



SENTENCING & CORRECTIONS

ISSUES FOR THE 21ST CENTURY

MAY 2000

PAPERS FROM THE EXECUTIVE SESSIONS ON SENTENCING AND CORRECTIONS

NO. 7

But They All Come Back: Rethinking Prisoner Reentry

by Jeremy Travis

The explosive, continuing growth of the Nation's prison population is a well-known fact. There are now over a million people in State and Federal prisons—more than a threefold increase since 1980. Less well recognized is one of the consequences of this extraordinarily high figure: A growing number of people now under confinement are being released into the community after serving their prison terms. If current trends continue, this year more than half a million people will leave prison and return to neighborhoods across the country; by comparison, fewer than 170,000 were released in 1980.¹

This increase in the movement from prison door to community doorstep comes at a time when traditional mechanisms for managing reentry have been significantly weakened. While it is true that almost all States still maintain some form of postprison supervision, 14 have abolished discretionary parole and the parole boards that historically have overseen the processes of reentry.²

About one in five State prisoners leaves prison with no postrelease supervision.³ In many

States, truth-in-sentencing statutes have curtailed the duration of postrelease oversight to 15 percent of the sentence imposed for violent offenders. And underfunded parole agencies in many jurisdictions have made parole more a legal status than a systematic process of reintegrating returning prisoners.

Assuming these trends continue, it seems the time is right to revisit the processes and goals of prisoner reentry. The argument presented here is that (1) the reentry process presents singular opportunities for advancing social goals—opportunities difficult to pursue within the legal constructs and operational realities of current criminal justice policy; (2) the role of “reentry manager” (the institution responsible for achieving reentry goals) is undergoing major redefinition; and (3) the judiciary should play a far greater role in managing reentry.

The emphasis here will be on the process of managing the transition from the status of “imprisoned offender” to the status of “released ex-offender.” Too often, discussions of the purposes of sentencing and corrections are constrained by organizational boundaries



DIRECTORS' MESSAGE

It is by now a commonplace that the number of people under criminal justice supervision in this country has reached a record high. As a result, the sentencing policies driving that number, and the field of corrections, where the consequences are felt, have acquired an unprecedented salience. It is a salience defined more by issues of magnitude, complexity, and expense than by any consensus about future directions.

Are sentencing policies, as implemented through correctional programs and practices, achieving their intended purposes? As expressed in the movement to eliminate indeterminate sentencing and limit judicial discretion, on the one hand, and to radically restructure our retributive system of justice, on the other, the purposes seem contradictory, rooted in conflicting values. The lack of consensus on where sentencing and corrections should be headed is thus no surprise.

Because sentencing and corrections policies have such major consequences—for the allocation of government resources and, more fundamentally and profoundly, for the quality of justice in this country and the safety of its citizens—the National Institute of Justice and the Corrections Program Office (CPO) of the Office of Justice Programs felt it opportune to explore them in depth. Through a series of Executive Sessions on Sentencing and Corrections, begun in 1998 and continuing through the year 2000,

CONTINUED . . .

DIRECTORS' MESSAGE

CONTINUED . . .

practitioners and scholars foremost in their field, representing a broad cross-section of points of view, were brought together to find out if there is a better way to think about the purposes, functions, and interdependence of sentencing and corrections policies.

We are fortunate in having secured the assistance of Michael Tonry, Sonosky Professor of Law and Public Policy at the University of Minnesota Law School, and Director, Institute of Criminology, University of Cambridge, as project director.

One product of the sessions is this series of papers, commissioned by NIJ and the CPO as the basis for the discussions. Drawing on the research and experience of the session participants, the papers are intended to distill their judgments about the strengths and weaknesses of current practices and about the most promising ideas for future developments.

The sessions were modeled on the executive sessions on policing held in the 1980s and 1990s under the sponsorship of NIJ and Harvard's Kennedy School of Government. Those sessions played a role in conceptualizing community policing and spreading it. Whether the current sessions and the papers based on them will be instrumental in developing a new paradigm for sentencing and corrections, or even whether they will generate broad-based support for a particular model or strategy for change, remains to be seen. It is our hope that in the current environment of openness to new ideas, the session papers will provoke comment, promote further discussion and, taken together, will constitute a basic resource document on sentencing and corrections policy issues that will prove useful to State and local policymakers.

Julie E. Samuels

Acting Director

National Institute of Justice
U.S. Department of Justice

Larry Meachum

Director

Corrections Program Office
U.S. Department of Justice

and legal constructs. For example, we attempt to compare the value of incarceration to the value of probation or parole. By compartmentalizing the analysis of reentry goals into debates about the separate and relative values of imprisonment and community corrections, we pay a price. We overlook the reality that offenders cross these institutional and legal boundaries and carry with them the capacity to achieve or frustrate the purposes of sentencing. We overlook the complex organizational relationships that exist (or could exist) between agencies that manage imprisonment and those that manage restricted liberty. And we overlook the practical and symbolic importance—to the offender, his family and community, the victim, and society as a whole—of the moment of release. For these reasons, a focus on reentry could be a way to “unpack” some of the philosophical and policy dilemmas that beset sentencing today.



Reentry reconsidered

What do we hope to accomplish in managing reentry? Why not simply show the prisoner to the door and tell him he is free? Why impose any restraints on his liberty when that means setting up mechanisms for enforcing them? Martin Horn, who heads corrections in Pennsylvania, proposed the following thought experiment: Perhaps we should simply abolish parole supervision, offer released prisoners a set of vouchers to purchase services at lower cost, and invest the savings in prevention programs. This is a radical idea, to be sure, but the more radical question is why even pay for the vouchers? What are our goals in providing any continuing supervision and assistance to returning prisoners?

