and ends with individual and community responsibility. Mediation movement must convince law makers and law keepers to grant the information and confer the mandate, as well as setting the relevant parameters, i.e., offenders must be dealt with in such a way appropriate to them and their crime so as not to re-offend and to repair damage to victim and community so as to start again. Mediation must sell itself as a sanction and solution not previously available.
- For Mediation to be accepted within a particular cultural and political context, it must address the questions of “who needs it” and “who wants it” and “why”.
- As with all new and improved products offered, there exists a danger of mediation appearing to be “all things to all people” and thus losing advantages. Clarity of purpose ranges from community safety to victim reconciliation and crime prevention.
- The mediation movement, where it has a reputation and clear links to the offender, risks potential confrontation with victim’s rights and women’s movement, depending on the orientation and placement of the service and the networking, informational and infrastructure development that the mediation service has conducted beforehand.
- Staffing and resource allocation required if probation is to be empowered to develop carefully designed projects to achieve restorative and rehabilitative objectives.

Factors for success

- Specialization. Must sell that Mediators are not lawyers, judges or therapists - they are neutral “third party” facilitators, with the mandate, training and experience to resolve issues and conflicts.
- Diversity of practice and therefore comparison between countries and cultures avoids narrow mindedness and “tunnel vision”. Various very different models and practices demonstrates there is no one way to ‘the truth’. The applied methodology is more important as it must reflect the particular choices and traditions of a particular culture and legal setting, as well as the norms, attitudes and values of the people it represents and serves.
- Training and qualifications. Progress is made by constant communication, experimentation and learning which results in the development, testing and refinement of concepts based upon learning units, reality testing and insight generation. Innovation by idea generation and networking
- Clear concept - objectives and aims. Goals more strategic than tactical, but with operational targets. Results and refinement based upon evaluation and effectiveness research, especially of a comparative nature. Potential exists for “knowledge transmission” to developing countries still struggling with infrastructure problems.
- Political, organizational and cultural acceptance.

COMMUNITY SERVICE ORDERS

The performance of work for the general community and societal good as an alternative to taking away a person's liberty has been recognised for a long time (Tak 1986: 2).

While community service orders have existed in one form or the other since the Middle Ages, it is only in the last 25 years that western societies have focused attention on it once again. The modern version, however, no longer carries with it the possibility of forced labour in that the sentenced person normally must agree to the imposition of community service orders. What distinguishes the modern version from "chain gangs" is the link of the latter to a custodial sentence. Advocates of community service began viewing the community as a victim, and therefore, requiring reparation and restitution 'in kind'.

This sanction involves performance of a certain number of hours of unpaid work for the good of the community, usually, but not always, during leisure hours. An essential element of the community service scheme is the opportunity it creates to promote a wide range of projects and personalised individual placements through which the offenders have the opportunity to enhance their feelings of self-worth and self-respect. Making full use of the offender's potential and skills, with visible positive results being achieved is the essence of rehabilitation (Harding 1987: 67).

In most of the systems, there are specific provisions regarding the prerequisites under which a community service order can be made; these include, for example, the type of offence and the consent of the offender. The nature of community service is significantly different from other probation work in that it is directly concerned with punishment, control and authority. Its style of operation, its dependence upon the community to offer constructive work outlets, and its capacity to produce a high turnover of offenders and hours worked, inevitably produces a degree of specialism or separatism not found on the same scale elsewhere for the Service.

While both unpaid work and reparative sanctions have long had historical connections, it was not until 1966 that, in the USA, community service was first ordered as a sanction independent of a custodial sanction, motivated in part by crackdowns on drunk drivers, the victims movement generally, and the need for alternatives to jail for new and growing categories of offenders (McDonald 1986). These sanctions and new programs to support them gained popularity and were extended to other offences. By the mid-1970's, the rehabilitative potential of the service was being emphasized - especially in juvenile justice programs (Schneider 1985; Rubin 1986) - as the predominant rationale for community service and other reparative sanctions (Eglash 1975; Klein 1982).

Since its inception in Germany in 1969 and England and Wales in the mid-1970s, community service has received a positive reaction from the media, the public and the courts. The reason for this lies partly in its intrinsic value as a sentence and partly in its versatility in avoiding the negatives of short-term incarceration. It is "all things to all people" having been seen by some courts and the community as an alternative to custody and others as a sentence in its own right (Harding 1987: 68).

Across Europe, community service orders have continued to be introduced: in Italy in 1980, Portugal in 1983, Norway and Denmark in 1984, France in 1984 (Tak 1986) and in the Netherlands, it was introduced in 1989 as a court ordered sanction

officially called “the performance of unpaid work for the general good” (Tak 1993:33).

It is now being implemented in various countries across Africa as a more cost-effective alternative to probation and as an alternative to imprisonment and as more consistent with traditional cultural values and community norms of reconciliation.

By the 1980's, community service in the US and Great Britain also became a central part of a group of alternative sanctions that were being presented as an alternative to incarceration (Home Office 1970; Newton 1979; Harris 1984; McDonald 1986), as well as to traditional casework probation (Romig 1984; Maloney, Romig and Armstrong 1988).

In the former case, service sanctions were justified primarily as a means of providing a punitive and less expensive alternative to jail or other forms of incarceration (Harland 1980; McDonald 1989). In the latter case, community service, restitution, victim service, and other forms of reparation were discussed as part of a critique of the passivity and offender-oriented focus of traditional probation (Harris 1984; Schneider 1985; Bazemore 1991).

As an alternative to traditional casework probation, use of community service was encouraged because it required the active engagement of offenders in an explicit effort to redress or restore damage done to the community (Bazemore 1991).

By the mid-1980's, community restoration, intended to present a message to offenders that crime had public consequences and incurred a restorative obligation to the community, had become an important motivation behind community service orders especially in juvenile justice.

The message intended for the public in such service was that offenders are capable of making such positive contributions and, having paid their debt, should be allowed to be accepted back into community life (Schneider 1985; Bazemore 1992).

Similarly, an alternative rehabilitative objective was expressed in some discussions of service which emphasized its potential for competency development and experiential training for paid employment (Klein 1988; Bazemore 1991). *(Bazemore and Maloney 1994: 25-26)*

Thus although community service was originally conceived as an alternative to imprisonment, it was soon touted for its rehabilitative potential (Eglash 1975).

For their part, researchers and policy-makers who initially expressed interest in community service as an alternative to jail or other forms of incarceration in the 1980's (Harris 1984; McDonald 1986) have devoted little attention to the nature and quality of community service as a potentially rehabilitative intervention and have given even less consideration to the relationship of community services orders to the objectives of community service within a more comprehensive framework of restorative justice and the theory behind use of these orders (*ibid.*: 24).

One barrier to broader acceptance of victim restitution and community service as criminal sentences has been the lack of agreement as to why the court should impose them in the first place.

What penal objectives should judges try to achieve with them? Should courts punish offenders, rehabilitate them, or restrain them from committing more

crimes ? Should a sentence be imposed to serve primarily as a deterrent, a message aimed at would-be lawbreakers?

Should victim restitution be supported because it has a beneficial effect on offenders or because it serves victims' needs. Or should the courts embrace these sentences as substitutes for imprisonment in the hope they are more constructive and less costly to the taxpayer? (*McDonald 1986: 2*)

Issues

Community Service Orders have been used and implemented unevenly across the world. Their use or non-use, clearly seems to depend on the individual administrations and communities reaction to the fear and type of crime as well as the governmental structure available to deal with it given both resource and public tolerance levels. Ironically, the apparent decline in emphasis on the creative potential of community service in corrections, comes at a time when a groundswell of national interest in volunteer service roles for youth has emerged outside the formal domain for corrections (Schine 1989; Danzig and Szanton 1987; Langton and Miller 1988).

As much of community corrections

seems to be unenthusiastically and even reluctantly "living with" community service, national policymakers, including President Clinton seem to be encouraging wide expansion. (*Bazemore and Maloney 1994: 24*)

As offenders, victims, and the public rightly wonder whether the intent of court-ordered service is treatment, punishment, restoration or risk-management, community service in much of the country continues to be characterized as 'a practice in search of a theory' (McDonald 1989).

Moreover, with these disparate objectives and only sporadic attention given to the quality of community service, community work service in many jurisdictions now appears to have slipped from its status as an innovative alternative sanction (Beha, Carlson and Rosenblum 1977; Krajick 1982) and service orders have become in some courts and probation departments little more than a bureaucratic function at best, and a burden to staff and community agencies at worst.

Among several possible sentencing goals, punishment now appears to have become the dominant objective of service sanctions in many jurisdictions. (*ibid.*)

A major problem of community service today is that it is ordered and implemented in a vacuum with reference to sentencing objectives nor to a theory of interventions with offenders.

In the absence of a guiding conceptual framework for intervention and lacking a value-based guidelines and performance objectives derived from a clear mission, it is impossible to gauge success or failure of these sanctions or determine quality of the service experience.

If the goal is punishment or bureaucratic convenience, for example many current projects may be accomplishing intended performance objectives.

If the goal is meaningful restoration to the community or offender rehabilitation and reintegration, however community service as now practised in most jurisdictions would be viewed as a failure. (*ibid.: 25*)

Unfortunately, unless implemented as part of a strong and alternative mission, community service, like any other court-ordered requirement will take on the values and be influenced by the objectives of the dominant philosophy of the justice system. In most criminal and juvenile court jurisdictions in this country, that means that service is likely to assume a retributive focus (Shapiro 1990).

This article will argue that “rehabilitative” community service would need to build on and be guided by two emerging alternative conceptual focus (Galaway and Hudson 1990; Umbreit 1993) and competency development as a rehabilitative focus (Bazemore 1991, 1993a) within a “Balanced Approach” to community corrections (Maloney, Romig and Armstrong 1988). (*ibid.*)

Community service sanctions, thus, can only be separated from other alternative sanctions by more careful positioning and marketing within the current range of alternatives including greater attention to the nature, quality and distinguishing characteristics of the service provided. Since part of the problem in current use of community service is due to its implementation in a philosophical and contextual vacuum, part of the solution will be to apply community service sanctions within the context of a new directional community restorative justice framework umbrella for probation within the broader criminal justice system,

Together, the restorative paradigm and the Balanced Approach mission may help probation and community corrections develop a broader vision of the potential of community service sanctions and establish performance standards to guide implementation consistent with rehabilitative, reparative, and reintegrative objectives. (*ibid.*: 27)

Other issues which require consideration include:

- Original identification of “need” and readiness within the community(s).
- Consideration of “pilot” programs to guide, modify and finalise implementation.
- Public relations and communication strategies in order to inform, gain input and commitment to the process.
- Organizational placement and location of responsibility for supervision and reporting.
- Short and long term implementation plan including administration and support functions as well as eventual devolution of responsibility to local probation areas.
- Specialist staff vs. volunteers - including ex-offenders. Consideration of “New Careers” model.
- Parameters and selection criteria for offenders and type of work: age, gender, offence, previous criminal history and type of offences committed, offender consent and right to appeal appointment and placement.
- Placement of difficult, uncooperative or disruptive and perhaps dangerous offenders. Use of “sheltered environments” for such clientele.
- Payment and arrangement of travel and transportation for offenders.
- Unions, staff and organisational concerns.
- Type of work required and competition for it from “other unemployed”. Should it only be that which would otherwise be undone?

- Hours worked, breaks, days off, holidays.
- Need for consistency between areas, officers and organisations.
- Attendance monitoring and feedback to the Sentencing authority.
- Clearly defined penalties for non or poor compliance. Allowances for mitigating circumstances: illness, family emergencies, supervision interviews, etc.
- Time limits for completion.
- Pre-planning for introduction, public relations, signed agreements and standard rules for participating organisations.
- Program evaluation and on-going data collection design in advance of implementation.
-

OPERATIONAL GUIDELINES FOR COMMUNITY SERVICE

If the probation service is responsible for community service order supervision, there are a number of issues that need to be addressed. These include:

- The establishment of written eligibility criteria and screening procedures available to assist the court in determining those offenders who are appropriate candidates for community service.
- The development of a policy which stipulates that community service placements are made within a clearly prescribed period of the coming into force of the order for community service.
- The development of a policy dealing with the provision of liability coverage for all parties involved in community service programs.
- In matching the probationer to a community service placement site, the probation service should consider at a minimum:

The nature of the offence,

Suitability of the offender to the placement site, and

The development of a system for monitoring client performance of community service.

- In a case of a voluntary agency administering a community service order programme for the probation service, it has an equivalent plan of liability coverage comparable to that of the probation service to:
 - a. implement community service orders passed by the courts,
 - b. help communities prevent crime and reduce its effects on victims, and
 - c. maintain negotiations with accommodation agencies, drug and alcohol treatment providers, and other relevant treatment services for clients.

With the rise and growing interest in the restorative justice movement has come the opportunity to perhaps anchor and link specific community service order placements to the theory and practice underlying crime prevention.

The restorative message in community service may be most clearly communicated when offenders are asked to repair damage caused by crime or work intended to prevent future crime...working on tasks intended to prevent *future* crimes can drive home the message to offenders that crime threatens the safety and quality of life for all citizens. Service assignments to

assist citizen crime watch groups provide an obvious restorative linkage for work service involvement. So called “crime prevention through environmental design” efforts to improve safety by altering landscaping, improving visibility along public walkways, and similar neighbourhood renovations provide ample opportunity for service crews to assist with an important community initiative while sending a message to citizens that offenders can be “part of the solution” rather than “part of the problem. (*Bazemore and Maloney 1994: 31*)

CRIME PREVENTION

UNITED NATIONS STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES

17.1 Public participation should be encouraged as it is a major resource and one of the most important factors in improving ties between offenders undergoing non-custodial measures and the family and community. It should complement the efforts of the criminal justice administration.

17.2 Public participation should be regarded as an opportunity for members of the community to contribute to the protection of their society.

22.1 Suitable mechanisms should be evolved at various levels to facilitate the establishment of linkages between services responsible for non-custodial measures, other branches of the criminal justice system, social development and welfare agencies, both governmental and non-governmental, in such fields as health, housing, education and labour, and the mass media.

In 1986, the National Crime Prevention Institute in the USA operationally defined crime prevention as the practice of crime risk management: “Crime risk management involves the development of systematic approaches to crime risk reduction that are cost effective and that promote both the security and the socio-economic well being of the potential victim”. This definition includes both the social and the economic costs of crime. Crime prevention was linked to a field of criminal justice called “designing out crime”.

Those who wish to “design out” crime believe that the criminal justice system is a backup to crime prevention rather than the centrepiece or the reverse (Felson 1993). This type of design of defensible space and behaviour closely resembles what Harris called “Situational Crime Prevention”. (Harris 1992: 71)

Crime prevention for the first three-quarters of the twentieth century was premised on a set of principles that changed very little. Preventing crime meant modifying the predisposition of offenders to commit illegal acts. Whether they concentrated on altering the environmental factors that influence offenders or on working directly with offenders in a therapeutic setting, most prevention strategies since the emergence of the Progressive Era sought to prevent crime by changing the victimizers. Those strategies, however, came under attack in the late 1960s. Critics noted the increasing crime rates as evidence that nothing much appeared to work in preventing crime. (*Lewis and Salem 1981: 405*)

In the 1960’s and early 1970’s, crime prevention was to a large extent, a public relations vehicle for police administrators to try and improve their public image. The public was encouraged to engage in individual crime prevention measures and later household prevention measures with home security checklists and then “Operation Identification”. Later on collective measures were employed designed to build community awareness and social interaction.

The most successful, "Neighbourhood Watch", was exported to Canada, Australia and the UK from the USA as well as to other countries. Citizen patrols and "Crime Stoppers" were also American prevention innovations that, at least in the case of the latter, found immense popularity in other countries and areas (US Department of Justice 1993a: 6).

The former has received very little support in the rest of the world, as the very conditions and philosophy underlying its establishment and usage do not seem to exist outside of the USA.

Some scholars argue that crime prevention is now entering a new era as the limits of opportunity reduction strategies have been reached.

Based upon the argument that crime is essentially socially derived, the emerging social problems, social or situational prevention approach(s) seeks to attack problems of crime not only with "Risk Reduction" targets but with the community and especially those individuals "at risk" - a focusing on the root causes of crime or at least the immediate consequences of disadvantage.

Both individual and community organisation of service delivery and related issues are often involved in such programs (ibid.: 6).

Harris has broken down crime prevention into primary and secondary prevention "... the former involving something from happening in the first place; the later preventing something which has already happened from happening again" (Harris 1992: 68).

The new programmes of action are directed not toward individual offenders, but to those routines of everyday life which create criminal opportunities as an unintended by-product.

This is, in effect, 'supply side criminology' aiming to modify the everyday routines of social and economic life by limiting the supply of opportunities, shifting risks, redistributing costs, and creating disincentives. It aims to embed controls in the fabric of normal interaction, rather than suspend them above it in the form of a sovereign command...in contrast to traditional criminology, this approach no longer takes the state and its agencies to be the primary or proximate actors in the business of crime control. (Garland 1996: 451)

To prevent or minimize crime before it even happens is not a new idea, but the focus on public participation in the process - those key individuals and groups within the community as well as with other agencies - does reflect a trend of a diminishing reliance on and disillusionment of government to solve what are in reality community and social problems.

Regardless of the elements or various crime prevention approaches, one key theme has emerged from the discussion of crime prevention: that of the need for all individuals and agencies within the criminal justice and social welfare network to work in partnership with the "community" to identify, resolve and solve common problems.

Purpose

- To work in partnerships and networks with other bodies and services in using the most constructive methods of dealing with offenders and defendants.
- Build on existing structures of social support by working to enhance what is already there and repair any fractures there is to the social fabric.
- Promoting an integrated justice system approach to deal with offenders and

offences.

With the increasing emphasis on crime prevention, there is a growing reassessment and emphasis of social work more closely integrating with the criminal justice structure.

In a real sense, this has meant that the term "social" in social work is taken from its individualized and specialized meaning and positioned into its real social context as one begins to talk about community and social strategies.

Three principle methods of community probation practice have been identified:

- a. Community outreach
- b. Service development
- c. Neighbourhood work

Issues

Correctional and criminal justice agencies, especially the probation service have, in recent years, been encouraged to involve themselves in crime prevention strategies which are believed to have a role as a general contributor to community "wellness". While at the management level there is a clear movement in this area, and while links are being made between prevention and community involvement, it is less clear as one gets closer to practice. As noted by the Audit Commission in the UK,

... the National Association of Probation Officers had long resisted crime prevention work, and the relatively *laissez-faire* management style of some probation areas gravitated against such decisive involvement. (Audit Commission, 1989)

Clearly, the resistance is not just a workload issue nor a staff association vs. management issue but also one of definition and difficulty and it is evident that considerable confusion and suspicion exists in the area of interpretations as to what might be eventually involved in practice in crime prevention. Community mobilisation is not easy or even stable. Problems with interesting, engaging and retaining individuals and groups in such a network or process do exist. It is time consuming.

There also exist fears that with the increasing public scrutiny and cynicism, the role in the community will be judged solely by a drop in the recidivism rate and crime figures and the effectiveness of crime prevention programs has yet to be fully demonstrated.

It has also been forcefully argued that the new crime prevention policies have been seriously undermined by the social and economic policies of the past two decades, as well as by the structural transformations in organisations, labour markets and in social stratification...Crime prevention has presented a challenge to the Probation Service which it has yet to take up in any convincing way, partly because of the insecurity the Service has experienced in the 1980s and 1990s, and partly because the service still lacks a firm sense of direction. (Gilling 1995: 34)

'Activating' communities, families, and individuals, is much less likely if these have been economically undermined and socially excluded.

It is also made more difficult by long established habits of thought-nurtured by state agencies in an earlier, monopolising phase which counsel that problems of

disorder and deviance are best left to specialists and the 'appropriate authorities' (Garland 1996: 463).

The probation role in crime prevention has been complicated by two main factors. Firstly, whilst the Service has been compelled to become involved in such work, the terms of such involvement have not been specified, leaving considerable room for discretion over form and content. Secondly, in exercising this discretion the definitional elasticity of crime prevention has had to be confronted.

Crime prevention covers a range of qualitatively different tasks, where action might be oriented towards the community ('primary' prevention); those at risk of offending or victimisation ('secondary' prevention); or those who are already victims or offenders ('tertiary' prevention). In addition, there is an established distinction at each of these levels between measures designed to reduce opportunities ('situational' prevention) and those designed to reduce motivations ('social' prevention). (Gilling 1995: 31)

VICTIM RIGHTS, SERVICES AND COMPENSATION

According to prevailing and developing public opinion, victims have been the persons long forgotten by the criminal justice system, particularly in the common law world.

Historically, at least until the 1970s, interest in victims, where it existed at all, focused primarily on the 'kind of person' who became a victim...It is not chance that the renewal of academic and professional interest in the victim has developed alongside the crime survey. The lack of interest in victims throughout the radical years of the 1960s and 1970s was, with hindsight, remarkable. (Harris 1992: 55-56)

At present, particularly due to a number of high profile crimes especially serial killings, victims rights advocates, including the parents of the victims, have lobbied for expanded compensation and victim notification systems.

Probation officers have become involved in this area, primarily through the assessment of harm (financial, physical and emotional) on the victim and the subsequent submission of Victim Impact Statements to the sentencing authority. Within restorative justice initiatives, victims may in fact play a very high profile role in the provision of service.

More recently, however, is the growing evidence that offenders were, themselves, victims, often subject to both physical and sexual abuse. This fact needs to be taken into account as a possible contributory factor in their offending.

OPERATIONAL GUIDELINES ON VICTIM'S RIGHTS

- Court and probation administrators should establish separate waiting rooms for victims and offenders.
- Where the law permits, the probation service and other criminal justice organizations should develop a system of "victim notification" which ensures that victims are kept informed of the processing of their case both during the court proceedings and when an offender is about to be, or is, released from custody.
- Probation service should have policy and procedures in place to avoid putting its clients into situations where they are more likely to be victimised once again.

RESTORATIVE JUSTICE MODELS AND OTHER ALTERNATIVES

The notion of community and individual responsibility as a social ideal, has appealed to individuals and governments for centuries, and especially since the state took over responsibility for crime control and punishment.

It is this inclusion of the 'community', and especially the victim, back into the criminal justice process that has resulted in the 'restorative justice' movement. This is especially true in countries with a common law tradition.

The idea of bringing back community participation and involvement into the criminal justice process has been around for some time. In fact, an early version of 'restorative justice', that of Rehabilitation Councils, was proposed by the Council of Europe in 1979.

