

Early Termination: Outdated Concept in an Era of Punitiveness

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IN A RECENT article describing the initial interview with substance-abusing offenders, I noted that “in the criminal justice system, coercion and threats of incarceration are appropriate means of inducing offenders with substance problems to enter a therapeutic community or other treatment program” (Torres, 1997b).

However, while coercion and threats of incarceration are powerful and necessary tools in the probation officer’s arsenal of techniques and strategies, officers should not neglect to reward cooperative behavior and compliance. Too often, probation and parole officers find it easy to rely almost exclusively on threats and coercion to induce offenders to comply with the conditions of supervision. While these may be effective in the short run, many offenders revert to negative behavior patterns once structure and supervision are removed. Therefore, it is incumbent upon officers to use all means at their disposal to encourage, assist, reward, coerce, and threaten offenders into prosocial behavior and compliance with supervision conditions.

Officer Controlled Incentives

Although probation officers do not have some of the more powerful incentives that are available to institutional staff such as good time, preferred housing, lower security level, and programs, they do, nonetheless, have some persuasive ways to encourage and reward favorable behavior. For substance abusers, perhaps one of the more tangible rewards is the level of testing that is required. In U.S. probation offices, testing normally progresses at specific intervals. Depending on the offender’s background, the offender may progress through the program at 4- or 6-month stages. Needless to say, the officer’s decision to select 4- or 6-month phase intervals has significant impact on the offender. Four-month intervals represent a suspension from structured drug testing 6 months sooner than if the offender was on a 6-month cycle. Officers should inform offenders at the initial interview that the length of time on structured testing depends on the offenders’ ability to report consistently for testing, provide acceptable urine samples (no diluted tests), and remain drug free. When I was a probation officer, I generally informed new cases that the testing would proceed at 6-month intervals, but that they could accelerate their progress through the cycles by exemplary participation.

Paperwork, Paperwork, Paperwork

Probation officers should be generous with *praise* when offenders respond favorably to supervision. Many of the offenders they supervise have come from highly dysfunctional families and have had minimal success and achievement in their lives. Many officers become so overburdened with paperwork and other requirements of the job that they fall into a cycle of seeing offenders as contacts, monthly supervision reports, or mere statistics to be met. Some officers have developed what is sometimes referred to as a “cattle call” method of supervision. Probation officers who use this method of supervision require all of their cases to report during the first 2 to 3 days of the month or during the first week so that the “contact” and monthly supervision report can be completed.

Although this “quickie” or “eyeball” contact type of case management style may prevent officers from identifying problems with offenders who appear to be doing well, it is a survival technique many, if not most officers use to stay on top of the increasing paperwork. We can all cite instances where dedicated and hardworking officers who have devoted a great deal of time to cases have received negative evaluations because they neglected to complete their paperwork. I recall one officer who had only the most superficial contact with his cases but paid meticulous attention to collecting monthly supervision reports, always met his monthly contact requirements, and stayed up to date on case summary reports. This officer was consistently the top officer in the percentage of monthly reports collected. I occasionally overheard him tell an offender that the chief had called him, inquiring as to why the particular offender had failed to get his report in on time. This efficient “paper pusher” received excellent evaluation reports while the devoted “caseworker” who neglected the paperwork received substandard evaluations.

Most officers realize that in any particular month, if they must prioritize between casework or processing required written reports, they must delegate the casework to the “back burner” until they have completed the *essential* paperwork. A tremendous amount of paperwork is simply the harsh reality of working in a government bureaucracy that demands increasing accountability. It is the paperwork that facilitates personnel evaluations because these tangible products, like presentence investigations, are easier to measure. It is easy to measure the number of monthly reports that have

been submitted on time, the number of monthly contacts, the number of delinquent financial payments, and case summaries completed on time. However, it is much more difficult to measure the quality of a contact or the quality of services provided. Supervisors know that it is virtually impossible to evaluate whether the hour-long contact is effective casework or merely the inefficient use of an officer's time.