The overarching goal of reentry, in my view, is to have returned to our midst an individual who has discharged his legal obligation to society by serving his sentence *and* has demonstrated an ability to live by society's rules. Accepting released offenders into the

community without a period of supervised release is morally unsatisfying; they have not yet earned their place at our table. By contrast, accepting an offender who has demonstrated, during a period of transition, that he can abide by the rules can be highly satisfying to the offender, his family, and the broader community. Graduation ceremonies in drug courts attest to this.

To achieve this goal, the primary objective, for offender and criminal justice agency alike, is to prevent the recurrence of antisocial behavior. If that is to happen, a great deal must be done, for each individual offender, to ascertain the conditions that lead to relapse and to develop a plan to prevent it. This process should begin at sentencing and continue throughout the period of release. For each individual, that means mobilizing the networks of formal and informal social control that create a support system by detecting early warning signals of relapse and responding to them. Whatever conditions of release are imposed should be directly related to giving the offender the opportunity to support his claim to reintegration; that is, they should be geared to preventing the recurrence of antisocial behavior and promoting productive activity valued by society. The powers and authority of the criminal justice agencies should be mobilized to achieve these objectives. And, when the goal of reintegration has been met, the moment should be officially acknowledged and celebrated so that the offender's new life can begin.

Currently there is no effective means of managing reentry to achieve this goal. Parole supervision agencies could conceivably manage many parts of the process, but they cannot realistically extend their reach to the work of correctional institutions, and they rarely play a role at sentencing. Correctional institutions can help prepare offenders for release, but their authority is generally limited to what happens within prison walls. Parole boards theoretically influenced both ends of the

continuum, but in reality even that model had little capacity to integrate sentencing decisions, in-prison activities, and community-based supervision. Some drug treatment programs (discussed below) most closely resemble components of an effective reentry management process, and some other treatment interventions, such as programs dealing with sex offenders, may also serve this purpose. Similarly, a number of recent innovations at the pretrial phase of criminal justice processing can also shed light on the reentry issue. Yet we cannot avoid concluding that our system of justice lacks the organizational capacity to manage the reintegration of released offenders.



Restructuring reentry— pressure from the collapse of parole

A focus on the processes and goals of reentry is particularly timely because the traditional “reentry manager”—the parole board—has been significantly weakened, and the system of parole supervision is struggling to find its sense of purpose. Ironically, the rise in the number of prisoners has been accompanied by loss of confidence in the institution entrusted with supervising their return. Moreover, as the rate of new admissions to State prisons levels off, these facilities are increasingly becoming populated by parole violators, raising new questions about the effectiveness of sanctions for postrelease misconduct.

The pressure on parole

The movement to abolish or severely restrict parole continues to attract support in the political arena. We are a long way from the ideals of the Model Penal Code, which granted parole boards enormous power to decide the moment and conditions of reentry. Mandatory minimums, sentencing guide-

lines, restrictions on good time, and other sentencing and corrections reforms have had the combined effect, for a large percentage of offenders, of limiting the temporal window in which release is possible. Truth-in-sentencing laws adopted in many States have set a high floor for that window: Although the types of offenses covered by these laws vary, more than half the States now require that violent offenders serve at least 85 percent of their sentence before they are eligible for parole.⁴ The net effect is that for a larger percentage of a larger number of cases, one traditional function of parole boards—deciding release dates for prisoners—has been severely diminished, if not eliminated.

Parole boards have historically served a second important function—deciding whether a prisoner is “ready” to be released and supervising the development of a release “plan.” This baby may have been thrown out with the bathwater of discretionary release. Although imperfect, the system integrated the pre-release and postrelease functions of the relevant government agencies and provided a rationale for the offender’s reentry. In the best of circumstances, the parole board would be able to say, “Harry Jones has made sufficient progress in his personal rehabilitation while in prison, and he has a network of family, neighborhood support, and work opportunities on the outside sufficient for us to determine he is ready to be released.”

The underpinnings of this approach have been severely weakened by research findings, public outcry, and political attacks from the left and right. Rehabilitation programs were found by researchers to be ineffective; parole decisions were faulted as highly arbitrary; and parole supervision, even if intensive, was found not to reduce recidivism.⁵ Finally, public pressure has undermined confidence in the parole system, particularly because of the highly visible, heinous crimes committed by some parolees who might otherwise have been in prison. In this environment,

advocates of parole are having a hard time justifying its existence.

The answer to the question, “If not parole, then what?” is typically, “More prison.” Yet asking a different question—“How should we manage the reentry of large numbers of people who have been imprisoned for a long time?”—might elicit a different answer. More prison is certainly not the answer. Just as increased borrowing does not reduce the national debt but only delays the day of reckoning, longer prison sentences cannot obviate the reentry phenomenon: They all come back.⁶ So a focus on reentry is timely because of the sustained and successful attacks on the philosophical underpinnings of parole. Ironically, such a focus would necessarily require reconsidering one of the traditional functions of parole boards—the integration of activities inside and outside the prison, and the articulation of a rationale for setting the conditions and timing of the prisoner’s release.

The shifting profile of the prison population

After growing at a staggering pace for almost two decades, the Nation’s prison population may be reaching a new equilibrium, as the *rate* of increase shows signs of slowing down. Hidden by the focus on overall trends, however, is the fact that much of the most recent increase is due to an increase in time served rather than new admissions. Further analysis reveals that admissions resulting from parole violations now drive much of the prison growth: Parole violators now constitute 34 percent of all admissions, a figure that has almost doubled since 1980.⁷ The growth in absolute numbers underscores the power of parole failures to increase prison populations: In 1991, about 140,000 parole violators were returned to prison; 7 years later, that number had risen to more than 200,000—a 45-percent increase.⁸ Another policy perspective highlights the lost reentry opportunities represented by these developments:

In 1984, 70 percent of those who left parole status were determined to be “successful”; in 1996, less than half successfully completed their parole terms and a like percentage were returned to prison.⁹ Parole supervision is now as likely to end up in revocation as in reintegration.