The Council of Europe suggested that the needs of offenders cannot adequately be met by legal, supervisory probation service but rather by general social welfare services. As has been suggested that such a structure is actually a policy-level innovation that has its emphasis on tying together and integrating a wide variety of public and private criminal justice and social service agencies.

These councils provide an organisational structure for the gradual integration of probation work into the community services as a whole by allowing the probation service to draw on the wider resources of the community, both in order to supplement its own resources, and more importantly, because the ultimate object of reintegrating the offender into the community is achieved only when he is not isolated from using community services provided for the public as a whole. (*Allen et al. 1979*)

While earlier concepts essentially focused on systems integration, restorative justice goes several steps further in broadening the base or inclusion of other 'interested parties'.

The current use of the term, 'restorative justice' now adds the offender, within a mediation framework, into the process as well as the victim, and significantly elevates the role of the victim within the criminal justice process by establishing priority to the victim's needs for physical, emotional and material healing.

Most modern day restorative justice experiments are small-scale and have been in operation for less than 30 years.

Restorative justice emerged from the victim's movement and the experiment with victim offender confrontation and mediation, reconciliation, reparative sanctions and processes (e.g., restitution, victim offender mediation) which began in Canada in 1974 as a joint project of the Waterloo Region Probation Department's volunteer program and the Mennonite Central Committee of Ontario.

By 1990, of the 100 programs in the United States involving Victim-Offender mediation, about 60 could be traced to the VORP tradition (New Zealand Ministry of Justice 1995: 11):

Also see Bazemore and Maloney 1994; Galaway and Hudson 1990; Schneider 1985. The majority of the programmes operate as an adjunct to the formal criminal justice system or in parallel with it.

The term 'restorative justice' is often used interchangeably with victim-offender mediation, relational justice, conferencing, balanced justice, satisfying justice and reintegrative shaming.

Restorative justice is based upon the primary assumptions that all parties should be included in the response to crime, namely the victim, offender and the community as a whole.

Government and community play complementary roles in that response, and accountability is based on offenders' understanding the harm caused by their offences, accepting responsibility and repairing the harm done.

It encourages the victim and offender to be directly involved in confronting and resolving any outstanding conflict through the dialogue process and negotiation with the assistance of a neutral third party negotiator or mediator.

Thus, the victim and offender become the focal point of the process, with the state and 'mediator' being facilitators in order to right the wrong. Problem solving for the future is seen as more important than establishing blame for past transgressions. Regardless of the intent, programmes universally recognize the right of the victim to decline to participate.

Primarily, 'restorative justice' refers to an alternative way of thinking about crime. It is not a program or group of programs. Instead, it is a way of thinking as well as a way of acting.

It is, however, a newly discovered correctional theme, guiding framework or paradigm shift that attempts, as earlier mentioned, to promote and encourage maximum involvement of the parties: the victim, offender and the community in the criminal justice process.

Other countries and probation systems are experimenting with "restorative justice" initiatives, including the Vermont Department of Corrections which established "Reparative Probation", and according to its Co-ordinator, John Wilmerding "... essentially re-invents probation based upon the principles of Restorative Justice.

Restorative Probation was intended by design to become a new and different way for the Department to perform probation altogether and support the work of the volunteers who actually run it" (Wilmerding 1996: 1).

Issues

Though the restorative justice movement has recently experienced remarkable growth of awareness and interest, many feel that there are very serious problems ahead.

Even where there is a high level of support for the restorative philosophy in the criminal justice system or community, the broader public policy trend around the nation is in the opposite direction. Prison populations are growing rapidly and the cost of that expansion threatens the availability of resources to work with victims and offenders in the community.

Increasing dependence on incarceration may further paralyse the system making change much more difficult. Practitioners are frequently over-loaded so that it is very difficult for them to think about questions of underlying values or philosophy. (Pranis 1995: 4)

Given the systems overwhelming orientation to offenders, there is considerable risk that it will not be able to shift to a truly centered approach to resolving crime.

Even in those jurisdictions committed to shifting to restorative justice, corrections practitioners frequently forget to involve victim representatives in

their planning at the beginning. It will take great vigilance to insure that victim rights are given proper consideration. (ibid.)

Regardless of the youthfulness of the movement or the doubts expressed, the restorative justice approach may well help probation and parole organizations develop an appropriate vehicle for greater community involvement by instilling a broader vision and understanding of the potential of non - custodial measures including community service sanctions and by establishing performance standards to guide implementation and accountability measures and standards consistent with established strategic objectives of rehabilitation and public safety.

This is where restorative justice is important, for dialogue about our work with offenders will be difficult unless the concerns and interests of communities and particularly of victims are also addressed by the system as a whole.

The Probation Service can play a part - perhaps an important part - by establishing a more balanced, restorative context for its own work as well as promoting that balance in the wider system. (Roberts 1996: 9)

... while restorative justice offers a framework entirely compatible with the role of the probation service with offenders, our specific contribution to that framework is the assessment and management of risk and the reduction of reoffending. This sets us an agenda of structural change, knowledge and skill development, and a much more assertive dialogue with local communities about how they respond to crime. (ibid.: 16)

And, as such, Restorative Justice has become a growth area in criminal justice over the last few years with a large number of articles, reports and conferences dedicated to it.

A recent annotated bibliography on Restorative Justice (McCold 1997) indicated over 550 articles and books on the subject, thus reflective of a growing interest.

Yet there are many who have expressed doubts whether or not the principles which have been successfully applied within the juvenile justice system as a means to avoid labelling young people as offenders in their developmental years, will also receive public acceptance for adults given the hardening of attitudes over the last number of years.

Within this context, there also arises the real risk that the penalty(s) applied through mediation to the party(s) involved may fail to satisfy public expectations, demands or even those of interested but uninvolved third parties to the crime and thus invoke a public backlash to the sanction and to the entire alternative process.

Clearly, some programmes have been promoted on idealistic and utopian grounds, including by organizations using terms such as "satisfying justice" which suggest broader aims connected with the very fundamental issues of delivery of criminal justice and of promoting penal reform.

"The value of restorative processes must, in the end, be demonstrated by their ability to deliver a better quality of justice and to do so efficiently" (New Zealand Ministry of Justice 1995: 67).

UNDERPINNINGS OF RESTORATIVE JUSTICE

| PARADIGM ASSUMPTIONS | |
|--|---|
| Belief of Current System | Belief of Restorative Justice |
| Crime is an act against the state, a violation of a law, an abstract ideal. | Crime is an act against another person or the community. |
| Punishment is effective threat of punishment deters crime, punishment changes behaviour. | Deliberate infliction of pain does not contribute to community harmony. |
| Criminal justice system controls crime. | Crime control lies primarily in the socio/economic system. |
| Accountability equals suffering. | Accountability defined as taking responsibility and taking action to repair them. |
| Victims are peripheral to the process. | Victim is central to the processing of resolving a crime. |
| Offender is designed by deficits. | Offender is defined by capacity to make reparation. |
| Crime is an individual act with individual responsibility. | Crime has both individual and social dimensions of responsibility. |

(Minneapolis Citizens Council 1993, in New Zealand Ministry of Justice 1995)

| RESTORATIVE JUSTICE BELIEFS |
|--|
| <ol style="list-style-type: none"> 1. Crime results in harm to victims, offenders and communities 2. Not only governments, but victims, offenders and communities should be actively involved in the criminal justice process 3. In promoting justice, the government should be responsible for preserving order, and the community should be responsible for establishing peace. |

(Van Ness 1990)

| COMMON ELEMENTS AMONG RESTORATIVE JUSTICE PROGRAMMES |
|---|
| <p>A definition of crime as injury to victims and the community peace;</p> <p>A focus on putting right the wrong;</p> <p>A view that both the victim and offender are active players in responding to and resolving the criminal conflict;</p> <p>Compensating victims for their losses through restitution of the offender;</p> <p>Empowering victims in their search for closure through direct involvement in the justice process;</p> <p>Assisting victims to regain a sense of control in the areas of their lives affected by the offence;</p> <p>An objective of holding offenders accountable for their actions;</p> <p>Impressing on offenders the real impact of their behavior;</p> <p>Encouraging offenders to accept responsibility for their behavior in a way that will aid them to develop in a socially acceptable way;</p> <p>Seeking to address the personal and relationship injuries experienced by the victim, offender, and the community as a consequence of the offending; and</p> <p>A commitment to include all affected parties in the response to crime.</p> |

(New Zealand Ministry of Justice 1995)

AIMS AND OUTCOMES OF RESTORATIVE JUSTICE

1. The *denunciation of crime*. The action taken in response to crime will define the boundaries of behavior beyond which citizens should not stray. Often the expression of denunciation will take the form of punishment or some burden placed upon the offender.
2. The reform of individual offenders.
3. The *prevention of crime* in a general way. Restorative principles would promote the role of the community in controlling and reducing crime. Restorative interventions would aim to enhance the ability of communities to take on this role or expand their capabilities.
4. Helping victims.
5. Making good the suffering caused by crime.
6. *Keeping the costs of administering justice to a minimum*. Money spent on responding to crime is not available to be used in the provision of education, health or welfare services. Consequently, it is important that the cost, both financial and social, of resolving the problems associated with crime is not greater than the consequences of taking no action.

(Marshall 1995a, 1995b)

APPLICATION

There are three main stages or opportunities for formal restorative justice programmes to be considered or generally applied:

1. Prior to Conviction;
2. After conviction and Pre-Sentence;
3. Post-Sentence.

(New Zealand Ministry of Justice 1995: 74)

Part one
Professional responsibilities

Information to the criminal justice agencies

Probation officers provide information to the courts on the best interests of clients - including, in some systems, children in family disputes - and also provide the court with assistance, information and recommendations related to the potential of behavioural and attitudinal change and rehabilitation of offenders. These are in order to assist the courts in sentencing decisions or any review thereof.

In some countries, probation officers are also becoming involved in bail assessment, bail information and bail supervision. House arrest and electronic monitoring is also increasingly being used, especially in North America, to augment conditions of probation and bail release.

Issues

The relationship of the probation officer and the probation service to the court is a controversial issue. One study reported that probation officers exhibited an air of "belonging" in the court setting unlike their social work colleagues, but this seemed to be related to a higher level of passivity, inactivity and a distinct lack of enterprise in preparing offenders and their families. "The view of officers in the United Kingdom as expressed in the Clarke Hall Residential Conference was that the only way the probation service could get its relationships with the court right was by being perceived by the courts as practical and helpful" (Tuck, in Shaw and Haines 1989: 136).

The price of this "helpfulness" was often considered to be an abrogation of their professional responsibilities to the client as officers acquiesced or became passive in order to cope with the strain of courtwork relationships. American officers, however, were felt to have been marginalised because they had become too separated from court work and that work in the court and relationships with the court were the foundations from which all else in probation work flowed (ibid. 136).

PRE-SENTENCE REPORTS (PSR)

UNITED NATIONS STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES

7.1 If the possibility of social inquiry reports exist, the judicial authority may avail itself of a report prepared by a competent, authorised official or agency. The report should contain social information on the offender that is relevant to the person's pattern of offending and current offences. It should also contain information and recommendations that are relevant to the sentencing procedure. The report should be factual, objective and unbiased with any expression of opinion clearly identified.

3.11 In the application of non-custodial sanctions, the offender's right to privacy shall be respected, as shall be the right to privacy of the offender's family.

3.12 The offender's personal records shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the offender's case or to other duly authorised persons.

Reports are the springboard to everything ...

The officers believe that there is value in the individual relationship that is forged in crisis at the report stage, which cannot be quantified but which, like Zen and the art of motorcycle maintenance, none the less we know is there, it is a very strong culture here. (*Burnett 1996a: 13*)

Purpose

The purpose of the Pre-Sentence Report (PSR) is to provide the court, at its request, with information about the offender which will be taken into account when the judge is considering sentencing options prior to passing sentence.

The Pre-Sentence Report normally contains background information about the offender(s) obtained from the offender, his or her family, the community, the police, schools, social service agencies, etc. It also addresses the employment situation and history, education, personal situation, family history, marital status, health and medical issues, interests, the circumstances of the crime, violence used, effect on the victim(s), victim impact statement(s), attitude to the offence, attitude and co-operation with the arresting officer, previous criminal history, mitigating factors, as well as highlighting those criminogenic factors that, unless addressed, are likely to lead to a repeat of the behaviour. The report normally closes with a recommendation or proposal to the court regarding the most appropriate sentencing option as to suitability for programs supervised by the Probation Service or other agencies. This report is normally accessible to the offender as well as to the judge, prosecutor and defence counsel.

Issues

There exists, in the literature a great deal of material related to the Pre-Sentence Report. The focus can be divided into two main areas: the timing (pre or post determination of guilt) and production of the report (specialist or generalist), and the impact of the PSR on both the judge and on the offender, especially when there is no sharing of the report prior to sentencing. There is controversy about whether a

short or long version should be used and under what circumstances, as well as who can request the report and whether it can and should be shared with the offender.

There is little information or cost-benefit analysis on the effect and impact of any PSR form. It has also been suggested that probation officers have controlled the volume of work referred to them by using their social inquiry report practice as a “gatekeeping mechanism” (Roberts and Roberts 1982). Other issues raised were:

- Should there be a PSR in each and every case?
- Sharing of the entire report/recommendation with offender.
- The duty of court, defence counsel, social welfare agency to seek PSR.
- Should probation officers make recommendations or not?
- Should there be (and who decides: Senior Probation Officer or clerical) a matching or assignment of offenders to officers prior to the report being written and, if so, how is this decided, equitably allocated or distributed: prior knowledge or future continuity, specialisation, location, gender, ethnicity, or workload?

OPERATIONAL GUIDELINES FOR PRE-SENTENCE REPORTS

- In the process of preparing Pre-Sentence reports, the offender should be interviewed privately and in person.
- The probation service should establish policy and procedures which may, as permitted by law, require that at the outset of the pre-sentence interview, the probation officer advises the offender of:

the intent, scope and distribution of the Pre-Sentence Report,

his or her right to receive a copy of the pre-Sentence Report prior to sentence and the right to challenge it in court,

his or her right to have parents or a guardian present and the right to counsel; and

legal rights against self-incrimination and the right to have a lawyer to be present.

- The Pre-Sentence Report should be placed on the offender's file and may become part of the court record.
- The sources of information used in the Pre-Sentence Report are documented in the report.
- The probation service representative should advise sources contacted in the preparation of the Pre-Sentence Report of the purpose and the scope of the report, of the parties to whom it is and may be distributed, that the report may be challenged and the source may be summoned in court, and that information included will be shared with the subject of that report.
- The probation service should develop policies and procedures governing the format and content of the Pre-Sentence Report.
- The probation service should establish and maintain a continuing liaison with the judiciary to discuss issues relating to the content and relevance of the Pre-Sentence Report.
- The probation service should conduct audits of the quality of Pre-Sentence Reports with respect to the objectivity, punctuality, accuracy, and adequacy of information required.
- Policy and procedures should allow for the recommendation of special conditions which may be attached to probation orders.

Post-sentence/custodial stage

UNITED NATIONS STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES

9.1 The competent authority shall have at its disposal a wide range of post-sentencing alternatives in order to avoid institutionalisation and to assist offenders in their early reintegration into society.

9.2 Post-sentencing dispositions may include:

Furlough and half-way houses;

Work or education release;

Various forms of parole;

Remission;

Pardon.

9.3 The decision on post-sentencing dispositions, except in the case of pardon, shall be subject to review by a judicial or other competent independent authority, upon application of the offender.

9.4 Any form of release from an institution to a non-custodial programme shall be considered at the earliest possible stage.

Issues

Depending on the jurisdiction, probation services may, or may not be, involved in the case preparation, supervision and after-care needs of released offenders under parole supervision as probation and parole are often separately administered.

In Canada, probation officers under provincial jurisdiction have normally supervised parolees under a contractual agreement with the federal government, especially in isolated rural areas.

In the UK, this type of supervision began after 1967 and was further extended by the Criminal Justice Act of 1982.

In the UK, and elsewhere, prison work demanded a whole new skill set and attitudinal change and, in many countries the probation service and other community service organisations, particularly in the public sector, were particularly resistant to entering the prison environment and *milieu*.

The main concern related to having to pay more attention to prison functioning and absorption into the administrative structure of the institution as opposed to work with the offender and his or her release or supervision.

POST-SENTENCE REPORTS

These reports, of various kinds and formats, are normally completed after disposition, either at the request of the court, at the request of the offender, or at the request of the receiving penal institution.

Post-sentence reports may also be used in order to go back to the court for a change or adjustment to the original probation order and/or sentence.

The purposes include:

- Options for institutional placement,
- Early parole consideration,
 - Application for probation or parole.

COMMUNITY ASSESSMENTS

These reports are normally completed for the competent releasing authority or supervision agency, as in the case of Canada and the United States, at the parole or pre-release stage, for the purposes of determining the suitability and readiness of a community to accept an offender into that community.

Interviews are normally conducted and reported on with family, potential employers, law enforcement, as well as other individuals or agencies the offender may have suggested as potential sources of support.

OPERATIONAL GUIDELINES FOR COMMUNITY ASSESSMENTS

- The probation service should establish policies and procedures which set the limits for the preparation and transmission of conditional release reports.
- The probation service should establish a continuing liaison with the releasing authorities which it assists in order to discuss issues relating to the content, relevance and punctuality of conditional release reports.
- The probation service representative should advise sources contacted in the preparation of conditional release reports of the purpose and scope of the report, of the parties to whom it may be distributed, and that the information included that may, as appropriate, be shared with the subject of the report.
- The sources of information used in a conditional release report should be identified to the releasing authority. The probation service advises the releasing authority of any change in circumstances which would affect the proposed release plan. The probation service should conduct periodic audits of the objectivity, punctuality, accuracy, and adequacy of conditional release reports. The substance of oral conditional release reports should be recorded in writing and forwarded to the releasing authority.

Probation casework, supervision and conditions

UNITED NATIONS STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES

- 10.1 The purpose of supervision is to reduce reoffending and to assist the offender's integration into society in a way which minimises the likelihood of a return to crime.
- 10.2 If a non-custodial measure entails supervision, the latter shall be carried out by a competent authority under the specific conditions prescribed by law.
- 10.3 Within the framework of a given non-custodial measure, the most suitable type of supervision and treatment should be determined for each individual case aimed at assisting the offender to work on his or her reoffending. Supervision and treatment should be periodically reviewed and adjusted as necessary.
- 10.4 Offenders should, when needed, be provided with psychological, social and material assistance and with opportunities to strengthen links with the community and facilitate their reintegration into society.
- 12.1 If the competent authority shall determine the conditions to be observed by the offender, it should take into account both the needs of society and the needs and rights of the offender and the victim.
- 12.2 The conditions to be observed shall be practical, precise and as few as possible, and shall be aimed at reducing the likelihood of an offender relapsing into criminal behaviour and at increasing the offender's chances of social integration, taking into account the needs of the victim.

- 12.3 At the beginning of the application of a non-custodial measure, the offender shall receive an explanation, orally and in writing, of the conditions governing the application of the measures used, including the offender's obligations and rights.
- 12.4 The conditions may be modified by the competent authority under the established statutory provisions, in accordance with the progress made by the offender.
- 13.1 Within the framework of a given non-custodial measure, in appropriate cases, various schemes, such as case work, group therapy, residential programs and the specialised treatment of various categories of offenders, should be developed to meet the needs of offenders more effectively.
- 13.2 Treatment should be conducted by professionals who had suitable training and practical experience.
- 13.3 When it is decided that treatment is necessary, efforts should be made to understand the offender's background, personality, aptitude, intelligence, values and especially, the circumstances leading to the commission of the offence.
- 13.4 The competent authority may involve the community and social support systems in the application of non-custodial measures.
- 13.5 Case load assignments shall be maintained as far as practicable at a manageable level to ensure the effective implementation of treatment programmes.
- 13.6 For each offender, a case record shall be established and maintained by the competent authority.

Commentary on the Minimum Rules

The main objectives of supervision are set out in Rule 10.1. On the one hand, supervision has a control function, encouraging the offender not to reoffend. On the other hand, supervision has a welfare function and assistance function, helping the offender to integrate into society. These objectives of supervision are reflected in two approaches. The more control oriented approach is focused on the responsibilities of the offender to the community. The other more help-oriented approach is focused on overcoming the problems that may have caused the offending. (*United Nations 1993: 22*)

The principal goal for officers when supervising an offender in the community is the reduction of reoffending. (*Burnett 1996a: 20*)

Issues

Probation supervision forms an integral part of the very broad and all encompassing, "Care & Control - Liberating/Constraining" continuum that has formed and sustained probation practice.

Throughout the literature, it is evident that probation practice originated, and is sustained, by ideologies articulated primarily in terms of providing a social work service - advising, and befriending - which includes the provision of support, care and help.

By helping with accommodation, budgeting, alcohol and drug treatment, employment, and by providing a counselling service for marital relationships, marital

problems and bereavement, this was understood as addressing and meeting the offenders "criminogenic" needs.

In addition to the provision of social work type services, officers also manage, contain and control probationers in the community, through surveillance, deterrence and, in some systems, punishment. In the past, these "control" terms were less used and acknowledged than the social work language, indicating that role conflict was very much in play within the latter dimensions of practice.

Nonetheless, officers throughout the world appear to be able to reconcile their care and control responsibilities and, although it creates more dilemmas for some than others, the dilemmas do not engender paralysis for probation officers.

Probation practice was, and remains, diverse. Probation officers utilise various ideologies and approaches that underpin and sustain their practice with individual offenders, the same phenomenon that is encountered when turning to social work methods.

Therefore, several methods are being used in combination rather than one specific method dominating practice anywhere. Probation officers tend to operate with an eclectic, diverse, and often situationally specific approach to methods.

... supervision effectiveness is based primarily on personal characteristics, on the officer's personality and the use he makes of it. There is something akin to mysticism in a good deal of this thinking. *(Clear and O'Leary 1983: 53)*

Among the various approaches commonly mentioned were the following: Empathy-Warmth, Cognitive-Behavioural; Reality Therapy; Rational Emotive Therapy; Rogerian; Behaviour Modification; Transactional Analysis; Individual Work and Counselling (pen-and-paper exercises, graphic presentations, motivational interviewing, task setting, liaison, brokerage and referral); Group Counselling; Career Counselling; Psychodrama; Psycho-dynamic Casework; Heimler Social Functioning; Psycho-Social Functioning; Client-Centred approach; Crisis Intervention; Life and Social Skills Training; Money Management and Debt Counselling; and Art Therapy.

