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This Issue In Brief

[Multicultural Competencies in Probation: Issues and Challenges](#)

The vast numbers of persons currently being supervised under probation sentences are a diverse group who exhibit a wide variety of treatment and supervision concerns that probation officers are expected to address. The questions and issues addressed in this article speak directly to the role of multicultural competencies in probation as officers supervise this diverse group of offenders.

Robert A. Shearer, Patricia Ann King

[Interagency Priorities at the Crossroads: Aftercare Among Drug Users](#)

Three-quarters of the inmates housed in state and federal prison in 1997 could be categorized as alcohol- or drug-involved, yet only about 20 percent of those within six months of release report having received treatment. The recent focus on reentry draws attention to the issue of treatment after release from prison and the more general topic of collaboration between various criminal justice agencies in addressing reentry requirements.

Bernadette Pelissier, Timothy Cadigan

[Electronic Monitoring of Domestic Violence Cases: A Study of Two Bilateral Programs](#)

The criminal justice system has been using electronic monitoring for about 20 years, typically as a form of house arrest, an alternative sanction, or in the context of pretrial release. The authors examine the use of EM for victim protection in domestic violence cases.

Edna Erez, Peter R. Ibarra, Norman A. Lurie

[The Imposition of Economic Sanctions in Philadelphia: Costs, Fines, and Restitution](#)

The author examines fines, costs, and restitution in Philadelphia during the seven-year period 1994–2000, looking at breakdowns of crimes and distinguishing those in which private individuals and businesses were the victims from those in which the State was the victim. He also tracks relationships among the awarding of the different kinds of economic sanctions.

R. Barry Ruback

[Private and Public Sector Prisons: A Comparison of Select Characteristics](#)

This study compares the private and public prison sectors on a number of characteristics, including correctional officer wages and retention rates, staff-to-inmate ratios, frequency of institutional violence, etc. Findings are used to place the sectors upon an ideological continuum showing the degree to which each subscribes to the correctional philosophies of eligibility and normalization.

Curtis R. Blakely, Vic W. Bumphus

[Listening to Victims: A Critique of Restorative Justice Policy and Practice in the United States](#)

This research seeks to discern the victim role in restorative justice policy and practice in the U.S.

through direct consultation with victims, their advocates and victim service providers. The authors discuss the theory and reality of restorative justice, including difficulties in implementation and features of good practice.

Harry Mika, Mary Achilles, Ellen Halbert, Lorraine Stutzman Amstutz, Howard Zehr

[In Cold Blood Revisited: A Look Back at an American Crime](#)

In November 1959, four members of the Clutter family were murdered in their home in Holcomb, Kansas—the result of a planned burglary by two parolees. The crime, which became the subject of Truman Capote's best-selling "non-fiction novel" *In Cold Blood*, was widely considered to mark a watershed in the national perception of American violence.

Sally J. Keglovits

[High Anxiety Offenders in Correctional Settings: It's Time for Another Look](#)

The authors accumulate evidence across four studies that find neurotic offenders of particular interest to correctional practitioners and policy makers because of these offenders' poor adjustment to prison, high recidivism rates, and poor performance in cognitive skills intervention.

Shelley Johnson Listwan, Kimberly Gentry Sperber, Lisa Murphy Spruance, Patricia Van Voorhis

[An Assessment of the Capacity to Measure Performance Among the Nation's Prison Systems](#)

This research assessed the current capacity of departments of corrections to participate in a national reporting system, finding that almost all prison systems possess the capacity to measure and report about the aggregate prisoner population under supervision, while most also collect information about escapes, homicides, and suicides. Beyond these measures, significant disparity exists.

Kevin N. Wright

[Assessing Customer Service Satisfaction with U.S. Pretrial Services, District of Nebraska](#)

The authors assessed customers' attitudes toward the quality of service provided by Pretrial Services in the District of Nebraska, including among these "customers" defendants, judges, U.S. attorneys, U.S. marshals, defense attorneys, alcohol and drug treatment staff, and U.S. Probation.

Mindy S. Bare, Dana L. Miller, Travis E. Wilcoxon

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Multicultural Competencies in Probation—Issues and Challenges

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Robert A. Shearer, Ph.D.

Patricia Ann King, Ph.D., L.P.C

SINCE JOHN AUGUSTUS introduced the notion of probation in 1841, the number of probationers in the United States has grown exponentially. Today, probation is the most widely used sentencing option in the United States. As of 2001, there were 3,932,751 adult men and women on probation (Bureau of Justice Statistics, 2002). Of this number, 22 percent (870,000) were women. Breaking the total down racially, one-third (1,228,700) were African-American, one-half were white (2,175,600), one-eighth (469,800) were Hispanic, and persons of other race represented 2 percent (58,600). Two of the most demographically diverse states, Texas and California, led the nation in number of adults supervised in the community, together accounting for over one million persons. Furthermore, more than 2.1 million adults entered probation supervision during 2001. Since 1995, the annual number of probation entries has increased by 34 percent. Probationers are sentenced for a wide variety of offenses, and Bureau of Justice Statistics (BJS) data indicate that half were convicted of a felony and that a quarter were convicted of drug law violations. Also, three out of four were under active supervision, requiring that they report regularly to a probation authority. Clearly, the vast numbers of persons supervised are a diverse group who exhibit a wide variety of treatment and supervision concerns that probation officers are expected to address. The questions and issues addressed in this discussion speak directly to the role of multicultural competencies in probation as officers supervise this diverse group of offenders.

From "Nothing Works" to "What Works?"

From its inception in the 1800s, probation was considered a form of treatment. John Augustus, acknowledged as the first probation officer, sought out offenders whom he thought could be rehabilitated. This idea dominated correctional thinking for many years. Cullen and Gendreau (2001) assert that positivism was the prevailing philosophy during the early years of modern criminology, with very specific ways of both explaining and controlling crime. They concluded that five principles underlie this philosophy. First, crime has definite causes that can be established through systematic scientific study. Second, punishment has limited effectiveness in an offender's rehabilitation. Third, interventions should be matched to the offender. Fourth, using the correctional system to reform offenders is the only rational approach to crime control. And finally, treatment must be individualized because the causes of crime differ for each person.

Leading writers in the field argued strenuously for these principles. For example, Sutherland (1939) asserted that correctional interventions would be ineffective unless they targeted to change the actual causes of crime. He argued that offenders need contact with law-abiding role models and that treatment and supervision should be individualized. The Gluecks (1950) and Taft (1960) theorized that because crime has multiple causes, the scientific method should be utilized to

ferret out the causes so that, once they were known, effective treatments could be provided. Cressey (1958) also saw the value in rehabilitation. While he believed that there were problems with correctional rehabilitation, he did not favor abolishing the concept. Rather, he believed that the appropriate use of science could establish effective principles of rehabilitation. This attitude prevailed through the 1960s, but the 1970s brought a radical ideological change attributed to the work of one man, Robert Martinson.

In an article entitled "What works? Questions and answers about prison reform," Martinson (1974) revealed in a study of 231 program evaluations that very little worked in rehabilitating offenders. Although other researchers maintained that there were serious flaws in the study, Martinson's argument became the rallying cry of a new generation of criminologists. Basically, the "nothing works" philosophy encompasses several principles, as outlined by Cullen and Gendreau (2001). First, nothing works effectively or reliably to rehabilitate offenders, and therefore nothing the state does to reduce crime will work. Further, since prisons have no effect on crime rates, only the most serious offenders should be incarcerated. Others should be placed into community corrections programs that will not work either, but at least the offenders will be less harmed. Additionally, criminologists should not engage in what Cullen and Gendreau (2001) refer to as a penal science, or becoming tools of the state. Finally, they assert that all crime results from structural factors such as social and economic inequality. Thus, rehabilitation efforts can never be successful because they do not change the root structural causes of crime.

The "nothing works" philosophy remained prevalent throughout the 1980s and 1990s, during which even community corrections became control oriented. Cullen and Gendreau (2001) argued that criminologists spend an inordinate amount of time showing what does not work instead of examining programs and treatments that actually do work. By the end of the 1900s, researchers began to do exactly that. As a result, a list of principles that work with some offenders at least some of the time has been identified.

What Works?

To determine what works, Cullen and Gendreau (2001) outlined a list of principles. First, scientific criminology is the basis for effective correctional intervention and should be used to expose "knowledge" that is not based on evidence. That is, effective interventions target to change the causes of recidivism. Since many correctional techniques simply do not work (e.g., boot camps, "Scared Straight," and other punitive programs), states should stop using them. Third, science should be used to construct what does work with offenders and employ treatments that can and should be tested for their efficacy. According to Cullen and Gendreau (2001), it is legitimate for criminologists to produce knowledge that can reduce crime. In addition, criminologists should not restrict themselves to structural analysis, because individual-level analysis is also appropriate. Finally, scientific criminology will result in more good than a criminology that ignores what works. These authors make a compelling argument for the adherence to a "what works" philosophy. Thus, the question becomes, what does work in the treatment and supervision of offenders?

Andrews, Zinger, Hoge, Bonta, Gendreau, & Cullen (1990) found that appropriate interventions reduce recidivism by as much as 25 percent, whereas inappropriate interventions can actually increase recidivism. They also noted that appropriate treatment programs set in the community produce even greater reductions in recidivism than prison-based programs. According to Latessa, Cullen, and Gendreau (2002), successful treatment approaches have certain variables in common. First, certain variables that are known predictors of offender recidivism include: antisocial values, antisocial peers, poor self-control, self-management, and pro-social problem solving skills, family dysfunction, and past criminology. Accordingly, intervention programs that ignore these variables are doomed to fail. Second, a growing body of literature addresses programs that do not appear to work, such as boot camps, punishment or control oriented programs, wilderness programs, psychological interventions that are nondirective or insight-oriented, and radical nonintervention.

These authors assert that effective correctional interventions share certain characteristics. First, a

specific organizational culture exhibits well-defined goals, ethical principles, and a history of efficiently responding to issues that affect treatment facilities. The organizations are characterized by staff cohesion, support for service training, self-evaluation, and the use of outside resources. Successful programs base their treatment programs on empirical research, and staff members are professionally trained and have extensive clinical experience. Clients are assessed in terms of risk and needs. Assessment instruments are widely used and the client's responsivity is also considered. Successful programs aim to change a variety of criminogenic traits by utilizing behavioral/social learning/cognitive behavioral therapies that are targeted to high-risk offenders. Program therapists also engage in core therapeutic practices, including anti-criminal modeling, effective reinforcement and disapproval, problem-solving techniques, structured learning procedures for skill building, effective use of authority, cognitive self-change, relationship practices, and motivational interviewing. Agencies recognize that occasionally referrals must be made; thus, one agency is not expected to serve all client needs. Finally, effective agencies pursue evaluation processes and are vitally interested in program audits, consumer needs, and recidivism rates. Essentially, if they adhere to certain principles, probation agencies can become effective change agents for many offenders. Research has shown that certain types of programs do make a difference.

Gendreau (1996) has written extensively regarding effective intervention. He notes that a number of factors contribute to successful programs. First, services should be intensive and behavioral in nature. For example, well-designed programs might reward offenders with token economies, modeling, or cognitive-behavioral interventions. He also suggests that treatment and supervision are more effective when matched with offender risk level. As such, high-risk offenders are more likely than low-risk offenders to benefit from programs. The most promising programs target antisocial attitudes, styles of thinking and behavior, peer associations, chemical dependency, and self-control issues. Gendreau (1996) asserts that offenders, therapists, and programs should be matched. In other words, it makes little sense to treat all offenders as though they have identical personality traits, attitudes, and beliefs. The responsivity principle, as it has become known, matches treatment with an offender's type and a therapist's style. Therapists should relate to offenders in interpersonally sensitive and constructive ways. The interpersonally skilled counselor exhibits clarity in communication, warmth, humor, openness, the ability to relate affect to behavior and to set appropriate limits.

The evidence shows that it is possible to rehabilitate certain offenders, but their rehabilitation depends upon the type of treatment offered, responsivity principles, and matching. In other words, the methods used to treat an offender should be the ones to which an offender responds, namely relationship variables. The success of a program hinges on the type of relationship that the officer can cultivate with the offender. Because offenders are a diverse group, there is a growing body of research regarding their diverse needs.

Multicultural Counseling Competencies

Key elements that exist in good therapeutic relationships include establishing rapport, adapting to individual needs, being genuine and caring, and empowering the client. Unfortunately, for a variety of reasons, these key elements may be lacking.

One of the major impediments to building an effective relationship may be found in cross-cultural barriers. Parrott (1997) notes that contemporary helpers realize that a client's culture must be understood if counseling is to be effective. Culture is the totality of ideals, beliefs, skills, tools, customs, and institutions into which each member in society is born (Sue & Sue, 1999). Cultural differences can lead to difficulties in developing the rapport that is necessary to build a helping relationship between the offender and the probation officer. Parrott asserts that ethnic-minority clients often do not take advantage of counseling services, and when they do, they usually terminate the relationship prematurely. Since cross-cultural relationships exist when the helper and the helped do not share the same cultural background, values, norms, lifestyles, roles, and methods of communicating, there are key traits a culturally skilled helper must develop; counselors who receive cross-cultural training have clients who are less likely to terminate early (Parrott, 1997). According to Sue and Sue (1999), culturally skilled helpers are

aware and sensitive to their own cultural heritage, and they value and respect differences. They are also aware of their own preconceived notions and biases, and prejudicial attitudes, feelings, and beliefs. They avoid stereotyping and labeling. Culturally skilled helpers are comfortable with differences that exist between themselves and their client, and they are comfortable referring clients to someone who may be better qualified to help.

According to Sanders (2003), a culturally competent probation officer should exhibit sincerity, high service energy, knowledge of the client's culture, a nonjudgmental attitude, and resourcefulness. Strauss (2002) defines ethno-cultural competency as the ability of the clinician to function effectively in the context of cultural differences. This includes a basic knowledge of the client's ethnic background, a conscious commitment to working with diverse clients, an ability to adapt practice skills to fit the client's background, and flexibility in reaching out to appropriate resources within the client's ethnic community resources.

Pedersen (2003) argues that providers need to increase their cultural awareness, develop multicultural knowledge, and develop multicultural skills. Developing multicultural awareness is the first step. Basically, Pedersen contends that providers can increase awareness by taking courses, participating in discussions, having contact with diverse groups, and by actively questioning their own assumptions. Developing awareness is an ongoing process, and developing knowledge occurs when the provider knows the "salient features of the consumer's cultural context and how that context supports or fails to support the provider's strategy" (Pedersen, 2003:34). This is especially important because most providers are members of the dominant culture and most consumers are members of minority cultures. Developing multicultural skills is the final step in the process of achieving cultural awareness. Pedersen asserts that a skilled provider is one who can generate a variety of responses to every situation or problem based on multicultural knowledge and awareness. Providers also need to be aware of very specific information regarding various cultural groups.

Chung and Bernak (2002) maintain that helpers must develop cultural empathy, which they view as the ability to demonstrate and communicate an understanding of the client's worldview. Basically, a worldview is the ways in which individuals perceive their relationship to the world as shaped through their culture. It is therefore essential that helpers communicate an understanding of the client's worldview. There are six steps that can be taken to demonstrate cultural empathy. First, the counselor must understand and accept the context of family and community for clients from different cultural backgrounds. Second, counselors should incorporate indigenous healing practices from the client's culture whenever possible. Third, counselors must become knowledgeable about the historical and sociopolitical background of clients. Fourth, they must become knowledgeable of the psychosocial adjustment that must be made by clients who have moved from one environment to another. Fifth, they must be sensitive to the oppression, discrimination, and racism encountered by many people. Finally, counselors must facilitate empowerment for those clients who feel underprivileged and devalued.

Focusing on how multicultural competence is related to counseling and psychotherapy, Arrendondo (1999) examined the ways in which competencies can serve to confront racism and oppression. These ways are identified as:

- Knowledge of how a person's culture and heritage affect them personally and professionally.
- Knowledge of how oppression, racism, discrimination, and stereotyping affect them personally and professionally.
- How their negative and positive reactions toward other racial and ethnic groups may prove detrimental to the counseling relationship.
- How poverty, racism, and stereotyping may affect the self-esteem and self-concept of racial and minority clients.

- Knowledge of how institutional barriers prevent minorities from using mental health services.
- Knowledge of the bias in assessment procedures.
- Acting proactively to eliminate biases, prejudices, and discriminatory contents in conducting evaluations and providing interventions.

These competencies move from knowledge and awareness of multicultural issues to a more proactive, social justice approach that has the goal of full and equal participation of all groups in a society.

The recent interest in restorative justice has also led to a call for multicultural awareness and skills. Umbreit and Coates (1999) describe the development of restorative justice practices throughout the country. Basically, these practices call for a radical change in the way that justice is served. First, crime violates relationships, and it tears at the social fabric of a community. Second, the proper rule of justice is to repair the damage done and restore relationships. Furthermore, victims must have an opportunity to become involved in the process of justice, and offenders must have an opportunity to accept their responsibilities and obligations towards individual victims and the community as a whole. The local community and its resources should be used to restore both victims and offenders. Finally, the system should utilize the least restrictive interventions before resorting to incarceration (Umbreit & Coates, 1999). Approaches that can be used under this model include mediation, restitution, reparative community boards, and circle sentencing. Umbreit and Coates (1999) note that there are considerable barriers to this approach, not the least of which are multicultural issues.

These authors stress that it is vital for the criminal justice system to become more sensitive to differing cross-cultural worldviews. Because cultural backgrounds of the victim, offender, and staff member are likely to differ, there may be miscommunication. Also, there are likely to be as many differences within cultures as between cultures. For this reason, Umbreit and Coates (1999) recommend attending to such factors as proximity, body movements, paralanguage, and density of language.

Sue and Sue (1999) conclude that proximity differences abound both between and within cultures. Some cultures favor closer positioning, while others are uncomfortable with face-to-face interactions. Facial expressions may also be interpreted differently. For example, a smile may not convey the same meaning to every person. Additionally, eye contact is perceived in varying ways. Some cultures believe that maintaining continuous eye contact is disrespectful, while others deem it appropriate. Paralanguage consists of hesitations, inflections, and silence. The Native- American culture, for example, highly values silence, whereas the traditional Anglo-American culture views it as rude and inappropriate. Density of language also differs by culture. Sue and Sue (1999) found that African-Americans, Native-Americans, and Hispanics tend to be more low-key and indirect in their communication styles, while Anglos tend to be more task-oriented and objective. Furthermore, differences in ideas regarding individualism, religion, and politics may impact the practice of restorative justice.