In short, the factors governing use of prison space for punishment purposes have changed significantly. The growing number of prisoners released on parole who face an increased likelihood of revocation will be an ever greater driver of prison expansion. Reversing the trend would certainly relieve pressure on prison space. More successful reentry management would also restore parole supervision as a period of transition to a law-abiding life.



Reentry—cues from the pretrial phase

It is useful to note that reentry is a nearly universal experience for criminal defendants, not just returning prisoners. Everyone who is arrested, charged with a crime, and then released from custody moves from a state of imprisonment to a state of liberty. Everyone who is released on bail, placed on probation after a period of pretrial detention, sentenced to weekend jail, or released to a drug treatment facility experiences a form of reentry.

Reentry in the pretrial context offers insights that can enhance reexamination of the classic challenges posed by returning prisoners. Something as simple as a clear explanation of the terms of pretrial release, made by a judge to a defendant and his family, can advance the interests of justice. Notifying the victim of spousal abuse that her attacker is about to be released—and developing safety plans and securing appropriate protective orders—can help ensure her safety. Requiring that an offender provide for restitution while on probation can make victims feel that justice

has been served. Placing an offender in a drug treatment program and explaining the terms of his participation in drug court can be the beginning of the road to recovery from drug addiction.

The events that occur with some frequency in the pretrial context of reentry management can induce us to think more broadly about reentry in the postimprisonment context. We might ask questions not typically considered at the point of release from prison: What authoritative figure should explain the conditions of liberty to a prisoner? Can adequate provisions be made for victim safety and public safety? Can restitution goals be incorporated and achieved? Can participation in drug treatment or other support programs be integrated into the process of reentry from prison? The lessons learned from innovative pretrial practices can inform the development of policies to manage reentry on the other end of the continuum—from prison to the community.



New directions in policy

Fortunately, at the same time parole has lost its effectiveness as reentry manager, important innovations are taking place that suggest different opportunities—and risks—for managing reentry in new ways. The drug treatment continuum, for example, mixes treatment processes with criminal justice processes to achieve successful reentry by reducing drug use and recidivism. Recent policies on sex offenders are a counterexample showing how policy shifts and new legal doctrines can militate against successful reentry. Innovative programs that manage community supervision to achieve public safety demonstrate how a variety of criminal justice agencies can enforce the terms of reentry. Finally, restorative justice programs are defining new roles for victims, families, and offenders, as well as for judges, police officers, and others, in shaping the terms of reentry.

The success of the drug treatment continuum

One of the more important developments under way in criminal justice policy is the linkage of criminal justice processes to drug treatment processes. Drug courts are one manifestation; increased funding for drug treatment in prisons is another; expanded use of drug testing as a condition of pretrial release, probation, or parole is still another. These developments shed light on a reconsideration of reentry. Research findings on the effectiveness of drug treatment offer hope that recidivism can be reduced. New models of treatment supervision and judicial oversight suggest different approaches to reentry management. And the understanding of relapse leads to new strategies for risk management.

Treatment effectiveness in the criminal justice context. The evaluation of Delaware’s “Key-Crest” therapeutic community treatment program typifies the literature on treatment effectiveness and demonstrates the efficacy of a continuum of treatment after release. Researchers found that drug-involved offenders who were treated both in prison and after release did better at staying drug free and arrest free than those who received no treatment. They also did better than those treated only in prison. In other words, treatment following release produced a powerful “booster” effect. Preliminary findings of a 3-year followup of these 6-month and 18-month studies confirmed the effectiveness of a continuum of treatment after release.¹⁰ Similar research in drug courts is not yet mature, but evidence from the programs and from a limited number of evaluative studies is very promising.¹¹ Contrary to the view that “nothing works,” this research supports the conclusion that drug treatment, provided in the criminal justice context, works to reduce crime and drug abuse.

Reentry models. The innovations in the drug treatment continuum also provide rich examples of successful reentry management.

Drug treatment programs in prison are classic reentry initiatives. They assume a fixed (or predictable) release date. Typically, only inmates within a year of release may participate. The programmatic offering is explicitly tied to the conditions of reentering the community—how to avoid relapse. And for programs like Delaware's Crest, which include postrelease supervision, the continuum is complete and reentry is managed from the community side as well.

Although drug courts do not represent themselves as being in the reentry business, the drug court movement also offers relevant insights. Participating offenders are continually reminded by the judge that their good behavior buffers them from the loss of liberty. Most drug courts operate with clearly articulated contracts. A typical contract may state that the first drug-positive urine test will result in a warning, the second in a day in the jury box (truly low-cost detention), the third in a 3-day stay in jail, and the fourth in revocation of bail or imposition of a sentence of imprisonment.

This finely calibrated use of the scarce resources of judicial authority and prison capacity to achieve demonstrable changes in behavior has revolutionary implications for the current operating philosophies of probation and parole. Is it possible to imagine a system in which success and failure at meeting the conditions of postconviction release are so carefully monitored by a figure having the moral authority of a drug court judge, with such clearly delineated consequences for failure (and rewards for success), and with the sparing use of prison to achieve socially desirable results?

Deconstructing risk and relapse. Finally, on a more conceptual level, the success of the drug treatment continuum illustrates the applicability of the concept of "relapse" in the criminal justice context. Standing in stark contrast to popular criminal justice notions of

"zero tolerance," the concept recognizes the possibility of relapse as a daily threat. People who have been sober for decades still identify themselves as alcoholics who take sobriety a day at a time.