The expertise/qualifications to use any one type of approach without regulation has also been raised, especially given the wide variation, suggesting that the lack of control and "licensing" of practice that guides and directs probation officer methodology allows probation officers to use whatever methods they choose without reference to any outside sources.

They can be, as Erickson suggested about psychologists in the 1970s and 1980s, "tinkers in a tinker's paradise".

There was variation in how specific practitioners were explicating the way they work. Some were particularly vague about methods, and the theoretical underpinnings of the work done with offenders - though sometimes defending this on the basis of a need to be pragmatic and theoretically eclectic. *(Burnett 1996a: 21)*

To use social work as a descriptive term for probation work is to sell it short (or to bestow on social work a specificity it may not possess) ...

What the probation service does is to manage risk and reduce reoffending; and all the tasks which it has added to its repertoire over the past 30 years have lent a particular weight to that claim: advising on and supervising parole and life licenses, managing community service, working in prisons to prepare offenders for release, offence-centred pre-sentence reports, the development

of offence-centred practice and especially of groupwork programmes, partnership funding, and so on.

The same consistent focus (managing risk and reducing offending) is involved in all those tasks where probation officers advise others on how offenders may safely be dealt with in the community: cautioning, discontinuance, bail/remand, sentencing, early release from prison, recall to prison. (Roberts 1996: 10)

In the 1980s, many researchers and authors attempted to distance probation from its social work roots suggesting

... a critical difference exists between traditional social-work roles and community supervision. In the latter context, the offender does not request the service voluntarily: involvement is required by law. (Clear and O'Leary 1983: 12)

Practitioners saw it, and continue to see it, differently, even to this day. "Probation officers are currently reeling from the latest Government directives which appear to confirm the intention to rip the social work heart out of probation practice" (Buchanan and Millar 1995: 195).

In our view, Probation faces a 'crisis of identity' which is marked by the drift away from social work principles. Some of the changes are in fundamental conflict with social work values; others have been implemented in ways which have shifted the delicate balance of care and control, giving too much emphasis to controlling functions. (Buchanan and Millar 1997: 33)

Regardless of the type of philosophical orientation or the counselling approach used, the literature is full of references to the relationship of caseload size to effectiveness. Despite the overwhelming association made, little research has been conducted to establish the relationship. An early 1969 study, The San Francisco Project, did study this issue and concluded that the number of contacts between probation officers and probationers had little relationship to success or failure on probation or parole (Robinson 1969).

Supervision practice issues

These include:

Client selection

- Use of Risk Assessment Instruments, or other predictive devices
- Conditions of supervision
- Variable vs. fixed duration
- Probation with or without supervision
- Matching

Caseload

- Workload and caseload standards and plans
- Frequency and Intensity of supervision
- Type (casework, case management, individual, team or groupwork, co-working, generalists, specialists, paraprofessionals or volunteers)
- Client advocacy

Conditions and rules

- Reporting
- Employment

- Abstinence
- Curfews
- Travel
- Association
- Change of residence
- Personal
- Counselling and treatment
- Compensation
- Drug testing (random vs. regular)
- Record checks
- Home and workplace vs. office visits
- Random vs. regular police reporting
- Collateral contacts
- Issues of confidentiality
- Notification of risk-third party

Sanctions and support

- Suspension/revocation and return to court
- Cost benefit and consequences of breeches for technical violations
- Monitoring
- Fee for service
- Financial assistance for offenders (tools, transportation)
- Provision for women and ethnic minority offenders
- Client advocacy

OPERATIONAL GUIDELINES FOR SUPERVISION

As has been alluded to elsewhere in this handbook, legal systems and indeed, the functions of probation services vary greatly from jurisdiction to jurisdiction.

Subject to the law and practices of each individual jurisdiction the following are issues which could be addressed:

- Policy and procedures to facilitate the probation service liaison with the court(s) to promote the prompt notification of the service concerning the identity of offenders who are placed on probation.
- Mechanisms exists whereby the identity of all persons placed upon probation is confirmed and their residence documented at the time of their first office visit.
- Supervision of a probationer by a probation officer who is known to the probationer by name.
- Processes to identify and act upon probation orders that require clarification from the court.
- Policy which specifies a maximum time period from receipt of an order to initial contact with the probationer, where a reporting condition exists.

- The giving by the probation officer to the client written information and an oral explanation in the course of the initial interview subsequent to the coming into force of a probation order, regarding:

Details of the probation order,

The confidentiality of probationer files and records,

Criminal code provisions regarding the enforcement, modification, and termination of probation orders,

- An explanation of the probation officer's role and obligations. Policies and procedures which govern the provision of services in applicable official languages and the use of inter and intra-jurisdictional transfers where such services are not available at one particular site or facility.
- Addressing the communication needs of probationers who do not speak any of the official languages.
- The advising of offenders receiving a sentence of imprisonment plus probation, or parole in relevant cases, of their probation or parole obligations upon release both at the beginning of the sentence and prior to coming into force of the relevant order.
- The participation of client in any development of the supervision plan beyond the mandated conditions in the probation order.
- The production of written status reports on probation service clients at regular specified intervals.
- Policy which outlines the content and format of written progress reports on a client file.
- The utilization of a method of classification which delineates the level of supervision to which probationers are assigned.
- The periodic review of the level of supervision to which probationers are assigned.
- The recording of a supervision plan in the client's file within a specified period of the coming into force of an order for supervision, including at a minimum:

The frequency of anticipated contact with the client (if not specified in the order),

An assessment of the client's ability to meet the obligations of the probation order,

An assessment of the level of risk of further illegal acts,

An assessment of the personal and social needs which, if met, will assist the client to meet the obligations of the order for supervision.

- The recording of all contacts with the client and with collateral sources on the probationer's file.
- The action to be taken by a probation officer who acquires information about alleged criminal activity.
- All convictions for criminal offences committed subsequent to the coming into force of a probation order are reported to the prosecutors, or Court, with a recommendation for or against a return to court.
- The criteria to be used by supervising officers in determining appropriate responses to violations of probation conditions.
- The conducting of audits on the quality of case supervision and the implementation of the probation order conditions.
- The establishment of liaison with the local police forces, prosecutors and courts with respect to supervision policies and practices.

- The utilization and encouragement of the use of existing community resources in meeting the identified needs of its clients in the areas of, as a minimum:

Employment,

Education services,

Personal and/or family counselling,

Health services, including psychological and psychiatric,

Debt counselling,

Money management

- The provision of supervision services beyond regular office hours, according to client needs.
- Policies and procedures which address the transfer of probationers inter and intra office.
- Policies and procedures with respect to probation orders which contain a condition for restitution and address:

The process by which money is collected,

Accountability for money collected,

Contact with and payment to the victim, as appropriate.

- The method by which clients and/or staff can make representations to change conditions in the probation order.

RECORDING AND ACCOUNTABILITY

UNITED NATIONS STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES

13.6 For each offender, a case record shall be established and maintained by the competent authority.

Issues

The probation service, by encouraging individualised approaches and professional autonomy - has inadvertently fostered uneven practice and a disregard for the need to obtain evidence of supervision effectiveness. A good example of this neglect is the traditional case recording system. Probation officer's records have been intended for the comparatively limited purposes of reviewing progress on an individual level or reviewing an officer's practice. Services are only now recognising that appropriate case records also provide opportunities for monitoring and evaluating different aspects of the service's work. (Burnett 1996b: 2)

OPERATIONAL GUIDELINES FOR SUPERVISION REPORTS

- Progress reports are intended to be periodic reports of a client's progress measured against the order of the court and the supervision plan developed on intake and recorded in the case record.

VIOLATION/REVOCAATION REPORTS

UNITED NATIONS STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES

14.1 A breach of the conditions to be observed by the offender may result in a modification or revocation of the non-custodial measure.

14.2 The modification or revocation of the non-custodial measure shall be made by the competent authority; this shall be done only after a careful examination of the

facts adduced by both the supervising officer and the offender.

14.3 The failure of a non-custodial measure should not automatically lead to the imposition of a custodial measure.

14.4 In the event of a modification or revocation of the non-custodial measure, the competent authority shall attempt to establish a suitable alternative non-custodial measure. A sentence of imprisonment may be imposed only in the absence of other suitable alternatives.

14.5 The power to arrest and detain the offender under supervision in cases where there is a breach of the conditions shall be prescribed by law.

14.6 Upon modification or revocation of the non-custodial measure, the offender shall have the right to appeal to a judicial or other competent independent authority.

Issues

The results suggest that, despite the introduction of National Standards for the Probation service, enforcement practices varied not only between areas but between teams and officers. This lack of system has resulted in pockets of poor practice, but it has also facilitated some enterprising and innovative approaches to encouraging compliance and dealing with breach. ... Interviews were carried out between September of 1994 and December of 1995 ... it is important to bear in mind that the National Standards published in 1992 were in force in all areas during this time. The current revised Standards were published in March 1995, but while interviews were carried out in two of the five areas after this date, neither of them had yet implemented the new Standards. (*Lewis 1996, in Ellis et al. 1996*)

With increasing frequency, especially in the USA, and more recently Canada, the courts have hinted at some degree of due process rights afforded to probationers and parolees prior to the actual revocation decision. In the USA, lower courts originally ruled that warnings against self-incrimination were required during supervision sessions or non-custodial interviews during which incriminating evidence was obtained that eventually led to further charges. While eventually overturned by the Supreme Court, such warnings are still required during custodial interviews, perhaps suggesting implementation during conventional post-revocation or suspension interviews.

OPERATIONAL GUIDELINES FOR VIOLATIONS AND REPORTS

Again, these have to recognize the differences in legal systems and differences in probation service functions. Under some legal systems, only the judiciary can vary a probation order or impose additional sanctions. Under other systems, the probation service, or a quasi-judicial body such as a probation or parole board, has powers to impose disciplinary measures. Subject to these qualifications, issues which could be addressed include:

- Recourse to arrest and custody during the implementation where an offender does not observe the conditions or obligations laid down in the decision subjecting him or her to a community sanction or measure.
- The dealing with, by discretionary means or, if necessary, by a fair administrative procedure, minor transgressions against instructions of the implementing authority or against conditions or obligations which do not require the use of a procedure for revocation of the sanction or measure.

- The right of an offender to make comments in any interview of an administrative character concerning minor transgressions. The content of this interview and any other investigatory action should be written into the individual case record and conveyed promptly and clearly to the offender.
- The prompt reporting in writing to the deciding authority by the implementing authority of any significant failure to comply with conditions or obligations laid down in a community sanction or measure.
- The inclusion of an objective and detailed account of the manner in which the failure occurred and the circumstances in which it took place in any written report on failure to comply with conditions or obligations.
- The right of an offender to have the opportunity to examine the documents on which any request for modification or revocation is based, and to present his or her comments on the alleged violation of any condition or obligation imposed before any decision on the modification, partial or total revocation of a community sanction or measure.
- The taking into account of the manner in which, and the extent to which any conditions and obligations laid down have been complied with by the offender in any case where the revocation of a community sanction or measure is being considered.
- The circumstances under which any revocation order should involve consequent imprisonment bearing in mind that imprisonment should still be the penalty of last resort, and that decision to revoke a community sanction or measure should not necessarily lead to a decision to impose imprisonment.
- The possibility for any condition or obligation laid down in a community sanction or measure to be modified, by the deciding authority, having regard to progress made by the offender.
- The capacity of the deciding authority to terminate a sanction or measure before it is due to end when it is established that the offender has observed the conditions and obligations required and it appears no longer necessary to maintain them to achieve the purpose of the sanction or measure.

USE OF VOLUNTEER PROBATION OFFICERS

UNITED NATIONS STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES

19.1 Volunteers shall be carefully screened and recruited on the basis of their aptitude for an interest in the work involved. They shall be properly trained for specific responsibilities to be discharged by them and shall have access to support and counselling from, and the opportunity to consult with, the competent authority.

19.2 Volunteers should encourage offenders and their families to develop meaningful ties with the community and a broader sphere of contact by providing counselling and other appropriate forms of assistance according to their capacity and the offenders' needs.

19.3 Volunteers shall be insured against accident, injury and public liability when carrying out their duties. They shall be reimbursed for authorised expenditures incurred in the course of their work. Public recognition should be extended to them for the service they render for the well-being of the community.

Where supervision is done by volunteer probation officers in the community, probation becomes the legal framework to differentiate their 'official' supervision from 'unofficial' friendship and support, and to mark it out as a disposition of the court which, when discharged, demonstrates that the offenders debt has been paid.

Where volunteers have been used, the following are the various roles that are normally assigned to them:

- Acting as behaviour models for probationers;
- Assisting probationers in finding employment;
- Helping to recruit and train other volunteers;
- Acting as tutors for probationers with limited reading ability; and offering many other talents and forms of assistance.

The tasks of probation officers in relation to the volunteers has primarily been in the area of recruiting, selecting, hiring, training and supervision of the volunteers.

Issues

Even though probation work in the USA originated from the volunteer work of John Augustus in the 1840s, until the 1960s, as in the United Kingdom and Canada, little attention was paid and directed towards the use of volunteers or paraprofessionals in probation and parole operations. Probation officers were, and strived to be, equated with professionals and throughout there has been controversy and opposition to the use of "unpaid staff" to supplement and in many cases, take over the job of probation officers, particularly in Europe and North America.

The use of volunteers cannot be divorced from the broader norms and relations on a given social, political, economic and ideological environment; historically too. Expertise-driven probation tends to reveal tensions with the volunteer's role and use in the system. In many countries, volunteers are still viewed with suspicion. Canada, England and Wales have no legislative basis for the use of volunteers and no central policies for training, developing, supporting, supervising or managing them. (Zvekic 1996: 4)

For the benefit of society it is necessary that there is also participation and self-activity on the part of its citizens. They must have the opportunity to indicate the trends of the development of society. Work by volunteers can be seen as a shape of this participation and self-activity. The new volunteer movement is an outcome of the emancipation of the young, the extension of universal education and a positive manifestation of a conflict between generations. (Tak 1984: 44)

Among civil law countries, differences exist in relation to the adoption of common law practices, the role of voluntary organisations, particularly the Church, and the co-option as supervisors of members of the community. This later tendency has been a strong element in Danish and Swedish probation, but assumes particular significance in those parts of Eastern Europe where a collectivist tradition led, in the years following the Russian Revolution, to the introduction of community supervision by youth and trade union organizations, families and workmates. (Harris 1995a: 26)

Since the 1960s, volunteers have been used in imaginative and effective ways, but their uneven development and deployment probably reflects the ambiguous and often antagonistic response by a professionalized service to their use as "unpaid help". It was argued that while, as in the original intent, volunteers may be local in

terms of age, social class, economic level and geographical location, they had little in common with the offender's immediate community. They do not reflect the ethnic and cultural make up that has resulted from increased nationalisation, migration and immigration. There were also concerns expressed that the time and effort to select, hire, train and then use volunteers was not considered in workload and resourcing formulas and standards. The main concern appeared to revolve around a potential undermining of professional status and job security.

Japan stands out in its use and acceptance of the volunteer concept, ascribing both status and responsibility to this role. According to Moriyama, the history of citizen participation in Japan can be traced back to the 7th Century. In 1988 there were about 48,000 volunteer probation officers in Japan making it one of the largest public participation systems in the world. The main activities are supervision and guidance of offenders, environmental adjustment of inmates prior to their release, and participation in crime prevention activities in the local area. Citizens involvement in the correctional phase is widespread. Some such examples are professional centred (the benevolent visitor), religious-based or lay centred. (Moriyama and Salama 1988: 193)

There is, however, an indication that here too, things are changing.

People's benevolence in general keeps decreasing ... the number of volunteer probation officers is now less than that prescribed by law and the majority of them are mature 60 year olds or older ... Basically, the difficulty consists of encouraging the younger generation to join in mechanisms of public participation. (ibid.: 199)

OPERATIONAL GUIDELINES FOR USE OF VOLUNTEER PROBATION OFFICERS

Here again, given the differences in systems, it is not possible to provide a definitive list. However, subject to the laws and practices of each relevant jurisdiction, the following could be borne in mind:

- Community participation pursuant to an agreement with the responsible implementing authority which specifies, in particular, the nature of the duties and the way they are to be carried out.
- The carrying out by participating organisations and individuals drawn from the community of supervision only in a capacity laid down in law or defined by the authorities responsible for the imposition or implementation of community sanctions or measures.
- The need to reserve specialist work for "professionally trained" staff.
- Criteria and procedures according to how individuals drawn from the community are selected, informed about their tasks responsibilities, limits of competence, accountability and other issues.
- Guidance and training of individuals drawn from the community to the extent necessary by professional staff in order to enable them to perform those duties which correspond to their capacities and possibilities.
- The demands of professional confidentiality in relation to participating organizations, and individuals.
- The insurance against accident, injury and public liability when carrying out their duties and their reimbursement for necessary expenditures incurred in the course of their work.
- The capacity of participating organizations and individuals drawn from the

community to be heard on matters of general character falling within their competence as well as those concerning individual cases and its provision of feedback information.

Part two
Management and administration

Organizational leadership

The search for new management structures to accommodate and incorporate new research findings, evolving social trends and conditions, as well as political and public moods is not new.

In fact, the contemporary history of correctional management has been described as a progression of fads, embraced with great enthusiasm and abandoned with chagrin (Corbett 1989: 74). It is not surprising, therefore, that probation and parole agencies were not spared from the negative effects and various managerial and organizational trends and buzzwords-including coaching, empowerment, paradigm shifts, downsizing, lean and mean, rightsizing, re-engineering, etc.

The Probation Service, then in managerial terms, has adapted the bureaucratising and rationalising approaches that have been typical of the modern organisation's search for efficiency, predictability, calculability and control. Yet there seems to be little resistance to this ... partly because managers want to be 'modern', information technology is modern and its possession puts one at the cutting edge. (*Oldfield 1994: 189*)

As there has been a historical and never ending search for new ways to prevent, minimise and deter crime, there has also existed in the science/area of management, a similar and parallel search for new and adaptive ways for organizations to best tailor and adjust the structures and techniques they inherited, adapted and now operated with a view to the new information on organisational purpose, function and design - the what worked best, with who and under what social, economic and political circumstances.

Many blamed the managers, the practitioners and the theorists for the problems that never seemed to end or go away.

Some people blame corporate problems on management deficiencies. If companies were only managed better or differently, they would thrive. But none of the management fads of the last twenty years - not Management By Objectives (MBO), diversification, Theory Z, zero-based budgeting, value chain analysis, decentralization, Quality Circles, "excellence", restructuring, portfolio management, management by walking around, matrix management, intrapreneuring, or one-minute managing-has reversed the deterioration of America's corporate competitive performance. They have only distracted managers from the real task at hand. (*Hammer and Champy 1993: 25*)

By the mid to late 1990s, given the progress made in, and lessons learned from, the many reorganizations and restructurings done poorly and, at great organizational and employee costs, with improvements hard learned in the areas of corporate management, restructuring and technology, a more positive, humane and sustaining approach has started to evolve within the management/organizational field specifically, and the criminal justice system generally.

Historically, however, and up to very recently, unlike in the research literature related to practitioners, there has been very little discussion in the criminal justice research or managerial literature about specific organizational and managerial techniques and/or applications which might influence, guide and affect the provision of probation services, policies and procedures, either to the client or to the community. In fact,

... it is only recently that management has emerged as a distinct entity within the Probation Service, an emergence marked by an increasingly instrumental approach towards individuals as policy units. It is also clear that the service's burgeoning managerialism has drawn increasingly upon models taken from a private sector characterised by the high use of information technology in the pursuit of commercial aims. (Oldfield 1994: 186)

This would appear to be because many probation agencies were, and still are, relatively "parochial" and small. Additionally, the administrative world of the agency is both marginalized from its potential partners and is often fractionalized internally resulting in reliance on the traditional hierarchy, on management strategies and techniques borrowed from business administration and other disciplines, as well as on researchers and organizational design experts who were not familiar, or associated, with probation or parole or to its pivotal role within the criminal justice community. The new work world of many probation, parole and correctional agencies and organizations was, therefore, not integrated either horizontally or vertically.

Clearly, the whole area of probation and parole management appears not to be widely studied, researched - especially from a comparative and international perspective - written about or even the object of much curiosity or speculation including in many broader academic circles. It is as if the art and structures of management, so much in the forefront in other areas of the criminal justice system as they adjust to funding, public and political pressures, has had little or no impact on probation service delivery or positioning and thus is of no concern to this criminal justice island.

Attitudes, isolation and organizational resistance of probation/parole agencies to the larger criminal justice organisation in which they were often situated did not help. Probation and parole have frequently been dismissed as different, outdated and even irrelevant by their criminal justice partners. "The probation service has been too inward looking and such an inward focus can only exacerbate a sense of detachment and marginalization from the rest of the criminal justice system" (Burnett 1996b: 3).

Community probation work has traditionally been strongly practitioner led. "... the client-centricity with which probation officers have for so long viewed their work has hampered their engagement with the local criminal justice system as a whole" (Harris 1992: 22).

"Professionalism", the strong client focus as well as the inability of management to perhaps understand or engage staff in a broader discussion of mission, vision, values, goals and objectives of the service have resulted in a situation where competing pressures and fissures have convened.

A shared vision is not the same as consensus ... leaders rally their communities to their visions, rather than accepting a least common denominator consensus. This does not eliminate conflict, it simply assures that enough of the community shares the leader's vision to overcome that opposition. (Osborne and Gaebler 1992: 327)

As a consequence of the inability of the probation service to achieve this "shared vision", at the managerial and executive level at least, there has been pressure upon the probation service to put forward a clear set of policies, procedures and standards which would include accountability and information mechanisms. These

could underpin and define professional practice structure, the principles and purpose of probation and parole, which officers have, for so long, been wanting to have in support of their efforts.

Surprisingly, despite the criticism, there appear to be few efforts of leaders to defend the practitioners leaving it instead to the researchers and practitioners themselves to explain away organizational deficiencies. Along the same theme, and in the same criminal justice system the problem of drift and abrogation of responsibility has been recognized.

I believe that there is also a need for leaders who can stand up for the public service. We have not been very successful, I think, in defining public service as a profession, with its own standards and dignity, and place in the world. We have not developed the self-confidence needed to state and maintain our proper role and contribution to society.