Umbreit and Coates (1999) believe that restorative practitioners should follow certain guidelines to foster good multicultural relations. First, practitioners should know themselves by examining their own culture, values, and biases as well as their own communication styles. Practitioners should also become acquainted with their clients by asking questions and listening carefully. Because cultural influences affect each person differently, Umbreit and Coates suggest that each client be understood as a unique individual within the context of culture. Finally, practitioners should prepare their clients for the experience by explaining the different viewpoints and communication styles that they will encounter. Overall, Umbreit and Coates conclude that a just and healing response to crime can be effected through the use of multicultural communication skills and techniques.

Arnoff (1999) developed a manual for cross-cultural communications between Hispanic and

Anglo-American populations. The manual contains many compelling ideals, but it should be noted that Hispanics who have assimilated the dominant American culture may not adhere to the behavioral patterns and ideologies outlined. Rather, the behaviors and philosophies Arnoff notes tend to be embraced by those who still reside in the country of origin. Still, the information can provide invaluable insights into the Hispanic culture. She notes that there are many philosophical differences between the two groups, including their understanding of human nature, time, activity, and social relations. For example, Hispanics see themselves as subject to forces in nature as opposed to having dominion over it. She also notes that, as a group, they tend to view human nature as a mixture of good and bad as opposed to being at one end of the spectrum or another. Furthermore, she finds that Hispanics tend to have a different time orientation from Anglo-Americans. That is, they are more oriented to the present than to either the past or the future. They also exhibit a polychromic time orientation, which means that they can attend to several things at the same time. For example, Hispanics may interrupt conversations to engage in other tasks or to talk with others. They also tend to exhibit less eye contact when they are speaking to those whom they perceive as authority figures. There is also a tendency for Hispanics to be less conscious of time. That is, they may arrive late for appointments.

Arnoff (1999) notes that there are traditions in the Hispanic culture that those in the majority culture should be made aware of. Hispanics traditionally focus around the family, and they value their extended family. A high regard is generally placed on friendships, and their relationships tend to be life-long. In the workplace, they are inclined to be more people-oriented than task-oriented, and they are more personal than businesslike in their interactions. Communication styles are often less direct, and they also prefer to make small talk before engaging in business. Finally, Hispanics tend to subordinate the self and self-interest to the good of the family. Arnoff (1999) argues that the dominant culture embraces individualism, or concern for oneself as opposed to concern for the rules and proprieties of the groups to which one belongs. In the Hispanic culture, however, the extended group is the major source of identity.

An additional concern is the amount of emphasis placed on goal attainment. The majority group generally places a premium on reaching personal goals and assertiveness, which is contrary to the Hispanic culture (Arnoff, 1999). The majority also embraces an achievement orientation. Hispanics tend to be more ascriptive in their business dealings; in other words, they believe that people should be rewarded for seniority as opposed to achievement.

"Culture context" is another dimension differentiating groups. Basically, group communications can be categorized as either "high context" or "low context." "High context" groups look to the environment for cues and believe that it is unnecessary to be verbally direct. Most minority groups are high context, according to Arnoff (1999). "Low context" groups, including Anglo-Americans, transmit most of their information verbally and little is embedded in the context of communication. "High context" communicators tend to give implicit messages and rely on nonverbal communication for important cues. "Low context" communicators may over-explain themselves, and "high context" communicators may appear underhanded or uncommunicative. These differences may lead to numerous misunderstandings between the groups.

Additional difficulties may occur via the use of nonverbal communication. It has been noted that most information is communicated through nonverbal cues (Arnoff, 1999). There are several categories of nonverbal communications; one of the most important is personal space. Some cultures, including Hispanic, Arabic, and Southern European cultures, are "high contact" cultures that engage in closer physical communications. That is, they tend to stand closer to one another when speaking, use more eye contact, touch each other more frequently, and speak more loudly than "low contact" cultures like those of Asia, Northern Europe and the United States (Arnoff, 1999). Cross-cultural communications may be misunderstood due to these many differences in communication styles.

In an investigation of the effectiveness of Sociocultural Competency Training (SCCT), Wong (2003) found that training was successful in improving a number of measurable variables. Specifically, SCCT was effective in:

- improving interpersonal skills;
- lowering social avoidance tendencies;
- increasing social self-effectiveness; and
- increasing the participants' sociocultural competencies in multicultural communities.

In the SCCT study, the trainees were immigrant and native-born health science trainees.

Finally, Kim & Lyons (2003) developed a game-focused instructional strategy for achieving multicultural competence. They indicate that this training approach can be effective in developing improved awareness of beliefs and attitudes, knowledge, and skills. The advantage of a game format is that it can be used to:

- reduce feelings of vulnerability;
- increase safety in exploring bias, prejudices, and limitations;
- decrease reluctance to risk making mistakes;
- increase camaraderie in trainees; and
- increase exploration of difficult and provocative issues.

The game format is also particularly attractive due to the scarcity of training strategies designed to instill and enhance multicultural competencies.

Assessing Multicultural Competencies

One of the traditional difficulties in multicultural awareness training is the availability of a technique or method of assessing knowledge, awareness, or skills in this complex area of professional development. Assessment can involve serious threats when instruments are developed for use in multicultural settings. Geisinger (2003) indicates that these threats include equivalence and bias. In relation to equivalence, the questions that are asked are: Are the constructs being measured conceptually equal in the cultures being assessed? Do the behaviors being sampled have the same purpose and meaning in both cultures? In relation to bias, Geisinger cautions against using an assessment instrument in a new culture when it had been previously standardized in an original group. In addition, there can be bias in how the assessment is administered, in the sample, in the items, and in the instrument. Multicultural assessment requires that cultural and racial concepts be carefully defined and incorporated into assessment procedures and instruments. Nevertheless, several useful instruments have been developed. Graham and Miller (1995) developed the *Cross-Cultural Interactive Preference Profile* that measures an individual's preference for level of context (high or low) as well as his or her ability to interact effectively across contexts. The profile is intended for use with individuals who are involved in cross-cultural activities so that they can become more aware of and sensitive to contextual orientations that affect interactive behavior in culturally diverse groups. The authors of the instrument report acceptable reliability and validity statistics to support the psychometric properties of the instrument.

Tulin (1995) developed the *Diversity Awareness Assessment*, which is a tool to get people 1) thinking about diversity, 2) challenging implicit assumptions and biases, and 3) considering other points of view from the perspective of other cultures. The results of the assessment are intended to evoke discussion among respondents rather than measure competencies. The tool is not a test, so, except for face validity, no other psychometric properties are provided by the author. On the other hand, the instrument could be used as a stimulus for discussion in multicultural training in probation.

In order to assess multicultural awareness, Ponterotto (1997) developed the *Multicultural Counseling Knowledge and Awareness Scale* (MCKAS). The scale includes 20 knowledge and 12 awareness items that comprise multicultural awareness. Research has determined that the two factors are internally consistent, with coefficient alphas for the Knowledge scale in the 0.92 range and 0.78 in the Awareness scale range. Thus, it appears that the instrument is capable of discriminating between knowledge and awareness.

Wang, Davidson, Yakushko, Savoy, Tan, and Bleier (2003) present three studies on the initial validity and reliability of the *Scale of Ethnocultural Empathy (SEE)*, a self-report instrument that measures empathy toward people of different racial and ethnic backgrounds. Empathy is the ability to understand another's perspective even though it varies from one's own. Specifically, the exploratory factor analysis yields four factors: Empathic Feeling and Expression, Empathic Perspective Taking, Acceptance of Cultural Differences, and Empathic Awareness. A confirmatory factor analysis provides evidence for the stability and generalizability of this four-factor solution. The SEE is correlated in the predicted directions with general empathy and attitudes toward people's similarities and differences. Women were found to exhibit higher levels of empathy than males, and non-White participants exhibit higher levels of general and specific ethnocultural empathy than their White counterparts. High internal consistency and test-retest reliability estimates were also found across the three studies.

Neville, Lilly, Duran, Lee, and Browne (2000) developed the *Color Blind Racial Attitudes Scale (CoBRAS)* to assess the cognitive aspects of color blind racial attitudes. A person who exhibits a color blind racial attitude believes that race should not and does not matter. Some argue that it is not possible to be color blind. This scale measures perceptions of racial privilege, institutional discrimination, and blatant racial issues. Higher levels of color blind attitudes are associated with higher levels of racial prejudice. The authors suspect that those who hold color blind attitudes may hold an inaccurate or distorted view of racial and ethnic minorities and race relations (Neville et al., 2000). There is also a relationship between color blind attitudes and gender prejudice. Those holding these attitudes are also more likely to embrace the just world hypothesis, which is the belief that people get what they deserve. They also tend to embrace the philosophy that people are rewarded on the basis of merit alone and that one's circumstances have nothing to do with social structures (Neville et al., 2000). The findings also suggest that females are more sensitive to social injustice than males. The authors found that CoBRAS scores are sensitive to multicultural intervention. That is, those who receive training exhibit a change in their self-reported scores.

Finally, Kocarek, Talbot, Batka, & Anderson (2001) studied the reliability and validity of three measures of multicultural competency. They studied the *Multicultural Counseling Awareness Scale (MCAS)*, the *Multicultural Awareness-Knowledge-and-Skills Survey (MAKSS)*, and the *Survey of Graduate Students' Experience with Diversity (GSEDS)*. They determined that, with a few exceptions, all three of the instruments were stable, acceptable tools for measuring multicultural competency.

Overall, there are only a limited number of valid and reliable instruments that can be used to assess multicultural competence. The need for this type of assessment is becoming more obvious and, over time, more instruments will most assuredly be developed.

Multicultural Competencies in Probation

Two trends in multicultural competencies are quite clear. First, this topic has received a great deal of empirical and theoretical attention in the counseling profession (Pope-Davis, Toporek, Ortega-Villalobos, Ligiero, Brittan-Powell, Lio, Bashshur, Codrington, & Liang, 2002; Vera & Speight, 2003) and in substance abuse treatment (Straussner, 2001; Springer, McNeece, & Arnold, 2003). Second, the topic has received very little attention in the general area of criminal justice, and the specific area of probation. Villarreal and Walker (2002) have provided a call to action on behalf of Latino and Latina youth in the U.S. justice system for communities, parents, law enforcement, and the justice system. They suggest, for example, that risk and needs assessments need to be valid, racially and ethnically unbiased procedures. Furthermore, they suggest that law enforcement, mental health, justice system, and educational professionals be adequately trained in cultural competence regarding specific Latino ethnic group.

Cintron and Lee (2002) studied the need for bilingual probation officers in the future workforce. In a survey of chief probation officers, they found that most community corrections departments were not keeping up with national trends, and the ratio of bilingual professionals lags behind that of non-bilingual professionals. They also suggest that bilingual probation officers provide

services (court order interpretation, understanding the conditions of probation, compliance with court requirements, getting on time to appointments) that might enhance the probationers' chances of a successful probation. They did not directly study multicultural competencies, but the national demographic trend and survey responses would seem to support a sense of urgency in multicultural competencies.

Finally, Tarver, Walker, and Wallace (2002) have identified the primary components of "cultural competence." Their presentation is in the context of victim services, but the components would seem to apply to several areas of criminal justice, including probation. The first step in "cultural competence" is awareness of the predominant philosophical schemes of the other person's culture. These schemes include views of life and death, of conflict resolution, and of individual vs. family control. The second step is to maintain true respect for the other person's culture, accepting it as valid in its own right and equal in status to the customs of the dominant culture.

The third step is to maintain an awareness of one's own limitations. Cultural competence means that the probation officer should be open to human differences and enthusiastic about these differences.

Fourth, according to Tarver, Walker, and Wallace, cultural competence is client-centered learning, which means the officer admits what he or she does not know to the probationer. The officer should also request cultural information and seek out the probationer's view of the crime, probation process, or the court process. Again, even though the writers do not speak directly to multicultural competencies in probation, they do provide extensive guidelines for probation officers to prepare for effective cultural contact.

Issues and Challenges

These professional trends present some interesting issues and challenges for the probation profession, especially in light of recent discussions about reinventing probation and community probation (Petersilia, 2002; Reinventing Probation Council, 2002) and recent demographic changes in the southwestern United States. These issues and challenges can be approached by a series of questions about the role of multicultural competencies in probation. The philosophical issues are:

- What should be the appropriate social justice role for a probation officer working in a criminal justice setting? For example, to what degree should a probation officer be socially active in reducing bias, discrimination, or stereotyping when a probationer is involved? Is knowledge and awareness sufficient to be culturally competent or should the officer be proactive in eliminating barriers for cultural and ethnic groups?
- How much transfer is there from the counseling profession to the work of a probation officer in the area of multicultural competencies? Supervision is a major part of a probation officer's role and a therapeutic relationship is very different from the role of the probation officer.
- Except for recent "hate crime" legislation, the criminal law has been traditionally and theoretically color and culture blind. Should the role of a probation officer tend to follow this tradition?

Several challenges related to multiculturalism that could be met by specific research efforts are:

- What is the relationship between multicultural competencies in probation officers and probation outcomes? Are offenders more likely to complete their probation successfully when they are supervised by culturally competent officers? Do different ethnic and cultural populations have unique needs that must be addressed for probation to be successful?
- What is the current level of multicultural competence in probation officers? It might be an

erroneous assumption to assume they are either competent or incompetent. How would we assess the level of competency and what would be the standard?

- What would be the critical curriculum areas required for training probation officers in multicultural competencies? Several sets of curriculum modules have been developed for police officers around the country. What are the similarities and differences in a curriculum for probation officers? Are there additional multicultural competencies needed by probation officers?
- What is the relationship between multicultural competency and the various strategies of probation departments? Should officers who lean more toward casework and development of community resources be more culturally competent than officers who adopt a law enforcement and strict supervision role or vice versa?
- Should officers be matched to offenders based on culture, race, or ethnicity? The results of research on a similar question in the counseling field are inconclusive at this time.
- How do probation officers administer racially and ethnically unbiased risk and needs assessments, assuming these instruments exist? How does a department conduct assessments if unbiased assessments are unavailable?
- Does multicultural training have a significant effect on the quality of probation services?
- Can multicultural training and education be developed for probation officers based on reliable and valid assessments?

The nature of the probation officer's role is the subject of much discussion and debate. Issues and questions about an additional variable in the role have been accelerated by concerns within the probation profession, demographic changes in society, and collateral changes in related professions. How should probation respond to these changes? Not many answers have been forthcoming in the literature of probation. It would seem that the conclusion reached from this condition is that the probation profession needs more research, discussion, direction, leadership, and awareness of the need for multicultural competencies if the profession is going to meet the challenges of a changing society.

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Interagency Priorities at the Crossroads: Aftercare Among Drug Users

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Bernadette Pelissier, Federal Bureau of Prisons

Timothy Cadigan, Administrative Office of the U.S. Courts

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THREE QUARTERS of the inmates housed in state and federal prison in 1997 could be characterized as alcohol or drug-involved (Mumola, 1999). Yet only approximately 20 percent of those within 6 months of release report having received treatment (Mumola, 1999). Drug offenders, many of whom may be drug users, account for an increasing percentage of those released from prison. In 1980, 11 percent of all releasees were drug-involved. In 1990, they accounted for 26 percent of releasees and this percentage increased to 32 percent in 1998 (Lynch & Sabol, 2001; Travis, Solomon, & Waul, 2001).

Among those who have evaluated the effectiveness of prison-based drug treatment programs, considerable discussion has arisen about the need to provide aftercare services and ensure continuity of care. The effects of in-prison treatment might not be maintained without continuity of care after release (Field, 1998; Hiller, Knight, & Simpson, 1999; Knight, Simpson, & Hiller, 1999; Martin, Butzin, Saum, & Inciardi, 1999; Swartz, Lurigio, & Slomka, 1996; Wexler, Melnick, Lowe, & Peters, 1999). The recent focus upon reentry (Travis et al., 2001) draws attention to the issue of treatment after release from prison by suggesting that treatment contact be initiated before releasing an individual from prison. But more generally, the emphasis on reentry issues calls for collaboration between various criminal justice agencies (Burke, 2001).

Because some prison systems operate within a context where post-prison responsibilities fall to an agency other than the agency responsible for an individual during incarceration, the issues surrounding continuity of care are often times unknown. The federal criminal justice system is such an example. In the federal criminal justice system, unlike some state, county and local jurisdictions, the incarcerating agency (Bureau of Prisons (BOP)) is not only in a different agency from the supervision provider (Administrative Office of the U.S. Courts (AOUSC)), but it is also in an entirely different branch of government. The BOP is in the executive branch whereas AOUSC is in the judicial branch.

The federal criminal justice system has been increasing its focus on the reentry process in

response to influences from both within and outside the federal criminal justice system. Those internal influences include the Administrative Office of the United States Courts (AOUSC), the Department of Justice (DOJ), and the Bureau of Prisons (BOP), while the external influences include Congress and the criminal justice literature that has focused on the value of a true reentry approach. Overcoming the cultural, procedural and systematic differences to develop an effective reentry infrastructure and process will require tremendous commitment and creativity from staff in both agencies.

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Purpose of Study

A long-standing memorandum of understanding (MOU) initiated between AOUSC and BOP in 1992 concerns the handling of substance abuse treatment cases and more specifically the transition of those cases from the BOP to the AOUSC. That MOU recognized the importance of the reentry phase to the success of the substance treatment provided by both agencies long before that recognition was in vogue in the criminal justice literature. Essentially, the purpose of this study is to provide a measure of impact of that MOU on post-release substance abuse treatment.

Drug treatment services and continuity of care are examined among a cohort of approximately 25,000 individuals released in 1999 from the BOP to supervision by a U.S. probation officer. The tracking of treatment received during and after incarceration was facilitated by an interagency agreement allowing for data sharing between these two federal agencies. Information on drug treatment services includes prison-based residential treatment, outpatient drug treatment during halfway house placements and drug treatment provided while under post-release supervision. Models are developed to predict drug aftercare and the analyses include an assessment of the extent to which aftercare is prioritized for those who completed residential drug treatment while incarcerated. Recommendations for interagency information sharing and service planning will be discussed.

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Treatment Services

The BOP's residential drug treatment program (RDAP) provides 500 hours of treatment over a 9-month time frame. The RDAP participants must meet established admission criteria, which include a documented substance abuse problem and a willingness to partake fully in treatment services. Individuals admitted to RDAP must usually be within 36 months of release. The program uses a cognitive-behavioral treatment model and treatment is generally provided for a half-day, five days per week. The program attempts to identify, confront, and alter the attitudes and thinking patterns that led to criminal behaviors and drug use.

Transitional services (TS) is the other major component of the BOP's drug treatment program. This focuses on providing outpatient treatment during a halfway house placement, for those who receive such a placement. Both those who participated in the residential prison-based treatment and those who did not can make use of Transitional Services. Thus, prior participation in RDAP is not a requirement for receiving TS treatment.