The dramatic increase in paperwork has resulted in many capable officers leaving to pursue other professions. While an offender's progress and adjustment does require adequate documentation, most officers find the documentation excessive and extremely tedious. A study of the time allocations of a sample of Missouri probation officers in 1980 showed that paperwork responsibilities and travel constituted over 50 percent of an officer's monthly work activities (Hartke, 1984, pp.66-68). Since 1980, the amount of paperwork required of officers in the federal system has increased dramatically. Clear and Cole observe that:

One reason for the small amount of time spent in contact with parolees is that officers have organizational responsibilities to fulfill. Some part of the day may be spent in the field helping clients to deal with other service agencies medical, employment, educational but a great portion is spent in the office meeting bureaucratic paperwork and administrative requirements. Paperwork and other duties are such that parole officers spend as much as 80 percent of their time at nonsupervisory work (1997, p.455).

Reclassification and Reduction of Supervision Level

A built-in mechanism for rewarding a favorable adjustment is to reclassify offenders and reduce their supervision level. This, of course, is similar to the structured drug testing requirement where special drug aftercare offenders have their testing reduced based on a positive response to the testing program. My own preference was to set the framework for the supervision process at the time of the initial interview. After carefully reviewing the general and specific conditions of supervision, which basically consisted of instructing offenders as to what they could and could not do while on supervision, I always preferred to end the initial interview on a somewhat positive note. The discretion to reduce the offender's level of testing and supervision allowed me to introduce a cheerful element into an otherwise negative process. I would say something to the effect that "all this basically means is that we want you to stay clean, work, and stay out of trouble. If you can do well for a few months I'll reduce your testing and you'll only have to report four to six times instead of six to eight times."

I believe that it is desirable to allow the offender to see some "light at the end of the tunnel" and in the process introduce some hope and optimism. Although officers' roles are defined largely by their power and authority over their charges, officers can and should treat offenders with respect and dignity. If there is something positive that officers can introduce at the initial interview as an incentive for cooperation and compliance with the conditions of supervision, I believe that they should employ it without hesitation. The opposite view is held by the officer who responded, "I

tell them at the initial interview that they don't have anything coming."

Statutory Authority for Early Termination

In the federal system, authority to terminate supervision early is outlined in 18 U.S.C. 3564(c), which states:

The court, after considering the factors set forth in section 3553(a) to the extent that they are applicable, may, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, terminate a term of probation previously ordered and discharge the defendant at any time after the expiration of one year of probation in the case of a felony, if it is satisfied that such action is warranted by the conduct of the defendant and the interest of justice. (Federal Criminal Code and Rules, 1994, p.829)

In the case of supervised release, the authority for the court to terminate supervision early is found in 18 U.S.C. 3583(e)(1):

The court may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), and (a)(6), terminate a term of supervised release and discharge the person released at any time after the expiration of one year of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, if it is satisfied that such action is warranted by the conduct of the person released and the interest of justice. (Federal Criminal Code and Rules, 1994, p.835)

Section 3553 makes clear that the court *may* terminate supervision at any time in the case of misdemeanors and any time after 1 year in the case of felonies if "it is satisfied that such action is warranted by the conduct of the person released and the interest of justice." In considering early termination, the statute refers the court to the specific factors that must be considered prior to granting early termination. These are defined in section 3553(a), which states, in part, that the court, in determining the particular sentence to be imposed, shall consider the nature and circumstances of the offense and the history and characteristics of the defendant. It *shall* also consider the need for the sentence imposed in order to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense. Section 3553(a) also requires judges to consider deterrence, public safety, and consideration for the offender's need for educational, vocational, medical, or correctional services. Subsection requires the court to consider *the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct* (Federal Criminal Code and Rules, 1994:822).