This too, is a question of leadership. Those in senior positions in the public service need to become bolder, more articulate and more effective in defining our profession, in ensuring that the public service receives the credit that it deserves for its accomplishments. We need to define what our professional competence is, and help create understanding of what the professional boundaries and functions should be. (Ingstrup 1995b: 21)

There is even less discussion in the professional literature about the need for, and development and implementation of, such policies or of coherent management systems and accountability structures. These include the setting of both corporate and individual objectives, the measuring of their achievements, identifying target groups, guaranteeing the delivery of services, maintaining their quality, holding individuals to account, and handling the services increasingly complicated external relationships, especially in the era of shrinking resources and public scepticism of the ability of governmental organizations to both deliver programs and protect their interests.

The discussion of organizational and management theories and approaches only began to show up in the USA journal, *Federal Probation* in late 1995 and early 1996, and even then, the articles were very theoretical and relied heavily on organizational change commentators, experts and “gurus” from outside the probation, parole, criminal justice or social work field. Issues originally identified by Fogel as early as 1980, have seemingly changed little until the 1990s when there was a convergence of issues facing the leadership of probation and parole services; the major one being the ageing of the “baby boomer” managers who, given their age and as a result of their numbers and early advancement to senior posts, caused promotion to slow down at all levels.

As a result, few were adequately prepared or able to take their place. Fogel stated, “There is no widely recognised school to prepare leaders for probation. There are no nationally recognised scholars, practitioners or administrators who can be called eminent leaders in probation” (Fogel 1980: 5).

In fact, with reorganizations, budget and staff reductions so common in all organizations commencing and continuing on much past this same time period, downsizing and restructuring processes had made the problem even worse in that many of the middle managers who normally would have assumed command, had been “delayed” out of the organization. Their corporate wisdom and history has, in many sites, all but left the office.

In the mid 1980s, the Judicial Conference's Committee on Criminal Law and Probation Administration in the USA, identified this problem and expressed a concern about this anticipated vacuum in capable and prepared leaders in Federal Probation and Pre-trial Services as a significant number of chiefs would reach mandatory retirement age by 1998-2000 (Seigel and Vernon 1994: 3). Additionally, the work of individual officers and the management of the offices had become increasingly complex and challenging, especially given the residue of the "nothing works" debate, the more recent "right wing swing", increasing public and interest group scrutiny and the economic situations of most governments.

As a result, the Federal Judicial Centre, also in the USA, was tasked to develop a three year Leadership Development Program for Federal Probation and Pre-trial Services Officers. The creation of such Leadership or Executive programs for potential correctional leaders occurred in other jurisdictions as well. However, as a result of budget reductions, organizational restructuring, and decentralisation efforts, few of these programs continue today - at least in their original form. Thus, for many of the line level staff, the landscape has changed little.

Even where they exist, and while there are standards for entrance and professional practice for practitioners, no such standards exists other as "guidelines" for managers and executives. By and large, this continues to date. Some have blamed this lack of leadership in the field on the fact that many probation administrators were appointed to top positions without any relevant criminal justice experience while others felt that the "M.B.A. Syndrome", the practice of appointing correctional leaders, who, even though they might be "insiders" were generalists and with degrees in Business Management, was at least partially at fault. (Gendreau 1996: 154)

This not only created a directional vacuum, operationally and professionally, within the departments concerned, but it made probation ill-prepared to make the necessary fundamental changes. Some have referred to these as major paradigm shifts, that were, and are, necessary in order to adapt to successive rounds of restructuring and reorganization.

When leaders come and go, it is impossible to create fundamental change. In virtually every example we know the key leaders ... have made long-term commitments. Yet top leaders in government, particularly political appointees, are often too busy climbing the ladder of success to stay in any one position for more than a few years. No organization is going to risk reinventing itself if it senses that its leader might be gone in a year or two. (*Osborne and Gaebler 1992: 326*)

Over the last twenty or twenty-five years the field of crime control - and the larger social and political field from which it drew support and authority - has been radically reconfigured. The probation service is now an element within a new field, a field that contains new players, values, power relations and dynamics. Far from being an exemplary or paradigm in this new context, probation appears uncomfortable, threatened, unsure of its role, and not at all confident of its social or political credibility. Internally, the service is conflicted and ambivalent ... with marked differences of opinion sometimes dividing management and field staff, or those who would swim with the tide versus those who insist that probation must maintain its traditional role. (*Garland 1997: 3*)

Whatever the reason, it is clear that probation practitioners, administrators, managers and leaders have failed to anticipate the changing political and social landscape and therefore lost the opportunity to create an effective and sustaining political and public constituency, both at home and on the international scene. This failure to engage those individuals and organizations that directly affect its day to day operations has resulted in a organization in need of a champion if it is to enter the new millennium in a proper political, organizational and financial position. "Nothing is more important than leadership ... One important element of leadership is the ability to champion and protect those within the organization who are willing to risk change" (ibid.: 326).

From the literature review, however, there has emerged a large number of areas of management interest, or long-term managerial concerns that have particular significance for community corrections managers, which seem to be of primary focus if probation, as a whole, is interested in building a viable and sustainable political and organizational framework.

These areas are important for several reasons, not of the least of which is that of survival: First, in order for administrators to carry out their tasks in an efficient and effective manner, they need to be fully informed about possible organizational and management problems and their possible solutions, which affect the smooth running of a probation agency; Secondly, there may be a number of areas in which any flexibility is denied to the administrator by law; and finally, management concerns can be a productive area for innovation in an area that thus far has been somewhat less innovative and eager to adapt new risk assessment and supervisory techniques and perhaps more resistant to change than other criminal justice system components. Knowing new techniques and principles, as well as the experiences of other jurisdictions, may be of considerable value to other departments contemplating changing, modifying, or improving an existing technique or adopting a new one.

Some of the areas of major concern requiring both attention and standardisation were the following: the need to clarify organizational purpose; the development of organizational "fit"; organizational design, upgrading technology to take advantage of "new ways" of doing routine and even complex tasks; the establishment of a community corrections career; and the urgent need to establish systematic data gathering, research and evaluation. Most important is the need for the probation service to become a valued and contributing member of an integrated criminal justice system delivery program.

There is a need for management or leadership style to match the cultural context within which a community corrections organisation finds itself. There are a plurality of ways to manage probation organisations and two examples are provided. They appear, at first, to be extremes, but in reality most leadership approaches reflect a mixture of the two, as well as other influences. Hence the two examples are generalist approaches to be applied to specific contexts.

The first style or approach is known in the UK as either New Public Managerialism (Hood 1991) or Management by Objectives (Beaumont 1995), and the underpinning features include the following:

- active management and control of the probation organisation by specialist managers from the top down;
- hierarchical structures, rigid boundaries and fixed roles;
- standardisation and the emphasis on measuring outcomes in quantifiable terms;
- a value for money concentration;
- targets, objectives and tasks linked to effectiveness and efficiency;
- an increasing use of technology and centralisation of the supervision of clients leading to formalised and highly structured methods of working with clients.

The influence of this style of management has been dominant during the past 10 years in the UK probation service but more recently an alternative style, that of partnership, has been highlighted (Raine and Wilson 1997). Key features of this partnership style include:

- democratic and participative values underpinning management activity;
- flatter management structures, power sharing, fluidity of boundaries and roles;
- communitarian principles and social leadership - the involvement of community members in both policy and practice initiatives;
- 'patch' or local community based networks or centres of probation rather than large centralised offices;
- a tendency to focus on process and relationships to achieve goals rather than standards;
- the use of informal methods of dealing with people who offend, to compliment more formal methods. (Gibbs 1997)

ORGANIZATIONAL PURPOSE

Little consensus appears to exist concerning the appropriate purpose of community corrections. The absence of a long-range perspective and commitment of subsequent and successive governments to an agreed upon 'mission' and/or direction has left community corrections in somewhat of a leadership void and directional vacuum. This failure has subjected probation to the winds of external events and change and has not positioned it well during budget allocation exercises. Additionally, it has also subjected these agencies to changes based upon the individual leader's philosophy which has increasingly been more closely related and tied to the government priorities and sensitivities of the day.

Few organizations have clarified their purpose in a way that enables line staff to make daily decisions with consistent attention to organizational purpose. Corporate performance has as its beginning goal clarity and this in turn requires attention to purpose. Clarification of purpose requires three steps: First, the philosophical underpinnings of policy and purpose must be identified, and choices must be made by leadership as to which orientation must prevail from competing alternatives. Secondly, these choices must be translated into a coherent set of strategically focused organizational goals that are consistent with the mission and purpose. Thirdly, staff must initially be oriented, and then continually educated and refreshed on the organization's mission and goals (Travis 1985; Ingstrup 1995c).

It is not enough that a leader has a vision of change; he or she must get other community leaders to buy into that vision. The key element is a collective vision of a city's or state's future—a sense of where it's headed. (*Osborne and Gaebler 1992: 327*)

ORGANIZATIONAL "FIT"

The actual legal or legislative status of the service must be well defined, i.e., the probation service is an entity defined and prescribed by law. Organizational "fit" also requires the development of internal policies and procedures that are consistent and support the organizations' place in its external environment, that created by law.

Placement issue (executive or judicial branch placement)

The positioning of probation services varies widely. Controversy exists on whether probation should be part of the judicial or executive branch of government, whether it should have a social work, law enforcement or correctional orientation including, and especially, who should administer it.

Those who favour it in the judicial branch state that: probation would be more responsive to the courts; relationship of probation staff to the courts creates an automatic feedback mechanism on the effectiveness of dispositions; courts will have a higher awareness of resources needed; and if probation were incorporated into a department of corrections, it might be assigned a lower priority than it would have had it been part of the court. Opponents argue that: judges are not equipped to administer a probation agency; services to probationers may receive lower priority than services to the courts; probation staff may be assigned duties unrelated to probation; courts are adjudicatory and regulative rather than service oriented bodies.

Supporters of placement within the executive branch argue: allied human service agencies are located in the executive branch; all other corrections subsystems including law enforcement are located in the executive branch; more

co-ordinated and effective program budgeting as well as increased ability to negotiate fully in the resource allocation process becomes possible; reduction of officer isolation and access to improved staff training and career development opportunities; as well as co-ordinated continuum of services to offenders and better utilisation of probation manpower are facilitated.

ORGANIZATIONAL DESIGN

Considerable debate, and little apparent consensus, exists on particular structural arrangements which may facilitate, or hinder, the delivery of probation services. Management and organizational questions are often posed or responded to on the basis of “turf” or bureaucratic power, authority and control.

Successful organizational design is important as too rigid and hierarchical structures may defeat the very purpose or mission of the organization. Traditional bureaucratic structures which are layered and stratified take up inordinate amounts of energy in bureaucratic process rather than in the delivery of services. The hierarchical chain-of command defeats both creative discretion at the operating level and accountability for results at the management level. The organization of work with offenders around “casework or caseload” carried by individual officers rigidifies helping activities, impedes service brokerage, and preserves the illusion of “therapy” which may better meet the needs of staff than those of probationers and parolees (Nelson *et al.* 1978).

On the other hand, too loose a management and organizational control may not produce the necessary organizational consistency and produce a structure and organization that is isolated, fragmented, slow moving and slow or incapable of adapting to emerging issues, new trends or to embrace new technologies and systems. Ultimately such organizations have difficulty competing for resources and support both at the political and at the community level. More seriously, a 1968, US Joint Commission on Correctional Manpower and Training summarised its survey of probation agencies by concluding among other things that: “... local agencies are less interested in experimental programs and there has been little serious interest in evaluation of impact”.

In the UK, as elsewhere, the position of the government was stated clearly in that they believed that delivery of the local service, however locally accountable for practice must still take place within a centrally determined framework of objectives and accountability mechanisms.

Other relevant issues that are important to address are:

- Qualifications of senior administrator or chief executive officer
- Annual budget approval and allocation by a central agency
- Selection and role of “board” functions (where they exist)
- Centralized vs. decentralised administration
- Organizational structure and accountability
- Central national government vs. state or local government
- Relationship to courts, police and community
- Responsibilities (juvenile and adult)
- Integration into other criminal justice/correctional system function i.e., parole
- Staff security and protection
- Expectations of staff

- Legal status and limitations, representation and indemnification, civil and criminal immunity
- Confidentiality of information and files
- Pay structure and comparability
- Support services
- Transportation assistance-impact and limitations of geography
- Guarantee of probationer rights, including right to counsel
- Pre and post trial functions
- Integration of probation, parole and institutions
- Intake procedures and assignment
- Specialization (matching) vs. generalisation
- “Provider” (case worker vs. case manager) vs. “broker” (resource mobilization)
- Investigative mandate
- Private sector & privatization - “contracting out”
- Use of surveillance technologies

Standards, staff, management and performance measurement

An organization's management systems - the ways in which people are paid, the measures by which their performance is evaluated, and so forth - are the primary shapers of employees' values and beliefs. (*Hammer and Champy 1993: 75*)

Issues

"Effective practice can be wasted if it exists in a weak management framework" (Roberts 1996: 11).

While staff recognize and accept the need for standards and management controls and structures, in practice they have difficulty operationalizing and integrating these into day to day practice or seeing the interconnection of standards, information and management systems, organizational and system demands or application of structures within their daily work.

... the majority regarded some aspects of National Standards as disadvantageous or problematic.

The most frequently mentioned disadvantages of having to work with standards were: the amount of associated time and administration getting in the way of the "real work"; and an emphasis on the quantity of contact rather than the quality of the work that is done. (*Burnett 1996a: 26*)

A related development is the widespread movement towards a managerialist business-like ethos which emphasises economy, efficiency and effectiveness in the use of criminal justice resources.

Central government initiatives such as the Financial Management Initiative have been applied to all public services, including (belatedly) the police, courts, the prisons and community measures, and have led to the development of clearly specified "performance indicators" against which the organisation's activities can be measured, as well as an emphasis upon strategic planning, line management, devolved budgets and financial responsibility within the agencies. (*Garland 1996: 455*)

Many, if not most, community corrections agencies do not collect information on what might be agreed on as true performance indicators.

A number of reasons have been postulated for this.

However, the main one seems to be that such agencies still have an unclear primary mission, with confusion about what activities contribute to that mission, how best to assess performance related to achievement or attainment of that mission and the lack of accountability mechanisms for performance of the primary objective of the service.

Given the organizational and directional focus problems since Martinson's article in 1975 as well as the more recent political and economic uncertainties of the 1990s for such agencies, this is not surprising.

But nonetheless, if the current malaise is to be addressed, it is a necessary prerequisite for future growth and development, especially in relation to political and public credibility.

Most managers work in government, after all, not to enrich themselves, but to have some positive impact on their community.

That opportunity is available only to the degree that they can get control over resources.

How do they get that control?

Through the budget system. Results oriented organizations find that they ultimately need to develop budget systems that fund outputs, rather than inputs.

There are several ways to do this, depending on the service and organisation involved ... by adding output and/or outcome measures to a mission-driven budget. (*Osborne and Gaebler 1992: 161*)

While much of the literature speaks to the need for standards of practice, few if any of them have addressed the need for measure indices which would clearly outline how well they are doing in regard to these "models and understandings" of effective practice and methods.

A necessary first step to developing performance indicators is to articulate the organization's mission and goals. "Clarity of mission may be the single most important aspect for a governmental organisation" (*Osborne and Gaebler 1992: 130*). But

Without supporting management systems, most corporate value statements are collections of empty platitudes that only increase organizational cynicism.

To be worth the paper it is written on, a value statement must be reinforced by the company's management systems.

The statement articulates values; the management system gives those values life and reality within the company. (*Hammer and Champy 1993: 75*)

Public organizations work best when they have one clear mission. Unfortunately, governments tend to load several different-and often conflicting-missions on each agency as the years go by. (*Osborne and Gaebler 1992: 131*)

Historically, probation and parole organizations have had difficulty articulating, developing and maintaining these, as differing goals are often given by administrators and staff within the same department.

Even where mission statements have been developed they are often not shared by staff, the result being that the mission exercise becomes a public relations one for external agencies or audiences.

Opportunities are lost to develop working statements that assist the agency to move forward and to more clearly articulate an accountability framework with well defined performance criteria that determine the extent to which the activities are being performed and the goals are being achieved.

OPERATIONAL GUIDELINES FOR DEVELOPMENT OF PERFORMANCE INDICATORS

Matters to be addressed include:

- Efficiency and effectiveness issues
- Accuracy and completeness of reports
- Validity of assessment instruments
- Recommendations vs. decisions
- Number of employment days – days actually worked
- Number of treatment days – days actually in “treatment”
- Percentage of offender violations
- Workload ratio (activities)
- Caseload ratio (cases under supervision)
- Minimum standards of reporting
- Number and type of supervision contacts
- Program descriptions and evaluation completed regularly
- Satisfaction surveys:

Client (Gibbs 1985)

Staff

Courts

Prosecution

Victims

- Staff feedback

FOLLOW-UP REQUIREMENTS

- The establishment of periodic audit exercises as a management practice in order to ensure compliance. The development of management accountability mechanisms.

OPERATIONAL GUIDELINES FOR THE STANDARDS FOR PROCEDURAL RIGHTS, DUTIES AND REDRESS

- The availability of human rights information and guidance as well as the obligations of probation staff towards probationers to probationers, staff, citizen advisors and volunteers on request.
- The establishment of policies and procedures, reviewed on a regular established timeframe, which ensure that those rights of probationers, not lost by statute, are protected and upheld.
- Awareness by the employees of the probation service of the rights of probationers.
- The development of policies and procedures to ensure that probation officers and other staff are aware of their rights and duties as established through legislation and/or employer - employee agreements in the collective bargaining process as the case may be.
- The development of a process to receive, investigate, and resolve grievances or alleged infringements of rights. The process(es) address(es):

Probationers and other clients,

Staff,

Volunteers,

Related professionals and the general public.

- The availability of a complaints procedure to an offender who wishes to complain against a decision concerning the implementation made by the implementing authority, or the failure to take such a decision
- The procedure for the initiation of complaints should be simple. Complaints shall be examined promptly and decided upon without undue delay.
- The complaints authority or body should obtain all necessary information to enable it to decide on the complaints. Careful consideration shall be given to the desirability of hearing the complainant in person, especially when he or she has expressed such a wish.
- The decision of the complaints authority or body and the reasons for the decision should be communicated in writing to the complainant and the implementing authority.
- Permission to be assisted by a person of his or her choice or, if necessary, by an officially appointed lawyer, where legislation provides for such assistance, may not be withheld from an offender who wishes to exercise a right of complaint against a decision concerning the imposition, modification or revocation of a community sanction or measure, or against a decision concerning the implementation of such a sanction or measure.

UNITED NATIONS STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES

20.1 As an essential aspect of the planning process, efforts should be made to involve both public and private bodies in the organisation and promotion of research on the non-custodial treatment of offenders.

20.2 Research on the problems that confront clients, practitioners, the community and policy makers should be carried out on a regular basis.

20.3 Research and information mechanisms should be built into the criminal justice system for the collection and analysis of data and statistics on the implementation of non-custodial treatment for offenders.

21.1 Programmes for non-custodial measures should be systematically planned and implemented as an integral part of the criminal justice system within the national development process.

21.2 Regular evaluations should be carried out with a view to implementing non-custodial sanctions more effectively.

21.3 Periodic reviews should be conducted to assess the objectives, functioning and effectiveness of non-custodial measures.

Commentary on the Minimum Rules

The systematic collection and exchange of information, together with the results of research and policy analysis, are desirable for the evaluation and promotion of non-custodial measures, as well as for the planning of programmes for non-custodial measures and periodic review of those plans. (United Nations 1993: 36)

Non-custodial measures are new and developing. States have much to learn from each other. Comparative research, evaluation of the success of various non-custodial measures and intensified training to extend their use would further the application of more effective and humane non-custodial measures within the criminal justice system. (ibid.: 38)

The probation service is too important not to be given a stronger research base. There is a need for a new and strategic research agenda to fill what has been a lacuna in criminological research. A new injection of research resources into the domain covered by the probation service is appropriate - not simply because research related to the work of the service has been neglected and fragmented in recent years (though that is true), but because the horizons of criminological investigation and knowledge could be advanced by inquiries centred in the probation field as an alternative to the more frequently visited sites of research: the courts, prisons, police. The ensuing research agenda would be, not so much for the probation service as, derived from it - that is from its strategic focal point in the community. The proposed research agenda will not merely investigate the probation service, but more broadly, related aspects of the criminal justice system, social policy and social conditions. (Burnett 1996b: 1)

Research should be in support of both programming and management initiatives. The importance of research and evaluation is further recognised by the Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders which put forward a number of principles for policy-oriented research on non-custodial sanctions.

In order for research on non-custodial sanctions to have immediate policy relevance, it should focus on those areas and issues which present obstacles to the realisation of the potential on non-custodial sanctions within a specific system, should address problems confronted by decision-makers and administrators, ensuring their collaboration in all phases of the research process, and should present its findings in an easily applicable form. Research should seek to determine the appropriateness of various non-custodial sanctions in view of criminal policy and socio-economic, political, legal and organisational requirements and resources, and in view of the culturally specific contexts in which the non-custodial sanctions are to be applied.

Research should investigate the possibility and outcome of the incorporation into non-custodial sanctions of various measures, such as community work, compensation/restitution, treatment and/or combinations thereof, and of utilising traditional and culturally relevant non-custodial sanctions.

Evaluation research is necessary for the promotion of practices in criminal policy, legislation and sentencing that are based on the informed appreciation of the prerequisite conditions for and the benefits of non-custodial sanctions. *(United Nations 1991)*

Research is needed on the normative structure that determines the availability and application of non-custodial sanctions. Non-custodial sanctions cannot be imposed where the law does not allow for their imposition. Furthermore, certain legal provisions related to non-custodial sanctions may unintentionally deter their use in practice. For example, the procedural requirements for the imposition of certain non-custodial sanctions may bar their imposition in simplified proceedings.

Another example is that the greater use of non-custodial sanctions may widen the statutory discretionary powers of certain authorities. This may be in conflict with other policy goals, such as the goal of ensuring due process. In addition, the introduction of non-custodial sanctions through legislative action requires analysis of the proper place of the sanction in the normative scale of punishments.

In regards to sentencing, research is needed on the factors considered by the sentencing judge or tribunal. Unexpected factors may have a decisive influence on the sentencing process. The little research that is available has suggested, for example, that some judges will not consider non-custodial sanctions that require a social inquiry report.