Once received by the AOUSC for supervised release or parole supervision, offenders can be required by judicial order to participate in the substance abuse treatment program (SATP). The AOUSC SATP involves many components, including assessment, outpatient treatment, inpatient treatment, detoxification, methadone maintenance, and a variety of methodologies to detect substance use. Within the components of the SATP, which is primarily an abstinence program, the actual treatment provided, whether inpatient or outpatient, employs a wide range of modalities from cognitive to behavior modification to self help and others.

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Research Questions

For purposes of assessing continuity of care upon release to supervision by a probation officer, we selected those who received at least one of the two primary methods of substance abuse treatment provided to inmates in the BOP: Residential Drug Abuse Program (RDAP) and Transitional Services (TS).

An assessment of continuity of care first requires information on who receives treatment during incarceration and an understanding of the numbers who participated in one or both of the BOP programs and who completed or failed to complete the program. Individuals may have received treatment during their incarceration in prison but not during a halfway house placement (some because they did not receive a halfway house placement). On the other hand, individuals may first begin receiving treatment during their halfway house placement. Therefore, the first question to be examined is: What percent of those among a release cohort from BOP custody received RDAP and/or TS services?

The first level of assessment of continuity of care is to identify the percentage of those receiving treatment during BOP custody who also received treatment post-release. A primary interest is in determining whether, for example, treatment completers are more likely to receive treatment under supervision. However, other questions of interest include identifying subgroups that are more or less likely to receive post-release treatment. For example, are women more or less likely than men to receive post-release treatment? What evidence is there for selecting individuals for post-release treatment based on their background characteristics?

Anecdotal information suggests that the philosophies of judges concerning drug treatment can vary considerably. Therefore, another question of great interest is whether there are district or circuit differences in the provision of aftercare services.

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Data

One particularly vexing problem has been obtaining information on continuity of care from the onset of substance abuse treatment an offender receives in the BOP to the substance abuse treatment that offender receives once released to the supervision of a United States probation officer. The BOP maintains an operational database, known as Sentry, where substance abuse treatment records are stored. Likewise the AOUSC maintains an operational case management database where substance abuse treatment records are stored, known as the National Treatment Database (NTD). To study the continuity of substance abuse treatment care in the federal criminal justice system required the merging of data from those systems. While this is a relatively simple and straightforward concept, the reality proved to be more complicated.

Those complications were ultimately overcome and we were able to take Sentry records for 27,420 individuals released from BOP custody in 1999 and match most of them to NTD supervised release/parole supervision records of the AOUSC. The data was successfully merged for 26,813 cases for a matching rate of 98 percent which was deemed satisfactory for purposes of this research. The majority of cases were matched by FBI number (89.6 percent). The remaining cases were matched by Register Number (6.8 percent), social security number (3.0 percent), date of birth, last name (1st 4 letters) and first name (1st 3 letters) (0.6 percent). Sex and race could not be used for matching purposes because of known differences in coding.

Next we identified background characteristics for which we wanted to assess whether there was an association with higher or lower levels of post-release treatment. The factors obtained from the BOP's Sentry data base included: gender, race, ethnicity, age at time of release, type of drug treatment received, and items indicating whether the sentence was served only in a halfway house and whether the RDAP and/or TS services were received in a previous incarceration. Two criminal history indicators were obtained from the AOUSC database: history of felony and risk prediction index (RPI) score. The RPI is a risk prediction index that uses information about an offender, including prior criminal record, to estimate the likelihood that the offender will recidivate during his or her term of supervision.

Since we were also interested in assessing district differences, we obtained information on the caseload size for each district from the AOUSC database. The federal judicial system is comprised of 94 federal districts with 93 operational probation offices. Probation cases from the 94th district, Northern Mariana Islands, are handled by the probation office within the District of Guam. Those 94 districts are grouped into 12 regional judicial circuits. Anecdotal information over the years has suggested that substance abuse cases can be handled differently both from circuit to circuit and from district to district. We tested those assumptions with this dataset.

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Methods

Hierarchical linear modeling (HLM) was used to analyze the data (Golstein, 1995; Raudenbush, Bryk, Cheong, & Congdon, 2000). This statistical technique allows simultaneous modeling of individual level effects (e.g., gender, race, risk score) as well as group level effects (e.g., district and circuit). This statistical technique allows us to answer the question of whether there are district and circuit differences in the provision of treatment after controlling for individual background characteristics. In addition to the individual characteristics identified in the data section, we also classified individuals into eight categories of in-prison/halfway house treatment and used these categories as predictors in our analytic models. These categories represent the various combinations of treatment failure or completion for either or both RDAP and TS (see [Table 1](#) below for a listing of the categories).

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Results

We begin by identifying those among the 26,813 individuals released to supervision in 1999 who received RDAP or TS treatment while under BOP custody. Approximately 20 percent (n=5320) of those released to supervision received either in-prison residential drug treatment (RDAP) or transitional services (TS) during a halfway house placement. All of the analyses we report are limited to these 5320 individuals. [Table 1](#) provides information by completion status on the numbers of those receiving one or both of these services. More than half of those who received drug treatment completed both the in-prison and the halfway house treatment components. Another 14 percent completed RDAP but either they did not receive transitional services (5.9 percent) or they did receive TS but did not successfully complete it (8.4 percent). We note that many of those who completed RDAP but did not receive TS did not receive a halfway house placement and thus could not receive TS. The majority of those who failed RDAP also did not receive TS. While 10.2 percent of those receiving treatment were RDAP failures who did not receive TS, only 1 percent were RDAP failures who received such services. Finally, more than 18 percent of those receiving one or both types of services received services only during their halfway house placement (e.g., TS). We note that an additional 1 percent of the release cohort (n=294) received RDAP and/or TS in a previous incarceration. Many of these individuals were revoked and served an insufficient amount of time to be readmitted to RDAP.

Having developed the profile of the 5,320 offenders treated by the BOP, we now turn to the reentry aspect of continuity of care for those offenders as they are released from BOP to AOUSC supervision. [Table 2](#) provides information on treatment services received while under supervision for all those individuals who received treatment under BOP custody. Information is provided for each of the BOP treatment categories contained in [Table 1](#).

Because treatment can be initiated at any point during supervision, we defined continuity of care as treatment assigned by a probation officer within 90 days after admission to supervision. This ninety-day period was selected for a variety of reasons. First, we felt that the continuum of care would be broken beyond ninety days. Second, the majority of individuals who suddenly begin treatment more than ninety days after release from prison were likely to do so in response to substance use or other violation behavior, which seemed to place them beyond the purposes of

this project. In addition, detoxification services were also likely to be in response to substance abuse, and so were also excluded, even if initiated less than 90 days after admission to supervision.

Overall, 37.6 percent of those who received treatment under BOP custody also received treatment within 90 days after admission to supervision. An additional 15 percent of these individuals received detoxification services or inpatient/outpatient services which started more than 90 days after admission to supervision.

[Table 2](#) shows that for six of the eight BOP treatment types, the percentage who received treatment during supervision ranged between 39 and 43 percent. The two categories that stood out showed lower percentages receiving treatment while under supervision: 33.6 percent among those who failed RDAP and did not receive TS and 16.1 percent among those who completed RDAP and did not receive TS. It appears that both groups who did not receive TS had lower rates of continuity of care from BOP to AOUSC.

We next assessed the role of individual characteristics, including background factors and type of BOP treatment received, as well as the role of group level characteristics (district and circuit) using HML multivariate analyses. [Table 3](#) summarizes the findings by indicating whether a predictor was significant and if so, whether the relationship was positive or negative. Predictors that were positive are those associated with a greater probability of receiving treatment during supervised release and predictors that were negative are those associated with a lower probability of receiving such treatment.

The offender's race showed no significant impact as a predictor of receiving post-release treatment. Prior felony and risk prediction index (RPI) scores were shown to have a positive predictive value, which demonstrates that controlling for other factors, offenders are more likely to receive treatment post-release when they have prior felonies or present a greater risk to the community. Age at release had a negative impact on the likelihood of treatment post-release, a finding consistent with anticipated or desired outcomes for the SATP.

Two demographic factors did have somewhat unanticipated predictive power: gender and ethnicity. All other factors being equal, female offenders are more likely to received post-release substance abuse treatment. This is an interesting although somewhat unexpected finding which may require further study and explanation. The one somewhat surprising finding among the demographic characteristics is ethnicity. Hispanic ethnicity, controlling for race, has a negative impact on the likelihood of post-release treatment. This would appear to be an area requiring further study and analysis to determine causal factors so that if appropriate these factors can be addressed.

Only one category of BOP treatment received was associated with a lower likelihood of SATP treatment than on average: RDAP Complete – No TS. In contrast, those who completed RDAP and received TS, whether or not they completed TS, were more likely to receive SATP treatment. In addition, those who received TS only and completed were more likely to receive SATP treatment. These results indicate the need to identify why those individuals, albeit a small percentage of those receiving BOP treatment, who received in-prison treatment only, have a significantly lower likelihood of receiving post-release treatment.

The last set of results indicates that our only predictor related to district characteristics, caseload size, was not significant. However, it is important to note that HLM results are valuable in that they provide information on unexplained variation. After controlling for the individual characteristics, the HLM results indicate that there is variation left to explain at both the district and circuit level. This implies that individuals with similar characteristics are more likely to receive treatment in some districts or circuits but less likely to receive treatment in other districts or circuits.

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Discussion

The goal of this research was to assess continuity of care across two independent substance abuse treatment programs, each with its own goals and purposes, and identify potential policy changes that would enhance the combined impact of these programs on the offenders they serve. This approach represents a major philosophical shift from the past operation of these two programs. However, the agencies have a long-recognized understanding of their interrelationship, particularly in the area of substance abuse treatment, which should sustain them on the long journey ahead. That journey requires that all staff, from senior managers to frontline officers and case managers, recognize that our ultimate success is contingent on a systemic approach to the problems posed by substance abusing offenders. Our research indicates that changing certain policies would likely improve the federal "system" of substance abuse treatment for offenders. Future research will be required to examine the impact of these policies.

It should be noted that while the research did identify issues that should be addressed, the majority of factors were confirmed in the direction that policy makers and practitioners would want. Specifically, race was shown to have no impact on whether or not someone receives substance abuse treatment. Prior felony convictions and RPI score (both predictors of the offender's risk to the community) were shown to have a positive relationship with the likelihood of treatment. Age at time of release showed a negative impact. All of these outcomes bode well for the AOUSC SATP and support that it is a strong program which consistently directs its resources toward the offenders of most concern in a public safety program. However, like any good program it can be improved and the following steps by both agencies would enhance the program.

The AOUSC needs to identify a policy that could decrease variation across districts and circuits in the provision of drug treatment to those who received treatment during incarceration by the BOP. The models employed in this research showed significant variation by district and circuit even after controlling for caseload size and related variables. To insure a consistent national substance abuse program for offenders, regardless of their district or circuit of release, the treatment they receive must have less unexplainable variation.

The identification and implementation by the BOP of policies to increase the likelihood that RDAP offenders receive TS treatment would have several advantages. This would not only maintain the continuity of care but would also increase the likelihood that, once released, offenders would receive treatment during supervision.

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TABLE 1.*BOP Drug Treatment Received - 1999 Releasees (n=5320)*

	Number	Percent
Completed RDAP - No transitional services	316	5.9
Completed RDAP - Failed transitional services	445	8.4
Completed RDAP - Completed transitional services	2,977	56.0
Failed RDAP - No transitional services	545	10.2
Failed RDAP - Failed transitional services	19	0.4
Failed RDAP - Completed transitional services	33	0.6
Transitional services (TS) only - Failed	178	3.3
Transitional services (TS) only - Completed	807	15.2

TABLE 2.*AOUSC Treatment Received Within 90 Days After Admission to Supervision:
BOP RDAP and TS Recipients*

	Number	Percent
Completed RDAP - No transitional services	51 (316)	16.1
Completed RDAP - Failed transitional services	194 (445)	43.6
Completed RDAP - Completed transitional services	1,160 (2,977)	40.0
Failed RDAP - No transitional services	183 (545)	33.6
Failed RDAP - Failed transitional services	8 (19)	42.1
Failed RDAP - Completed transitional services	13 (33)	39.4
Transitional services (TS) only - Failed	74 (178)	41.6
Transitional services (TS) only - Completed	319 (807)	39.5

TABLE 3.*Multivariate Hierarchical Linear Model (HLM) Results: Predictors of Receiving Treatment During Supervised Release*

Gender: Female	Positive
Race: African-American	Not significant
Asian	Not significant
Native American	Not significant
Ethnicity: Hispanic	Negative
Age at time of release from BOP	Negative
Prior felony: Yes	Positive
Risk Prediction Index Score (RPI)	Positive
Treatment received during most recent incarceration	Positive
Time served only in halfway house	Positive
RDAP Complete – No TS	Negative
RDAP Complete – TS Complete	Positive
RDAP Complete – TS Failure	Positive
RDAP Fail – No TS	Not significant
RDAP Fail – TS Complete	Not significant
RDAP Fail – TS Failure	Not significant
TS Only – Failure	Not significant
TS Only – Complete	Positive
District Caseload size	Not significant

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Electronic Monitoring of Domestic Violence Cases—A Study of Two Bilateral Programs*

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THE CRIMINAL JUSTICE system has been using electronic monitoring (EM) for about twenty years (Conway, 2003), typically as a form of house arrest, as an alternative sanction or in the context of pretrial release. Offense categories for which EM is used tend to be at the "less serious" end of the offense continuum, including drunken driving, drug and property offenses, and less commonly for offenses against the person (Scott and Hale, 2002:2). In a time of overburdened budgets and facilities, EM is intended to control offenders at a cost that is lower than institutional confinement, while enabling them to continue working and supporting their families.

EM based on continuously signaling devices (Crowe et al., 2002) involves equipping an offender with a transmitter and a receiver that are synchronized to a monitoring center, which periodically registers his presence at or absence from home; and sends curfew violations trigger alerts to supervising officers, who then may investigate the basis for the alerts. We refer to such an approach as *unilateral* EM (UEM) because an offender alone is the object of ongoing supervision. Most evaluation studies of EM have been of the unilateral form, typically addressing the technology as a means of surveilling offenders and enforcing restrictions in the absence of traditional detention or incarceration (for reviews see Black and Smith, 2003; Crowe et al., 2002; and Vollum and Hale, 2002). Evaluation studies of UEM have focused on such topics as its effectiveness in reducing recidivism, its cost effectiveness relative to incarceration, and legal concerns associated with its application in different criminal justice phases.

There has been little systematic research ^[1] on the electronic monitoring of persons ^[2] charged with or convicted of domestic violence (DV) related offenses, where the technology is used not only for surveillance/control but also for victim protection. We refer to the latter use of EM as *bilateral*, because a second party is enrolled into a program of surveillance. ^[3] In the context of DV offenses, bilateral EM (BEM) extends the mandate of unilateral EM by protecting *specific* individuals ("victims"), ^[4] as opposed to being designed to address public safety interests in

general, or to prevent absconding while out on bail. Courts attach or impose this measure with the expectation that BEM will strengthen protection orders. The victim's participation and cooperation are necessary to the functioning of BEM programs for DV cases, introducing a variable absent from UEM. Treatment or rehabilitative issues are of inexplicit relevance to these mostly pretrial uses of BEM (Vollum and Hale, 2002).

This article addresses the gap in research on the use of EM for DV cases by examining two such programs. We begin by discussing the limitations of protection orders in DV cases that historically have warranted the use of BEM. We then report on two BEM programs, describing key aspects of their design and implementation. Results reported include the types and frequency of contact violations between victims and defendants who participated in the programs, and victims' reactions to and concerns about BEM.

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Domestic Violence and the Use of Protective Orders

Studies have found that victims of domestic violence typically report it only when they have reached the "enough is enough" tipping point (Fischer and Rose, 1995), after they may have been repeatedly subjected to various forms of abuse, ranging from intimidation to harassment, stalking, and physical assault (e.g., Stanko, 1990). However, taking action against domestic violence by reporting it to the police or attempting separation can place women at a higher risk of assault. "Separation assault" (Mahoney, 1991) is a well-known phenomenon in the dynamics of domestic violence, as are instances of stalking estranged partners in places where they are routinely present (e.g., workplace) or likely to visit (supermarket, church, etc.). According to a recently published study (Block, 2003), three-fourths of homicide victims and 85 percent of women who experienced severe but nonfatal violence had left or tried to leave their batterers in the past year.

Despite the danger faced by women when they want to leave abusive relationships or appeal for help to the justice system, protecting them (as well as their children and other family members) has been a difficult task. The context and dynamics of domestic violence render the legal protection of its victims a continuous challenge to the justice system, one fraught with logistical problems and contradictions (Worden, 2000). Courts have responded to the problem of securing the safety of women who have stepped forward as victims of abuse by issuing protection orders, often as an adjunct to an official proceeding brought by the state in response to the victim's complaint. These protection orders typically require that the named offending party refrain from contacting the victim and other family members, and/or move out of the house. Research on the effectiveness of protective orders indicates that they are generally associated with a decrease in subsequent physical and non-physical violence by batterers (e.g., Holt et al., 2002; Holt et al., 2003). However, several studies have found that such orders may not be as effective in keeping women safe when the defendant has a history of violent offenses (Buzawa and Buzawa, 1996; Erez and Belknap, 1998a; Fischer and Rose, 1995).

The use of protective orders in the context of DV carries benefits for some victims but can be complicated to execute (Harrell, 1993; Buzawa and Buzawa, 1996; Wolf et al., 2000). Some offenders do not comply with the various terms of the protective orders (e.g., Erez and Belknap, 1998b; Worden, 2000). Moreover, some batterers, upon receiving the protective orders, are so angered that they seek out their victims for renewed assault (Erez and Belknap, 1998a). Another issue to consider is that many abused women, particularly those who have not reached the tipping point, may want to have (non-violent) contact with the offender in spite of the presence of a protective order. They are still emotionally or economically attached to the batterer, and often have children together. At times, therefore, they allow their abuser to contact them, seek him out at his place, or arrange a rendezvous. The police have been known at times to argue that they no longer had the responsibility for enforcing protective orders when the victim initiated a contact with the offending party named on a protective order *and* violence re-erupted between the once again estranged couple (Buzawa and Buzawa, 1996; Erez and Belknap, 1998a).

The intimate nature of these relationships means that the offender will be well versed in the victim's routines, and personal and social affiliations, such as family, friends, and membership in organizations. He knows when and where she works, the school where she waits to pick up the children, her telephone numbers, as well as her travel routes to reach home, work, or fulfill other responsibilities, needs or preferences. Such knowledge of her routines furnishes the abuser with numerous opportunities to harass, stalk, intimidate, assault or abuse the victim in violation of protective orders. An especially significant contact violation from the court's perspective involves offenders who seek out the complaining witness with requests that she retract the complaint. Victims are often frustrated when they report such protective order violations, however, because the issue can come down to a "he said, she said" situation in the absence of proof that the defendant made the contact alleged in their complaint or affidavit.