The moment of relapse is an occasion to work harder to support the individual offender, not an occasion to shun or exile him. Viewed from this perspective, the practice of sending a parolee back to prison to finish the rest of his term because of dirty urine or a technical violation of parole seems bizarre indeed. The parsimonious sanctions meted out by drug courts, designed to change behavior, mark a different path for achieving the goals of reintegration.

Finally, the concept of relapse recognizes the growing body of scientific literature demonstrating that environmental factors can trigger brain reactions related to the disease known as addiction.¹² Simply placing a recovering addict at the street corner where he used to buy drugs may cause chemical reactions in his brain that increase the craving for the drug. Thus, relapse prevention frequently involves managing the addict's access to a stimulating environment and training him to sever the links between that environment and his actions. As Michael E. Smith and Walter J. Dickey argue in another paper in this series, the risk posed by an offender in the community is highly contextual.¹³ "Risk" is not a static attribute of a particular offender; rather, an offender's environment, including prospective guardians and opportunities for reoffending, influences his propensity to make unwise choices. Just as drug court judges and drug treatment providers seek to reduce the risk of relapse by focusing on the context of offending, so too reentry managers must account for the context into which returning prisoners are placed.

Applying some of the lessons of the drug treatment continuum to the generic reentry phenomenon might prompt us to ask addi-

tional questions: What would be the continuum of risk management? What internal and external support systems would be constructed for the offender? What level of personal accountability would be required? How would the support system be activated at times of relapse, whether real or potential? How would moments and environments that trigger relapse be reduced? How could the scarce resource of imprisonment be calibrated to new acts of antisocial behavior?

The sex offender conundrum

The shifting sands of policies on sex offenders underscore the need for careful development of new reentry paradigms. Few areas of sentencing policy have seen redefinition as extensive as this one. Currently, 49 States require that communities be notified so residents know when a convicted sex offender comes to live in their midst. Every State now has a sex offender registry (some of them are even online or on CD-ROM, with photos of the offenders) maintained by law enforcement agencies. A National Sex Offender Registry, ordered by the President in 1996, became fully operational in 1999. Some States subject sex offenders who are on parole or probation to regular polygraph tests to ascertain whether they have experienced the urge to commit new sex offenses (or have already done so). Chemical castration is advocated by some as an appropriate form of punishment. The Supreme Court recently ruled (see *Kansas v. Hendricks*, 117 S.Ct. 2072) that a State may hold sexual predators beyond their sentence if they are found "mentally abnormal" and likely to commit new crimes, and that this confinement does not constitute punishment.¹⁴

Questions in search of answers. These remarkable pressures on previously settled doctrines of jurisprudence and theories of punishment are worthy of study on their own terms. They raise a number of questions: Where should sex offenders live—clustered together or scattered so that each community

has its “share”? Can a person have his name legitimately removed from a sex offender registry? (Indeed, what constitutes a “sex offender”?) How should communities react when notified that a new neighbor is on such a list? How should sex offenders be treated when in mental institutions that look like prisons? On what basis will they be determined ready for release and with what conditions? The rapidly changing policies on these issues are also noteworthy because the research on sex offenses and offenders is notably weak. Not much is known about sex offenders beyond the fact that there are many types. Adult rapists, child rapists, pederasts, pedophiles, child abusers—all are quite different from each other. Little is known about the trajectory of behavior over the lifetime of an offender. What triggers the behavior? What causes desistance? What treatments work?

Could a case study offer answers? A focused study of sex offender programs would shed light on the way reentry issues are defined in the crosscurrents of correctional policy, sentencing policy, and the politics of crime in this highly charged atmosphere. Ohio’s experience suggests the possibilities. Almost 20 percent of the State’s corrections population consists of inmates classified as sex offenders.¹⁵ The Sex Offender Risk Reduction Center, established in 1995 by Reginald Wilkinson, Director of Ohio’s Department of Rehabilitation and Correction, offers an integrated approach involving outpatient and residential programs directed by mental health professionals and the requirement that all sex offenders continue and complete programming after release. The extensive psychological programming and the links to community-based programs are impressive and suggest intriguing comparisons with the drug treatment continuum discussed earlier.

A focused, pragmatic inquiry would examine the relationship between what is available on

the inside and the outside and could pose questions such as the following: How are sex offenders prepared for their new status on release? How are their families and support systems made part of the equation? How are relapse issues handled, and what is expected of the offender and his support system when relapse becomes a real possibility? How are the police involved in the process? How are mental health providers involved? How are communities engaged in the parole decision? What convincing arguments can be made against the predictable sex-offender version of NIMBY? This inquiry would enable us to refocus some of the policy questions inherent in reentry management broadly defined.

The public safety rationale for community corrections

Reconsideration of reentry issues is timely also because of a new sentiment in the community corrections profession that can make community supervision, if redefined, a major contribution to public safety.

The approach in practice. “Exhibit A” in this line of argument is the Boston experience. A coalition of criminal justice entities spanning the range of Federal and State agencies, from enforcement to probation, systematically set out to reduce gun violence among youth gang members. The results have been breathtaking. In the 2 years following implementation in 1996, homicide victimization among young people in Boston (those under 24) fell more than 70 percent—to levels below even those of the years preceding the youth violence epidemic.¹⁶ A critical component of the experiment was the probation department, which notably did not act alone but, rather, in close concert with the police. In “Operation Night Light,” as the probation-police component of the program is called, the courts agreed to set and enforce conditions of probation tailored to chronic youthful offenders. These new expectations were communicated expressly and clearly to the targeted youth population by a broad array

of agencies that then enforced those expectations when violence resurfaced.