Although there are few "old law" parole cases, early termination with those cases under the jurisdiction of the U.S. Parole Commission are governed by the requirements set forth in 18 U.S.C. 4211. The statute governing parolee eligibility for early termination is notable for its degree of specificity, which states, in part, that the Parole Commission may, upon its own motion or upon request of the parolee, terminate supervision. The Commission is also required to review annually the need for continued supervision. Five years

after each parolee's release on parole, the Commission is required to terminate supervision over a parolee unless it is determined, after a hearing, that there is a likelihood the parolee will engage in criminal conduct (Federal Criminal Code and Rules, 1994, pp. 903–904).

A close reading of the above sections makes clear that Congress intended that the courts have the discretion to reward an offender by granting early terminations “if such conduct is warranted by *the conduct of the defendant* and the interests of justice.” It may be that Congress also intended that government services and resources not be expended on those who do not appear to need further supervision. These sections, which address probationers, supervised releasees, and parolees, appear unambiguous in the need to consider the “conduct” of the offender and the “need for continued supervision.”

Most state penal codes also allow for early termination, as California Penal Code Section 1203.3(a), which states, in part:

The court shall have authority at any time during the term of probation to revoke, modify, or change its order of suspension of imposition or execution of sentence. It may at any time when the ends of justice will be subserved thereby, and when the good conduct and reform of the person so held on probation shall warrant it, terminate the period of probation, and discharge the person so held. (California Penal Code, 1990:510)

Publication 109 and Administrative Caseloads

Although each of the 94 federal judicial districts and each judge possess considerable authority and discretion over early termination procedures, the Administrative Office of the U.S. Courts, in Publication 109, has developed guidelines to consider:

Early termination from supervision is *recognition that the offender has achieved the objectives of supervision*. Generally, an offender should have been assigned to the administrative caseload before being considered for early termination. The criteria for early termination include:

- law-abiding behavior;
- full compliance with the conditions of supervision, and
- a responsible, productive lifestyle.

Unless otherwise directed by the court or U.S. Parole Commission, the officer should not request early termination unless the offender has met all the criteria for placement on the administrative caseload. (Publication 109, 1993, p.37)

An administrative caseload as defined by Publication 109 is one that provides little or no direct supervision activity. This type of caseload permits officers to focus on offenders who require greater supervision in order to enforce conditions, control risk, and provide treatment. According to the guidelines established by Publication 109, the criteria for an administrative caseload include no history of violence, drug distribution, or an otherwise notorious conviction offense. Furthermore, there should be no pending cases and no criminal convictions in the past 12 months, excluding minor traffic matters. Officers should verify that the offenders have a stable residence and marriage for at least 6

months.

Designation to an administrative caseload also requires a documented history of compliance with the conditions of supervision, including submitting monthly supervision reports on time, adhering strictly to fine/restitution payment schedules and community service work schedules, and completing all special conditions for treatment (i.e., drug, alcohol, or mental health treatment). In addition, no alcohol or drug abuse in the past 12 months, no current psychiatric problems, and no third-party risk issues should be evident in the case.

While the guidelines for early termination set forth in Publication 109 are very precise, it is necessary to examine the guidelines for placement in an administrative caseload to determine the criteria for early termination since the Administrative Office of the U.S. Courts maintains that an officer should not request early termination unless the offender has met all the criteria for placement on the administrative caseload.

In one Western judicial district, an assistant U.S. attorney informed the probation office that assistant U.S. attorneys were receiving an increasing number of requests *by defense lawyers* to terminate probation or supervised release early. The assistant U.S. attorney acknowledged that a recommendation for early termination was generally a discretionary call by the probation officer and the assistant U.S. attorney. Interestingly, the assistant U.S. attorney concluded that *absent extraordinary circumstances, the full term of supervision should be served*.