BEM is designed to address these various limitations associated with protective orders in DV cases. The major premise of BEM is that defendants under "no contact" orders, who know that they cannot approach a certain geographical area without detection, will be less likely to attempt to contact a victim, despite a history of violating such orders in the absence of BEM. Court officials argue that although some defendants will not be deterred in such circumstances, many others will conform to protective orders if they know they are monitored electronically when they approach the victim or her residence. One judge in our study stated:

I think (the program) drives the message home to the offender that there is to be no contact, that the no-contact order is going to be supervised and that there are repercussions if there is any contact. Likewise, I think it gives the victim some added sense of security. It puts some teeth into an oral order: 'stay away and have no contact'. You can tell somebody that, but if you actually have a device or system in place that's really going to measure it and make sure that there isn't contact, that helps across the board. It enhances a temporary protection order; it puts some teeth into it.

The results of our research generally support this view, indicating that defendants in a program of BEM by and large refrain from attempting to contact the victim, while participating victims generally feel an increased sense of safety during their involvement with the program.

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Methodology

Data were collected at two sites using the following methods: First, official records kept by the probation departments administering the programs ^[5] were used to document such information as defendants' demographic characteristics, offense history, EM status and details (e.g., how long under supervision), protection order violations and offenses during and after BEM enrollment. Second, in-depth interviews were conducted with victims (30); defendants and convicted offenders (27); criminal justice personnel (34), including police, prosecutors, judges, probation officers; and victim assistance professionals (8) based both inside and outside the justice system. Interviews were either with focus groups or individuals. Third, field observations were made (at one site) of how the equipment was installed at participants' residences, how the program was explained to defendants and victims, how supervisory personnel visited with defendants at the office and in the field, and how the court handled cases involving BEM during different court phases. The following results are drawn from the data collected through these methods.

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Results

Technology, program design and implementation

The BEM programs we studied are in two Midwestern states: one is run by the River County (a large metropolitan urban area) Probation Department; the other is administered by the Lakefront (a small city in a mostly rural county) Probation Department. ^[6] Defendants are ordered to

remain at a particular distance from the victim's residence, which may be anywhere from 1,000 feet to one mile. Both sites utilize radio frequency (RF) based technologies that operate on similar principles and require similar equipment, with some exceptions. ⁷

RF based EM programs for DV generally work as follows: the defendant is equipped with a tamper-resistant, ankle-worn transmitter. A receiver in the defendant's residence confirms his presence during court-ordered curfew hours. A receiver in the victim's home will detect the presence of a defendant when he enters a defined geographical radius of up to 500 feet. Radius penetration of a victim's home region results in an immediate call to law enforcement. Receivers are ordinarily monitored 24/7 by a commercial monitoring company via normal phone lines. In addition, the victim may be given a pager to receive messages from the monitoring center, a duress pendant, and/or a cellular phone pre-programmed to notify authorities. The victim may also carry a field-monitoring device to alert her to the approach of the defendant while she is away from her home receiver. The defendant is not tracked while away from home, as is the case with GPSbased systems. It is important to note that the equipment does *not* provide physical protection of the victim. It will simply provide a warning (and notification to the police) when the defendant is nearby, as long as the ankle transmitter is worn. Thus the equipment will not prevent someone who is determined to hurt a "protected" party and is not concerned about the consequences to himself. ⁸ We observed that personnel emphasize this technological limitation to victims during the installation.

Most participants are referred at the pretrial stage and remain on the program until their cases are disposed (90 percent or more of the offender caseloads ⁹ at both sites is comprised of defendants). The rationale cited by River County court personnel and program staff for using EM mostly for pretrial cases was that the pretrial phase was "the most volatile period" in domestic violence cases, because some batterers are prone to further abuse, manipulate, or intimidate the prosecuting witness.

The victim's consent is required in order to proceed with the installation of the equipment in her home; withdrawal of the victim's ongoing consent at any point during the program's tenure will result in the removal of her equipment, at which point the defendant might be transferred to a UEM program for the duration of the case, as deemed appropriate by a judge. EM installation requires that the victim (and defendant) give up certain telephone features, such as call-waiting, call forwarding, and telephone-based internet access; unwillingness to surrender access to such features is a reason victims at both sites gave for not wanting to participate in the program. ¹⁰ River County defendants are not expected to pay for the cost of the program, the rationale being that as defendants, they have not been found guilty of any charges. Lakefront's defendants have to pay for the cost of the program regardless of their status in the case. Neither program requires victims to pay program costs.

Most referrals to both programs originated in lower level rather than higher level courts, where the offenses handled are more serious and bond requirements are more onerous. River County often offered BEM to defendants in lieu of posting a cash bond, or discounted bond amounts where defendants agreed to participate in BEM; Lakefront made participation in BEM a condition of release from jail on bond. The programs also differed in terms of who initiated the request for BEM. River County's referrals were heavily victim initiated, as a representative of a victim support organization was present at arraignment and would advise *all* DV victims present about the BEM option. Prosecutors and judges usually initiated Lakefront's referrals; a court-based victim advocate ¹¹ or prosecutor ordinarily advised the victims of the program only after she indicated intense fear of the defendant.

Different definitions about who is a suitable candidate for EM were observed at the two sites. River County considered as appropriate for their program defendants in every relationship phase; thus, candidates were drawn from couples who hoped to reunite at some later date, couples who were in the midst of separating, as well as parties who had formally separated and who had no desire to reconcile. By contrast, Lakefront candidates deemed suitable for enrollment were drawn strictly from cases in which victims were judged to have no further relations with the accused, as evidenced by some form of permanent separation such as divorce, a new boyfriend or husband,

or if one of the parties had moved out. In other words, because the woman was unequivocally estranged from the defendant, the problems of "back pedaling" by victims, or of witness tampering by defendants, were less likely to occur, and less likely to be cited as rationales for the existence of Lakefront's program. A cost that is borne by some River County defendants is finding a new residence in which to live, as they cannot inhabit the same premises as the protected victim. This is generally not an issue in Lakefront, given that the couple had usually already separated. Due to these different definitions of who was suitable for BEM, the most common charge faced by River County defendants was domestic violence, while in Lakefront it was stalking or invasion of privacy.

The two sites require participants' agreement to varying liberty restrictions and levels of supervision. For instance, River County requires defendants to make weekly office visits during which urine screens are administered, and submit to surprise home visits (at an average of two per month). Lakefront does not have such rules and policies in place, deeming them too intrusive or burdensome for non-convicted persons. Similarly, River County more strictly limits "out hours" to work and travel time, and requires advance notice of up to one week for deviations from agreed upon schedules. Lakefront is more flexible in setting curfews and has a "hands off" attitude toward defendants' whereabouts while not working provided that they return home before 11 pm. River County's greater emphasis on supervision grew out of a proactive concern with "trigger control"—a focus on monitoring defendants for risk factors associated with domestic violence (e.g., use of alcohol, substance abuse, weapons in the house) in relationships that have not permanently ended. River County's more proactive approach to supervision is also probably related to the higher proportion of their caseload that is high degree felony (36 percent versus 3 percent in Lakefront). Program resources were much more plentiful in River County than in Lakefront, also enabling a higher degree of supervision over enrolled cases. ¹²

As a result of the different definitions of suitable candidates for referrals, and of the different processes through which BEM requests were initiated, the River County site had far more eligibility assessments for BEM. Over a three-year period, River County referred 1,711 cases, 32 percent of which were "hooked up" to BEM. By contrast, Lakefront's program referred 71 persons for eligibility assessments over the nine years of its existence, with a 55 percent hook up rate. The differential partially reflects the fact that BEM was not a condition of release on bond in River County but rather an inducement to a lower cash or "Own Recognizance" bond.

River County defendants/offenders averaged 48 days on BEM, with a median of 32 days; Lakefront defendants/offenders spent an average of 72 days on BEM. ¹³ The shorter mean time that River County participants spent on BEM may be in part a reflection of the tighter supervision to which they are subject and the more extensive rules by which they have to abide; in other words, they are likelier to be "violated out" of the program.

Violations of the Victim's Home Radius

The main purpose of BEM is to keep defendants away from victims' homes, and there were very few instances in which the victim's home radius was penetrated, as reported by the monitoring centers. River County's logs reported eleven "radius penetrations" committed by seven persons over a two-year period, most of which were classified by staff as "informational violations." These were essentially "drive-by penetrations"; the defendants were curious about whether the woman had a male guest at her home, or the defendant was testing the sensitivity of the monitoring equipment. These violations were often observed to have been committed while the defendant was intoxicated. Only one of the eleven cases could be classified as overtly hostile. In this case, a "jealous husband" was upset that his wife had a boyfriend at her apartment, for which the husband was still paying rent. After cutting off his ankle without being detected, he showed up at the apartment, broke down the locked door, and threatened to do lethal harm to both the woman and himself. The victim alerted authorities to her partner's presence through the use of her duress pendant, and police in turn responded rapidly. At Lakefront, over a nine-year period there were no "intentional" violations of the victim's home radius. "Incidental" penetrations were not considered intentional violations unless they formed part of a pattern, and the staff discerned no such patterns.

Other Contacts and Contact Violations

Certain kinds of contacts are not registered by the monitoring centers. For example, encounters at court, telephone calls, contacts by proxy, chance meetings on the street, sent flowers and mail, etc. Although victims were known to make complaints about these contacts to the program staff, it is not known whether victims who participate in BEM programs report them at a higher rate than non-participating victims. However, it seems likely that victims with BEM programs who do report such contacts will find a more receptive ear, considering that they have already established relationships with program staff, whose duties include offering them support services.

Face-to-face contact violations were the most common type of non-home-based violations reported by River County victims. There were few serious face-to-face violations reported by victims or program staff. One incident, at Lakefront, involved a "deranged" defendant (charged with stalking) showing up at the work place of an unrequited former high school crush. Most face-to-face violations were the result of chance meetings in public places, during which the defendant might make a provocative comment to the victim. A common way in which defendants communicated face to face, albeit at a distance, was in the courtroom or in the court's hallway. Such communications were usually non-verbal gestures, and in some cases they were done right under the noses of unaware judges.

Defendants also spoke about having been contacted and sometimes harassed by the victims, typically by telephone, and some mentioned that the women drove by their homes repeatedly, as if to taunt them. Some women admitted driving by the defendants' homes, claiming that they wanted assurance that he was where he was supposed to be; others admitted to driving past his home to check whether their field-monitoring devices were operational. Some defendants claimed that the victims made conjugal visits to their homes, which the victims denied. However, in two instances a probation officer, during a surprise home visit, found a protected victim hiding in a defendant's shower, which led to the arrest of the defendant for violating the no contact order. Finally, some victims stated that they initiated telephone calls to the defendant, but only for some practical reason, such as to make arrangements for a child to be picked up or dropped off. According to these women, an intermediary, such as a friend, family member or program support staff usually placed the call on their behalf.

Victims' Experiences, Concerns and Complaints

Overall, victims reported being pleased with their BEM experience and the time free of contact from the defendant it offered, allowing them to reassess their relationship and past actions. They claimed that BEM afforded them an opportunity to reassert a sense of control over their lives and re-imagine and plan their futures. The women also spoke about how their fears were alleviated and their sense of safety was enhanced, giving them and their children peace of mind and restful sleep for the first time in memory. One woman stated:

It was really good for my daughter. She was there when all this happened to me. She was in the same boat for almost three hours, (held) by a cross bow and a ninemillimeter. She witnessed everything. It made her feel better knowing that if he comes around us he'll get caught. Before I had (BEM) she would be scared that he would slip through the bars or break out of jail, but with the box at home she's fine now. She can sleep.

Thus, many of the women's experiences with the program led to a reappraisal of the justice system. One woman stated, "while the system sometimes lets us women down, at least we have a little bit of comfort knowing we have a box that will go off if he comes into the area where he doesn't belong." Some victims "tested" the equipment by pushing the "help buttons" on their base receivers in order to gauge the rapidity of police response. They reported quicker responses than they received following prior incidents when they had called 9-1-1; this added to their comfort. The test also bolstered their confidence in the system's capacity to protect them.

Victims at both sites expressed concerns and had complaints, however. Some felt that the

technology could create a false sense of security, leading them to become "too relaxed" about the risks in resuming "normal" activities, like washing the car or mowing the lawn alone, without a human sentry at their side. Others worried about whether they might become too reliant on their duress pendants in their daily life. For example, one woman stated, "I never walked out my front door without it. If I worked in my yard, I took it with me. If I went to the mail box I took my hand-held unit with me." Another woman added, "I don't even go into the basement without it." This theme was reiterated when they spoke about how difficult it was for them (and their children) to have the equipment removed from their homes following adjudication. One woman was asked how her life changed after the equipment was removed from her house. She replied, "It's horrible. I'm back to being totally one hundred percent paranoid every time I walk out of the house." She went on to describe how she resumed her old ways of protecting herself:

I went back to leaving all the lights on in the house, sleeping with the lights on,
checking the car before I enter it, looking up and down the street when I back out.
I haven't mowed the lawn in two weeks or been out in the yard for fear of him.

False alarms could also be troublesome, especially at Lakefront, where the monitoring center's practice was to notify the victims whenever the defendant had not gotten home by curfew, or when there was a power failure, with the aim of preparing the victim for a possible breach of her "geo-zone." Although no danger ever came to the women as a result of these curfew violations, Lakefront victims spoke about the disruptiveness of these calls, causing them fear at first, and later, when they became routine, irritation. Telephone outages, which rendered them without electronic cover, were a concern for the women, as were the occasional equipment malfunctions that resulted in loud beeps falsely warning them of a breach of their perimeter. River County's victims were notified of possible breaches by a pager. Some victims stated that it could be difficult to remember what the numerical pager code meant, exacerbating the panicked state of mind brought on by the pager in the first place.

Although the women felt that the equipment was often impressive (e.g., the base receiver's microphone was praised for its pinpoint accuracy) and useful (e.g., the field monitoring device's warning system was appreciated for the protection it provided away from home), they were worried that the equipment is not "childproof." Children were often attracted by the flashing lights on the base receivers and played with the buttons and triggered false alarms. They also complained that the pieces of equipment were bulky and difficult to carry. The women were bothered by the fact that the monitoring equipment can interfere with phone calls while it "checks the line." The requirement that certain special telephone features be disabled, including call-waiting, call-forwarding, and an Internet connection, was the subject of many complaints. Women who had a second telephone line, however, did not encounter any of these problems.

The women offered some suggestions for improving the program. They would have appreciated a guide or handbook that detailed how the equipment worked, important instructions to follow, the program rules that defendants must observe, and the legal procedures that pertained to their cases. They stated that it was often difficult to keep all of these things clear. The women also stated that a support group made up of other "women who have been through this" would be very helpful. They often felt that they were alone in going through this experience, and they enjoyed the opportunity to discuss the issues in the context of a focus group. Many of them exchanged phone numbers at the end of these interviews, with promises to stay in touch and offer assistance to one another.

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Conclusion

The program in which EM is anchored shapes its application, and the two BEM sites we studied adopted varying approaches to designing programs for enforcing protective orders in domestic violence cases. These differences included their identification of suitable candidates, the extent of liberty restrictions to which defendants were expected to comply, the approach taken to bearing the costs of the program, and the use of BEM as a choice or as a prerequisite to release

from jail. More broadly, the program in River County is one that is more responsive to research about the "cycle of violence" in intimate relationships, that identifies "triggers" associated with violence and considers how increasing victim safety may bolster criminal justice prosecutorial goals. By contrast, the program in Lakefront, which intervenes with BEM only after the relationships are over (or never existed in the first place), takes its mission primarily as one of enforcing a court's order that a defendant remain clear of a named party.

These different conceptions of the purpose of BEM, coupled with the variable programs in which the technology was anchored, raise questions about applying uniform criteria to assess the effectiveness of BEM technology across programs or jurisdictions (cf. Tonry, 1999). Despite these differences, however, it was apparent that victims perceived the programs as useful enhancements to their safety. Jurisdictions interested in addressing victim safety might therefore give serious consideration to adopting such programs in appropriate cases.

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The Imposition of Economic Sanctions in Philadelphia: Costs, Fines, and Restitution*

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OTHER THAN TRAFFIC offenses, economic sanctions have been used relatively infrequently in the United States, in large part because of the country's heavy reliance on incarceration. Moreover, financial penalties are considered to have no effect on wealthy defendants, for whom the amounts are assumed to be inconsequential, and to be unfair to poor defendants, for whom the additional monetary burdens are assumed to be overwhelming.

Despite these arguments for not using economic sanctions, there are three reasons why they are being imposed more frequently than in the past. First, the costs of criminal justice operations are becoming so high that offenders are now expected to pay at least part of those costs. Second, concern for victims has increased and will continue to increase, causing restitution to be awarded more frequently. Third, there are pressures for alternatives to prison because of the high cost of incarceration, the limited number of spaces available in some prison systems, and the belief of some people that long periods of incarceration are unjustifiable on grounds of just deserts and are ineffective in deterring future crime.

Purpose, Imposition, and Payment of Economic Sanctions

This study uses data from Philadelphia during the period 1994–2000 to examine the imposition of three types of economic sanctions: fines, costs, and restitution. Although research typically focuses on only one of these economic sanctions, in actual cases they are usually not used in isolation. That is, sentencing often involves multiple economic sanctions used in conjunction with probation and sometimes incarceration.

Fines. Fines are monetary penalties paid by the offender to the state. Fines have several advantages over other types of penalties (Hillsman, 1990). They are obviously punitive. They can be tailored to the seriousness of the particular crime and to the specific individual's criminal history and resources. They are also flexible, since they can serve as sole penalties or can be combined with other sanctions, ranging from treatment to incarceration. Moreover, they allow the

offender to remain in the community, work, and avoid the stigma and social costs of incarceration (Gordon & Glaser, 1991).

Within a jurisdiction, judges usually apply the "going rate" for fines, such that all violators of a particular offense are obligated to pay similar amounts (Hillsman & Greene, 1992). Because judges tend to use this going rate for fines, however, they do not adjust the seriousness of the penalty to the particular defendant (Hillsman & Greene, 1992). And, since this going rate is usually low (in order to accommodate the poorest offenders), fines have little penalty value for affluent offenders. Typically, judges' adjustments to fines are at the back end, rather than at the initial sentencing. That is, judges might sometimes excuse the remaining unpaid portion or simply let the probation period expire without enforcing the fine (Hillsman & Greene 1992).

Costs. Costs refer to money paid by the offender to the state to partially cover the expenses of prosecution, confinement, and community supervision. In some cases, these funds also support expenditures such as victim/witness assistance and victim compensation. Generally, the amount of costs imposed is a standard rate for each count. Thus, the only question in these courts is whether to impose costs, not how much.