“Exhibit B” is the Neighborhood Based Supervision (NBS) program of Washington State’s Department of Corrections, which takes community corrections officers out from behind their desks and places them directly in neighborhoods. There they join forces with community policing officers to work with the community in supervising released offenders. With NBS in Spokane, the traditional monitoring role of probation and parole has expanded to include that of information and resource broker, mediator, adviser, advocate, and counselor, and the community is brought into the process to help hold offenders accountable for their behavior.

“Exhibit C” is the demonstration project now under way in two Wisconsin counties. The premise is that released offenders can be a resource for reducing crime. Judges, probation and parole agents, and prosecutors work together to develop strategies for imposing and carrying out sentences that reflect a contextual assessment of an offender’s risk to the community. In this pilot project, the concept of risk is redefined to reflect the day-to-day realities of the offender’s life in his community. This movement from a strict “just deserts” mode of sentencing to a risk-based model also provides the foundation for new sentencing legislation in Washington State.

What these programs have in common is the idea that offenders under community supervision are a valuable asset. Stated differently, the research finding that offenders under probation and parole supervision commit a disproportionate amount of crime presents a rare opportunity to produce a commodity—safety—that is highly valued. Set against the low expectation of probation and parole agencies being able to deliver this commodity, such a view of community corrections becomes imbued with the enthusiasm usually

seen in high-risk business ventures and too rarely seen in criminal justice reform efforts.

New goals and roles. This approach turns traditional notions of offender-community relationships upside down. Dennis Maloney has spearheaded the reinvention of community corrections in Oregon's Deschutes County under the banner of the community justice movement, a change in organizational culture suggested in the agency's new name: the Department of Community Justice. He rallies his troops (the probationers) as though they were being sent to work in Civilian Conservation Corps camps during the Depression, assigning them to highly visible public works projects as their reparation for the harm they have caused. Michael E. Smith and Walter J. Dickey, in Wisconsin, envision a street corner drug market where paroled offenders, parole officers, police officers, and young people likely to enter the drug market develop and implement strategies to reduce the level of violence and drug selling taking place there. Former Washington Corrections Administrator Chase Riveland, in his work with Neighborhood Based Supervision in Spokane, put parole officers and police officers in the same room, told them to go talk with community residents about the offenders living in their midst, and was pleased when a parole officer told him the new team goal is to see increased home ownership because that will mean the community is safer. In his work in Boston, Harvard's David Kennedy highlights the importance of bringing all gang members together to meet with the U.S. attorney and every other relevant law enforcement official to hear the message that violence will no longer be tolerated and then enforcing that message with action when necessary.¹⁷

These initiatives are a far cry from traditional social work approaches to parole and probation. Anonymity is replaced with in-your-face contact. The prohibition against consorting with known criminals is replaced with

the activism of community justice teams. Deskbound, 9-to-5 casework is replaced with enforcing curfews by camping outside the probationer's door at 10 p.m. to make sure he is home. The organizational boundaries and cultural incompatibility that kept police and probation apart are replaced by common purpose. Offenders are seen as assets to be managed rather than merely liabilities to be supervised. The organizing principle of community corrections work is no longer a caseload organized by level of risk determined by a scoring instrument, by type of offender, or randomly. In the new model, the work of community corrections can be organized by the neighborhood where the offender lives, the location of the crime problem to be addressed, or the place where the community justice project is located. Finally, the role of the community corrections officer is radically different. It is that of partner with the police in enforcement (as in Boston), community outreach worker (as in Spokane), and jobs and service broker (as in Deschutes County).

Finding the links to reentry. What still needs to be considered are the implications of these initiatives for reentry—just how the offender is released into this new world of supervision. A study of Boston's experience would illustrate how judges, police officers, and probation officers explained to young offenders on probation just what the new terms of probation really mean. A study of Washington's Neighborhood Based Supervision would reveal what the parole and police officers working in Spokane have learned about setting community norms for offenders' behavior following reentry. A study of Deschutes County would demonstrate whether the organizational transformation to a community justice department has translated into new expectations among prisoners awaiting release. Do inmates know, for example, that the parole they are about to receive is unlike any other they have experienced? How has the language of the street conveyed new messages

about behavior and its consequences? With these insights in hand, we could ask how a seamless system of reentry could reinforce these messages.

Restorative justice

Finally, the reentry discussion is timely because of innovations on the restorative justice frontier. Although this is a grassroots movement, much of the innovation is taking place within the structure of the criminal justice system. Thus, some is court based, with the formal hearing giving way to an alternative dispute resolution process involving the victim, offender, lawyers, and community residents, in addition to the judge, in decisionmaking.¹⁸ Some is police based, with officers facilitating family group conferences that involve victims, family members, and the offender.¹⁹ Some is corrections based, as exemplified by the Reparative Citizen Boards, designed by Vermont Department of Corrections head John Gorczyk, on which community members interact with offenders to draw up a contract stipulating probation conditions.²⁰ Some is prosecution based, as exemplified by the Neighborhood Conference Committees developed under Travis County, Texas, District Attorney Ronald Earle, where panels of citizens meet with juvenile offenders and, separately, with their parents and together draw up a contract spelling out the conditions of diversion from court.²¹ The range of these restorative innovations and the energy behind them are truly exciting.

Reintegration the goal. For purposes of this exploration of reentry, there is great power in the notion, implicit in restorative justice initiatives, that an important purpose of the criminal sanction is reintegrating the offender into the community following his acceptance of personal responsibility for the harm done to victim and community and his "payment" of appropriate penance. Of all the attention paid to various "shaming" programs, little focuses on the implications of the term "reintegrative," which, according to the literature, is

the key modifier. Shaming without a reintegrative purpose, the literature suggests, is at best wasted effort and at worst counterproductive.²²

Victims and the community. The second dimension of restorative justice philosophy relates to the victim and the community wronged by the crime. Victims cannot be restored to the *status quo ante*, nor can offenders be expected to repair all financial harm they caused their victims. Yet the social and psychological “restoration” of victims is, in my view, a major societal purpose that can be accomplished in the administration of justice. Our current approach frustrates this purpose, however. Progress is piecemeal. Meaningful participation of victims in court proceedings is a good beginning; it is accomplished to a larger degree in restorative programs. Restitution can be enhanced by the involvement of victims. Respect for the processes of government can be enhanced. Fear of offenders can be reduced. Unfortunately, however, victim involvement, now increasingly required by statutes and constitutional amendments, is often seen by the agencies of justice as a burden rather than an opportunity to advance the interests of justice. Restorative justice initiatives break new conceptual ground for the possibilities of substantive victim participation.