Further in regard to sentencing, it is possible that the imposition of non-custodial sanctions is discriminatory, as has been argued to be the case with sentencing to imprisonment. For example, fines may be imposed only on those who are able to pay them; community service may be imposed only on offenders who have certain characteristics that were not necessarily envisaged by the legislator; or the milder forms of non-custodial sanctions may be imposed on offenders who have a high standing in the community.

An area of research that is related to sentencing concerns attitudes. Clearly, the attitudes of the sentencing judge affect his or her decision on what available options to use. As important as the attitudes of the sentencing judge are the attitudes of the other persons involved in the implementation of non-

custodial sanctions. In particular, the degree to which a non-custodial sanction is “accepted” by professionals as well as by the community influences the probability that this sanction will actually be applied. Research on changes in attitudes (showing the causes and extent of such changes) might be of assistance in the planning of the introduction or expansion of non-custodial sanctions.

A key factor to the “success” achieved with the use of any non-custodial sanction is the extent to which the policymakers, courts, other practitioners and agencies, and the community are informed of the effectiveness of the sanction. Indeed, the effectiveness of non-custodial sanctions (and, indeed, the effectiveness of sanctions in general) has long been a popular subject of research. Regrettably, the research on effectiveness of sanctions has yielded relatively meagre results. Yet it is indispensable and should pay special attention to criteria and methodologies for measuring the effectiveness of an adopted sanction, taking into consideration various interests and needs involved. Moreover, evaluation research must focus on the effectiveness of various non-custodial sanctions for various types of offenders with different characteristics and severity of crimes. It should also consider the relative effectiveness of non-custodial and custodial sanctions on successful completion of the conditions required, access to services, rates of recidivism, and a reduction of overall and specific costs of crime control. In the evaluation of non-custodial sanctions, attention must be paid to the consequences of their wider application on the reach, degree, and type of control exercised in society, as well as on the processes of decriminalization/criminalization.

The problems faced by evaluation research on the effectiveness of non-custodial sanctions, and of evaluative research in general, are as great as expectations. Nevertheless, as noted, the promotion of non-custodial sanctions calls for research on effectiveness. This review of the available research and data on non-custodial sanctions throughout the world began with the observation that different countries share much the same problems and concerns. This suggests that one promising approach to the issue is through comparative research and systematic exchange of experience drawn from different policy options. (*Zvekic 1994: 26-28*)

Research and evaluation issues

A major difficulty and flaw facing probation services generally has been that community corrections has, by and large, never been able to, in answer to its critics, show that it “works”. The “what works” research findings are loose, over general and the impact of specific practices on different probationers is still largely unknown.

Clearly, good, relevant and up to date data is essential.

A browse through the bibliographies of relevant tests reveals that the literature on the probation service is, with few exceptions, either dated or desk-top reports of local studies, or unpublished conference papers. While probation services has become increasingly enterprising in running projects and producing unpublished reports on these, the small samples, short time periods and limited data sets make it inevitable that such research lacks the sophistication and methodological rigor which probation studies should demand. (*Burnett 1996b: 5*)

“We need much more investigation into the effectiveness of probation practice with a view to improve the matching of interventions to offenders and others who use the service” (Burnett 1996b: 2). Imprecise research methodologies and agreed upon criteria were somewhat to blame.

However, in the literature, the following have also been put forward as problematic: most innovative programs have not been sufficiently analysed or evaluated due to insufficient data; problems of sample size, definition of success, insufficient control groups, the setting, inadequate matching, lack of follow up, research done locally and in-house, inattention to proper procedures, under-analyzed data, lack of baseline data, or through the use of inappropriate statistical methods.

Specifically reporting on the research in the USA, Petersilia commented that, “Historically, recidivism rates - an offender’s return to crime after some intervention - have been the gauge by which community corrections has been evaluated.

And after hundreds of research studies (mostly poorly done), the weight of evidence shows that community corrections programs have not been able to reduce recidivism” (Petersilia 1993: 165).

It has been suggested that the measure of success or failure, recidivism needs to be revisited.

Specifically, if one accepts that recidivism is a useful measure of success, it is not clear which direction indicates success.

If one believes that the major mission of community corrections is to protect the public - emphasising the surveillance function - then perhaps increasing recidivism rates (for example, returns to prison) is a positive-not negative-performance indicator. If offenders are convicted of a crime and incarcerated, then public safety is being served.

But if rehabilitation is the primary goal, as it has historically been, then decreasing recidivism indicates success. (*Dilulio 1992, in Petersilia 1993: 67*)

The service has lacked a clear vision of how effectiveness should be judged, and, - by encouraging individualised approaches and professional autonomy - has inadvertently fostered uneven practice and a disregard for the need to obtain evidence of supervision effectiveness. (*Burnett 1996b: 2*)

The American Probation and Parole Association has called for the inclusion of other intermediate outcomes in program evaluations.

These would measure the offenders’ activities while on probation or parole supervision (for example rates of employment, drug use, participation in work and education).

The Association has argued that programs do affect offender behaviour, and that the effects would be shown if these mediating outcomes were measured.

Others have argued that, given the multiple objectives expected of a probation organization, the failure to articulate clear mission and goals has been a major impediment to proper evaluation.

The 1970s and 80s saw a period of considerable pessimism about the scope for achieving any constructive outcome in sentencing.

It was widely believed that nothing could be done either at the point of sentencing or in giving effect to sentences which could reduce the chances of reoffending.

The evidence to support such beliefs was less than firm than was recognised at the time. Researchers using the statistical technique of 'meta-analysis' have re-evaluated the studies and come up with more positive results.

Advocates of rehabilitation now believe that they have a new and more powerful research tool known as "meta-analysis" which is a technique of standardising, combining and then analysing the results of a large number of previous research studies which individually may have been too small to show statistically significant results. (*Hough 1997: 1*)

Since the mid-1980s a number of reviews have been undertaken using the statistical tool of 'meta-analysis'. This method has been developed to facilitate the review process and enable reviewers to combine findings from different experiments. (*Wolf 1986*)

Meta-analysis

... involves the aggregation and side-by-side analysis of large numbers of experimental studies. Essentially the procedure of meta-analysis requires the recalculation of the data from different experiments in a new all-encompassing statistical analysis. (*McGuire and Priestly, 1995*)

The technique, however, is not without its own critics and several of them claim, that it is being misused and may only

... turn the lead of inadequate experiments into the gold of established knowledge

... Meta-analysis is a legitimate research tool, but it is easy to misuse.

To be sure, meta-analysts are not deconstructionists who merely read into the literature whatever they please but their technique imposes such demanding methodological requirements that it is difficult to conduct a meta-analysis which controls and adjusts for errors in the primary studies without introducing new errors and biases of its own. (*Logan and Gaes 1993: 247*)

But notwithstanding the criticism,

Generally the results show that there are consistently positive trends behind the individually non-significant results of the evaluations of the last thirty years. Together with more recent evaluations, they suggest that some types of court disposal can reduce the risk of re-offending significantly.

The emergent consensus (cf. Andrews et al. 1990; Gendreau and Ross 1987; Lipsey 1991; Losel 1993; Hood 1995) is that rehabilitative gains are largest when programmes:

- target high-risk offenders,
- focus on offending behaviour,
- are clearly-structured and properly implemented, and
 - staff are clearly motivated and well trained. (*Hough 1997: 1*)

More recently, with restructuring and reorganization, has come "downsizing" and "rightsizing" the latter being the reallocation of resources and positions from lower to higher priority areas which is designed to ultimately result in a more efficient and effective organization, with theoretically fewer levels of management and support specialists.

All these passing "fads" have distracted both managers, practitioners and researchers, as they must spend time re-evaluating their programmes, their budgets and how they can deliver those considered 'core' within an ever shifting and

unstable financial and personnel support. Thus program evaluation, as a managerial tool is an 'absolute' necessary precondition to political and organizational budget sourcing, resourcing and reallocation as such reductions or reallocations cannot properly be accomplished without appropriate research and evaluation to establish 'effectiveness'.

Unfortunately, with budget reductions has come a privatisation of the research and evaluation function, with a potential concomitant relationship to standards and quality.

It is the policy of a growing number of services to purchase evaluation and invite competitive tenders to undertake the work.

The present interest in evaluation is part of a movement which affects other public services and the voluntary sector: therefore - not only should the ... probation areas ... strive to share their methodology - some co-ordination with other public services seems to make good sense. The probation service should be well - placed to make relevant connections. (*Burnett 1996b: 7*)

Despite the advances, research and evaluation have tended to be little used within the day to day practice of probation and parole officers.

Researchers have often been accused of addressing issues that are of limited relevance to day-to-day practice; of producing reports that are indigestible and obscure; and of failing to recognize the mechanisms by which, in organizations such as probation departments, policies and practices are developed and changed. (*McIvor 1995: 209*).

Today the knowledge creating process has become deeply fragmented.

The three core activities are typically carried out by specialized, disconnected, often antagonistic institutions: universities, consulting firms and businesses.

Too often the results are ivory-tower research that is rarely applied, consulting projects that offer recommendations for solving problems but rarely build people's ability to stop creating the problems in the first place, and non-stop fire fighting as managers carom from crisis to crisis. (*Senge 1997: 32*)

People, and especially leaders, are largely confused and spend much time on tactical approaches rather than strategic ones simply because they have not understood the complexity and inter-relatedness of the problems and solutions they are dealing with.

They have not learned to network, create effective partnerships nor have they learned to work together, either with their staff or with their 'partners'.

They do what they do out of ignorance, not intent, of the total picture.

They must learn to adapt a new style - one based on stimulating the organization - not controlling it, to provide strategic direction, to encourage learning, and to make sure that there are safe ways for transferring the research and evaluation lessons, up and down the organizational ladder.

OPERATIONAL GUIDELINES FOR PROGRAM EVALUATION

- A current written description exists for every program offered
- The program description exists that includes, at a minimum:

Description of need

Target population

Specific objectives

Means of achieving intended results

Criteria by which to measure achievement or non-achievement of objectives

Relationship to other components of the criminal justice system and the community

Relationship to programs and components of the organisation of which it is a part.

Financial costs

Method of a cost-benefit analysis.

- The development of policy and procedures which ensure that evaluations of it's programs are conducted periodically, and address at a minimum:

Need

Adequacy of resources

Relationship with other programs and components of the service

Relationship with the overall programming of the correctional organization

Financial costs

Attainment of objectives

Participation in the evaluation by persons affected by the program such as clients, staff, volunteers, and others

Recommendations

Distribution of evaluation reports

- There is a process in place to respond to recommendations resulting from program evaluations.

Research guidelines

Research conducted by probation services is used to enhance and improve the way the service carries out its mandate. Hence, there will be a strong emphasis on research that can be applied to the Service's policies, programs and management of probationers.

Types of Research

The majority of research initiatives can be conceptualized along a continuum of offender management. Therefore, research will strive to:

- Improve the way information is gathered on intake to probation,
- Help staff use this information to make decisions about level of supervision and which programs or treatment are needed while on probation,
- design institutional and community programs critical to the ability of probationers to live as law-abiding citizens,
- Monitor which types of probationers benefit from which types of programs,
- Examine which supervision strategies are best suited to particular types of

probationers,

- Improve the gathering of information on probationers when they are first released into the community, and
- Improve the management of probationers in the community.

Quality Assurance

In order to maintain a standard of quality and relevance, the conduct of applied research on probationers requires:

- A particular combination of technical expertise and operational experience.

Policy Direction

The research activities of the probation service, as outlined in their operational plans, reflect the status of both current and new initiatives. Many research projects are carried over from one year to another.

Current initiatives typically involve the development, implementation and ongoing monitoring of major offender programming or assessment initiatives.

New initiatives are designed to address the current, emerging and anticipated strategic priorities of the probation service.

A policy framework for conducting research, in general, directs how research on probationers should be carried out. It covers:

- Reviewing research proposals,
- Establishing priorities,
- Obtaining agreement with researchers,
- Conducting research projects,
- Offender participation in research,
- Medical research, and
- Review/publication of research. (Motiuk 1997: 1)

Professional issues of staff

Probation has been deeply affected by the erosion of the penal-welfare policies and practices that occurred in the 1980s and 90s, and also by the diminishing power of welfarism, social engineering and solidarity as political ideals. Its close identification with social work, and through it with the welfare state, has become a liability rather than an asset. Similarly, there has been a marked decline in the credibility of 'professional authority' and the 'social rationality', which robs probation (and other forms of social work) of much of its power and prestige. (Garland 1997: 3)

Most of the practitioners ... gained their job satisfaction from seeing positive change and improvements in their probationers than from seeing anything else ... that such issues were emphasised in discussions of job satisfaction suggests that the results of their work, irrespective of the mode of working with offenders, is of prime importance. (Burnett 1996b: 27)

Issues

Despite its wide usage, probation and "community corrections" has often been the subject of intense criticism, primarily because they have not been able to shake a "soft on crime" image and, as a result, have had trouble garnering public and, in many cases, strong political support. While there is general public support for the concept of community diversion and sanctions, current programs and processes appear to be viewed as flawed and inadequate. Occasional high profile offender failures have contributed to the overall perspective. In addition, current programs are perceived rightly or wrongly, to be unable to provide for either offender supervision or rehabilitation and even less for overall public safety.

This has been the basis for several government wide reviews in various countries. These have placed a lessened emphasis on the goal of rehabilitation and have instead focused on management, control, surveillance and containment of offenders. As a greater uncertainty on the causes of crime and solutions to it appears to manifest itself, so increases the search for other and newer, less expensive alternatives including crime prevention, as well as an integrated criminal justice policy based upon effective containment, control and cost sharing.

To further complicate the picture is the fact that community corrections is an ambiguous concept. It is a legal status, a service delivery mechanism, and an organizational entity. As an organizational entity, it has objectives and performs a wide variety of functions and activities, many unrelated to offender supervision and/or treatment. As David Fogel observed:

... probation lacks a forceful image that other occupations in criminal justice can claim. Police catch criminals, prosecutors try to get them locked up, judges put them in prisons, wardens keep them there, but probation in the public view, offers crime and the criminal a second chance. (Thomas 1983: 3)

The virtual absence of theory for probation about which there is some consensus is undoubtedly a matter of concern in the area of community work because of the relative ease with which it is possible for staff to become caught up in a succession of projects and activities in the community which bear little relation to each other or the rest of the work of the probation service. (Henderson and del Tufo, 1991: 10)

The role of a probation officer is not, and never has been, an easy one. It has, it seems, been becoming more difficult and complicated in the last decade, paradoxically as the organizational infrastructure has grown and evolved. The literature and anecdotal reports are full of numerous examples of line staff stress and burnout. Some of this is caused by a fundamental shift in how work is done and how staff within the probation services have embraced new philosophies and technologies.

Much of the stress, however, has also been caused by both workload and organizational growth, along with endless reorganizations, restructuring and rightsizing exercises due in part to economic realities and governmental responses to trends in the private sector. But the majority of the reaction has been due to probation administration not anticipating the challenges and having lost its way, failing to obtain the political and public support but more importantly, the support and respect of their own line workers. The results can be and are central to the mission, direction and outcome of these very organizations, because:

... the way in which the correctional system is being managed has a significant impact on the rate of incarceration; and second, I will argue that the way in which a correctional system relates to its offenders has a direct and significant bearing on public safety. (*Ingstrup 1995c: 7*)

... there is an urgent need for those that work in correctional services to become professional in a true sense - to understand what their profession is. There is a need to define what they are there to accomplish, and, of utmost importance, to determine the strategies which will allow them to accomplish their goals. And I believe that the development of a truly professional approach to corrections will ultimately and inevitably have a dampening impact on the widespread excitement about incarceration as a means for fighting crime. (*ibid.*)

In the last 15 years, in the UK and in other Commonwealth countries, the probation services have nearly doubled in size, and have been assigned a steady flow of new responsibilities as a result of new criminal justice legislation and both governmental and departmental policies. In other countries, particularly in North America, while the growth pattern at least related to caseload size has been similar, whole layers of supervisory and functional middle managers have been deleted from the organizational structure.

All of these changes and trends have led probation services to prematurely develop more lean, complicated and complex organizational structures, often borrowed from the corporate world, and to function more reactively and bureaucratically. Additional workload and new responsibilities in the area of crime prevention, wars on drugs and drunk drivers, victims services and re-organization have inevitably led, at times, to a "drawbridge mentality" (Henderson and del Tufo 1991: 1). Other countries and probation services report similar workload growth without additional officer complement.

Community corrections agencies, both public and private, are beset with a tradition of personnel problems that have inhibited development of meaningful careers. In some agencies, probation is seen as an early-career/entrance level position which most people will eventually leave for more senior level positions elsewhere in the criminal justice system. In others, probation officers and administrators are seen as starting a second or third career, not having been particularly successful in the earlier. Few line staff stay in community corrections for

their entire professional career (Clear 1985: 40) thus depriving the organization of not only badly needed expertise but corporate knowledge and memory as well as training and mentoring expertise.

Often those who perform at the “superior” level are promoted to supervisor or to other managerial level positions within the criminal justice system but outside the particular probation or parole office, again with the same effect on the organization and the remaining workers. Probation’s top leaders or administrators tend not to have been practitioners and in many cases, political appointees or career bureaucrats thus further weakening the structure.

Hiring, training, evaluation, and career development processes need to be established through the development of long-range planning and personnel practices that are consistent with organizational objectives.

All of the above have led to job stress and dissatisfaction among probation staff and administrators alike. A survey of the literature has identified the following as contributing factors to a growing malaise among probation/parole staff that needs to be addressed:

- Lack of clear definitions of functions probation should perform.
- Identifying scarce resources - climate of restraint.
- Increasing number of offenders.
- More severe multi-problem offenders on probation/parole.
- Longer sentences.
- Pressure for accountability.
- Pressures to use probation/parole to adjust prison overcrowding.
 - Poor public and professional image.
- Lack of agreement about program effectiveness.
- Lack of agreement on outcome measurement.
- Inadequate use of management skills in line functions.
- Lack of career development and service.

Staff qualifications and recruitment

UNITED NATIONS STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES

15.1. There shall be no discrimination in the recruitment of staff on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status. The policy regarding staff recruitment should take into consideration national policies of affirmative action and reflect the diversity of the offenders to be supervised.

15.2. Persons appointed to non-custodial measures work should be personally suitable and, whenever possible, have appropriate professional training and practical experience. Such qualifications shall be clearly specified.

15.3. To secure and retain qualified professional staff, appropriate service status, adequate salary and benefits commensurate with the nature of the work should be ensured and ample opportunities should be provided for professional growth and career development.

Commentary on the Minimum Rules

Rule 15.1 asserts the basic principle that all individuals who fulfil the recruitment criteria should be given equal opportunity for employment. Discrimination in recruitment, selection, appointment is unacceptable. Rule 15.1 does not, however, preclude the application of policies that promote positive or affirmative action in employment and thus give opportunities to previously disadvantaged groups such as ethnic minorities and women.

Steps should be taken to ensure that professional staff includes both men and women, as well as people from minority groups. Women offenders may require a woman supervisor in order to make progress. If there are minorities in a society, it may be appropriate to have staff recruited from those minorities, who might have a better understanding of the background of certain offenders. (United Nations 1993: 29)

Issues

Policies and procedures governing the selection, appointment, promotion or dismissal should be based only upon the basis of merit and legally based criteria and not upon the furtherance of partisan political interests.

At a minimum, selection standards should, with due regard to the need to avoid discrimination, address:

- Education (professional qualifications)
- Previous related experience
- Age
- Medical, psychological or fitness standards
- Use of paraprofessionals and any administrative or legal restrictions that might apply
- Special status (gender, visible minority, disabilities, etc.)
- Conditions of employment (probation, drivers license, fitness, education)
- Training (orientation/development, refresher, annual)
- Any previous criminal record
- Non-discriminatory fitness standards

Personnel standards and practices

Ideally, there should be:

- An annual review which takes into account program goals to determine the numbers and classification of persons needed to staff the probation service.
- The development of a process that allows the documentation of all authorized positions that are filled, or in the process of being filled, by persons who meet the requirement of each position.
- The establishment of policies and procedures which allow the organization, based on reasonable grounds, to require evidence from staff that they are free of any medical condition which could adversely affect the exercise of their duties.

The probation service identifies and makes available to staff members, all manuals that govern employment practices.

Personnel policy and procedures are reviewed periodically, and are made available to members of staff. At a minimum, they should address:

- Recruitment and hiring procedures
 - Probationary periods
 - Conditions of employment
 - Performance evaluations
 - Disciplinary, dismissal and grievance procedures
 - Career development, including training and provisions governing promotion
 - Policy and procedures that outline the conditions under which staff may attain permanent employee status
-

There should be a current job description and associated documentation for every classified position in the probation service which is reviewed periodically and states, at a minimum the:

- Job title
 - Purpose and responsibility of the position
 - Education, knowledge and skill requirement
 - Probationary employment stipulations
 - Training
 - Supervision
 - Health requirements and
 - Security clearance requirements
-

OPERATIONAL GUIDELINES FOR STAFF EVALUATION

Again, bearing in mind differences in legal systems and probation functions, it is not possible to lay down guidelines in a definitive way. However, ideally a number of issues would seem to need to be addressed including:

- The need for a written performance evaluation for each member of staff prior to the end of the probationary period and periodically thereafter.
- Performance evaluations based upon written criteria which are established at the beginning of each review period and are pertinent to the job description.
- The formal identification of the training or retraining needs of each staff member in consultation with the employee as part of the annual performance evaluation.
- The provision of a given period of training during each work year.
- The review with the employee of any performance evaluation and a process whereby that employee may indicate agreement or place a rebuttal on the personnel file and have that rebuttal subject to a further review by either a review committee of neutral superiors or by a formal grievance process.
- The provision of a grievance process referring unresolved complaints to:
 - a. A final internal authority
 - b. An external body.

Probation staff training and creation of organizational 'knowledge'

UNITED NATIONS STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES

16.1. The objective of training shall be to make clear to staff their responsibilities with regard to rehabilitating the offender, ensuring the offender's rights and protecting society. Training shall also give staff an understanding of the need to co-operate in and co-ordinate activities with the agencies concerned.

16.2. Before entering duty, staff shall be given training that includes instruction on the nature of non-custodial measures, the purpose of supervision and the various modalities of the application of non-custodial measures.

16.3. After entering on duty, staff shall maintain and improve their knowledge and professional capacity by attending in-service training and refresher courses. Adequate facilities shall be made available for that purpose.