Olson and Ramker (2001) found that judges in rural areas were significantly more likely than judges in urban areas to impose probation fees, probably because rural judges are likely to be more responsive than urban judges to their communities and more concerned with the imposition of justice in individual cases than with the processing of large numbers of cases (see also Weisheit, Wells, & Falcone, 1995). These researchers also found that higher amounts of probation fees were paid in rural areas, probably because judges in rural areas were concerned that offenders pay something, whereas judges in urban areas were concerned that fees should be imposed and enforced only if they were set at a level high enough to justify the time and expense of collection.

Restitution. Restitution refers to a convicted offender's court-ordered obligation to compensate victims for their losses resulting from the crime. Most often, restitution involves an offender making monthly payments to cover the costs of damaged or stolen property, although these monies may also be ordered to cover medical expenses and lost wages (Harland, 1981). Restitution is widely supported because it both addresses victims' needs for compensation and meets the criminal justice system goals of punishment and rehabilitation. Today, every state has a law addressing restitution, and 29 states mandate restitution unless the judge gives compelling reasons for not doing so (Office for Victims of Crime, 1998, p. 356), consistent with the call made by the President's Task Force on Victims of Crime (1982).

In one study of restitution, Outlaw and Ruback (1999) examined adult probation cases from Allegheny County (Pittsburgh), Pennsylvania in which restitution was or could have been a condition of probation. Results indicated that judges ordered restitution most often when damages were easy to quantify and that offenders were most likely to pay the restitution when they were able to pay and when the victim was a business. Restitution payment was negatively related to rearrest, and this effect was especially strong among married persons, who were more integrated into the community. This finding is consistent with an experimental study in which juveniles randomly assigned to formal restitution programs had lower recidivism than juveniles randomly assigned to other dispositions (Ervin & Schneider, 1990).

Restitution programs have generally not been seen as successful because 1) there is a reluctance to impose restitution on offenders who are assumed not to be able to pay it, 2) payment on restitution orders typically follows other financial obligations (e.g., costs, fines), and 3) there is often ambiguity about who is responsible for monitoring, collecting, disbursing, and enforcing restitution payments (Office for Victims of Crime, 1998, p. 358). Thus, it is not surprising that collection rates of restitution are low, ranging in two national studies from 45 percent (Smith, Davis, & Hillenbrand, 1989) to 54 percent (Cohen, 1995).

Multiple economic sanctions. Opposite predictions could be made about the relationship among these three different types of economic sanctions. On the one hand, one could hypothesize that

they would all be positively related, in that judges might believe that if offenders can pay one, they can pay them all. On the other hand, one could hypothesize that they would all be negatively related; that is, an increase in one type of economic sanction would result in lower amounts of other types of economic sanctions. Such a pattern would be evidence that judges recognize offenders' limited financial resources and consider offenders' ability to pay in setting the amounts of economic sanctions.

A study of probation fees in Illinois found support for both hypotheses. Olson and Ramker (2001) found that probationers ordered to pay both fines and probation fees had lower average monthly fees than did probationers ordered to pay only fees. However, Olson and Ramker found that there was no trade-off between fees and other penalties when those other conditions were non-economic (e.g., treatment, community service). They also found that probation fees were more likely to be imposed and more likely to be paid if fines were also imposed, a pattern that suggests the imposition of some economic sanctions is positively related to ability to pay.

A study in Pennsylvania also suggests that there is no clear pattern to the imposition of economic sanctions. In this study of four medium-sized urban counties (Ruback, Shaffer, & Logue, 2004), the imposition of fines was negatively related to the imposition of restitution. The imposition of costs was positively related to the imposition of fines but unrelated to the imposition of restitution. When these sanctions were imposed, the amounts of fines, costs, and restitution were positively related.

In their analysis of economic sanctions in misdemeanor cases in Los Angeles, Gordon and Glaser (1991) found that the amount of financial penalties imposed (restitution, fines, cost of probation supervision) was affected by the type of crime (assaults, burglaries, drug crimes, DUI, or theft). Compared to drug offenders, offenders convicted of burglary, DUI, and theft received significantly higher financial penalties, a result that suggests judges did not believe financial penalties were appropriate for drug offenders. Finally, they found that the predictors of the different types of economic sanctions were the same, a result that suggests judges treated restitution, fines, and costs similarly.

The present research was designed to examine the relationship among costs, fines, and restitution in Philadelphia, the fifth most populous city in the United States and a city with one of the country's highest violent crime rates (Federal Bureau of Investigation, 2003, Table 6, p. 39). This research is an improvement over prior studies in that it had a large sample of both misdemeanor and felony cases and that it examined cases over a seven-year period.

Statutory Changes in Pennsylvania

Aside from looking at the relationship among three types of economic sanctions, we were also interested in looking at the effect of the 1995 statutory change making restitution mandatory. In 1995 Pennsylvania made mandatory the paying of restitution to victims whose property was stolen or damaged or who suffered personal injury as a direct result of a crime (18 Pa. C.S.A. §1106). Moreover, judges were to impose full restitution regardless of the offender's financial resources. Consistent with results in four medium-sized urban counties in the state, we expected an increase in the imposition of restitution after the statutory change and either no effect or a decrease in the imposition of fines and costs. In 1998, Pennsylvania enacted a second statutory change regarding restitution. Under this law, 50 percent of all payments by an offender had to be directed to restitution for victims. We expected this change to result in slightly higher rates of imposition of restitution, as judges would be more likely to believe that ordered restitution would reach victims.

Method

Data for the years 1994–2000 were taken from computer files maintained by Philadelphia. Cases were sampled on the basis of crimes that were considered to be "restitution eligible," that is, cases with an identifiable victim (an individual, a business, or a state agency). This classification excludes DUI and drug offenses. Also excluded are cases determined to have no identifiable

victim, based on crimes listed in Title 18 (Crimes and Offenses) of Pennsylvania Consolidated Statutes Annotated.

Description of the Sample

For each case there were 20 items of information. The first, the variable on which cases were selected for inclusion in the study, was the major charge. Under this selection procedure, there were 108 crimes for the years 1994 through 2000. Of the 84,970 cases in the data set, 84,185 (99 percent) were accounted for by 33 crimes with at least 50 cases. ¹ The remaining 75 types of crime accounted for 778 cases, and 13 cases were missing this information. Across crime types, three dummy variables were created to capture the nature of these crimes: a) attempted vs. completed, b) conspiracy vs. no conspiracy, and c) violent vs. property.

The data contained information about whether or not there was a private criminal complaint, whether the court was a municipal court (which handles misdemeanors) or Court of Common Pleas (which is a court of general jurisdiction), the date of arrest, the type of attorney (coded as public defender or court-appointed attorney versus a private attorney), the date of sentencing, the amount of fines imposed, the amount of restitution imposed, whether costs were imposed, whether probation was imposed, the starting date of probation, the expiration date of probation, the actual termination date of probation if it were different from the expiration date, the gender of the offender, the race/ethnicity of the offender, the method of case termination, the reason a case would still be open after the expiration date, the date of rearrest (if any), and the number of days between the date of sentencing and rearrest.

There were a total of 84,970 cases in the data set, broken down by year as follows: 12,146 in 1994; 12,210 in 1995; 12,683 in 1996; 12,445 in 1997; 12,704 in 1998; 12,017 in 1999; and 10,765 in 2000. Of these cases, 54,812 were felony cases processed in Common Pleas Court and 30,151 were misdemeanor cases processed in Municipal Court (7 cases did not have information about which court was involved).

[Table 1](#) presents a description of the cases in the data set, by type of victim (private individual/business vs state) and overall. As can be seen there, most of the offenders were black. The remaining offenders were white (21 percent), latino (5 percent), other (2 percent), or missing (1 percent). Most offenders committed property crimes, and most did not have a private attorney.

The 5,415 cases in which the state was the victim were analyzed separately because they differed substantially from cases in which the victim was a private individual or business. Most important, there were gender differences. Women committed 14 percent of the crimes where the state was not the victim, but 83 percent of the crimes in which the state was the victim. Blacks committed 71 percent of the crimes in which private individuals or businesses were the victim, but 83 percent of the crimes in which the state was the victim. The analyses were limited to those individuals who were 16 years or older.

Results

Three types of economic sanctions were investigated: restitution, fines, and costs. The results are presented in two parts, relating first to the imposition of each sanction overall, and specifically by year. Second, there is a multivariate analysis of the imposition of each type of sanction.

Change Over Time

One of the issues we were interested in was whether the imposition and payment of restitution changed over time, and, if so, what factors might be related to this change. Although there was an increase over time in the proportion of cases in which restitution was imposed in cases in which private individuals/ businesses were the victims, there was a decrease in the proportion of cases in which costs and fines were imposed (see [Table 2](#)). Although there was a significant increase in the average amount of restitution ordered, there has not been a comparable increase in the average fine ordered. A pre/post test of the impact of the 1995 mandatory statute indicated a significant increase in the percentage of cases in which restitution was ordered, from 16 percent

(for the year 1994) to 22 percent (for the years 1996–2000), $X^2(1, 72760) = 239.95, p < .001$ (Yates' correction). A pre/post test of the impact of the 1998 statute indicated a small but significant increase in the percentage of cases in which restitution was ordered, from 21 percent (for the years 1996 and 1997) to 24 percent (for the years 1999–2000), $X^2(1, 47910) = 72.09, p < 0.001$ (Yates' correction).

Individual and Business Victim Cases

Cases in which individuals and businesses were the victims were analyzed in terms of the imposition of economic sanctions, the payment of economic sanctions, and the effect of economic sanctions on recidivism.

Imposition of economic sanctions. [Table 3](#) presents the results of logistic regression analyses of the imposition of restitution, fines, and costs in those cases in which the private individuals and businesses were the victims. Restitution was significantly more likely to be ordered for younger individuals, for whites, for individuals who had private attorneys, for cases in Common Pleas court, for cases after the 1995 statute was imposed, for probation cases, and for cases in which costs were imposed, and were significantly less likely to be imposed for cases in which fines were imposed. Fines were significantly more likely to be imposed for males, for older individuals, for whites, for offenders with private attorneys, in Municipal Court, when costs were also imposed and were significantly less likely to be imposed when restitution was imposed. Costs were significantly more likely to be imposed for older offenders, for black offenders, for cases after the 1995 statute, for offenders who had private attorneys, in Municipal Court, when fines were also imposed, and when restitution was also imposed. Overall, then, costs were positively related to both restitution and fines; restitution and fines were negatively related. This pattern suggests, consistent with Olsen and Ramker's finding, that judges make tradeoffs when imposing restitution and fines, requiring offenders to pay one or the other. However, if judges impose either restitution or fines, they are also likely to impose costs.

State Victim Cases

The 5,415 cases in which the state was the victim were analyzed separately from the other cases because they differed in substantial ways from cases in which private individuals or businesses were the victims. Ten different property crimes were included in this category (e.g., tax violations, medicaid fraud, food stamp fraud), but public assistance violations accounted for 5,295 (98 percent) of the cases. As noted earlier, offenders in this category of state victim crimes were primarily female and black. Restitution was imposed in 4,494 cases (83 percent). The range of restitution orders was from \$15 to more than \$100,000 ($M = \$4,382$; $Mdn = \$3,000$; $Mode = \$2,500$). Fines were imposed in only 53 cases (1 percent). The range of fines was from \$50 to more than \$100,000 ($M = \$6,406$; $Mdn = \$750$; $Mode = \$500$). Costs were imposed in 1,880 cases (35 percent).

[Table 4](#) presents the results of logistic regression analyses of the imposition of restitution, fines, and costs in those cases in which the state was the victim. Restitution was significantly more likely to be ordered for welfare cases, for individuals who had private attorneys, and for cases after the 1995 statute was imposed and was significantly less likely for male offenders, for cases in which fines were imposed, and for cases in which costs were imposed. Fines were significantly more likely to be imposed when costs were also imposed and were significantly less likely to be imposed when the offender was black, for welfare cases, in Common Pleas Court, and when restitution was imposed. Costs were significantly more likely to be imposed for male offenders, for offenders who had private attorneys, in Common Pleas Court, and when fines were also imposed, and were significantly less likely after the mandatory statute and for welfare fraud cases. Overall, then, fines and costs were positively related; restitution was negatively related to both fines and costs.

Discussion

This study examined three types of economic sanctions—costs, fines, and restitution—for both

misdemeanors and felonies and for both private individual/business victims and the State as victim.

Summary of the Findings

Overall we found that restitution was more likely to be imposed for property crime whereas fines and costs were more likely to be imposed for nonproperty crimes (most of which were violent). One of the clear findings from this study was that the 1995 statute making restitution mandatory had an effect: both restitution imposition rates and restitution amounts ordered were higher after the statute than before. ² Contrary to our expectation, restitution was awarded to the State at a higher rate than to private victims, and this difference was even more pronounced after the statutory change making restitution mandatory.

The increase in imposition rates for crimes against private individuals and businesses after the statute was probably not greater for three reasons. First, despite the mandatory nature of the statute, it may be that in practice restitution is ordered only if the victims request it. It is likely that victims are not aware that they must make this request. Second, most of the offenders are probably poor and the odds are low that they would be able to make payments. Third, the amounts of money involved are relatively small, and judges, prosecutors, and probation officers may not believe that the money that could be recovered is worth their involvement.

In contrast to private victims, offenders of most crimes in which the State is the victim were ordered to pay restitution, and the increase after the statutory change was even more dramatic. This effect of greater benefit to the State than to private individuals and businesses probably represents an unintended consequence, in which the State was simply better able to meet the legal and practical requirements of receiving restitution. Specifically, with the State, there was no possibility of victim precipitation or victim responsibility, the state agencies involved asked for restitution, the exact amounts of loss were known and easily quantified (see Outlaw and Ruback 1999), the offenders in the non-welfare fraud cases probably did have money (since they were relatively more likely to have private attorneys) and therefore there was a greater probability of payment, and the average amounts of money involved were relatively large.

This study also found no simple relationship among the three different types of economic sanctions examined here. On the one hand, judges appeared to make tradeoffs between restitution and fines for both individual/business victims and the State as victim. Thus, when the statute required higher rates of restitution, judges appeared to balance that increase with a decrease in the imposition of fines. On the other hand, however, the relationship between fines and costs was positive for both individual/business victims and the State as victim. That is, if judges imposed fines, they were also likely to impose costs.

Taken together, these patterns suggest that judges might be looking at offenders' ability to pay these sanctions. When the choice lies between restitution to victims and fines paid to the government, judges follow the mandatory law and impose restitution. However, when payments are due to the State and County governments through fines and fees, judges impose both or do not impose either.

This explanation is consistent with results from an anonymous statewide survey concerning the imposition of restitution, which was sent to all criminal court judges in the State in September 2001. Of the 147 judges responding, 17 identified their county as Philadelphia. Typical of these judges' views of restitution was the statement of one: "Except in fraud and theft/burglary cases, we rarely see requests for restitution. Most of our offenders are too poor to pay anything substantial." Another judge wrote, "You can't get blood out of a stone. When you have rapes, aggravated assaults, gun-point robberies of those with no skills who have never held a job, what good is restitution? They will be in jail for five to ten years and have no assets. It's the exception, not the rule, in the major cases in a large city."

More quantitative responses were also consistent with the view that most offenders in Philadelphia could not afford to pay restitution. A set of *t*-tests comparing the responses of these

17 judges from Philadelphia to the remaining judges indicated several significant differences. [□](#) Compared to the judges in the rest of the state, Philadelphia judges were more likely to take type of offense into account, more likely to lower fines in order to reduce the total economic sanctions, less likely to say they impose restitution for violent victims, more likely to say collecting restitution is a problem, more likely to impose indirect criminal contempt charges for failing to pay, more likely to believe that too much time elapses before payment is made, more likely to believe that there is inadequate contact with offenders, more likely to believe that inadequate priority is given to warrants, and more likely to believe that offenders think nothing serious will happen to them.

These responses suggest that judges in large cities impose economic sanctions differently than do judges in suburban and rural areas. Future research should examine how tradeoffs in economic sanctions are made in different types of counties for different types of crime, and whether the tradeoffs between economic sanctions and incarceration differ in urban and rural counties.

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TABLE 1.*Description of the Data Set, by Type of Victim and Overall*

	Private Victims	State Victim	Overall
Variable	(n = 79,555)	(n = 5,415)	(n = 84,970)
Percent Male	86	17	81
Percent Black	71	83	71
Median Offender Age	27.6	35.1	28.2
Percent Property Crimes	59	100	62
Percent Private Attorney	20	40	22
Percent Probation Imposed	70	36	68
Percent Restitution Imposed	17	83	21
Percent Fine Imposed	2	1	2
Percent Costs Imposed	88	35	85
Percent Probation Revoked	18	12	18
Percent New Crime	33	8	31

TABLE 2.*Cases In Which Restitution, Costs, and Fines Were Imposed, Listed by Year***Crimes Against Private Individuals and Businesses (n = 79,555)****Whether Economic Sanction Imposed (Percentage of Cases)**

	Year						
	1994	1995	1996	1997	1998	1999	2000
Restitution	11.9	11.4	15.5	15.4	16.9	15.1	13.9
Costs	15.0	14.3	16.1	14.8	14.2	13.2	12.5
Fines	15.6	14.7	16.8	16.8	15.9	11.4	8.9

Amount Imposed (in Dollars)

	Year						
	1994	1995	1996	1997	1998	1999	2000
Restitution Amount	281.05 ^a	255.44 ^a	354.28 ^a	592.78 ^b	586.72 ^b	586.52 ^b	700.52 ^b
Fines Amount	11.75 ^{ab}	6.41 ^a	22.76 ^{ab}	27.98 ^{ab}	16.91 ^{ab}	24.03 ^{ab}	23.11 ^b

Within each row, means that share a common superscript are not significantly different according to a post-hoc Newman-Keuls test ($p < .05$).

Crimes Against the State (n = 5,415)**Whether Economic Sanction Imposed (Percentage of Cases)**

	Year						
	1994	1995	1996	1997	1998	1999	2000
Restitution	66.9	81.5	85.4	84.5	85.6	87.0	87.1
Costs	37.8	40.9	37.3	27.6	31.1	34.5	34.9
Fines	0.2	0.8	0.7	1.4	2.0	1.3	0.3

Amount Imposed (in Dollars)

	Year						
	1994	1995	1996	1997	1998	1999	2000
Restitution Amount	2802.01 ^a	3373.10 ^b	4216.54 ^c	3660.15 ^{bc}	3874.64 ^{bc}	3920.69 ^{bc}	3440.75 ^b
Fines Amount	6.72	27.88	2.76	216.36	20.15	123.96	7.87

Within each row, means that share a common superscript are not significantly different according to a post-hoc Newman-Keuls test ($p < 0.05$).