Restorative justice initiatives also represent, without stating it in so many words, significant new processes for defining the terms of reentry. The negotiation of relationships among the parties affected by the crime results in a new contract—with reentry of the offender understood in terms of that contract. The victim, the family, the offender, and other interested parties have a direct role in negotiating the contract and consequently an interest in its enforcement. “Supervision” is privatized by allowing the forces of informal control—family, neighbors, police officers, victims—to be part of the supervisory process. These networks—the forces thought

by researchers to be most effective at reducing crime²³—are explicitly and formally given new tasks to accomplish in managing the reintegration of the offender.



A provocative proposal

Let’s imagine a world unconstrained by budgetary realities, legal conventions, or implementation considerations. In that world, let’s consider a model of reentry that draws on and applies the lessons learned from the innovations described here. We make two assumptions: that people are still sent to prison, and that they are released back into the community with some portion of their sentence still to be served.

Judges as reentry managers

If a new vision were written on a clean slate, the role of reentry management would best be assigned, in my view, to the sentencing judge, whose duties would be expanded to create a “reentry court.” At the time of sentencing, the judge would say to the offender, “John Smith, you are being sentenced to X years, Y months of which will be served in the community under my supervision. Our goal is to admit you back into our community after you pay your debt for this offense and demonstrate your ability to live by our rules. Starting today, we will develop, with your involvement, a plan to achieve that goal. The plan will require some hard work of you, beginning in prison and continuing—and getting harder—after you return to the community. It will also require that your family, friends, neighbors, and any other people interested in your welfare commit to the goal of your successful return. I will oversee your entire sentence to make sure the goal is achieved, including monitoring your participation in prison programs that prepare you for release. Many other criminal justice agencies—police, corrections, parole, probation, drug treatment, and others—will be part of a team committed to achieving the goal. If you do not

keep up your end of the bargain, I will further restrict your liberty, although only in amounts proportionate to your failure. If you commit a crime again after your release, all bets are off. If you do keep up your end of the bargain, it is within my power to accelerate the completion of your sentence, to return privileges that might be lost (such as your right to hold certain kinds of jobs or your right to vote), and to welcome you back to the community.”

At the time of sentencing, the judge would also convene the stakeholders who would be responsible for the offender’s reentry. They would be asked to focus on that day, perhaps years in the future, when John returns home. How can he be best prepared for that day and for a successful reentry? What does his support network commit to doing to ensure that success? A “community justice officer” (who could be a police officer, probation officer, or parole officer) would also be involved, since there might be special conditions, geared to the neighborhood, that the offender would have to meet.

The judge-centered model described here obviously borrows heavily from the drug court experience. Both feature an ongoing, central role for the judge, a “contract” drawn up between court and offender, discretion on the judge’s part to impose graduated sanctions for various levels of failure to meet the conditions imposed, the promise of the end of supervision as an occasion for ceremonial recognition.

Incarceration as a prelude to reentry

If John goes to prison, a significant purpose of his activities behind bars would be preparation for reentry. What does that mean? It depends on the type of offender and the offense, and could include sex offender treatment, job readiness, education and/or training, a residential drug treatment program, and anger management. These activities would also involve people, support systems,

and social service and other programs based in John's neighborhood. Drug treatment in prison should be linked to drug treatment in the community, job training should be linked to work outside, and so forth. In other words, mirror support systems should be established so that John can move from one to the other seamlessly upon release.

Even while in prison, John would continue to pay restitution to his victim or to the community he has harmed—tangible, measurable restitution. A lot of time would be spent with John's family, to keep family ties strong and to talk about what John will be like when he returns home. As the release date approached, the circle would widen, as the support system was brought into the prison to discuss how to keep the offender on the straight and narrow after release. Buddy systems would be established and training in the early warning signs of relapse provided. Again, the community justice officer could broker this process. All the while, the judge would be kept apprised of progress.

Setting the terms of release

When released, John would be brought back to court, perhaps the same courtroom where he was sentenced. A public recognition ceremony would be held, before an audience of family and other members of the support team, and the judge would announce that John has completed a milestone in repaying his debt to society. Now, the judge would declare, the success of the next step depends on John, his support system, and the agencies of government represented by the community justice officer.

The terms of the next phase would be clearly articulated. If John's case were typical, he would have to remain drug free, make restitution to his victim and reparation to his community, work to make his community safer, participate in programs that began in prison (work, education, and the like), avoid situations that could trigger relapse, and refrain

from committing crime. He would be required to appear in court every month to demonstrate how well the plan was working.

Making the contract work

The judge presiding over a reentry court would be responsible for making sure that John held up his end of the bargain and that the government agencies and the support system were doing their parts. As in drug courts, the court appearances need not be long, drawn-out affairs; the purpose of invoking the authority of the court would be to impress on John that he has important work to do and to mobilize the support network. The power of the court would be invoked sparingly when John failed to make progress. The court would view relapse in its broadest sense and would use the powers at its disposal (to impose prison sentences, greater restrictions on liberty, fines, and similar sanctions) to ensure that John toes the line. His family and other members of his support system would be encouraged to attend these court hearings. The community justice officer would keep the court apprised of neighborhood developments involving the offender. To the extent John became involved in programs that made his community safer, there would be occasion for special commendation. The judge would be empowered by statute to accelerate the end of the period of supervision, to remove such legal restrictions as the ban on voting, and to oversee John's "graduation" from the program—his successful reentry into the community.