While there is, in fact, considerable discretion in the submission of early termination recommendations, a close reading of the statutes governing early termination does not seem to support the assistant U.S. attorney's position requiring *extraordinary circumstances*. Furthermore, the guidelines outlined in Publication 109 appear inconsistent with this interpretation. The relevant case cited to support the “absent extraordinary circumstances” position is *U.S. vs. Perelmutter* (SDNY, 1989), which requires that the circumstances that were present at the time the offense occurred not be present at the time of a motion for early termination. In *Perelmutter*, Judge Sweet held that:

The factors which resulted in the May 8, 1987, sentence remain unchanged, including recognition of the shifting sands of statutory interpretation, a previously unblemished record of the defendant, and the use of her profession in a fashion to benefit clients who had engaged in crime, according to the government. (U.S. vs. Perelmutter, SDNY)

The court concluded that since the probationer's circumstances had not changed, no basis existed to grant the motion for early termination. In *U.S. vs. Martin*, 1992 WL 178585 (SDNY), an offender argued that he would not be eligible for admission to the New York State Bar until the termination of his probation. However, the fact that he had led an exemplary personal and professional life before his involvement in the offenses was taken into account in the original sentencing. Therefore, his 18 U.S.C. 3564 motion for early termination was denied.

In reviewing the relevant case statutes and case law pre-

sented by the assistant U.S. attorney, there does not appear to be merit to the position that *extraordinary circumstances* need to be present, that is, unless extraordinary circumstances are interpreted as referring to a positive change in conduct by the offender over that which was demonstrated at the time the offense occurred. It would appear that Publication 109 and the varying district policy statements adequately assess this positive change in conduct in their criteria for early termination without the need to introduce an "extraordinary circumstances" requirement.

Setting Clear Expectations for Early Termination

In a study examining what offenders say about supervision, Leibrich (1994, p.41) reports that probation officers feel that the nature of the relationship between the officer and the offender is the essential factor in influencing offending behavior. This study group involved a random sample of 48 offenders drawn from the 312 who were sentenced to supervision in New Zealand in 1987.

Leibrich's study found that about 50 percent of the sample felt they had gotten something out of their probationary sentence. Approximately one-third of this number said that probation had contributed to their going straight. Of significance is the finding that getting something out of probation was clearly related to feeling positive about their probation officer. Approximately 66 percent made positive comments about their officer because the officer treated them like individuals and displayed genuine consideration for them. What seemed important for offenders was that they were treated as a "person" and a "human being" rather than as a thing, a number, a product (p.45).

Offenders had the most positive comments about their probation officers if they were:

- Someone they could get on with and respect who
- Treated them as an individual
- Was genuinely caring
- *Was clear about what was required of them*
- Trusted them when the occasion called for it (p.45)

Offenders tended to have negative feelings about their probation officer if the offenders felt as though they were being merely "processed," if the officers were consistently late for scheduled appointments, or had given the impression that they were more curious than genuinely concerned (p.45).

For the purpose of this discussion on early termination, I believe it is critical to recognize that offenders tend to feel that their officers are fair when they are clear on *what is required of offenders*. As a drug specialist, I was considered by offenders as a "tough officer" and had acquired the moniker "Send 'Em Back Sam." My reputation developed, I believe, less from the number of violations that resulted in custody than from my willingness to set firm limits *and* to stick by them when violations of the special drug aftercare condition occurred. My first action of choice was seldom a recommendation for a return to custody but, instead, placement in a therapeutic community. At the initial interview, I

was always clear that drug use would likely result in placement in a therapeutic community. Many of my cases would holler, scream, curse, and use every manipulation imaginable when they had to decide whether they would enter a program or opt to have a violation hearing. Despite my reputation and the fact that many substance abusers would avoid me like the plague, my reputation also was one of being fair, "straight," and "he'll tell you how it is." Even now, in my work with offenders at a federal halfway house, residents occasionally will tell me, "I heard you were tough; but they say you were fair." In my view, fair is being direct with the offenders as to what I expect of them. Part of being clear about what is required is telling the offender at the initial interview the expectations for an early termination recommendation.

Early Termination Policies in 4 Districts

My examination of early termination began when I discovered substantial disparity on this issue from district to district, unit to unit, and within the same unit, and even from officer to officer. The information contained in the following section was obtained in interviews with U.S. probation officers, supervising probation officers, and deputy chief probation officers in four districts in the western United States.