TABLE 3.

Logistic Regression Analyses of the Imposition of Restitution, Fines, and Costs - Individual and Business Cases Only (n = 78559)

Predictors	Restitution		Fines		Costs	
	B (s.e.)	Exp(B)	B (s.e.)	Exp(B)	B (s.e.)	Exp(B)
Male	-0.01 (0.03)	0.99	0.22*** (0.07)	1.25	-0.05 (0.03)	0.95
Age	-0.01*** (0.001)	0.99	0.03*** (0.002)	1.03	0.02*** (0.001)	1.02
Black	-0.25*** (0.02)	0.78	-0.64*** (0.05)	0.53	0.09*** (0.03)	1.09
Post-1995 Statute	0.15** (0.05)	1.16	-0.01 (0.11)	0.99	0.03 (0.05)	1.03
Private Attorney	0.11*** (0.01)	1.11	0.46*** (0.03)	1.58	0.77*** (0.02)	2.16
Common Pleas Court	0.89*** (0.02)	2.43	-1.17*** (0.05)	0.31	-0.54*** (0.03)	0.59
Property Crime	0.79*** (0.02)	2.21	-0.55*** (0.05)	0.58	-0.71*** (0.03)	0.49
On Probation	0.64*** (0.05)	1.89	0.25* (0.10)	1.29	-0.003 (0.04)	1.00
Fine Imposed	-0.35*** (0.08)	0.70	—	—	-0.94*** (0.13)	2.55
Costs Imposed	0.99*** (0.04)	2.69	1.02*** (0.13)	2.77	—	—
Restitution Imposed	—	—	-0.30*** (0.08)	0.74	0.97*** (0.04)	2.65
Post-1995 Statute x Probation	0.30*** (0.06)	1.35	0.01 (0.12)	1.00	-0.03 (0.05)	0.97
-2 Log Likelihood	65548.46		16528.16		53034.59	
Nagelkerke R ²	0.103		0.115		0.098	

*p < 0.05 **p < 0.01 ***p < 0.001

TABLE 4.

Logistic Regression Analyses of the Imposition of Restitution, Fines, and Costs - State Victim Cases Only (n = 5415)

Predictors	Restitution		Fines		Costs	
	B	Exp(B)	B	Exp(B)	B	Exp(B)
Male	-0.19 (0.11)	0.83	-0.09 (0.50)	0.91	0.30*** (0.09)	1.34
Age	0.004 (0.005)	1.00	0.03 (0.02)	1.03	-0.02*** (0.004)	0.98
Black	-0.02 (0.11)	0.98	-1.15** (0.39)	0.32	0.007 (0.09)	1.01
Post-1995 Statute	0.71*** (0.11)	2.03	-1.28# (0.67)	0.28	-0.62*** (0.09)	0.54
Welfare Fraud Case	2.54*** (0.27)	13.06	-4.15*** (0.61)	0.02	-1.42*** (0.33)	0.24
Private Attorney	0.73*** (0.05)	2.08	-0.03 (0.21)	0.97	0.79*** (0.04)	2.20
Common Pleas Court	0.29 (0.17)	1.33	-1.44** (0.50)	0.24	2.33*** (0.15)	10.26
On Probation	-0.25 (0.13)	0.78	-0.47 (0.89)	0.62	-0.15 (0.12)	0.86
Fine Imposed	-2.51*** (0.52)	0.08	-	-	1.81*** (0.55)	6.10
Costs Imposed	-0.35*** (0.09)	0.71	1.71** (0.59)	5.51	-	-
Restitution Imposed	-	-	-2.53*** (0.53)	0.08	-0.30*** (0.09)	0.74
Post-1995 x Probation	0.23 (0.16)	1.98	1.29 (1.01)	3.62	0.38*** (0.15)	1.47
-2 Log Likelihood	4304.11		234.48		5878.69	
Nagelkerke R ²	0.169		0.592		0.239	

p < 0.06 *p < 0.05 **p < 0.01 ***p < 0.001

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Private and Public Sector Prisons—A Comparison of Select Characteristics

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[Introduction](#)[Privatization: A History](#)[Ideological Orientation](#)[Methodology](#)[Findings](#)[Discussion](#)[Conclusion](#)

WITH THE ADVENT of get-tough sanctions, the demand for prison space is great. As state and federal facilities are forced to operate at or above capacity, solutions are increasingly being sought from the private sector. One solution that has gained increased popularity is the privatization of the prison. A private prison is a facility that incarcerates offenders for profit. Recent figures from the Bureau of Justice Statistics indicate that about 7% (94,948) of America's state and federal prisoners are incarcerated in privately operated prisons (Bureau of Justice Statistics, 2002). By all accounts, this trend is expected to continue. For example, the U.S. Bureau of Prisons has announced its intention to increase the number of federal prisoners housed in private facilities to an anticipated 20,000 within the next few years (Camp et al., 2002: 28). This suggests that correctional privatization will continue to gain momentum (GAO, 1996: 3; Welch, 2000: 82).

The increased momentum of prison privatization makes it vital to determine if the private sector ascribes to similar or different ideologies than those that have traditionally driven public operations. This determination is valuable since the objectives of the contemporary prison are increasingly ambiguous (Garland, 1990: 3). The lack of a clearly defined ideology is resulting in a growing sense of doubt and dissatisfaction with modern penal practice. Thus, our nation's prisons and correctional departments adhering to a variety of ideologies that make the system appear more philosophically disjointed than in the past. This confusion not only exists at the institutional level but is also prevalent among prison employees. Garland notes that prison employees have historically been able to justify various practices by placing them within established ideological frameworks. However, those now employed in the prison are left with little direction or even a widely accepted justification for their efforts. By considering prison privatization, insight can be obtained about the role of the contemporary prison (both private and public) as well as the role that a profit ideology may play in the future application of punishment.

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Privatization: A History

Prison privatization is historically grounded (Cohen, 1985: 63; Lichtenstein, 2001: 189). Similar practices were common in parts of Europe during the seventeenth century, having their birth in Amsterdam and Hamburg (Spierenburg, 1998: 66). Simon observes that in Europe, it was possible to "obtain public authority to confine troublesome people" in private facilities (1993: 22). The operators of these facilities sought profit and self-sufficiency by charging fees for admittance and discharge, food and water, and even lodging (Austin & Coventry, 2001: 9; Lichtenstein, 2001: 193). Sellin, too, notes that early prisons sought "financial profitability" (1958: 11).

Cohen traces the roots of contemporary privatization to the 1960's when there arose a social desire to "divest[ing] the state of certain control functions" (1985: 31). This movement is also being fueled by a growing dissatisfaction with government and its inability to fulfill its correctional responsibilities (Austin & Coventry, 2001: 9; Cohen, 1985: 35; Jacobs, 2001: 184; Lichtenstein, 2001: 191). The recent trend to privatize prisons began in earnest in 1984 when Hamilton County, Tennessee and Bay County, Florida entered into contracts with the private sector. Currently, 158 private correctional facilities operate in 31 states (Thomas, 2000).

The shift from a publicly operated correctional system to one that contains a corporate component has led to concerns about an inherent conflict between public and private interests (Christie, 2000: 149; Logan, 1990). This concern hinges upon the belief that profit will be of greater importance to the private sector than the constitutional, ethical, or fair treatment of its inmates and staff. Some scholars have even suggested that the pursuit of profit may be done through substantial cuts in staffing, training, and ancillary services (Brister, 1996; Logan, 1996; Thomas, 1996;). Since labor accounts for approximately 70% of all prison expenses, "the secret to low-cost operations is to have "the minimum number of officers watching the maximum number of inmates" (Austin & Coventry, 2001: xi & 16; Welch, 2000: 82). Thus, conventional wisdom suggests that the private sector will operate at or above capacity and employ proportionately fewer staff than does the public sector.

Furthermore, the movement to privatize prisons is reflective of a larger socio-economic and political movement occurring worldwide. Referred to as "neo-liberalism," corporations involved in this movement embrace a capitalistic fervor that seeks the abolition of government intervention and the expansion of economic free enterprise (Martinez & Garcia, 2000: 1; Passas, 2000: 21; Starr, 1988: 8). This desire to expand into new avenues of profit has lead corporations to consider prison operations. It is the possibility that these corporations will cut wages and employee benefits (Martinez & Garcia, 2000; Passas, 2000) that make prison privatization one of the most significant issues facing contemporary society (Passas, 2000: 16).

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Ideological Orientation

The ideological orientations of "normalization" and "less eligibility" have long been used to describe prison operations (Feest, 1999: 100) and were instrumental in providing the ideological framework for this study. Prisons operating under a "normalization" orientation emphasize treatment and rehabilitation (Downes, 2001: 66; Simon, 1993). These facilities also value civil rights and offender reformation. In an opposite fashion, under the philosophy of "less eligibility" inmates are seen as possessing "reduced citizenship" and few rights (Jacobs, 1980: 432; Simon, 1993: 265). Little concern may exist for inmate reformation. These characteristics combined with a desire for low-cost operations (Welch, 2000: 74) or even profit may increase the likelihood that inmate populations and facility staff will be targeted for cost-cutting measures.

These ideologies provide a natural continuum upon which the public and private correctional sectors may be situated. By placing normalization and less eligibility at opposite ends of this continuum, analysis of each sector's characteristics can reveal toward which ideology either sector is located in relation to the other. It was hypothesized that since the private sector operates

with a "for-profit motive," less eligibility would be its dominate operational ideology (see [Table 1](#) for ideological characterizations).

Much of the contemporary literature suggesting differences between the sectors are based largely upon speculation rather than observation and research. Some of this literature suggests that the treatment of inmates held by the private sector will be of a lower standard than that accorded inmates held in public sector prisons. For example, Pha asserts that corporations tend to treat people as commodities with financial factors "overriding" all other considerations (1996: 20; Peck, 2001: 1; Wright, 2000: 21). This body of literature suggests that privatization will have negative effects upon staff and inmates, alike (Kicenski, 1998: 11; Lotke, 1996: 3). In an opposite fashion, other scholars have identified ways in which privatization may benefit inmates and prison employees (Logan, 1990). The lack of research and the myriad of opinions and speculative statements in the literature suggests that no study has yet determined the ideology driving private sector operations.

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Methodology

Data were obtained from the Criminal Justice Institute's (CJI) Corrections Yearbook. The 1998 and 2000 editions were initially selected for comparative analysis. However, data on the private sector were incomplete for 2000. During 1998, approximately 74% of the prisoners held by the private sector and 53% of the private prisons were represented in the data set. However, by 2000, only 35% of the prisoners held by the private sector and 36% of the private prisons were represented. Specific areas of prison operations for 2000 fared even worse. For example, only 12 private prisons (down from 53 in 1998) provided information on employee turnover rates. Since data for 2000 were incomplete, data were obtained solely from 1998. During both 1998 and 2000, 88% of all public sector prisoners were represented in the CJI data-sets.

Once selected, data were entered into SPSS to obtain descriptive analyses including frequencies and means. Additional statistical information was obtained directly from the Yearbook. Data were provided by 6 private corporations, including 47 prisons operated by Corrections Corporation of America (representing 59% of the data), 21 prisons operated by Wackenhut (representing 26% of the data), 6 prisons operated by Management and Training Corporation (representing 8% of the data), 4 prisons operated by Avalon (representing 5% of the data), and 1 prison each for Capital Corrections and Australian Correctional Management (2% of the data combined).

The hypotheses for this project include an expectation that (when compared to the public sector):

- the private sector will pay less, provide less training, will have proportionately fewer officers per inmate, and will have lower officer retention and retirement rates,
- the private sector will suffer from increased levels of violence,
- the private sector will have a smaller percentage of its inmate population participating in drug treatment, and
- the private sector will pay inmate laborers proportionately less.

For a hypothesis to be considered supported and for its related findings to be used to place the sectors upon the ideological continuum, the difference between the sectors must reflect a minimum difference of 25 percent. If a specific difference between the sectors is less than 25%, it will not be used to place either sector upon the continuum. By using such a high percentage as the criteria for comparative purposes, the reader is presented with a conservative test of practical and substantive significance.

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Findings

Demographic, Custody & Sentencing Data

When considering the data provided on [Table 2](#), it is evident that a large percentage of those incarcerated by both sectors are African American. Furthermore, the private sector reports housing a higher percentage of female inmates than does the public sector. Both sectors reported that the average age of their inmates at admission was approximately thirty. Likewise, the total percentage of inmates 49 years of age or less, for all practical purposes, is also too similar to be distinguished.

When considering custody levels, the private sector houses approximately 21% fewer inmates at the maximum and close security levels and approximately 15% more inmates at the minimum security level than does the public sector. Thus, 90% of the private sector's inmate population is classified at the medium or minimum levels, whereas only 69% of the public sector's inmate population are so designated. When considering the average number of months served by inmates prior to release, the private sector reported a stay of 11 months versus approximately 28 months for the public sector. Thus, the average length of stay for inmates in private sector prisons was over 16 months less than for inmates incarcerated by the public sector. This is consistent with differences in classification where higher security designations are often tied to offence seriousness and sentence length. Finally, the private sector operated at 82% capacity while public sector prisons operated on average at 113% capacity. Thus, private prisons were operating at 18% below their capacity levels while public prisons were operating at 13% above their designed capacity levels.

Salaries, Training Levels, Staffing Ratios and Turnover Rates

In 1998, the private sector paid officers \$15,919 to \$19,103. This range represents a difference of \$3,184. During this same year, public prisons paid their officers \$21,246 to \$34,004. This range represents a difference of \$12,758. Thus, the private sector paid new officers approximately \$5,327 less than did the public sector while offering less advancement in salary, with the difference in maximum salaries being \$14,901. This finding supports the hypothesis that the private sector will pay its correctional officers less than the public sector. This finding also indicates that the private sector, with regard to correctional officer salary, is located nearer the less eligibility end of the ideological continuum than is the public sector.

The private sector required correctional officers to undergo an average 174 hours of pre-service training and 42 hours of annual in-service training. In comparison, the public sector required correctional officers to undergo an average 232 hours of annual pre-service training and 42 hours of in-service training. This suggests that the public sector required 58 additional hours of pre-service training above that provided by the private sector. This finding supports its related hypothesis and suggests that the private sector is nearer the less eligibility end of the ideological continuum than is the public sector.

The private sector also reported an average correctional officer turnover rate of 43%. Turnover refers to the total number of officers leaving a particular prison during a specific year. Similar information was also available regarding total staff turnover rates and their causes. Figures indicate that 71% of those individuals leaving private prisons resigned their position, while 0.6% retired, 21% were terminated/dismissed, and 7% transferred to another facility. In comparison, the public sector reported an average correctional officer turnover rate of 15%. This suggests that the private sector experienced officer turnover rates approaching three times that of the public sector. Total staff turnover rates were also available for the public sector, indicating that 63% resigned their position, 15% retired, and 22% left for unknown reasons. Thus, the private sector had approximately 9% more of their staff resign and 15% fewer of their staff retire. This finding supports its related hypothesis and suggests that the private sector is nearer the less eligibility end of the ideological continuum.

When considering staff to inmate ratios, the private sector reports an average 6.7 inmates per

correctional officer and 3.7 inmates per staff member. The public sector, in comparison, reported an average 5.6 inmates per correctional officer and 3.1 inmates per staff member. This finding suggests that the private sector had higher inmate to officer and staff ratios than did the public sector. This finding is not surprising considering private prisons are newer (Pratt & Maahs, 1999), may employ advanced security measures, and incarcerate a less serious inmate population. Because the differences between the sectors did not exceed 25%, this particular finding will not be used to place either sector upon the ideological continuum.

Frequency of Assaults (Homicide Excluded)

The private sector reported an average of 40 assaults on inmates and 9 assaults on staff per prison. An assault is generally considered to have occurred when an inmate causes another person bodily harm. The public sector reported 19 assaults on inmates and 10 assaults on staff per prison. This suggests that the private sector experienced more than twice the number of assaults against inmates than did the public sector and slightly fewer assaults against staff. The findings pertaining to inmate to officer assaults were almost indistinguishable. However, the difference between the sectors regarding inmate on inmate violence is interpreted as supporting its related hypothesis, suggesting that the private sector is nearer the less eligibility end of the ideological continuum than is the public sector.

Drug Treatment

The private sector reported on average 28% of their inmate population participated in drug treatment programs. Drug treatment includes counseling, group therapy, and specialized drug addition programs. On the other hand, the public sector reported that 14% of their inmate population participated in similar treatment programs. This suggests that private sector prisons had, on average, twice the number of inmates participating in drug treatment than did the public sector. Thus, the related hypothesis was not supported and suggests that the private sector is nearer the normalization end of the ideological continuum than is the public sector.

Inmate Wages

The private sector reported that it paid its inmates a wage of \$1.09 to \$2.75 per day for non-industry labor (6.5 hours per day). The public sector reported that it paid its inmates an average wage of \$0.99 to \$3.13 per day for non-industry labor (6.5 hours per day). This suggests that the private sector paid \$0.10 per day more than did the public sector for their average minimum wage, but approximately \$0.38 per day less for its average maximum wage. The differences between the sectors did not exceed 25% and will not be used to place either sector upon the ideological continuum.

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Discussion

When considering the distribution of the findings presented here, it is apparent that there are two separate areas of private prison operations being considered—those more easily controlled by a prison's administration in their pursuit of profit, and those that are more likely to be contractually obligated and beyond an administration's direct control, thereby making cutbacks more difficult. Knowing that the single largest cost associated with prison operations is staffing, it becomes significant that this is the area where substantial differences were found. While data could not be located regarding typical contractual obligations, enough material exists in the literature to suggest that staffing is usually not an area where specific requirements are specified. Not only were major differences found in staff pay and training, but these differences may contribute to the elevation of the private sector's employee turnover rate. Furthermore, pay, training, and turnover may all contribute to the higher levels of violence seen in the private sector.

With regard to the placement of the sectors upon the ideological continuum, three of the four characteristics that situate the private sector closer to the principle of less eligibility are related to its employees. In an opposite fashion, inmate participation in drug treatment suggests that the

private sector is nearer the normalization end of the ideological continuum. This somewhat debunks the popular belief that the private sector will fail to offer treatment as a way to increase profit and ensure a continued clientele. Furthermore, this finding fits well with the overall nature of the private sector as housing the less hardened offender - the very type that is more willing to participate in rehabilitative endeavors. Therefore, higher participation rates may be related more to the type of inmate housed by the private sector than to a specific ideology to which it may ascribe. Therefore, the overall significance of this finding is somewhat lessened.