This approach would have several benefits. It cuts across organizational boundaries, making it more likely that offenders are both held accountable and supported in fulfilling their part of the reentry bargain. By involving family members, friends, and other interested parties in the reentry plan, it expands the reach of positive influences upon the offender. By creating a supervisory role for judges, the approach gives them far greater capacity to achieve the purposes of sentencing. Most

important, by focusing on the inexorable fact that the prison sentence will one day be completed and the offender will come back to live in the community, the approach directs private and public energies and resources toward the goal of successful reintegration.



Conclusion

To be sure, the reentry model outlined here would not find easy acceptance. Even if it were embraced in principle, too much may be invested in the current system to consider undertaking such a major overhaul. Then there are the multiple logistical challenges, with workload considerations—particularly those of judges and community corrections officers—paramount. The main challenge would be to build the interagency relationships essential to making the model work. That would involve, among other things, creating a link on the conceptual level between incarceration on the one hand and probation and parole on the other.

Perhaps the rationales for revisiting reentry outlined here—among them current sentencing policies that mean more returning offenders, the issue of relapse, the eclipse of traditional parole—are not convincing on their own. But add to them the array of innovations under way on such fronts as drug courts, the pretrial phase of justice processing, and restorative justice, as well as in projects nationwide that are marshaling the forces of corrections in the service of public safety, and the times seem to offer that rare mix of policy challenge and opportunity for new ways of doing business.

Notes

1. Bureau of Justice Statistics, unpublished data for 1998; *Prisoners in State and Federal Institutions on December 31, 1980*, National Prisoner Statistics Bulletin, Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, March 1982: 2, 7, NCJ 80520; *Correctional Populations in the United States, 1996*,

- Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, April 1999: 86, NCJ 170013.
2. Ditton, Paula M., and Doris James Wilson, *Truth in Sentencing in State Prisons*, Special Report, Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, January 1999: 3, NCJ 170032.
 3. The latest figure, for 1997, indicates that 18.6 percent of prisoners released from State prison leave without correctional supervision (Ditton and Wilson, *Truth in Sentencing*, 10).
 4. *Ibid.*, 2.
 5. Glaser, Daniel, *The Effectiveness of a Prison and Parole System*, Indianapolis, IN: Bobbs-Merrill, 1969; Martinson, Robert, "What Works?—Questions and Answers About Prison Reform," *Public Interest* 35 (2) (1974): 22–54; Sechrest, Lee, Susan White, and Elizabeth Brown, *The Rehabilitation of Criminal Offenders: Problems and Prospects*, Washington, DC: National Academy of Sciences, 1979; DiIulio, John, "Reinventing Parole and Probation," *Brookings Review* 15 (2) (1997): 40–42; Citizens' Inquiry on Parole and Criminal Justice, *Report on New York Parole*, New York: Citizens' Inquiry, 1974; Petersilia, Joan, and Susan Turner, "Intensive Probation and Parole," in *Crime and Justice: A Review of Research*, vol. 17, ed. Michael Tonry, Chicago: University of Chicago Press, 1993: 281–335.
 6. The rhetorical point is not the literal fact. A certain proportion of prisoners do not return to the community. Of the 1.2 million prisoners, a small number (about 3,300 per year) die in prison as a result of illness or other natural causes, suicide, execution, or for another reason. *Correctional Populations in the United States, 1996*, 95.
 7. Bureau of Justice Statistics, *Correctional Populations in the United States, 1996*, iii, 9; Snell, Tracy L., *Correctional Populations in the United States, 1993*, Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, October 1995: 12, NCJ 156241.
 8. Figure for 1991 calculated from *Correctional Populations in the United States, 1996*; figure for 1998 figure is from unpublished Bureau of Justice Statistics data.
 9. Petersilia, Joan, "Parole and Prisoner Reentry in the United States," in *Prisons*, ed. Michael Tonry and Joan Petersilia (Crime and Justice: A Review of Research, Volume 26), Chicago: University of Chicago Press, 1999: 513.
 10. Inciardi, James A., *A Corrections-Based Continuum of Effective Drug Abuse Treatment*, Research Preview, Washington, DC: U.S. Department of Justice, National Institute of Justice, June 1996, NCJ 152692; and Martin, Stan, et al., "Three-Year Outcomes of Therapeutic Community Treatment for Drug-Involved Offenders in Delaware: From Prison to Work Release to Aftercare," *Prison Journal* 79 (3) (September 1999): 294–320.
 11. See *Looking at a Decade of Drug Courts*, Drug Court Clearinghouse and Technical Assistance Project, American University, Washington, DC: U.S. Department of Justice, Office of Justice Programs, Drug Courts Program Office, June 1998: 4, NCJ 171140.
 12. Rawson, Richard A., *Treatment for Stimulant Use Disorders (Treatment Improvement Protocol [TIP] Series, 33)*, DHHS Publication No. SMA 99–3296, Rockville, MD: U.S. Department of Health and Human Services, Center for Substance Abuse Treatment, 1999.
 13. *Reforming Sentencing and Corrections for Just Punishment and Public Safety*, Research in Brief, Sentencing and Corrections: Issues for the 21st Century, Washington, DC: U.S. Department of Justice, National Institute of Justice and Corrections Program Office, September 1999, NCJ 175724.
 14. 521 U.S. 346, 1997.
 15. Information from the Bureau of Research, Ohio Department of Rehabilitation and Correction. Figure is as of 1999.
 16. Boston Police Department, "Operation Cease Fire," unpublished document, no date (abstract page).
 17. Kennedy, David, "Pulling Levers: Getting Deterrence Right," *National Institute of Justice Journal* 236 (July 1998): 2–8.
 18. Stuart, Barry, "Circle Sentencing in Canada: A Partnership of the Community and the Criminal Justice System," *International Journal of Comparative and Applied Criminal Justice* 20 (2) (Fall 1996): 291–309; Bazemore, Gordon, "Conferences, Circles, Boards, and Mediations: The 'New Wave' of Community Justice Decision-making," *Federal Probation* 61 (2) (June 1997): 25–37; and Stuart, Barry, "Circle Sentencing: Turning Swords Into Ploughshares," in *Restorative Justice: International Perspectives*, ed. Burt Galaway and Joe Hudson, Monsey, NY: Criminal Justice Press, 1996: 193–206.
 19. An example is the Bethlehem, Pennsylvania, Police Family Group Conferencing program. The report of the NIJ-sponsored evaluation is "Restorative Policing Experiment: The Bethlehem Pennsylvania Police Family Group Conferencing Project," by Paul McCold and Benjamin Wachtel, final report submitted to NIJ, May 1998 (grant no. 95–IJ–CX–0042).
 20. Vermont Reporative Probation, "Program Overview," n.p., 1999; and Vermont Reporative Probation, "Fact Sheet," n.p., 1999.
 21. The procedure followed by the Neighborhood Conference Committees is described in *Travis County Neighborhood Conference Committees Training Manual, Version VI*, n.p., June 1999.
 22. Braithwaite, J., *Crime, Shame and Reintegration*, New York: Cambridge University Press, 1994: 55, 81, 102; and Braithwaite, J., "Reintegrative Shaming, Republicanism, and Policy," *Crime and Public Policy*, ed. Hugh D. Barlow, Boulder, CO: Westview, 1995: 193–194.
 23. See *Neighborhood Collective Efficacy—Does It Help Reduce Violence?* by Robert J. Sampson, Stephen W. Raudenbush, and Felton Earls, Research Preview, Washington, DC: U.S. Department of Justice, National Institute of Justice, April 1998, FS 000203.