District #1: According to District #1's supervision manual, certain types of offenses are not appropriate for early termination, including sophisticated white-collar crimes, organized crime, and sales of illicit drugs. Furthermore, early termination requests are not submitted for corporations (Supervision Manual, 1998, pp.400-498).

In the District #1, *mere compliance with conditions of supervision is insufficient reason to initiate a request for early termination*. To consider a case for early termination, the offender must demonstrate a willingness to *exceed the basic requirements* of supervision and show a pattern of consistent positive adjustment. The probation officer is required to document any discussion with the offender about early termination. Criteria for early termination consideration are arranged into *essential* and *pertinent criteria* (Supervision Manual, pp. 498-499).

Essential criteria must be met before the case is submitted for early termination and include a thorough record check to verify that there are no pending charges, arrests, or convictions; complete compliance with general and specific conditions of supervision; at least 50 percent of the supervision period completed, and evaluation of the codefendant's status.

Pertinent criteria include: demonstrated employment and residential stability; type and circumstances of original offense behavior; impact on community; offender attitude, and overall supervision adjustment (pp. 498-499).

The guidelines for early termination consideration introduce an additional element that mandates that the offender must perform "above and beyond" as "mere compliance with the conditions of supervision is insufficient reason to initiate a request for early termination." However, neither the essential nor pertinent criteria delineate what is meant by "willingness to exceed basic requirements."

One senior probation officer remarked that he tends to consider offenders for early termination at two-thirds or three-fifths time. That is, after they have completed 2 of 3 years on a 3-year supervision grant or 3 of 5 years on a 5-year grant. He felt that the “above and beyond” requirement for early termination can be unreasonable. For example, some officers have cases that are remaining drug-free, maintaining stable employment, where “mere compliance” would represent meritorious conduct worthy of early termination consideration. This officer feels that dangling the early termination carrot at the initial interview may provide an incentive for the offender to stay clean and comply with the conditions of supervision. He acknowledged that there is substantial disparity on how early terminations are processed by units and also between officers within the same units.

Another senior probation officer forcefully described her opposition to any discussion of early termination at the initial interview. Any talk of early termination at the initial contact, she stated, is premature. The issue can be broached at a later time after the offender has demonstrated a favorable adjustment to supervision. This officer also referred to the district’s supervision policy manual, stating that the offender must show more than just “mere compliance” with the standard and special conditions of supervision.

A supervising probation officer also referred to this district’s “above and beyond” requirement for early termination, adding that the term is “relative” and subject to interpretation. In his view, the issue of early termination must necessarily consider legal issues or what is contained in the statutes, the district handbook policy, and reality. Philosophically, the policy manual holds that if offenders receive 5 years supervision, they do 5 years supervision. The reality, however, is that supervisors tend to interpret the district policy according to their own philosophy. This supervisor was of the opinion that consideration for early termination at two-thirds for a 3-years grant and three-fifths for a 5-years grant was a reasonable guide. The supervisor added, “I think early termination is a good tool to use as an incentive.” However, he also supported Publication 109 and the district’s policy that certain offenses, such as crimes of violence, and chronic offenders should not be considered for early termination.

The supervising probation officer also advised that he must be alert to the practice of using early termination as a tool to manage caseloads. That is, some probation officers tend to use early termination as a tool to keep their caseload down to a manageable level. In reviewing a case for early termination, this supervisor examines the case for a history of violence, length of prior record, and a history of mental instability. This officer also conceded that there are times when officers need to “dangle a carrot.”

A supervising probation officer in another branch office reported that during “orientation” (group meeting with new cases), he reads the early termination policy right out of the district’s supervision handbook. He tells new cases that they “are not going to be rewarded for doing the minimum.” During the orientation, the supervisor states, “don’t bug my

officers [for early termination]. We view early termination as something special.” This officer acknowledges that actual practice contradicts the “above and beyond” policy. In reality, many offenders are being terminated early for having met the basic requirements.