Neither a social work method nor the skills connected with it can be imparted in a book. (*Dressler 1969, in Clear and O'Leary 1983: 53*)

According to Gendreau,

There are precious few training programs for people interested in offender treatment. None of the national level training institutes in the United States specialises in treatment, although they occasionally contract out to experts in the area. There are no training institutes of this kind in Canada. (*Gendreau 1996: 155*)

In the UK, new arrangements have been made for the in-house training of staff. The subsequent Home Office plans to remove the training of probation officers from university departments is bound to undermine research programmes. (*Burnett 1996b: 2*)

... there is the sobering reality that far too little of this knowledge is being used by practitioners, scholars and policymakers. The major impediments in this regard - theoreticism, failure to effect technology transfer, and the shortage of appropriate training programs - are not easy to overcome. (*Gendreau 1996: 157*)

There are also, few, if any remaining training institutes for managers of probation services.

There is no widely recognised school to prepare leaders for probation. There are no nationally recognised scholars, practitioners or administrators who can be called eminent leaders in probation. (*Fogel 1981: 5*)

While this lack of educational facilities goes beyond staff and although this statement of recognition was made in 1980, a similar situation appears to exist today, despite many attempts in the intervening years. Because of this lack, while various countries attempted to deal with the growing problem of the ageing management cadre by setting up Leadership or Executive Development programs, with the cost cutting measures instituted by virtually all governments, few national or international ones continue, especially in their original form, today.

Because of the changing climate and landscape, there is an ever increasing need for executive or management training schools-especially to further develop

those who have been identified as future leaders. Clearly, there is a reciprocal relationship between continuous learning, management change and organizational performance. Constant change pressures individual managers and executives to learn new and perhaps more modern and adaptive managerial techniques while these techniques, once applied, often produce further change and growth within the organization.

There is also a very rapid pace at which organizations today must operate to keep up with the business and technology changes being forced upon them by the system and by the environment. Because of this pace, managers and employees alike can no longer expect the organization they work for to provide and tell them what they need to know to exist, prosper and grow - either personally and/or professionally. They must become 'self-learners' and take charge of the learning habit themselves.

Additionally, there is the need for organizations and the managers that lead them to promote experiential learning related to the workplace. Practitioners, by and among themselves, learn much from everyday and ordinary situations and need to have a forum to pass on the development and accumulation of this corporate knowledge, wisdom or history to others within both probation organizations nationally and internationally as well as within the criminal justice system. It is this absence of comparative corporate wisdom of practitioners that the field is missing. Those who forget the lessons of history are bound to repeat them.

In relation to practitioners, however, some researchers have suggested that training in statistical methods is highly important to and for probation officers. Fong *et al.* (1986) found that training people on statistical methods and principles actually enhanced their understanding and application of statistical concepts when making judgements. These findings strongly suggest that statistical training can improve statistical reasoning, which in turn, can reduce error and biases in judgements similar to those faced on a day to day basis by probation officers. Formal training can improve judgements made under conditions of uncertainty (Fong *et al.* 1990).

Creation of a continuous learning habit

Given the comments by a number of researchers and practitioners (Gendreau 1996; Burnett 1996; Harris 1992) that probation officers and managers do not read or even integrate much of the relevant and up to date research or literature related to their field of practice, it is clear that within probation, the leaders, managers, departmental and professional researchers and training institutes/schools have all failed to impress upon the practitioners and managers the need for a continuous learning environment and culture - one that stresses individual self improvement, "the learning habit" and the need for knowledge transfer (for staff and leaders alike) such that it becomes integrated into both day to day routine and practice but more importantly, into the philosophy, policies, procedures and especially practices, of the organization, its leader and its senior executives. Knowledge transfer needs to become a part of the organizations culture.

The reasons advanced are many and varied, but much of the problem appears to lie in the fact that, while there is considerable research and writings on a variety of job-related topics, few practitioners, managers, executives and even researchers and academics have the appreciation of need, time or inclination to develop a "habit" of reading, learning, teaching or applying what they read into their daily organizational work life. This was especially true of material that existed in other

fields and disciplines, especially when it was from other organizations, countries and cultures.

As a consequence, the lessons from organizational development, management, practice or research seem not to make it's way up or down the pathways or hallways of the criminal justice organizations in an integrated, useful format and purposeful way - into the hands of those that need to know, integrate and use and apply it either in policy or in practice. Organizations do not know what they actually know or how to harness the power of that internal knowledge. Organizations seem to have little ability or interest to view or sustain the focus on the external and international organizational world "outside the box".

Part of the problem is that there simply are too few relevant publications, and even fewer integrated international forums or sites, for practitioners, managers, leaders and researchers to access for detailed, objective, and comprehensive information, especially of an international comparative or evaluative nature, on other probation/parole, or prison and criminal justice services and organizations or the services they use, provide or contract for.

Even less exists organizationally and managerially on what criminal justice managers or leaders think, feel or need! It becomes even murkier in the technological and product sphere for operational managers who, in the absence of technical and operational guidance and support, must rely on suppliers and contractors with their representatives all claiming product superiority. There becomes a real need for organizational "knowledge and technology management" as without it, integrated, international, comparative and cross-cultural learning technology and knowledge transfer within probation specifically but criminal justice generally becomes dysfunctional

Learning disabilities are tragic in children, but they are fatal in organisations. Because of them, few corporations live even half as long as a person - most die before they reach the age of forty. (*Senge 1990: 18*)

Thus, schools and organizations training future probation officers may need to initially return to "basics" in order to reassess and revalidate them in light of new research, trends and technologies. They must then adapt, apply and integrate these lessons learned into the menu of services that they deliver and formulate new techniques and approaches such as computer assisted learning or learning networks if they are to address the very serious and endemic problems faced by probation practitioners, especially within the current political and economic restraint and climate.

The excitement or hope about the future will have to be realistic given both political and financial constraints, especially in a training sense, if any or all of the rewards are to be realized. The Canadian Public Service Commission addressed the new training challenges for the 1990s in its publication, *Public Service 2000. New Perspectives on Training*. In the report, it was indicated that training for the next decade and beyond involved improved consultation and partnership in all sectors, better management of resources, a professional public service, better training and development, making career development work, developing a more people oriented public service, better relations with unions, better representation of women and minority groups as among their major priorities.

They will especially need to apply the lessons learned from organizations outside the criminal justice system who have found that in order for public service

organizations to achieve their mission very specific training was required in order to bring them up to speed with private sector companies which, by and large, have responded more quickly and less bureaucratically to the new demands and realities.

The recommended training included training in:

- conceptual skills,
- behavioral/interpersonal skills,
- analytical skills,
- technical skills, and
- contextual skills.

In a later study, building upon the earlier results, and one that reinforces the need for the networking and integration of research into operational learning practice:

... after six years of collaborative experimentation, as part of the MIT Organizational Learning Centre (OLC), companies ... are finding that enduring institutional learning arises only from three interrelated activities:

research, the disciplined pursuit of discovery and understanding that leads to generalized theory and methods;

capacity building, the enhancement of people's capabilities and knowledge to achieve results in line with their deepest personal and professional aspirations; and

practice, the stuff that happens in organizations every day-people working together to achieve practical outcomes and building practical know-how in the process. (Senge 1997: 32)

OPERATIONAL GUIDELINES FOR STAFF TRAINING

- The development of policy which ensures that initial training for new employees should be integrated with and related to the completion of probationary or provisional employment. Theoretical training in a broad range of subjects should therefore be combined with practical assignments connected to the theoretical area to be taught, or should be part of ongoing in-service training.
- An awareness of and sensitivity to teachings and learning styles of other cultures, race, age and gender to be designed and integrated into training packages.
- An established process to ensure that staff have read all documentation related to their assigned duties.
- All employees assuming new responsibilities should complete an orientation/training program which is relevant to their job descriptions.
- Policy and procedures which provide assistance and opportunities for employees to undertake career-related training and education, including the promotion of national and international training relationships and exchanges.
- Salary scales to be structured so that promotion to a supervisory position is not the only means of obtaining a salary increase. Merit salary increases should be available for outstanding job performance and for completion of advanced education or training.
- The encouragement of staff participation in workshops, professional organizations, committees, and information sessions related to the criminal justice system as well as with other related systems.

- In-service training on policies, procedures, legislation, inter-personal skills, communications, gender issues, race relations, crisis intervention, (self-defence, and firearms, where applicable) to be regarded as essential.

▪ Policies and procedures which specify minimum training and qualifications for every position and level. The training needs are defined for each level and position with relation to the following areas:

Correctional theories and philosophy

The legal framework of corrections

Correctional programs and resources

Relationships with other elements of criminal justice system including the operations of these agencies at a technical and procedural level and their difficulties

All policies and procedures applicable to the employee's job description

Authority, accountability, and responsibilities associated with the employee's position

Skills required to work with clients including special groups within the probation service

Communication and interpersonal skills

Security

Other training content areas may include:

- Codes of ethics and professional liability
- Understanding of the relevant laws
- United Nations Standards on Human Rights
- Issues of personal gain and privileges
- Non-partisan behaviour and conduct
- Non receipt, acceptance or dispensation of favours or gifts
- Diligence in conduct and responsibilities
- Its question of non discrimination based upon sex or race
- Relationships with colleagues (peers and subordinates)
- Creation and maintenance of a harassment-free workplace
- Professional and personal relationships with clients
- Linkages to colleges and universities
- Managerial accountability
- Performance evaluations
- Victim rights
- Offender rights and responsibilities.

Inter-jurisdictional/international technical assistance and co-operation

UNITED NATIONS STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES

22.1 Suitable mechanisms should be evolved at various levels to facilitate the establishment of linkages between services responsible for non-custodial measures, other branches of the criminal justice system, social development and welfare agencies, both governmental and non-governmental, in such fields as health, housing, education and labour, and the mass media.

23.1 Efforts shall be made to promote scientific co-operation between countries in the field of non-institutional treatment. Research, training, technical assistance and the exchange of information among member states on non-custodial measures should be strengthened, through the United Nations institutes for the prevention of crime and the treatment of offenders, in close collaboration with the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs of the United Nations Secretariat.

23.2 Comparative studies and the harmonisation of legislative provisions should be furthered to expand the range of non-institutional options and facilitate their application across national frontiers, in accordance with the Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released.

Commentary on the Minimum Rules

... In view of the model treaty on the transfer of offenders Conditionally Sentenced or Conditionally Released, efforts should be made to harmonise the legislative provisions on non-custodial measures transnationally in order to facilitate their application across national boundaries. Foreign offenders are often less likely to be given a non-custodial measure because of the difficulties of serving such a measure in a foreign country rather than the country where the offender will eventually settle. Harmonisation of the legislative provisions could encourage a wider application of non-custodial measures to foreign offenders. (*United Nations 1993: 38-39*)

... probation belongs to those subjects which call for an international exchange of new ideas and actual experience. The forms of legal institutions must be so designed that they fit into the framework of the national system of law, but treatment implies a personal relationship and thus is a general human problem that knows no frontier and has long been the subject of human co-operation. (*United Nations 1954: 2-3*)

The need for knowledge and technical transfer have combined within the international and especially the United Nations context, to assign a high priority to international and inter-regional collaboration, technical assistance and exchanges between nations in the field of criminal justice, the sentencing of offenders and corrections.

Among these are the originating Statement of Principles and Program of Action of the United Nations Crime Prevention and Criminal Justice Program adopted at a Ministerial meeting in Versailles in 1991, and General Assembly Resolution 46/152 also adopted in 1991, which accepted the Statement of Principles and Program of

Action and called for the creation of the new intergovernmental Commission on Crime Prevention and Criminal Justice.

The Statement of Principles recognised that a humane and efficient criminal justice system, by contributing to the maintenance of peace and security, can be an instrument of equity, social justice and constructive social change, protecting basic values, human rights, civil structure support and reconstruction and democracy.

The international community was called upon to increase its support to technical co-operation and assistance activities for the benefit of all countries, including developing and smaller countries, and for the purpose of expanding and strengthening the infrastructure needed for effective crime prevention and viable, fair and humane criminal justice systems.

Further, the Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders (1990) adopted the UN Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules) and the resolution on Principles and Directions for Research on Non-Custodial Sanctions, highlighting the need for training and research on use and effectiveness of non-custodial sanctions in order to facilitate informed decision-making, administration, credibility and acceptance.

International co-operation in crime prevention, criminal justice and in the search for alternatives to imprisonment, may include a large variety of activities, such as: assistance in drafting and reform of existing laws, development of organisational structures that support and guide the administration of criminal law, development of organisation and work with criminal justice and correctional agencies, organisation of key administrative agencies, international legal and correctional research assistance, the organisation and conducting of research, and the organisation of seminars, workshops, and training programs all designed to strengthen new or existing criminal justice initiatives. (*Boutros Boutros-Ghali 1995: 45*)

Issues

Little international literature on probation exists, particularly of a comparative nature. One such study produced by UNICRI and the UK Home office in 1995, *Probation Round the World* indicated that it was "... the first such study of probation round the world outside a purely regional context" (Hamai *et al.* 1995: xiii). Additionally, it was stated that "... attempts towards wider 'comparative imagination' in this area were almost non-existent for several decades" (*ibid.*).

In neither the national nor international literature, is there substantive discussion about the need for international exchange of ideas, policy, procedure, standards or agency co-operation.

Probation has remained an isolated criminal justice island. The journals have little comparative information and the most recent research appears not to be read or integrated by either managers or practitioners.

Probation officers themselves complained of the fact "... that their knowledge was too superficial, that there were significant omissions, attributed this mostly to insufficient time to read" (Burnett 1996b: 29).

This result despite the observations of several managers as well as researchers decrying the fact that practitioners do not read the literature or incorporate the findings into daily operational practice. (see Gendreau 1996; Ingstrup 1995; Harris 1992; and Burnett 1996).

While schools of correctional thought and practice exist within countries and continents, little knowledge transfer of an international nature appears to take place. This was also noted by Tak in the early 80's when he stated that:

... the new scepticism about the value of treatment will force the services to rethink their position. But there is another reason to think about the philosophy under which the service has to operate and that is the international aspect of probation work. (*Tak 1984: 47*)

Apparently, this warning was not heeded. While police, the judiciary and others have all established international organizations, lobby groups, schools, academies and agreements, this was only proposed by the Malta Workshop in July of 1997. Many governments have agreed to the process and provisions of treaties on the International Transfer of Offenders, including of offenders conditionally released, however, within probation and parole, no formal mechanisms or association, institutes - including an Internet website - exist to facilitate sharing of experiences, procedures, policies or problems, especially those which would greatly facilitate knowledge and technology transfer to developing countries, in practical knowledge related to what works in implementation.

UNITED NATIONS STANDARD MINIMUM RULES FOR NON-CUSTODIAL MEASURES

20.3 Research and information mechanisms should be built into the criminal justice system for the collection and analysis of data and statistics on the implementation of non-custodial treatment for offenders.

Commentary on the Minimum Rules

The data and statistics thus collected and analysed provide the basis for rational policy decisions and for the effective implementation of non-custodial measures in individual cases. (United Nations 1993: 36)

A company that cannot change the way it thinks about information technology cannot reengineer. A company that equates technology with automation cannot reengineer. A company that looks for problems first and then seeks technology solutions for them cannot reengineer ... throwing computers at an existing business problem does not cause it to be reengineered ... the misuse of technology can block reengineering altogether by reinforcing old ways of thinking and old behaviour patterns. (Hammer and Champy 1993: 83)

Some people think that automation is the answer to ... problems ... Automation does get some jobs done faster. But fundamentally the same jobs are being done, and that means no fundamental improvements in performance. (ibid.)

According to Senge: ... a new type of microworld is starting to emerge. Personal computers are making it possible to integrate learning about complex team interactions with learning about complex business interactions. These interactions allow groups to reflect on, expose, test, and improve the mental models upon which they rely in facing difficult problems. (Senge 1990: 315)

Issues

What is required is the systematic collection and analysis of statistics and data. Probation and parole agencies have not always been the willing, or even unwilling, recipients of the latest technology, both hard and soft, and,

... in the area of mechanical techniques, community corrections has remained a decade or two behind most other organisations. (Clear and O'Leary 1983: 38)

However, in fairness to the profession, and as was the case in most major private and public organizations, initial resistance was based upon inefficient and inappropriate applications, difficulty in usage, high costs and questionable reliability. Added to this was that most staff and managers were not trained and thus, given the overall sentiment, many agencies which felt pushed to adopt these new methods, put major acquisitions on hold and major expansions were not revived until the middle to late 1980's. This was especially true of computer assisted learning where, for a considerable period of time, computers were considered to be a passing fad. Where there was experimentation, it was often mainly based upon individual interest or commitment to a particular product the user had at home.

Since the statement was made in 1985, computers and computer systems have proven to be a valuable aid, and there has been a rush to use computers as an aid to manage the caseload and supervision process, and new systems have been

added such as workload accounting, time management, instrumented classification and predictive systems, computerised substance abuse evaluations, and computer based accounting and budgeting. Whole organizations now have E-Mail and LAN networks.

The endorsement of the tools, software, accessibility, connectability and advancements has, however, been generally less than enthusiastic in the practitioner area as staff again feel pushed to adopt something they feel is of questionable applicability to their main functions, "What good is a empirically-based classification system when staff lack the expertise concerning the way to handle their clients' day-to-day behaviours or general needs" (ibid.: 39). If it is to ultimately be useful system wide, the probation agency must ensure it's staff are trained, the system is a supplement to the task at hand and that it is compatible with the systems of the correctional organization to which it belongs as well as it's partners, including law enforcement and the courts such that the retrieval and sharing of information becomes easier and routine.

The lack of agreement or standardisation of policies, procedures, or processes in fact, hinders the development of what "probation" is, what a probation officer does, and who a probationer is.

These conditions, and the great variations in reporting, policies, procedures, location and financing, also work against the "professionalization" of probation as what essentially is required is certain common, and agreed upon, characteristics such as language, standards (workload, supervision, and administration), practices, training, licensing norms, as well as procedures that produce effective results in certain well defined situations. (*Cushman and Secherest 1992: 19*)

Much of this can only come as an agency develops and makes best use of the technological tools available such as data based management, financial, personnel, and risk assessment instruments and integrates technology into the day-to-day work of the agency. A system-wide context is required within which accurate and comparative information guides decision-making and the development of policies choices and alternatives.

Clearly more work is required in the area of a computerization of management information systems if evaluation is ever to be achievable. All material related to personal information is to be protected from others and is to be available to staff only on a professional 'need to know' basis. Included in this is the development and maintenance of accurate and uniform records and statistics, some of which can and must be obtained from the following potential sources:

- Questionnaires
- Family/social data
- Law enforcement
- Court feedback
- Child welfare and educational authorities
- Social services agencies
- Psychological/psychiatric testing
- Health summaries
- Educational/vocational testing
- Risk and needs assessment

OPERATIONAL GUIDELINES FOR INFORMATION SYSTEMS

- The design, where feasible, of information collection, storage, data based management and retrieval systems which facilitate, at a minimum:

Pre-trial assessment services

Case tracking

Staff assignment

Client supervision

Financial control

Program evaluation

Research

Responses to inquiries

- The information systems of the probation service should be compatible with the systems of the criminal justice system organization to which it belongs/ refers to.
- Policy and procedures are established that ensure the security of information contained within the systems of the probation service. Security measures are subjected to an evaluation, including risk and threat, at least annually.
- Policy and procedures are developed which specify:

Responsibility for ensuring that information is accurate and up to date

Access to information

Responsibility to make entries and identifying the date/ source of each entry

Types of information to be recorded on client records

Length of retention of information and methods of destruction

The staff member in charge of the records

- Policy and procedures exist which govern the format of all case records and the separation of categories within the case record.
- Records are maintained for each person referred by the court who receives services. The record should include:

Personal identifying data

Legal status and liability of data holder

Pre-sentence/social history

Individual program plan

Educational achievements/needs/employment activities

Progress reports

Referrals to other agencies

Health summaries

Psychological summaries

Discharge reports

Legal documents

- Policy and procedures exist and which establish access by former or current probationers to information concerning themselves, define categories of information that are not accessible, and describe a process by which a probationer or former probationer may appeal a decision arising from the request.
- Policy and procedures exist which govern the sharing of information regarding clients and which identify, at a minimum:

Categories of information

Access and limitations of access to information

List of agencies with which information may be shared

Health and safety: managing risk and stress

MANAGING RISK - "OFFICER SAFETY"

With the increase in the numbers of violent, sexually aggressive and high-risk offenders, who frequently reside in dangerous and hostile neighbourhoods, the availability of weapons, substance abuse, and especially "gang-related" crime, it was inevitable that probation and parole officers would come into situations of personal threat and danger.

A number of jurisdictions in the United States, especially in the federal system, are increasingly allowing officers to arm themselves with impact weapons, personal defence sprays as well as firearms. While the majority of other jurisdictions, even in North America, have not followed suit, officer associations in many areas have been asking for such defence supplements. This is especially the case where intensive supervision and surveillance teams exist. The staff themselves in a variety of community service agencies have been calling for both orientation and on-going training courses related to self-defence, officer safety, threat awareness, and employee assistance programs in order to deal with issues of workplace safety, including those related to co-worker harassment and violence.

A 1995 study of workplace violence in Canada indicated that:

... time-loss claims for violence have more than doubled during the past decade. The data revealed that the increase is primarily limited to those who work in either health care or welfare and community service. (Boyd 1995: 507)

A study of violence against staff of the Hertfordshire Probation staff in the UK indicated:

Of those replying (62%), 61 (48%) had been subject to at least one incident of violence in the previous three years. Respondents reported a total of 125 incidents. This means that at least 30% of all Probation staff were victims of violence as defined in this research. Even if we remove verbal abuse from the figures, which was the sole experience of 24 of the respondents who reported victimisation, we still see 18%, nearly one in five, of all Probation staff had been the victims during that period. (Littlechild 1995: 95)

While numbers specifically for probation in other jurisdictions are generally not available, it is clear from anecdotal evidence that officers have been threatened, physically and sexually assaulted, and wounded in the course of their duties. Not all of the assaults were by offenders or ex-offenders - some were by other staff who, under the stress of their jobs, failed to adjust and became alienated. While many of these situations were of a sexual harassment nature, others were far more serious.

Nothing in the university or initial staff orientation training of probation and parole officers had prepared them for this relatively new phenomenon and as a consequence of their helping orientation and lack of situational safeguards and awareness, many of the assaults that did occur could have been preventable. While in police law enforcement, firearms and physical force resulted in the resolution of approximately 20% of the situations in the USA, "mental conditioning resulted in the resolution of 75%" (Brown 1996: 17). "Of these factors, mental preparedness is not only the most significant, but also the skill over which the officer has the most control and influence" (ibid.).