Jeremy Travis, former Director of the National Institute of Justice, is a Senior Fellow with The Urban Institute.

This study was supported by cooperative agreement 97–MUMU–K006 between the National Institute of Justice and the University of Minnesota.

Findings and conclusions of the research reported here are those of the author and do not necessarily reflect the official position or policies of the U.S. Department of Justice.

The National Institute of Justice is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

This and other NIJ publications can be found at and downloaded from the NIJ Web site (<http://www.ojp.usdoj.gov/nij>).

NCJ 181413

THE EXECUTIVE SESSIONS ON SENTENCING AND CORRECTIONS

Convened the following distinguished panel of leaders in the fields:

Neal Bryant
Senator
Oregon State Senate

Harold Clarke
Director
Department of Correctional Services
State of Nevada

Cheryl Crawford
Deputy Director, Office of
Development and Communications
National Institute of Justice
U.S. Department of Justice

Barbara Damchik-Dykes
Project Coordinator
Executive Sessions on Sentencing
and Corrections

Walter Dickey
Ejvue-Bascom Professor of Law
University of Wisconsin

Ronald Earle
District Attorney
Austin, Texas

Tony Fabelo
Director
Texas Criminal Justice Policy Council

Richard S. Gebelein
Superior Court Judge
Wilmington, Delaware

John Gorczyk
Commissioner
Department of Corrections
State of Vermont

Kathleen Hawk Sawyer
Director
Federal Bureau of Prisons
U.S. Department of Justice

Sally T. Hillsman
Deputy Director
National Institute of Justice
U.S. Department of Justice

Martin Horn
Secretary
Department of Corrections
Commonwealth of Pennsylvania

Susan M. Hunter
Chief, Prisons Division
National Institute of Corrections
U.S. Department of Justice

Leena Kurki
Research Associate
Law School
University of Minnesota
Project Associate
Executive Sessions on Sentencing
and Corrections

John J. Larivee
Chief Executive Officer
Community Resources for Justice

Joe Lehman
Secretary
Department of Corrections
State of Washington

Dennis Maloney
Director
Deschutes County (Oregon)
Department of Community Justice

Larry Meachum
Director
Corrections Program Office
Office of Justice Programs
U.S. Department of Justice

Mark H. Moore
Guggenheim Professor of Criminal Justice
Policy and Management
John F. Kennedy School of Government
Harvard University

Norval Morris
Emeritus Professor of Law and Criminology
University of Chicago

Joan Petersilia
Professor of Criminology,
Law and Society
School of Social Ecology
University of California, Irvine

Kay Pranis
Restorative Justice Planner
Department of Corrections
State of Minnesota

Michael Quinlan
Former Director
Federal Bureau of Prisons
U.S. Department of Justice

Chase Riveland
Principal
Riveland Associates

Thomas W. Ross
Superior Court Judge,
18th Judicial District
Chair, North Carolina Sentencing
and Policy Advisory Commission

Dora Schriro
Director
Department of Corrections
State of Missouri

Michael Smith
Professor of Law
University of Wisconsin

Morris Thigpen
Director
National Institute of Corrections
U.S. Department of Justice

Michael Tonry
Director
Institute of Criminology
University of Cambridge
Sonosky Professor of
Law and Public Policy
University of Minnesota
Project Director
Executive Sessions on Sentencing
and Corrections

Jeremy Travis
Senior Fellow
The Urban Institute
Former Director
National Institute of Justice
U.S. Department of Justice

Reginald A. Wilkinson
Director
Department of Rehabilitation
and Correction
State of Ohio