District #2: District #2 has developed a novel approach toward early termination of supervision. The deputy chief probation officer said that the shift to sentencing guidelines represents a greater emphasis on punitiveness of sanctions, and early termination of supervision would appear to conflict with this goal. In 1992, District #2 took a position that supervision was a punitive sentence and attempted to develop an early termination policy consistent with this goal.

In considering supervision as a punitive sentence the district has developed a policy of “supervision waived.” It was emphasized that “supervision waived” was not in lieu of supervision but rather an option to early termination. It was not seen as replacing early termination because the court continues to grant some early termination requests. However, granting early termination now appears to be the exception.

“Supervision waived” gives more freedom to the offender while still requiring a degree of accountability. That is, there is no active supervision but the offender remains under the jurisdiction of the court. If no flash notices are received indicating a new arrest or conviction, the case is allowed to expire. The deputy chief probation officer notes that the district has established specific criteria for both early termination and supervision waived, but the district clearly emphasizes the latter.

District #3: District 3 has developed a well-defined early termination policy. In order to be considered for early termination from supervision, the offender must be in compliance with all of the conditions of supervision and there should be no new convictions for serious violations. All drug aftercare cases must spend one year on a general caseload following completion of the testing program. Offenders who have a history of violence or take leadership roles in large scale criminal activity are not eligible. Furthermore, only first-time offenders should be considered; however, some exceptions are permitted. Offenders with four years of supervision or more are required to do at least one-half before become eligible for early termination. Those with two or three years of supervision must complete at least two-thirds of their supervision. Those with one year of supervision generally must complete the entire year.

District 3 requires that if there are codefendants under supervision, *the probation officer should determine that all are being treated equally in terms of consideration for early termination.* This policy is intended to provide guidance for early termination and not to foreclose the possibility of termination in cases that do not meet all of the stated criteria (District Policy Manual, 1998:13–14).

The deputy chief probation officer in District #3 noted that his district has a well-articulated policy regarding early termination that allows for discretion in exceptional cases. As others who were interviewed for this article noted, the deputy chief notes that disparity between the policy manual

and reality often arises. He is keenly aware that early termination policies are influenced by workload and budget factors. A further problem, according to the deputy chief, is the need to ensure that cases appropriate for early termination are, in fact, being considered and not overlooked or neglected. It is not unusual for supervision officers to keep "cream puff" cases to inflate the caseload. That is, a particular caseload may not be as demanding as the numbers would seem to reflect because it may be inflated with low activity cases that could appropriately be terminated early.

District #4: According to a supervising probation officer, District #4 has no written early termination policy at this time and relies on Publication 109 for guidance. The district takes the position that if the court orders a specific period of supervision, then "that is what they should do." However, the officer noted that a variance exists among units, and some officers and supervisors will consider an early termination of 1 year if the offender has done well. Special circumstances such as employment or medical considerations may warrant an early termination recommendation.

Although it appears that some officers and some supervisors consider early termination for exceptional cases, generally, this district does not terminate offenders early unless the individual probationer/supervised releasee petitions the court for such consideration. In such cases, the court usually asks the probation officer for their input. The district usually does not take a proactive stance for the offender unless the offender becomes "aggressive," perhaps by retaining counsel for the purpose of filing an early termination motion.

Conclusions

This article has examined the early termination practices of four districts in the western region of the United States. Sections 18 U.S.C. 3564(c), 3583(e)(1), and 4211, which address early termination of probation, supervised release, and parole, were examined.

The largest of the four districts considered in this paper was District 1. This district articulated an early termination policy, which states that mere compliance with conditions of supervision is insufficient reason to initiate a request for early termination. District 2 has implemented an early termination policy of "supervision waived." While the district's policy continues to allow for early termination, early termination is clearly the exception.