Safeguards and elements of “officer safety”

Procedural safeguards can include:

- Logging in case records.
- Clear policies and procedures to train staff on security awareness, self-defence and “Officer Safety”, including “colour code awareness” and “mental preparedness” as well as communications and “kinesics”.
- Development of security threat “red flags”.
- Reporting procedures: let people know where you are going and when you are expected to return.
- A system of dealing with perceived or real threats including assistance of law enforcement, protection and temporary relocation.
- Critical Incident Stress Debriefing.
- Employee assistance program referral.
- Victim assistance.

Threat reduction and situational preventive measures

- A probation officer should not make an unaccompanied home visit or conduct an interview if there have been threats made or if the officer believes the client may become violent.
- Ensure a high visibility of staff in situations when a high-risk case is being interviewed.
- Log, document and report all incidents.
- Ensure offices do not have “weapons” in them that can be used against staff.
- Ensure doors open outward.
- See first time clients in the office.

Risks and targets

- Sex Offenders with a history of hostage taking, forced confinement and infatuation with officers of the opposite sex.
- Mentally ill offenders.
- Offenders under the influence of alcohol or mind altering drugs.
- Offenders under threat of arrest, suspension and/or revocation.
- Clients and their families experiencing crisis/domestic turmoil and violence.
- Staff who over-identify with clients, especially during stressful and traumatic situations, i.e., version of the ‘Stockholm syndrome’

Risk factors

- Previous demonstrated behaviour, threats, alienation, deteriorating behaviour and or personal situation including employment and marital situation.
Substance abuse, deteriorating mental condition coupled with substance abuse.

Security guidelines for secure practice

- Case records up to date.
- Use of security red flags.
- Links to police and prison security intelligence.
- Let supervisor or staff know where you are going and report all incidents.

STRESS IN THE WORKPLACE

Issues

Stress is a phenomenon that is found in all occupations, and while its effects can be either positive or negative or both, depending on the situation, the severity and repetitiveness of the events, when it overwhelms the individual to a point where he or she can no longer function normally, individual, organization and client goals may suffer dramatically.

There is considerable debate whether or not stress and stress related "burnout" is a product of recent societal and organizational life - a disease of modern life, if it has become or is a malaise of the 1990s, a fad, (as it was the crisis of the 1980's) or buzzword or whether or not the changes of the decade have actually resulted in organizational and personal disorientation and disruption in growing numbers.

Regardless of the debate, in more recent years, studies into the effects of stress, and in particular on criminal justice personnel, have intensified and structural programs have been put in place to assist staff, their families, and in some cases, clients, to deal with the cumulative or situational effects.

Probation officers, like other criminal justice personnel, are not immune from the effects of stress, however caused, in spite of their placement in the community, seemingly somewhat more isolated from the day to day routine(s) of that of large, bureaucratic organizations or institutions. Individuals, in almost any setting, can potentially become ineffective, cynical, extensive users of sick leave, or alienated from the organization, co-workers and clients, and in some notable cases, dangerous to themselves, their families, to co-workers and to others.

Even in the carrying out of their day to day activities, probation officers are often burdened with large and growing caseloads, and are increasingly responsible for more violent, mentally ill, and high profile offenders such as sex offenders. Job and role conflicts predominate the landscape as they are often frustrated in their attempts at rehabilitating clients due to inadequate community resources and their overall organizations susceptibility to budget reductions and low profile within the overall criminal justice system. The literature speaks of probation officers having insufficient time to handle the large caseloads and an increasing emphasis on paperwork as a means to ensure "paper-trail" accountability.

Research has indicated that for probation and parole officers, much of the stress is not only job related but, perhaps even more so, role related, due to the pull or tension between care and custody in a continuum as well as that between the court and police and the community as the probation officer sees it. Probation officers must engage in competing roles such as surveillance and treatment, and they operate within limited authority and with limited resources. It has been suggested that the continuing duality of the probation and parole officers role, has, in fact, led to a situation whereby new technological and informational advances have not been offered to the probation service, as the managerial embracing of such technology would, in one way or the other, contribute to a possible hardening or focusing on one role or the other.

Professionally, probation officers are in a position which many of them feel offers little genuine professional status, as a "profession" probation lacks a special body of technical knowledge, and is assigned relatively low-status by the community and in some cases even by the organization within which they work. Since most probation services operate as local, state, provincial or independent entities, they do not have

a strong and consistent local or national constituencies. Thus, they lack the power to influence the political agenda. In more recent years, the growing public criticism of failures and cynicism about the rehabilitative ideal have led to an increasing number of “job burnout” among probation officers who see no light at the “end of the tunnel”.

Organizational positioning also creates stress when probation and parole officers are placed within the larger, typically a centralised hierarchical bureaucracy within the criminal justice system. They are then called upon to solve problems such as victims demands and prison overcrowding. Their “resisting” attempts to integrate them within a larger criminal justice structure have also been seen as disruptive and disloyal. Organizational conformity has not, in most cases, led to increased rewards in terms of either promotions or resourcing such that the paperwork burden has been reduced. In fact, with the introduction of new technology and risk assessment and predictive devices, this has actually, according to many, simply increased.

Types of stress

Event stress

- Personal failure or loss
- Personal trauma
- Family and/or marital problems
- Mission failure
- Human error
- Performance deficiency and correction
- Media coverage
- Public and/or ‘special public’ (police, court, prosecutor, etc.) outrage

Job stress

- Pressures including a tension of perspectives (co-workers, boss, family, clients)
- Demands of staff and/or co-workers
- Demands of clients (reluctant, distrustful, unhappy and dissatisfied, envy)
- Role responsibilities (supervising hostile, violent and/or mentally ill clients)
- Organizational stress (overwork, lack of promotion and recognition, isolation, marginalization, ageing, burnout)
- Changing of “rules of engagement” - how we used to do things!
- Changing of corporate culture
- Static compensation - comparatively
- Conflicting message *vis-à-vis* roles (surveillance vs. supervision/treatment, care vs. custody)
- Need for recognition, honors and awards
- Lack of technical knowledge and information
- Lack of technical and equipment support
- Not a culture of ‘learning’
- Lack of local or national consistency
- Emerging public opinion that “Nothing works”

- Crisis mentality of organization and/or system
- Feeling that overwork is desirable - creates problems at home!
- Less productivity - more pressure on best workers

Strategies for Minimization - “Managing Self”

- Staff and management retreats
- Case conferences
- Team discussions
- Social, physical and cultural activities
- Honors and awards
- Critical incident stress debriefing
- Employee Assistance Programmes (EAPs) referral agents ‘on-site’
- Availability of counselors or counseling services - in-house or on contract
- Professional development days and learning activities
- Recreational and sport activities
- ‘Reading days’

FACILITY STANDARDS

Issues

Satisfaction surveys of both staff and offenders have highlighted the need for attention to be paid to the whole area of facility planning and design, all of which complement “officer ... and staff safety” and work towards the reduction of unnecessary stress for both staff and offenders. While attention to design may not, in and by itself, satisfy staff, improper attention to design and inappropriate accommodations, layout and ‘tools’ will always be a source for dissatisfaction.

Offenders in such surveys have consistently mentioned that the probation offices accessibility to transportation, it’s proximity to where they work or live, and its hours of operation are all important to them and their ability and motivation to make and keep appointments. Assuming that Andrews is correct in stating receptivity and responsiveness are important factors in the offenders eventual rehabilitation (Andrews 1995), it goes without saying then that the above noted facility design and placement factors are important determinants of the probationers/parolees motivation and ability to participate in programs and counselling and, thus, important to eventual case outcome.

OPERATIONAL GUIDELINES FOR FACILITY DESIGN

- The facility meets jurisdictional laws and regulations, including health, safety, building and fire codes and zoning by-laws.
- “Health and Safety” policy and procedures are in place in order to address issues of both physical and environmental health and safety in the work place. Consideration should be given to a ‘user friendly’ environment such that neither staff nor clients are exposed to hazardous and toxic products, including carcinogens, and might include consideration of a rule that smoking is not permitted by either staff or clients in specific areas of the workplace.
- The documentation of efforts to ensure that the facility is inspected and emergency plans are reviewed periodically by the safety, health, and fire authorities having jurisdiction.
- The provision of an environment that is “user-friendly” for both staff and clients, is accessible and has signage that is appropriate for the major languages spoken by the clientele. Personal decoration in offices is non-offensive, sexual or racial in nature.
- The probation service facility is located so as to provide access to:
 - Staff,
 - Clients,
 - Community resources, and
 - Courts.
- Policies and procedures exist concerning security which address, at a minimum:
 - The safety of staff members and a safe and secure office environment
 - Mechanisms for the secure storage of material classified as confidential
 - Security of filing cabinets, offices (doors and windows) and office perimeters
 - Access to offices after regular hours
 - Key and pass controls
 - Contingency plans and responsibilities in the event of emergencies
 - A Business Resumption Plan in the case of disaster, natural or otherwise
 - Post-incident stress debriefing
 - Appropriate space for each program component including administration, confidential client interviews, individual and group counseling as well as group meetings

Finally, the probation service should be able to document efforts to provide access to handicapped probationers. Where access is not available, alternate arrangements are made for the supervision of handicapped probationers

ANNEXES

Annex I

**United Nations Standard Minimum Rules
for Non-custodial Measures (The Tokyo Rules)**

A/RES/45/110; 68th plenary meeting; 14 December 1990.

The General Assembly,

Bearing in mind the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as other international human rights instruments pertaining to the rights of persons in conflict with the law,

Bearing in mind also the Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and the important contribution of those Rules to national policies and practices,

Recalling resolution 8 of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on alternatives to imprisonment,

Recalling also resolution 16 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders on the reduction of the prison population, alternatives to imprisonment, and social integration of offenders,

Recalling further section XI of Economic and Social Council resolution 1986/10 of 21 May 1986, on alternatives to imprisonment, in which the Secretary-General was requested to prepare a report on alternatives to imprisonment for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and to study that question with a view to the formulation of basic principles in that area, with the assistance of the United Nations institutes for the prevention of crime and the treatment of offenders,

Recognizing the need to develop local, national, regional and international approaches and strategies in the field of non-institutional treatment of offenders and the need to formulate standard minimum rules, as emphasized in the section of the report of the Committee on Crime Prevention and Control on its fourth session, concerning the methods and measures likely to be most effective in preventing crime and improving the treatment of offenders,

Convinced that alternatives to imprisonment can be an effective means of treating offenders within the community to the best advantage of both the offenders and society,

Aware that the restriction of liberty is justifiable only from the viewpoints of public safety, crime prevention, just retribution and deterrence and that the ultimate goal of the criminal justice system is the reintegration of the offender into society,

Emphasizing that the increasing prison population and prison overcrowding in many countries constitute factors that create difficulties for the proper implementation of the Standard Minimum Rules for the Treatment of Prisoners,

Noting with appreciation the work accomplished by the Committee on Crime Prevention and Control, as well as by the Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic II, "Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures", and by the regional preparatory meetings for the Eighth Congress,

Expressing its gratitude to the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders for the work accomplished in the

development of standard minimum rules for non-custodial measures, as well as to the various intergovernmental and non-governmental organizations involved, in particular, the International Penal and Penitentiary Foundation for its contribution to the preparatory work,

1. Adopts the United Nations Standard Minimum Rules for Non-custodial Measures, contained in the annex to the present resolution, and approves the recommendation of the Committee on Crime Prevention and Control that the Rules should be known as "the Tokyo Rules";
2. Recommends the Tokyo Rules for implementation at the national, regional and interregional levels, taking into account the political, economic, social and cultural circumstances and traditions of countries;
3. Calls upon Member States to apply the Tokyo Rules in their policies and practice;
4. Invites Member States to bring the Tokyo Rules to the attention of, in particular, law enforcement officials, prosecutors, judges, probation officers, lawyers, victims, offenders, social services and non-governmental organizations involved in the application of non-custodial measures, as well as members of the executive, the legislature and the general public;
5. Requests Member States to report on the implementation of the Tokyo Rules every five years, beginning in 1994;
6. Urges the regional commissions, the United Nations institutes for the prevention of crime and the treatment of offenders, specialized agencies and other entities within the United Nations system, other intergovernmental organizations concerned and non-governmental organizations in consultative status with the Economic and Social Council to be actively involved in the implementation of the Tokyo Rules;
7. Calls upon the Committee on Crime Prevention and Control to consider, as a matter of priority, the implementation of the present resolution;
8. Requests the Secretary-General to take the necessary steps to prepare a commentary to the Tokyo Rules, which is to be submitted to the Committee on Crime Prevention and Control at its twelfth session for approval and further dissemination, paying special attention to the legal safeguards, the implementation of the Rules and the development of similar guidelines at the regional level;
9. Invites the United Nations institutes for the prevention of crime and the treatment of offenders to assist the Secretary-General in that task;
10. Urges intergovernmental and non-governmental organizations and other entities concerned to remain actively involved in this initiative;
11. Requests the Secretary-General to take steps, as appropriate, to ensure the widest possible dissemination of the Tokyo Rules, including their transmission to Governments, interested intergovernmental and non-governmental organizations and other parties concerned;
12. Also requests the Secretary-General to prepare every five years, beginning in 1994, a report on the implementation of the Tokyo Rules for submission to the Committee on Crime Prevention and Control;
13. Further requests the Secretary-General to assist Member States, at their

request, in the implementation of the Tokyo Rules and to report regularly thereon to the Committee on Crime Prevention and Control;

14. Requests that the present resolution and the text of the annex be brought to the attention of all United Nations bodies concerned and be included in the next edition of the United Nations publication entitled Human Rights: A Compilation of International Instruments.

Annex:

United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)

I. GENERAL PRINCIPLES

1. Fundamental aims

- 1.1 The present Standard Minimum Rules provide a set of basic principles to promote the use of non-custodial measures, as well as minimum safeguards for persons subject to alternatives to imprisonment.
- 1.2 The Rules are intended to promote greater community involvement in the management of criminal justice, specifically in the treatment of offenders, as well as to promote among offenders a sense of responsibility towards society.
- 1.3 The Rules shall be implemented taking into account the political, economic, social and cultural conditions of each country and the aims and objectives of its criminal justice system.
- 1.4 When implementing the Rules, Member States shall endeavour to ensure a proper balance between the rights of individual offenders, the rights of victims, and the concern of society for public safety and crime prevention.
- 1.5 Member States shall develop non-custodial measures within their legal systems to provide other options, thus reducing the use of imprisonment, and to rationalize criminal justice policies, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender.

2. The scope of non-custodial measures

- 2.1 The relevant provisions of the present Rules shall be applied to all persons subject to prosecution, trial or the execution of a sentence, at all stages of the administration of criminal justice. For the purposes of the Rules, these persons are referred to as "offenders", irrespective of whether they are suspected, accused or sentenced.
- 2.2 The Rules shall be applied without any discrimination on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status.
- 2.3 In order to provide greater flexibility consistent with the nature and gravity of the offence, with the personality and background of the offender and with the protection of society and to avoid unnecessary use of imprisonment, the criminal justice system should provide a wide range of non-custodial measures, from pre-trial to post-sentencing dispositions. The number and types of non-custodial measures available should be determined in such a way that consistent sentencing remains possible.

- 2.4 The development of new non-custodial measures should be encouraged and closely monitored and their use systematically evaluated.
- 2.5 Consideration shall be given to dealing with offenders in the community, avoiding as far as possible resort to formal proceedings or trial by a court, in accordance with legal safeguards and the rule of law.
- 2.6 Non-custodial measures should be used in accordance with the principle of minimum intervention.
- 2.7 The use of non-custodial measures should be part of the movement towards depenalization and decriminalization instead of interfering with or delaying efforts in that direction.

3. *Legal safeguards*

- 3.1 The introduction, definition and application of non-custodial measures shall be prescribed by law.
- 3.2 The selection of a non-custodial measure shall be based on an assessment of established criteria in respect of both the nature and gravity of the offence and the personality, the background of the offender, the purposes of sentencing and the rights of victims.
- 3.3 Discretion by the judicial or other competent independent authority shall be exercised at all stages of the proceedings by ensuring full accountability and only in accordance with the rule of law.
- 3.4 Non-custodial measures imposing an obligation on the offender, applied before or instead of formal proceedings or trial, shall require the offender's consent.
- 3.5 Decisions on the imposition of non-custodial measures shall be subject to review by a judicial or other competent independent authority, upon application by the offender.
- 3.6 The offender shall be entitled to make a request or complaint to a judicial or other competent independent authority on matters affecting his or her individual rights in the implementation of non-custodial measures.
- 3.7 Appropriate machinery shall be provided for the recourse and, if possible, redress of any grievance related to non-compliance with internationally recognized human rights.
- 3.8 Non-custodial measures shall not involve medical or psychological experimentation on, or undue risk of physical or mental injury to, the offender.
- 3.9 The dignity of the offender subject to non-custodial measures shall be protected at all times.
- 3.10 In the implementation of non-custodial measures, the offender's rights shall not be restricted further than was authorized by the competent authority that rendered the original decision.
- 3.11 In the application of non-custodial measures, the offender's right to privacy shall be respected, as shall be the right to privacy of the offender's family.
- 3.12 The offender's personal records shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the offender's case or to other duly authorized persons.

4. *Saving clause*

- 4.1 Nothing in the present Rules shall be interpreted as precluding the application of the Standard Minimum Rules for the Treatment of Prisoners, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment or any other human rights instruments and standards recognized by the international community and relating to the treatment of offenders and the protection of their basic human rights.

II. PRE-TRIAL STAGE

5. *Pre-trial dispositions*

- 5.1 Where appropriate and compatible with the legal system, the police, the prosecution service or other agencies dealing with criminal cases should be empowered to discharge the offender if they consider that it is not necessary to proceed with the case for the protection of society, crime prevention or the promotion of respect for the law and the rights of victims. For the purpose of deciding upon the appropriateness of discharge or determination of proceedings, a set of established criteria shall be developed within each legal system. For minor cases the prosecutor may impose suitable non-custodial measures, as appropriate.

6. *Avoidance of pre-trial detention*

- 6.1 Pre-trial detention shall be used as a means of last resort in criminal proceedings, with due regard for the investigation of the alleged offence and for the protection of society and the victim.
- 6.2 Alternatives to pre-trial detention shall be employed at as early a stage as possible. Pre-trial detention shall last no longer than necessary to achieve the objectives stated under rule 5.1 and shall be administered humanely and with respect for the inherent dignity of human beings.
- 6.3 The offender shall have the right to appeal to a judicial or other competent independent authority in cases where pre-trial detention is employed.

III. TRIAL AND SENTENCING STAGE

7. *Social inquiry reports*

- 7.1 If the possibility of social inquiry reports exists, the judicial authority may avail itself of a report prepared by a competent, authorized official or agency. The report should contain social information on the offender that is relevant to the person's pattern of offending and current offences. It should also contain information and recommendations that are relevant to the sentencing procedure. The report shall be factual, objective and unbiased, with any expression of opinion clearly identified.

8. *Sentencing dispositions*

- 8.1 The judicial authority, having at its disposal a range of non-custodial measures, should take into consideration in making its decision the rehabilitative needs of the offender, the protection of society and the interests of the victim, who should be consulted whenever appropriate.
- 8.2 Sentencing authorities may dispose of cases in the following ways:
- (a) Verbal sanctions, such as admonition, reprimand and warning;

- (b) Conditional discharge;
- (c) Status penalties;
- (d) Economic sanctions and monetary penalties, such as fines and day-fines;
- (e) Confiscation or an expropriation order;
- (f) Restitution to the victim or a compensation order;
- (g) Suspended or deferred sentence;
- (h) Probation and judicial supervision;
- (i) A community service order;
- (j) Referral to an attendance centre;
- (k) House arrest;
- (l) Any other mode of non-institutional treatment;
- (m) Some combination of the measures listed above.

IV. POST-SENTENCING STAGE

9. *Post-sentencing dispositions*

- 9.1 The competent authority shall have at its disposal a wide range of post-sentencing alternatives in order to avoid institutionalization and to assist offenders in their early reintegration into society.
- 9.2 Post-sentencing dispositions may include:
- (a) Furlough and half-way houses;
 - (b) Work or education release;
 - (c) Various forms of parole;
 - (d) Remission;
 - (e) Pardon.
- 9.3 The decision on post-sentencing dispositions, except in the case of pardon, shall be subject to review by a judicial or other competent independent authority, upon application of the offender.
- 9.4 Any form of release from an institution to a non-custodial programme shall be considered at the earliest possible stage.

V. IMPLEMENTATION OF NON-CUSTODIAL MEASURES

10. *Supervision*

- 10.1 The purpose of supervision is to reduce reoffending and to assist the offender's integration into society in a way which minimizes the likelihood of a return to crime.
- 10.2 If a non-custodial measure entails supervision, the latter shall be carried out by a competent authority under the specific conditions prescribed by law.
- 10.3 Within the framework of a given non-custodial measure, the most suitable type of supervision and treatment should be determined for each individual case aimed at assisting the offender to work on his or her offending. Supervision and treatment should be periodically reviewed and adjusted as necessary.
- 10.4 Offenders should, when needed, be provided with psychological, social and material assistance and with opportunities to strengthen links with the community and facilitate their reintegration into society.

11. Duration

- 11.1 The duration of a non-custodial measure shall not exceed the period established by the competent authority in accordance with the law.
- 11.2 Provision may be made for early termination of the measure if the offender has responded favourably to it.

12. Conditions

- 12.1 If the competent authority shall determine the conditions to be observed by the offender, it should take into account both the needs of society and the needs and rights of the offender and the victim.
- 12.2 The conditions to be observed shall be practical, precise and as few as possible, and shall be aimed at reducing the likelihood of an offender relapsing into criminal behaviour and at increasing the offender's chances of social integration, taking into account the needs of the victim.
- 12.3 At the beginning of the application of a non-custodial measure, the offender shall receive an explanation, orally and in writing, of the conditions governing the application of the measure, including the offender's obligations and rights.
- 12.4 The conditions may be modified by the competent authority under the established statutory provisions, in accordance with the progress made by the offender.