Furthermore, the private sector incarcerates a greater percentage of females than does the public sector. This runs counter to popular belief that suggests that incarceration of females is more expensive and problematic, making their incarceration financially prohibitive. Such a finding is noteworthy, since it challenges previous speculation suggesting that the incarceration of the female would largely be left to the public sector. Again, this finding fits well with the overall nature of the private sector as housing the less serious and less dangerous offender. Information concerning specific arrangements between the sectors with regard to male and female per diem fees were unavailable; therefore, little is currently known about differences in the quality of their incarceration, the types of services provided during their incarceration, or the costs associated with their incarceration. Additional research should be conducted with regard to the relationship existing between the private sector and the female inmate.

The private sector is also much less crowded than previous speculation has suggested. The belief that the private sector operates at or above capacity to maximize profit has not been substantiated by this study. In fact, the private sector operated, on average, 24% below that of the public sector. Again, this may be due more to the nature of the private sector as an "overflow mechanism" for the public sector than to any specific ideology or operating objective that it may ascribe to. Finally, since the private sector operates below capacity and houses less serious offenders it should, by all conventional thinking, also be a safer place to be incarcerated. However, findings suggest otherwise. Precisely why the private sector is a more dangerous place to be incarcerated remains unexplained. Further research would be useful to support or discredit observations similar to those made in *Kesler et al. v. Brazoria County* (1998) where the court suggested that private sector violence may be associated with staffing practices.

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Conclusion

Similar to the public sector, a majority of those incarcerated within the private sector are young minority males. However, the difference between the sectors is marked with regard to the custody levels at which these individuals are held. In essence, the private sector incarcerates the less serious offender, whereas the public sector retains those of a more serious nature. Likewise, the average number of months served by those incarcerated by the private sector is less than half that served by those in public sector prisons. Therefore, the general demographic makeup of each sector's prisoner population with regard to age and race appear similar but the dangerousness and average length of stay differ markedly. This notwithstanding, the private sector is a more dangerous place to be incarcerated. The private sector also appears to have a greater proportion of its inmate population participating in drug treatment than does the public sector. Overall, findings suggest that the private sector adheres more closely to a less eligibility ideology than does the public sector.

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TABLE 1*Hypothesized Indicators of Ideology's Effect upon Prison Operations*

Less Eligibility	Normalization
Emphasis upon profit/efficiency	Reduced emphasis upon profit/efficiency
Low officer wage	Higher officer wage
Low officer retirement rate	Higher officer retirement rate
Low staff to inmate ratio	Higher staff to inmate ratio
Low levels of staff training	Higher levels of staff training
Low officer retention rate	Higher officer retention rate
Reduced emphasis on rehabilitation	Increased emphasis on rehabilitation
Increased levels of violence	Decreased levels of violence

TABLE 2*Demographic, Custody,
and Sentencing Data*

Characteristic	Private %	Public %
Race		
African American	42.8	47.4
White	31.9	43.3
Other/Unknown	25.3	9.3
Gender		
Male	90.0	93.6
Female	10.0	6.4
Age at Admission		
	30	31
% 49 or less	94.0	92.8
% 50 or older	6.0	7.2
Custody Levels*		
% Maximum	1.8	12.4
% Close	4.1	14.1
% Medium	42.7	36.7
% Minimum	47.3	32.4
Average Length of Sentence**		
Served by releasees (months)	11.3	27.7
% Capacity	82	113

* Due to facility exclusions, custody figures total 95%. Custody levels reflect the percentage of the inmate population so designated.

** Figure based upon information provided by 28 private prisons.

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Listening to Victims—A Critique of Restorative Justice Policy and Practice in the United States

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FOR AT LEAST the past 25 years, the victim role in criminal justice has been debated in theory and contested in practice. Of particular significance to proponents of restorative justice is Christie's (1977) assertion that conflict is the "property" of the victim. Normatively then, victims should assume a central role in justice responses to crime and anti-social behavior. But empirically, have they? Elias (1992; 1993) rather emphatically makes the case that they *have not*: the use and abuse of victims, he claims, is the stock and trade of the U.S. justice system. A very different response to the prospect or the reality of a central victim role suggests just as emphatically that they *should not*. A recent iteration of this view (Ashworth, 2002) argues several familiar "points of principle" that would circumscribe or circumvent a victim role, including the limited legitimate interest of victims in compensation and reparation, and the "risk" that victim participation and prejudice threatens proportionality (the direct and unfettered link of the sentence to the seriousness of the offence) and undermines the independence of tribunals, courts and conferences. More critical considerations range from the impact of research and policy initiatives on the status of victims within the criminal justice system (Mawby and Walklake, 1994; Lamb, 1996) to focused consideration of advantages of informal versus conventional justice responses for victims of crime (Strang, 2002). This paper, and the research it describes, seeks to address the conjecture about the victim role in restorative justice policy and practice in the United States. Minimally, it attempts to encumber the debate with evidence, by taking the elemental step of *listening* to what victims and their advocates have to say.

Project Background

This paper details the activities and outcomes of the *Listening Project*, a collaboration of professionals active in the victim community and the field of restorative justice in the United States. Funded through the Center on Crime, Communities & Culture of the Open Society Institute, the project was housed in the Institute for Justice and Peacebuilding at Eastern Mennonite University from 1999–2002, and thereafter in the Office on Crime and Justice of the Mennonite Central Committee US.

The *Listening Project* was specifically designed to confront the significant deficiencies of restorative justice practice pertaining to victim participation and impacts for victims, their advocates and victim services generally. A core project objective was to collaboratively propose an action plan to create more responsive restorative justice programs and beneficial outcomes for victims. A number of strategies for gathering the input of victims and their advocates, and for facilitating dialogue between victims, victim services and restorative justice personnel were undertaken, divided into two phases.

Phase I of the *Listening Project* sought to enhance and amplify the voices of victims, victim advocates and victim services. Teams representing victim and restorative justice advocates traveled to seven states during 1999–2000 (Vermont, Ohio, Washington, Texas, Missouri, Wisconsin and Florida) to listen and record the ideas and concerns of victims, victim service workers, and victim advocates regarding victim needs, the victim experience of justice, and impressions of restorative justice in general. One hundred twenty individuals were involved in these listening sessions across the seven states.

Where Phase I of the *Listening Project* emphasized listening and documentation, Phase II was an intense and structured dialogue between representatives of the listening sites, victims, their advocates, victim services personnel, and restorative justice practitioners. Held over two days in early 2001, this meeting critiqued and amplified preliminary findings of the study, identifying major areas of agreement and concern regarding restorative justice, and creating an agenda for reconsidering and enhancing the victim role and benefits from restorative justice initiatives.

Organization of the Research

The following pages seek to capture the range of opinions and observations expressed in the listening sessions of project personnel with victims, their advocates, and victim service workers during Phase I of the study, as well as the deliberations of the Phase II discussions. A number of data sources have been incorporated here. Prominent among these are the full transcripts of the listening events from which a significant amount of direct feedback about restorative justice has been derived. Additionally, meeting facilitators also reflected on what they heard and experienced, and more than 75 percent of the participants of the listening events completed brief surveys to assist with the evaluation of the project. Those additional observations have been included. Finally, detailed notes from the general meeting and dialogue of Phase II have in large measure shaped the presentation in the final sections of the report. This material both clarifies and adds to information gathered during the listening sessions, and proposes the contours of an agenda for restorative justice to increase its responsiveness to concerns of the victim community.

These data provide a comprehensive and generally consistent appraisal of contemporary restorative justice policy and practices, largely from the perspectives of victims, their advocates and victim services. ^[1] It is important to note that the very nature of this exercise—explicitly, to appraise and critique—is prone to result in *cautious reflection and emphasis of shortcomings*. The reader might therefore leave with a somewhat distorted view, perhaps an overly negative view, of the impact of restorative justice on the victim community. That consequence is certainly unintended *and* largely unsupported by much of the data. No artificial effort was made to

balance this likely outcome, such as attempting to elicit more positive feedback regarding restorative justice. While some participants in this project voiced the need for some type of audit of existing restorative justice programs, and indeed this has been articulated as a recommendation, the project itself was not designed for this purpose.

The findings and conclusions of the *Listening Project* are distributed among seven interrelated sections. *Impressions of Restorative Justice* reflects on the definition of the concept, its values, priorities and promises, and expectations for restorative justice in the victim community. *Experiences with Restorative Justice* describes encounters with restorative justice processes, practices and programs. *Impediments and Challenges to Restorative Justice* details difficulties with implementing and operationalizing core values and practices, including reflections on uncertain prospects. *Architecture of Responsive Restorative Justice* considers the fundamental features of good practice, including consistency of policy, objectives, processes and outcomes. *Summary Reflections on Restorative Justice* explores the broader context of concerns with restorative justice policy, practice and potential. *The Working Agenda for Restorative Justice* enumerates a variety of strategies, short and longer term, for increasing the responsiveness and impact of restorative practices. The initiative and responsibility for such strategies are divided between the victim and restorative justice communities. Finally, *A Conclusion, A Beginning* features five themes that captured the most deliberations among project participants in charting a collaborative way forward.

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Impressions of Restorative Justice

There are mixed sentiments about what restorative justice has come to represent. For some, restorative justice promotes a balanced view of crime as an event affecting a number of different people. A justice practice should therefore encourage the direct involvement of these parties, such as promoting needed dialogue between victim and offender. Where the contemporary justice system does not work well for victims and others, restorative justice promotes needed change. Restorative justice acknowledges that crime is personal: Adherents of this view often suggest that assisting victims, addressing their needs and helping them through their problems, and allowing and encouraging victims to participate in processes and outcomes that affect them, are primary aims of restorative justice. For some victims, working with offenders has been an essential element of their own healing journey.

But the idea of an offender-oriented restorative justice colors other impressions of its practice. Very often, restorative justice not only reflects offender needs—making amends, and changing and rehabilitating offenders—but also is *driven* by such needs. Restorative justice may be offender initiated, and may be oriented to an offender timeline. Such needs and practices may not be compatible with victim needs, however. Where offenders are provided with help to change their lives, but victims are not provided help to deal with their trauma, victims feel betrayed by the offender orientation of restorative justice.

Restorative justice may also promote unrealistic or unreasonable goals. Where restorative justice appears to go hand-in-hand with expectations for reduced offender penalties, victims may perceive restorative justice as a way out for offenders whose primary motivation might be to avoid responsibility or pain. It is often the expectation of restorative justice programs that offenders will offer genuine apologies for what they have done. But where offenders are not sorry for what they have done, victims may feel harmed again for this failure of justice. Similarly, restorative justice appears to imply that victims are in some sense obligated to assist offenders. This distorts the hope of victims to assist *themselves* through restorative justice processes. Victim participation for the purpose of offender rehabilitation may be at least an unreasonable burden, if not outright objectionable. Ideas that restorative justice is a panacea are immodest, and without merit. Restorative justice is relatively untried and untested—where is the compelling proof that it works?

For some, restorative justice has not captured the central realities of crime and trauma from a

victim's point of view. Restorative justice is the current flavor of the month, and while it may be politically astute to promote ideas of "victim involvement" and "victim centered," these appear to be merely afterthoughts and perhaps manipulations of victims. The definitions of restorative justice are overly broad and confusing, and provide this open invitation for opportunism. For example, some mediation groups appear to have turned their attention to violent crime largely due to the financial incentives for this type of programming. The "cookie cutter" approach to restorative justice, despite even profound differences in the circumstances from one jurisdiction to another, reveals a real lack of responsiveness to *local* needs, and a lack of basic political savvy as well.

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Experiences with Restorative Justice

The view is widely shared that restorative justice may promote offender diversion, court docket relief, easing of jail and prison crowding, and even justice system respite from demands of victims. However, restorative justice provides little victim relief. While that objective appears to be a very low priority, there is nonetheless significant pressure and even coercion to have victims and victim services join the restorative justice bandwagon. Too often, funding for victim programs hangs in the balance; the "choice" may involve a direct affiliation with restorative justice programming, or the prospect of no programming at all. In the view of some from the victim community, it appears that resources set aside in these times for restorative justice have exceeded, and may have even reduced, resources made available for victim services.

The issue of victim input in restorative justice has unfortunately been limited to consideration of victim participation in a particular conference or process. But victims are routinely excluded from participation in program planning. In some communities, surrogates are used to assume the role of victims on some reconciliation panels. Very often, training about victims, victim trauma and victim needs involves no victims or victim advocates. But regardless, restorative justice personnel are quick to expect or demand that victims become advocates for restorative justice.

Many in the victim community feel that while there is significant advocacy and "talk" about restorative justice, and though it may be enshrined as the new justice policy, there is too little pragmatic action taken and few changes are being made, while lines of authority and responsibility for program development remain obscured. Victim advocates and victim services personnel often have difficulty enlisting restorative justice experts to answer questions or to assist with training needs. Too often, prominent restorative justice practitioners have waded unsuccessfully into highly visible cases, without proper (and available) consultation and skills, producing in their wake a backlash against restorative justice in the victim community as well as negative results for victims.

With respect to meaningful impact on victim needs, some feel that restorative justice is little different from the justice status quo. For victims, it remains tone deaf to their aspirations.

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Impediments and Challenges to Restorative Justice

A number of assumptions, practices and prospects appear to impede the realization of restorative justice goals. Where restorative justice has come to mean making something go away or bringing something back, the idea of "restoring" for victims fails on its face. Such language, if not the sentiment behind the language, is at least confusing and often offensive to victims. For many in the victim community, one type of programmatic response—face-to-face meetings between victim and offender (mediation)—is synonymous with restorative justice. This narrow conception of restorative justice seemingly *excludes* many victims, where offenders are not identified, or offenders refuse to participate in such a process, or where it is inappropriate for such a meeting between victim and offender to take place at all. The technique of mediation also presumes a "dispute" and a "relationship" between victim and offender, and for many victims, this trivializes the nature of deep harms and the character of their relationship to offenders.

Further, where financial restitution remains the primary objective of mediation practice, it is questionable whether mediation is at all appropriate for personal crimes involving violence. Domestic violence and sexual assault are certainly ill suited to an intervention with restitution as its centerpiece. Restorative justice presumes to be a rational, contemplative process in response to events (crimes). But are criminal events rational, involving as they might individuals (offenders) whose damaging and violent choices, coupled with drug, alcohol and mental problems defy rationality to begin with? Such circumstances continue to raise fundamental safety concerns about restorative justice processes in the eyes of victims.

Where restorative justice functions as an adjunct or extension of the formal justice system, there are significant questions about who the "official" or "real" victim is. The needs of those who are harmed by offenders who have not been identified or arrested are going to be ignored. The emphasis of restorative justice on how crime affects the community tends, in the view of some, to again marginalize those immediately affected by crime, distorting and diverting justice responses to victim needs. Not unlike conventional justice programming and policy, restorative justice uses victims to promote and rationalize its agenda. Indeed, the very credibility of restorative justice is thought by its proponents to hinge upon victim involvement. Despite the rhetoric, the experience of the victim community is only too familiar. While victim needs and aspirations are important political fodder for various causes, such needs and aspirations seldom find resolution in meaningful and sustained victim enfranchisement in justice.

And what of the prospects for restorative justice? In some jurisdictions, where limited and routine victim services represent begrudging concessions from the formal justice system to begin with, there appears to be no room for the development of restorative options. Without credible evaluation of restorative justice programs, there will continue to be resistance to their blanket implementation and reluctance in the victim community to embrace them. "Turf" disputes about the ownership of restorative justice ideas and programs will deflect from their impact and potential. In a relatively short period of time, some perceive that restorative justice has become overly professionalized, undermining its professed goals of inclusiveness and accessibility.

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Architecture of Responsive Restorative Justice

The victim community offers numerous suggestions for how restorative justice policy and practice might be responsive to its needs and aspirations. These are targeted to key dimensions of restorative justice, including its philosophy, policy and practices, and even to broader social concerns.

A number of key assumptions or tenets should guide restorative justice programming. Not only should victim involvement be reflected in the processes themselves, but the planning and programming of restorative justice should have a distinct victim imprint as well. Restorative justice should be an available option for victims, but it clearly is not suited for every victim, or even for every offender. When restorative processes are appropriate, and at the direction and initiation of the victim, direct dialogue with the offender should be a possibility. Some victims may choose restorative justice processes to seek levels of closure and peace: These victims should receive adequate information about what these possibilities might entail, and then be given the support to pursue these outcomes. Restorative justice must look well beyond the narrow view of conventional justice regarding who the "real" victim is, to those harms and their victims where no offender is identified, or where an offender refuses to participate in restorative justice processes. Justice for these victims must involve responses that are detached from offender-dependent processes.

Restorative justice must be mindful that victim interests and needs must be clearly articulated and supported *before* they are presumed to be included with those of offenders and communities in the name of justice. *If* victim interests and needs are valuable to the articulation of restorative justice, its proponents should have a vested interest in advocating for the support of victims.

Over time, those needs and interests will change, and restorative justice must itself be flexible and dynamic in order to remain responsive to victims. Restorative justice has set for itself an ambitious set of goals and objectives. But from the view of the victim community, it is minimally expected that restorative justice will promote healing for those affected by crime, respect and empathy for victims, tolerance, trust and hope among participants in justice, accountability from offenders, and uniformity, fairness and quality in its processes.

On a very practical level, restorative justice programming and processes must accommodate victim needs. For example, victims should be provided with complete information about processes and possible outcomes, both positive and negative, as a matter of course. Whenever possible, restorative justice processes should encourage the involvement of advocates and family members of victims (as well as family members of offenders). Processes and outcomes that include restitution must involve efforts to fairly represent the financial situation of the victim (not only that of the offender), including the predicament and challenges caused by a criminal event. Restorative justice processes must guarantee rights to victims, such as confidentiality, the ability to choose to become involved or to cease involvement, the option of reconsidering an outcome, and the ability to give voice to their own needs and aspirations (in lieu of being side-stepped by surrogate voices, such as prosecution). Under all circumstances, restorative justice processes must provide a safe environment for victims, and its objectives must be premised on offender accountability to victims and victim respect.

Restorative justice might address larger social needs that directly serve the interests of the victim community. For example, restorative justice should be educational in nature, informing not only offenders but also the public about victim trauma. Education about the impact of crime (including the needs of victims), education about offenders and their situations for the victim community, and general education and awareness about restorative justice for justice professionals serve important needs and address glaring deficiencies. It is logical that restorative justice would concern itself particularly with children and their early, formative education regarding issues of respect and accountability. Minimally, the currency and popularity of restorative justice suggests opportunities for forging new coalitions between victim services and justice personnel generally, and for encouraging community support of crime victims.

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Summary Reflections on Restorative Justice

A variety of participants in this study, including representatives from the victim community and restorative justice personnel, share an overlay of irony and even skepticism toward these deliberations, when the *longer view* or broader context is taken into consideration; namely, what has been promised versus what has been experienced. These cold and sober realities are essential considerations in developing a comprehensive understanding of restorative justice in this time and place, and for developing an agenda for justice practice that is responsive to victims' needs and aspirations.