District three has a well-defined early supervision policy that clearly describes the type of cases that are appropriate for early termination and the specific amount of time offenders must complete before they are eligible. District four has no formal policy addressing early termination. Instead, the office relies on the guidance set forth in Publication 109. The unwritten policy is simply that if the court grants a certain period of supervision, then the offender should serve the entire term.

The use of discretion is a fundamental and inherent principle in the field of corrections. It cannot and should not ever

be completely eliminated. However, in recent years there has been a clear shift toward more conservative crime control policies that seek to reduce the disparities that result from too much discretion. Passage of sentencing guidelines in the federal system sought to reduce judicial discretion in an attempt to ensure that defendants with like crimes generally received like sentences. That sentencing disparity has been a major concern of Congress as reflected in 18 U.S.C. 3553(a)(6), which requires that one of the factors to be considered in imposing a sentence is "the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct."

It would seem reasonable to infer from these statutes that the court, and the probation officer as an arm of the court, seeks to reduce disparity by granting early termination. This very brief examination of early termination in four districts suggests that significant disparity exists between districts, between units in the same district, and between officers in the same unit.

A policy that allows for few early terminations in favor of a "supervision waived" option would also appear to be contrary to the intent of the statute. It is noted that three of the four districts clearly lean toward a policy of recommending early termination in exceptional circumstances or if the offender has exceeded the basic requirements of supervision. There are two views on whether to raise the subject of early termination at the initial interview. One view holds that it is premature to discuss the issue at the initial interview, however, it may be raised at a later time if the offender's adjustment has been favorable. The other view, and the one which I support, is that the offender should have all pertinent information presented at the time of the initial interview. After reviewing all the general and special conditions, I liked ending the interview on a positive note. I feel that "dangling" the early termination carrot might, indeed, contribute to compliance and cooperation. As a U.S. probation officer for 22 years, I found that, generally, offenders appreciate and respect an officer who is "up front" with them and I firmly believe that credibility is enhanced when the officer is clear about expectations, including what he or she looks for in considering an offender for early termination. This position seems to be supported by Leibrich's study which found that offenders tend to do better with officers that are clear about what is required of them.

The officer that is opposed to raising early termination at the initial interview might instead tell the offender that early termination may be an option, however, the PO would like to evaluate their progress on supervision before the issue is considered. I believe that offenders have the right to raise any legitimate question that impacts them and officers have an obligation and duty to provide the information as accurately as possible. For example, I would inform offenders that if they made an exemplary adjustment they could be *considered* for early termination. My general rule was two-thirds of a three year grant and three-fifths of a five year grant. This meant if they wanted to be considered they needed to stay clean, stay out of trouble, work, submit their monthly reports on time,

and comply with all the standard and special conditions.

Officers that choose not to raise the early termination issue at the initial interview are, I believe, missing an opportunity to introduce a positive element into the development of the offender-officer relationship and are not taking advantage of a constructive tool available for creating an incentive to do well on supervision.

It appears that the most problematic issue with respect to early termination is the perpetual discretion/disparity concern. Irrespective of the particular policy of the district, U.S. probation officers, supervising probation officers, deputy chiefs all seem to agree that policy does not translate into practice. There appears to be considerable disparity by districts, units, and officers.

Early termination is also commonly utilized as a case management tool by officers, either as a method to keep the caseload manageable by processing cases that no longer need supervision or by keeping the "cream puffs" to inflate the size of the caseload. One deputy chief probation officer acknowledged that supervisors must be sensitive to the latter situation so that there are not cases appropriate for early termination that are being neglected or overlooked.

In conclusion, I believe that early termination is yet another tool available to the PO that can be used to encourage offenders toward compliance and cooperation. The district policy and officer's expectation regarding early termi-

nation should be clearly presented at the initial interview. While disparity can never be entirely removed from the supervision process, nor should it, there is a clear need to reduce the disparity that exists on this issue. Early termination should be associated with specific guidelines and definable offender behavior as outlined in the statutes presented above. A recommendation for early termination should not rely so heavily on where the offender lives and which officer he happens to have the good fortune or misfortune of drawing.

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