13. Treatment process

- 13.1 Within the framework of a given non-custodial measure, in appropriate cases, various schemes, such as case-work, group therapy, residential programmes and the specialized treatment of various categories of offenders, should be developed to meet the needs of offenders more effectively.
- 13.2 Treatment should be conducted by professionals who have suitable training and practical experience.
- 13.3 When it is decided that treatment is necessary, efforts should be made to understand the offender's background, personality, aptitude, intelligence, values and, especially, the circumstances leading to the commission of the offence.
- 13.4 The competent authority may involve the community and social support systems in the application of non-custodial measures.
- 13.5 Case-load assignments shall be maintained as far as practicable at a manageable level to ensure the effective implementation of treatment programmes.
- 13.6 For each offender, a case record shall be established and maintained by the competent authority.

14. Discipline and breach of conditions

- 14.1 A breach of the conditions to be observed by the offender may result in a modification or revocation of the non-custodial measure.
- 14.2 The modification or revocation of the non-custodial measure shall be made by the competent authority; this shall be done only after a careful examination of the facts adduced by both the supervising officer and the offender.
- 14.3 The failure of a non-custodial measure should not automatically lead to the imposition of a custodial measure.

- 14.4 In the event of a modification or revocation of the non-custodial measure, the competent authority shall attempt to establish a suitable alternative non-custodial measure. A sentence of imprisonment may be imposed only in the absence of other suitable alternatives.
- 14.5 The power to arrest and detain the offender under supervision in cases where there is a breach of the conditions shall be prescribed by law.
- 14.6 Upon modification or revocation of the non-custodial measure, the offender shall have the right to appeal to a judicial or other competent independent authority.

VI. STAFF

15. *Recruitment*

- 15.1 There shall be no discrimination in the recruitment of staff on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status. The policy regarding staff recruitment should take into consideration national policies of affirmative action and reflect the diversity of the offenders to be supervised.
- 15.2 Persons appointed to apply non-custodial measures should be personally suitable and, whenever possible, have appropriate professional training and practical experience. Such qualifications shall be clearly specified.
- 15.3 To secure and retain qualified professional staff, appropriate service status, adequate salary and benefits commensurate with the nature of the work should be ensured and ample opportunities should be provided for professional growth and career development.

16. *Staff training*

- 16.1 The objective of training shall be to make clear to staff their responsibilities with regard to rehabilitating the offender, ensuring the offender's rights and protecting society. Training should also give staff an understanding of the need to co-operate in and co-ordinate activities with the agencies concerned.
- 16.2 Before entering duty, staff shall be given training that includes instruction on the nature of non-custodial measures, the purposes of supervision and the various modalities of the application of non-custodial measures.
- 16.3 After entering on duty, staff shall maintain and improve their knowledge and professional capacity by attending in-service training and refresher courses. Adequate facilities shall be made available for that purpose.

VII. VOLUNTEERS AND OTHER COMMUNITY RESOURCES

17. *Public participation*

- 17.1 Public participation should be encouraged as it is a major resource and one of the most important factors in improving ties between offenders undergoing non-custodial measures and the family and community. It should complement the efforts of the criminal justice administration.
- 17.2 Public participation should be regarded as an opportunity for members of the community to contribute to the protection of their society.

18. *Public understanding and co-operation*

18.1 Government agencies, the private sector and the general public should be encouraged to support voluntary organizations that promote non-custodial measures.

18.2 Conferences, seminars, symposia and other activities should be regularly organized to stimulate awareness of the need for public participation in the application of non-custodial measures.

18.3 All forms of the mass media should be utilized to help to create a constructive public attitude, leading to activities conducive to a broader application of non-custodial treatment and the social integration of offenders.

18.4 Every effort should be made to inform the public of the importance of its role in the implementation of non-custodial measures.

19. *Volunteers*

19.1 Volunteers shall be carefully screened and recruited on the basis of their aptitude for and interest in the work involved. They shall be properly trained for the specific responsibilities to be discharged by them and shall have access to support and counselling from, and the opportunity to consult with, the competent authority.

19.2 Volunteers should encourage offenders and their families to develop meaningful ties with the community and a broader sphere of contact by providing counselling and other appropriate forms of assistance according to their capacity and the offenders' needs.

19.3 Volunteers shall be insured against accident, injury and public liability when carrying out their duties. They shall be reimbursed for authorized expenditures incurred in the course of their work. Public recognition should be extended to them for the services they render for the well-being of the community.

VIII. RESEARCH, PLANNING, POLICY FORMULATION AND EVALUATION

20. *Research and planning*

20.1 As an essential aspect of the planning process, efforts should be made to involve both public and private bodies in the organization and promotion of research on the non-custodial treatment of offenders.

20.2 Research on the problems that confront clients, practitioners, the community and policy makers should be carried out on a regular basis.

20.3 Research and information mechanisms should be built into the criminal justice system for the collection and analysis of data and statistics on the implementation of non-custodial treatment for offenders.

21. *Policy formulation and programme development*

21.1 Programmes for non-custodial measures should be systematically planned and implemented as an integral part of the criminal justice system within the national development process.

21.2 Regular evaluations should be carried out with a view to implementing non-custodial measures more effectively.

21.3 Periodic reviews should be conducted to assess the objectives, functioning and effectiveness of non-custodial measures.

22. *Linkages with relevant agencies and activities*

22.1 Suitable mechanisms should be evolved at various levels to facilitate the establishment of linkages between services responsible for non-custodial measures, other branches of the criminal justice system, social development and welfare agencies, both governmental and non-governmental, in such fields as health, housing, education and labour, and the mass media.

23. *International co-operation*

23.1 Efforts shall be made to promote scientific co-operation between countries in the field of non-institutional treatment. Research, training, technical assistance and the exchange of information among Member States on non-custodial measures should be strengthened, through the United Nations institutes for the prevention of crime and the treatment of offenders, in close collaboration with the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs of the United Nations Secretariat.

23.2 Comparative studies and the harmonization of legislative provisions should be furthered to expand the range of non-institutional options and facilitate their application across national frontiers, in accordance with the Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released.

Annex II

Extracts of the European Rules on
Community Sanctions and Measures

Legislative framework

- Rule 20 There shall be no discrimination in the imposition and implementation of community sanctions and measures on grounds of race, colour, ethnic origin, nationality, gender, language, religion, political or other opinion, economic, social or other status, or physical or mental condition.
- Rule 21 No community sanction or measure restricting the civil and political rights of an offender shall be created or imposed if it is contrary to the norms accepted by the international community concerning human rights and fundamental freedoms. These rights shall not be restricted in the implementation of the community sanction or measure to a greater extent than necessarily follows from the decision imposing this sanction or measure.
- Rule 22 The nature of all community sanctions and measures and the manner of their implementation shall be in line with any internationally guaranteed human rights of the offender.
- Rule 23 The nature, content and methods of implementation of community sanctions and measures shall not jeopardise the privacy or the dignity of the offenders or their families, nor led to their harassment. Nor shall self-respect, family relationships, links with the community and ability to function in society be jeopardised. Safeguards shall be adopted to protect the offender from insult and improper curiosity or publicity.
- Rule 24 Any instruction of the implementing authority, including in particular, those relating to control requirements shall be practical, precise and limited to what is necessary for the effective implementation of the sanction or measure.
- Rule 25 A community sanction or measure shall never involve medical or psychological treatment or procedures which are not in conformity with internationally adopted ethical standards.
- Rule 26 The nature, content and methods of implementation of a community sanction shall not involve undue risk of physical or mental injury.
- Rule 27 Community sanctions and measures shall be implemented in a way that does not aggravate their afflictive character.
- Rule 28 Rights to benefits in any existing social security system shall not be limited by the imposition or implementation of a community sanction or measure.

Legal framework

- Rule 30 The imposition of community sanctions and measures shall seek to develop an offender's sense of responsibility to the community in general and the victim in particular.
- Rule 31 A community sanction or measure shall only be imposed when it is known what conditions or obligations might be appropriate and whether the offender is prepared to co-operate and comply with them.
- Rule 32 Any conditions to be observed by the offender subject to a community sanction or measure shall be determined taking into account both his individual needs of relevance for implementation, his possibilities and rights as well as his

social responsibilities.

Rule 33 Notwithstanding the issue of the formal document conveying the decision on the community sanction or measure imposed, the offender shall be clearly informed before the start of the implementation in a language he understands and, if necessary, in writing, about the nature and purpose of the sanction or measure and the conditions or obligations that must be respected.

Rule 34 Since the implementation of a community sanction or measure shall be designed to secure the co-operation of the offender and enable him to see the sanction as a just and reasonable reaction to the offence committed, the offender should participate, as far as possible, in decision-making on matters of implementation.

Rule 35 The consent of an accused person should be obtained before the imposition of any community measure to be applied before trial or instead of a decision on a sanction.

Rule 36 Where the offender's consent is required it shall be informed and explicit. Such consent shall never have the consequence of depriving the offender of any of his fundamental rights.

Community Service Orders

Rule 66 The kind and amount of information about offenders given to agencies which provide work placements or personal and social assistance of any kind shall be defined by, and be restricted to, the purpose of the particular action under consideration. In particular, without the explicit and informed consent of the offender, it shall exclude information about the offence and his personal background, as well as any other information likely to have unfavourable social consequences or to constitute an intrusion into private life.

Rule 67 Tasks provided for offenders doing community work shall not be pointless, but shall be socially useful and meaningful and enhance the offender's skills as much as possible. Community work shall not be undertaken for the purpose of making profit for any enterprise.

Rule 68 Working and occupational conditions of offenders carrying out community work shall be in accordance with all current health and safety legislation. Offenders shall be insured against accident, injury and public liability arising as a result of implementation.

Rule 69 In principle, the costs of implementation shall not be borne by the offender.

Crime prevention

Rule 42 The implementing authority shall have adequate financial means provided from public funds. Third parties may make a financial or other contribution but implementing authorities shall never be financially dependent on them.

Rule 43 In cases where implementing authorities make use of third parties' financial contributions, there shall be rules defining the procedures to be followed, the persons invested with specific responsibilities in this matter and the means for auditing the use of funds.

Rule 44 Appropriate information about the nature and content of community sanctions and measures as well as the various ways in which they are

implemented shall be disseminated so that the general public, including private individuals and private and public organisations and services involved in the implementation of these sanctions and measures, can understand them and perceive them as adequate and credible reactions to criminal behaviour.

Rule 45 The work of the authorities responsible for the implementation of community sanctions and measures shall be supplemented by using all appropriate resources existing in the community in order to make available to these authorities suitable ways of meeting the needs of offenders and upholding their rights. To this latter end, maximum use shall also be made of participation by organisations and individuals drawn from the community.

Research and evaluation

Rule 90 Evaluation of community sanctions and measures should include, but not be limited to, objective assessment of the extent to which their use:

- Conforms to the expectations of law makers, judicial authorities, deciding authorities, implementing authorities and the community concerning the goals of community sanctions and measures;
- Contributes to a reduction in the rate of imprisonment;
- enables the offence-related needs of offenders to be met;
- Is Cost effective;
- Contributes to the reduction of crime in the community.

Professional staff

Rule 37 There shall be no discrimination in the recruitment, selection and promotion of professional staff on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, birth or other status. Staff recruitment and selection should take into account specific policies on behalf of particular categories of persons and the diversity of offenders to be supervised.

Rule 38 The staff responsible for implementation shall be sufficiently numerous to carry out effectively the various duties incumbent upon them. They shall possess the qualities of character and the professional qualifications necessary for their functions. Norms and policies shall be developed to ensure that the quantity and quality of staff are in conformity with the amount of work and the professional skills and experience required for their work.

Rule 39 The staff responsible for implementation shall have adequate training and be given information that will enable them to have a realistic perception of their particular field of activity, their practical duties and the ethical requirements of their work. Their professional competence shall be regularly reinforced and developed through further training and performance reviews and appraisals.

Rule 40 Professional staff shall be appointed on such a legal, financial and working-hours basis, that professional and personal continuity is ensured, that the employees' awareness of official responsibility will be developed and that their status in relation to conditions of service is equal to that of other professional staff with comparable functions.

Rule 41 Professional staff shall be accountable to the implementing authority set up by law. This authority shall determine the duties, rights and responsibilities attaching its staff and shall arrange for the supervision of such staff and

assessment of the effectiveness of their work.

Annex III

Principles and Directions for Research on Non-custodial Sanctions

The Eight United Nations Congress on the prevention of Crime and the Treatment of Offenders,

Recalling resolution 8 on alternatives to imprisonment, adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Caracas from 25 August to 5 September 1980,

Recalling also resolution 16 on the reduction of the prison population, alternatives to imprisonment, and social integration of offenders, adopted by the Seventh United Nations Congress on the Prevention of Crime and the treatment of Offenders, held at Milan, Italy, from 26 August to 6 September 1985, and in particular, its affirmation of the need to intensify the search for credible noncustodial sanctions and its call to United Nations Interregional and regional institutes to strengthen their programmes in order to assist Member States in undertaking research on noncustodial options,

Considering the need for promotion of action-oriented research, as highlighted by resolution 20 on research on youth, crime and juvenile justice, adopted by the seventh Congress,

Expressing its appreciation for the reports of the Secretary - General on Alternatives to Imprisonment and the Reduction of Prison Population and on research on alternatives to Imprisonment,

Noting with satisfaction that the draft United Nations Standard Minimum Rules for noncustodial Measures (the "Tokyo Rules") submitted to the Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders emphasize the need for research and exchange of information on noncustodial measures,

Responding to the Economic and Social Council resolution 1989/69 of 24 May 1989, by which the Council approved the organization of the research Workshop on Alternatives to Imprisonment,

Considering also the policy and scientific significance of the findings resulting from the studies carried out by the United Nations Interregional Crime and Justice Research Institute, the Helsinki Institute for Crime Prevention and Control (affiliated with the United Nations), the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders, the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders, the Arab Security studies and Training Centre, the Australian Institute of Criminology, and experts in the preparation of the research Workshop on Alternatives to imprisonment,

Noting also with appreciation the results of the research Workshop on Alternatives to Imprisonment, held at the Eight Congress on 31 August 1990,

Aware of the importance of research and of the exchange of information on the results of research in facilitating the development of an appropriate response to the

pressing problems in criminal justice, such as the continuous increase, in many countries, of the prison population and overcrowding,

Aware also that the results of research studies should be used to promote a better understanding of the public at large of the advantage of noncustodial sanctions,

1. *Endorses* the principles and directions for policy-oriented research on non-custodial sanctions, as contained in the annex to the present resolution,
2. *Encourages* Member States, governmental and nongovernmental associations and the research community to provide policymakers, adjudicators and other practitioners with statistics and research results on the use and effectiveness of noncustodial sanctions in order to facilitate the making of informed decisions,
3. *Recommends* that the use of research findings on noncustodial sanctions as resource material in conferences and training courses for criminal justice personnel be encouraged,
4. *Calls for* a systematic exchange of information, experience and research findings on noncustodial sanctions between governmental and nongovernmental organizations and between researchers,
5. *Invites* Member States and the research community to promote research and the utilization of the results of the research in the development of noncustodial sanctions,
6. *Encourages* the United Nations interregional and regional institutes for the prevention of crime and the treatment of offenders to provide technical assistance to Member States in implementing the principles and directions for research on noncustodial sanctions contained in the annex to the present resolution and to promote the co-ordination and conduct of evaluative and the comparative research in this field.

Chapter 1

Annex

Principles and Directions for Policy-Oriented Research on Non-custodial Sanctions

I. Role of research in Policy Development and sentencing Practice

1. The systematic collection and exchange of information, together with the results of research and policy analysis, should be recognized as desirable for the evaluation and promotion of non-custodial sanctions.
2. In order for the research on noncustodial sanctions to have immediate policy relevance, it should focus on those areas and issues which present obstacles to the realization of the potential of noncustodial sanctions within a specific system, should address problems confronted by decision-makers and administrators, ensuring their collaboration in all phases of the research process and should present its findings in an easily applicable form.

II. Adoption and Implementation of Noncustodial Sanctions

3. Research on the appropriate place of specific noncustodial sanctions within the range of sanctions available for the treatment of offenders, including imprisonment and various types of noncustodial sanctions, provides a basis for the informed adoption and implementation of suitable noncustodial sanctions.
4. Research should seek to determine the appropriateness of various noncustodial sanctions in view of criminal policy, socio-economic, political, legal and

organizational requirements and resources, and in view of the culturally specific contexts in which the noncustodial sanctions are to be applied.

5. Research on the attitudes of the legislator, police officer, prosecutor, judge, administrator, victim, community and offender, is desirable in order to reveal conditions which limit the adoption and implementation of any particular noncustodial sanction and to provide an appropriate basis for action aimed at increasing its acceptance.
6. Research should investigate the possibility and outcome of the incorporation in noncustodial sanctions of various measures (such as, community work, compensation/restitution, treatment) and/or combinations thereof, and of utilizing traditional and culturally relevant noncustodial sanctions.

III. Evaluation Research

7. Evaluation research is necessary for the promotion of practices in criminal policy, legislation and sentencing practice that are based on the informed appreciation of prerequisite conditions for, and benefits of, noncustodial sanctions.
8. Such research should pay special attention to the criteria and methodologies for measuring the effectiveness of an adopted noncustodial sanction from the perspectives of the various interests and needs involved.
9. Evaluation research could focus, inter alia, on services to offenders while under sanction:
 - a. The effectiveness of particular noncustodial sanction for various types of offenders with different characteristics and severity of crime, and the relative effectiveness of noncustodial sanctions and custodial sanctions on successful completion of the conditions of the sanction, access to different types of services, rates of recidivism and a reduction of the overall economic, human and social costs of the control of crime;
 - b. the consequences of a wider application of noncustodial sanctions on the extent of the use of imprisonment, and more generally, on the reach, degree, and type of control exercised through the criminal justice system;
 - c. The consequences of a wider application of noncustodial sanctions on the processes of decriminalization / criminalization;
 - d. the effects of various means of expanding the use of noncustodial sanctions, such as the development of legislation, sentencing guidelines and the sentencing practice of the higher courts.

Accreditation

The certification by an independent organisation (accrediting body) that an agency meets all formal prescribed requirements.

Case Preparation

All the activities designed to prepare the offender's file for decision-making related to conditional release.

Case Supervision

All the activities related to the supervision of persons on conditional release and on probation.

Classification

The operation whereby offenders are divided into defined groups according to objective and accepted criteria for the purposes of program planning and placement in an appropriate correctional facility.

Control

The term "Control" refers to activities which are limited to ascertaining whether any imposed conditions or obligations are fulfilled as well as to activities to secure compliance by using, or threatening to use, the procedures available in the event of non-compliance.

Community corrections

Conditions, sentences or programs involving the placement of offenders in the community rather than incarceration.

Community participation

This term refers to all those forms of help, paid or unpaid, carried out full time, part-time or intermittently, which are made available to the implementing authority by public or private organisations and by individuals drawn from the community.

Competent or deciding authority

This term means a member of the judiciary, a prosecutor or a body that is empowered by law to make decisions about the imposition, implementation or revocation of a non-custodial measure or to modify its conditions and obligations or any body similarly empowered.

Concurrent sentences

Sentences that are not added together in determining sentence length, but instead, run concurrently (e.g., two five (5) year terms to be served by five (5) years incarceration).

Conditional release

The release of an offender from confinement for a specified period of time for humanitarian or program purposes. The programs include: parole, work release, day parole, escorted temporary absences, unescorted temporary absences.

Conflict of interest

A situation where a staff decision or action in a correctional organisation may be or appear to be influenced by personal interest or gain.

Consecutive sentences

Sentences that are added together in determining the total time to be served (e.g., two five (5) year terms to be served by ten (10) years incarceration).

Counselling

The provision of assistance, referral and information services to offenders concerning personal development, institutional obligations, and available programs.

Crisis intervention

The development of approaches for defusing hostile dispute situations often encountered in client supervision by applying techniques for restoring order and resolving conflicts.

Deciding Authority: See Competent authority.

Diversion

An administrative procedure which permits selected offenders to bypass formal adversary proceedings by participating in a treatment-oriented program, thus avoiding formal conviction.

Implementing authority

This term refers to a body or bodies empowered to decide on, and with primary responsibility, for the practical implementation of a community sanction or measure. In many countries, the implementing authority is the probation service.

Independent authority

An individual or body of people which is external to the correctional facility and adjudicates disciplinary hearing decision or appeals

Independent audit

An assessment of management practices, organisational policies and/or financial practices conducted by trained analysts who did not participate in the compilation of the information under review and are not employed by the unit being audited.

Intermediate sanction

A punishment option that is considered on a continuum to fall between probation and a sentence of incarceration.

Offender

Offender refers to all persons subject to prosecution, trial or the execution of a sentence.

Operational guidelines

Those practices derived from or suggested by Manuals of Standards, policy and procedures manuals, the UN Standard Minimum Rules or the European Rules.

Orientation

The process by which staff, clients, residents, prisoners and volunteers are given information about the objectives, services, rules, regulations, and structure of the organisation or service.

Parole

The conditional release to the community of an offender serving a period of incarceration prior to completion of the original sentence of the court by a parole board.

Plea bargaining

An agreement entered into by the prosecutor and a defendant whereby concessions are generally made, e.g., reduced charges or sentences, in return for a guilty plea.

Policy

An approved written directive or guideline from the appropriate authority which states objectives to be pursued and assigns responsibility in order to meet stated goals.

Pre-sentence report

A written report for the purpose of assisting the court in imposing sentence and which relates to the accused who has pleaded guilty or who has been found guilty of an offence by the court.

Probation

A disposition of the court where an offender is sentenced to a period of control and supervision in the community.

Probation/parole violation

Any act or omission on the part of a probationer or parolee which is contrary to the express or implied conditions under which the individual is being supervised.

Recognisance

An obligation in a court of law to perform a specific duty, e.g., to appear in court, as a condition for referral.

Revocation

An action taken by the court or the parole authority which removes a person from probation or parole, because of a violation of conditions of release.

Shock probation

A punishment technique that requires an offender to serve a short prison term prior to release on probation for the purposes of encouraging future crime avoidance and behaviour change.

Supervision Plan

The plan which outlines the frequency of contact with the offender in order to accomplish the objectives of probation, parole or other types of supervision.

Suspended sentence

A process whereby the court delays or stays the execution of a sentence and usually imposes conditions of probation.

Suspension

A temporary interruption of parole following the issuance of a warrant by the paroling authority or other persons delegated with this responsibility.

Ticket of leave

An historic conditioned release of an offender that was granted for good behaviour and revoked for misconduct.

Work release

A program that permits an inmate to be conditionally released to the community for a finite period prior to sentence completion for purposes of engaging in productive employment.

Annex V Bibliography

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