Much of the feedback from the victim community about their experience of justice involves injustice, disrespect, exclusion, lack of empathy, and irrelevance. Victim input often emphasizes the failure of conventional justice to respond to personal and severe trauma, while on the other hand seeking to limit restorative justice practices to relatively minor offences. Many in the victim community are leery of the promises and record of restorative justice; they remain skeptical that the conventional system of justice will ever "deliver" for victims. Yet conventional justice participants, while acknowledging that their forays into restorative justice produce little victim impact (as they are offender-oriented initiatives), remain quite defensive about what they see as the generally improved availability of victim services over time.

The victim community is itself diverse, with often complicated relations between and among victims, victim advocates and victim services. Restorative justice generally seeks to engage a monolith "victim" that may not exist in the first place. The victim community often questions the pragmatic differences for their interests and needs between flavors of justice. Victims and their

advocates who observe the slow and minimal development of victim services (including the limitations of victim rights) over time often presume that restorative justice will fare no better. Similarly, the poor treatment of victims in conventional justice approaches may well be replicated in restorative justice programming, particularly where restorative justice is a mere adjunct or extension of the conventional system of justice. It follows for some that negative reactions to restorative justice are related to other elements of the bigger picture, such as the incomplete implementation of victim rights, lack of enforcement of such rights, inadequate victim services generally, and the marginality of victims in conventional justice processes.

While "victim input" and "collaboration" are allegedly key ingredients of restorative justice, the precise manner in which these operate remains mysterious. Victims talk, yet no one is listening: Such a ritual may be therapeutic for some interests, but certainly not for the victim community. In the many contexts where promoting or implementing *any* change in justice practices is a struggle, the needed coalitions and alliances may well be beyond the capacity of restorative justice, itself a fractious collection of interests and personalities.

Some in the victim community wonder aloud if victim involvement in restorative justice is a booby prize, a minor accommodation where full participation in justice, victim rights and enforcement of rights, and a full complement of victim services are unlikely scenarios and outcomes under the conventional justice regime. Further, there is concern for a backlash against victim services from restorative justice initiatives irrespective of what they do or do not offer victims. If millions of justice dollars are pumped into new programming that involves little or no victim involvement, participation and control, might this be interpreted as a *lack* of victim need, or interest, or competence?

As noted, a brief survey was sent to all participants in the listening sessions in seven states, with more than 75 percent responding. Regarding the *process* of the *Listening Project*, a considerable majority of respondents agreed that the location of the meeting was comfortable and safe, adequate time was reserved for the meeting, they felt at ease with other participants, the group included those who should have been there, and they had the opportunity to express their views openly and be listened to, including their frustrations with restorative justice. Regarding the *outcomes* of the meeting, a considerable majority agreed that the event had met their expectations, they were taken seriously by other participants, questions and concerns were addressed by the facilitators, and the meeting had raised awareness about both restorative justice generally, and victim needs and victim experiences in restorative justice processes. However, beyond the positive appraisal of the process and short-term outcomes of the *Listening Project* by participants in seven states, the survey data suggests that perhaps the most important conclusion to be drawn concerns the very salience of *listening*.

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Working Agenda for Restorative Justice

The final sections of this paper present an overview of a two-day, intensive deliberation of the foregoing input of the victim community during listening events in seven states, and proposed agendas or action steps that might be pursued independently or collaboratively by the victim community and restorative justice advocates in the United States. These agendas and action steps are acknowledged to be only the beginning of a longer conversation that will be needed to work out many crucial details of these proposals, through more discussion and debate.

Reactions to the Input of Listening Events

A relatively wide range of responses characterize the reaction to the summary input of the listening events among the victim community and restorative justice advocates assembled for the Phase II palaver. These included general comments, interests and issues that emerged or were prodded by the input, and efforts to account for (to mitigate or to support) the findings.

In general, input varied among the seven venues where listening events were held. A number of

reasons for this seemed probable, including group size and composition, specific backgrounds and direct experiences with restorative justice programming among the states represented (ranging from fairly extensive, to almost none), how tightly or loosely the specific session was organized, who comprised the listening team, and whether the listening event was coupled to a larger dialogue or discussion (such as a listening event held in conjunction with a conference or statewide meeting). Clearly, restorative justice was unfamiliar to some participants in the listening sessions, and they were responding to either what they had heard about restorative justice generally, or the local reputation of restorative justice programs and services. In addition to providing input for restorative justice personnel on the needs and experiences of the victim community, the listening events also functioned for some participants as learning opportunities about restorative justice: This appears to have been variable among the sites as well.

The findings sparked additional discussion of the very *idea* of restorative justice. Restorative justice itself was assumed to be a monolith, undifferentiated in its philosophy and practice. It was clear, however, that there was no common, working definition of restorative justice, nor a shared understanding (or agreement) about its benefits. Restorative justice, it was cautioned, does not reflect a systemic approach to victim communities of interest or to victim services. Training in restorative justice is not uniform.

Some thought the findings painted a false dichotomy between advocates of restorative justice and advocates for victims, since some of the latter are themselves passionate about restorative justice. Further, many victim advocates are hopeful and highly motivated to explore *choices* for victims. Among victim advocates, some feel the conventional justice system is unlikely to be any more responsive to victim needs than it is presently, and restorative justice is worth serious consideration for this reason alone. Other advocates feel the victim movement has made significant strides already, and restorative justice is a distraction or nuisance.

The presentation of input from the listening sessions during the two-day discussion was itself a flash point for discussion and debate. Some were concerned that the summary was too negative in its substance and tone, feeling that a more positive and hopeful spin on restorative justice would be more appropriate. Some recalled specific dialogue leaning to a more positive tone that did not seem to be reflected in the summary overview. Others argued that the depiction of victim input relative to restorative justice was accurate, confirming hunches and experiences, and truthful (albeit an uncomfortable truth for restorative justice advocates). Participants also expressed concern about the lack of deliberate efforts to differentiate among distinct interests and needs in the victim community *vis a vis* restorative justice. Mentioned specifically were victims of domestic violence and victims of specific ethnic and religious groups.

A number of common or synthesizing themes generated broad agreement among participants in the group discussion, as they reflected upon the summary input from the listening meetings. For example, victim services often appear to be merely an afterthought to the development, scope, and control and ownership of restorative justice initiatives. This lack of inclusion and lack of coalition building fires significant disappointment in restorative justice policy and practice. These failings also clarify to a significant degree the fault line that exists presently between restorative justice and victim services. Practically, it is manifest in competition for funding and political power, and lack of relevance. It breeds suspicion, skepticism and confusion in the victim community, or worse, reckless restorative justice programming further harms victims.

Participants agreed that the dialogue between restorative justice adherents and the victim community has just begun, and its continuation is vital. It is critically important to develop definitions of restorative justice philosophy, practice and programs that are consistent. Victim-sensitive language is often missing in restorative justice literatures. Similarly, education about restorative justice, including the principles and values upon which it is premised, is vital. Restorative justice might parlay its currency, its political ascendancy and influence, to advocate on behalf of victim interests and needs. Options for victims of violent crime remain desperately needed. And without question, restorative justice must remain vigilant and mindful of its duty to attempt to repair relationships that have been damaged with the victim community.

An Agenda for Restorative Justice

After careful deliberation on the findings of the listening events and the subsequent analysis and synthesis by a broad representation of study participants, proposals emerged for preliminary and interrelated action steps targeted to restorative justice advocates and the victim community. These are presented in summary format. While their detailed exposition, ranking of priority and a timeline for action are absent here, such gaps are highly suggestive of the future work and opportunity that remains, some of which have been underway since 2002.

Overall, participants recommended that *restorative justice practitioners and advocates* take leadership roles and responsibility for the following 10 tasks:

- Continue to engage the victim community and establish ongoing dialogue in all states, including initiatives to conduct local "listening" with the victim community.
- Carefully reconsider the "cookie cutter" approach to a diverse victim community; in particular, reconsider the prospects (opportunities and limits) of restorative justice approaches to victims of domestic violence and sexual assault.
- Re-examine existing restorative justice programming, including the nature of victim participation and consultation, and effectiveness of programs relative to victim needs.
- Pursue matters of peer accountability, appropriate roles, and standards of practice and qualifications of practitioners to maximize positive impact on the victim community and minimize unintended consequences and harms.
- Mandate training for restorative justice practitioners in victim sensitivity, including education on victim trauma. Training (as well as other forms of technical intervention and assistance) should provide a springboard for collaboration with the victim community and should include meaningful sponsorship by the local victim community, including planning and delivery roles.
- Advocacy for restorative justice programming must go hand-in-hand with rigorous evaluation and demonstrable proof of beneficial possibilities for the victims of crime with minimal risk of further harms. The victim community must be consulted in determining the appropriate evaluation standards and measures of success and harm to be used. The restorative justice community must develop a sensitivity and genuine interest in feedback from the victim community on program impact.
- Renew and invigorate efforts to address the minimal requisite of responsive programming, namely, listening and responding to victim needs.
- Work in partnership with the victim community, not in competition, to advocate for the requisite justice resources to respond to victim needs.
- Advocate for victim involvement, control and leadership of programming that intends to address victim needs.
- Carefully delineate between and define restorative justice philosophy and practice, and remain mindful of the need to be very clear about why justice programming should involve victims, and who program initiatives are designed to serve.

A series of action steps are also proposed *for the victim community*, including its practitioners and advocates, suggesting pivotal and catalytic roles in the following six areas:

- Develop guidelines and standards for programming in the victim community, including restorative justice initiatives that seek to ensure and maximize victim input and impact, and minimize further harm to victims.

- Advocate for restorative justice where it is responsive to and a reflex of victim needs.
- Encourage training and education in the victim community on the philosophy and practice of restorative justice. Take an active and leadership role in training (and other technical interventions and assistance) for restorative justice advocates and practitioners that enables them to work effectively, responsively, and responsibly with the victim community.
- Maintain a high profile in deliberations of programs that affect victims. Participate in efforts to promote state-wide and national dialogue about responsive justice approaches to the harms and obligations that flow from crime, as well as local listening initiatives.
- Continually assess, document, and articulate the concerns and needs of victims. Advocate for what victims want, even in new and uncomfortable areas.
- Become more vocal and involved in defining the community role in justice (specifically, the community role in restorative justice), careful to differentiate between what individual victims need, and the larger context of societal harms and needs.

To reiterate, while these items are nominally assigned to either the restorative justice or victim communities of interest and practice, they are nonetheless highly interdependent. At the end of the day, the commonality of this multifaceted agenda is most likely to produce the desired result of effective and responsive justice for victims.

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A Conclusion, A Beginning

Five broad areas or themes stood out in the deliberations as opportunities for collaboration between restorative justice advocates and practitioners, victims, victim services personnel, and victim advocates. These ideas involved considerably more discussion than the foregoing action points and proposals, and there was a clear and convincing sense of urgency and primacy to these proposals in particular.

First, participants advocated *structured community dialogue*, the purposes of which are to define terminology, identify program models and promising practices, develop appropriate evaluation criteria, and determine the bases and design of meaningful collaboration between the restorative justice and victim communities. In essence, this action step involves the logical extension of the *Listening Project* to a more focused effort to resolve differences and find areas of mutual concern and agreement. Additional themes or topics that might be involved in this structured community dialogue include philosophical issues pertaining to the practice of restorative justice, program viability (resources, timelines and outcomes), funding concerns and resource limitations, unintended consequences, myths and misconceptions in these communities about the other, and specific applications of restorative justice to types of crimes and types of victim needs. Such dialogue might also involve specific identification of restorative justice program initiatives that are failing victims, difficulties in assessing victim needs, and the like. Structured community dialogue might take place at several different levels, in local communities, state-wide, or nationally (for example, requiring dialogue involving victim participation in decisions about state and/or federal funding of restorative justice programs).

In response to the need for consideration (prospectively in program planning, or retrospectively in program evaluation) of program impact, a second proposal involves deliberate *program feedback*. One strategy for providing program feedback might be to make available "teams" comprised of representatives of the victim and restorative justice communities to consult with local areas, at their invitation, about restorative justice programming. In essence, team members with national exposure in their respective areas of expertise (for example, victim services programming or restorative justice program evaluation) would attempt to provide timely and cost-effective input to local initiatives. Such feedback might include assisting local programs in

developing suitable options, while advocating for more universal standards of good practice. A complementary mechanism to promote "feedback" would be the development of assessment tools or instruments designed to facilitate self-evaluations.

A third proposal calls for *publication*. A consortium, representing a collaboration of both victim and restorative justice communities, might produce a series of monographs, targeted to the interests and needs of specific groups. These might include the courts and policy makers, as well as the victim community and restorative justice advocates and practitioners. Perhaps the most vital publication need is a tool for practitioners to be used in the field as a guideline to standards, best practices, and "how to" strategies for facilitating local dialogue, program planning, development and implementation, evaluation, and the like.

In response to those articulating training and education needs in virtually every aspect of the *Listening Project* deliberations, a fourth proposal is a collaborative approach to *training* that would become the norm. Experts in the respective victim and restorative justice communities would participate together in all aspects and types of training at the local, state and national levels, including various training opportunities at academies and national conferences. Collaborative training objectives would include mutually clarifying restorative justice goals and values, working through elicitive training models and techniques, exploring myths and perceptions between the victim and restorative justice communities, and the like.

Finally, consistent with the above proposals but acknowledging complexities, the *articulation of standards* was identified by participants as especially worthy of a collaborative approach. Absent such standards of practice, efforts to evaluate restorative justice programs are thought to be meaningless. Time and again, participants expressed concerns about poor and unresponsive practices, even injurious practices, and the very prevalent ambiguities that exist presently about what constitutes restorative programming. The *Listening Project* has suggested a wide range of possible standards for consideration and implementation, ranging from conditions of victim participation to qualifications of restorative justice practitioners. Efforts to collaboratively propose standards are the next step, as well as further deliberations about ensuring compliance with minimal standards, and the roles of program audits and evaluations in promoting best practice. Strategies for arriving at acceptable standards (successive rounds of structured community dialogue), the possibility of segmenting standards (identifying minimum, preferred and exemplary standards), and the importance of considering the diversity of community settings, needs of victims, and local resources in proposing relevant standards represent only some of the many aspects of this critical piece of remaining work.

The publication of a paper on the *Listening Project* should in no way suggest that these critical discussions, deliberations and debate are settled. Far from it, this paper seeks to document an important and challenging conversation that is only in a fledgling stage of *listening*. It is a conversation in need of amplification, replication, and dogged persistence, certainly in the United States, but perhaps elsewhere as well. The concluding section of this paper signals only a transition to another phase, an invitation to collaboratively and respectfully pursue mutual interests in justice for victims.

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¹ No effort is made here to suggest the *frequency* of the various types of responses or input. Instead, the report seeks to *comprehensively* display the entire range of issues and concerns that were given voice in this project. Giving certain weights to some opinions (such as those voiced most frequently) could suppress or minimize or even marginalize the opinions of other equally valid expressions. Similarly, while there are certainly differences among the seven listening sites (such as the size and composition of the group, and familiarity and experience in a given state with restorative justice and/or victim rights and/or victim services), their *composite* contributions are reflected in this paper. This strategy is more conducive to formulating a comprehensive and general strategy for improving restorative justice relative to victim needs and the involvement of the victim services community in the United States.

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In Cold Blood Revisited: A Look Back at an American Crime

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THE WATER TOWER still looms over the town much as it did on November 15, 1959, the longhorn adorning it (mascot of the local school) bearing silent witness to a half century of small-town life. The railroad tracks still split the town in two and the train still doesn't stop as it runs east and west hauling grain and other commodities produced in the area. Hartman's Café (located "up on the highway") is now the El Rancho Café, and the post office ("down by the depot") houses a grocery store. The old post office, a tiny, one-story affair, was once affectionately referred to as "the federal building" by respectful townsfolk. Tyson Foods has built an enormous meat-packing plant on the outskirts of town, and the Sunflower Electric generating station is nearby, but most outsiders are likely to see the wheat plains, the farms and ranches, and know that Holcomb, Kansas really hasn't changed all that much since the murder of the Clutter family forever altered American illusions of small-town serenity.

Nothing in the backgrounds of Dick Hickock and Perry Smith would cause one to predict the impossible notoriety later bestowed upon them. They were small-time "hoods," the kind of men that bloat the roster of parole caseloads across the country. Hickock, age 28 at the time of the murders, born to God-fearing parents in eastern Kansas, grows up on a farm deemed humble by Kansas standards, and dreams of a college football scholarship. He is considered to be of above average intelligence and a very good athlete, but is an underachieving student and a discipline problem. The scholarship never materializes and Hickock drifts through a variety of jobs—railroad worker, auto mechanic, ambulance driver—and two marriages. He is involved in a serious car accident in 1950, leaving his face slightly lopsided, his eyes asymmetrical. His criminal record is undistinguished, consisting mainly of bad check charges and petty theft. On March 15, 1958, he is sentenced to five years in the State Penitentiary at Lansing, Kansas for the burglary of a home in Johnson County in which a rifle is taken. Hickock's prison record is clean, and it is dutifully noted that he is "not dangerous" (original notes from Kansas State Parole 1959).

Perry Smith's story is anything but ordinary. Born to a Native American mother and a Caucasian father who seeks fame on the rodeo circuit, his early life is transient and marred by physical and mental abuse. Both parents are alcoholics, and Smith and his siblings are frequent victims of violence in their parent's failing marriage. He joins the army in 1948, serves in the Korean War, and is honorably discharged in 1952. Shortly thereafter, he is involved in a motorcycle accident that leaves him hospitalized for half a year. Surgery to repair his broken legs leaves him disfigured, with legs most often termed "dwarfish." The chronic pain also leaves him a self-described "aspirin addict." Smith has no formal education and seems painfully aware of his academic deficits. He is largely self-taught and, while in prison, engages in a "self-improvement" project of his own design wherein he reads voraciously and determines to improve his

vocabulary by learning a new word every day. His approach seems awkward but sincere.

Smith's criminal history is somewhat more sophisticated than Hickock's, but still not a harbinger of the shattering violence to come. In 1952, he is charged with reckless driving and resisting arrest. The charges are later dropped. In July 1955, he is arrested for the burglary of the Chandler Pavilion but crawls out of the Phillips County, Kansas jail three days later and disappears. In 1955, he is cited for vagrancy in Worcester, Massachusetts, where he is freed on a \$10 bond and again vanishes. In 1956, he is identified as an escapee and is sentenced on March 13, 1956 to five to ten years in the State Penitentiary at Lansing for his previous burglary and "jail break." He is 31 years old when he murders the Clutter family.

If Dick and Perry were simply two men living in the same town going about their daily business, it is doubtful the two would have struck up a conversation. Dick the smooth talker, the guy who could float bad checks from one side of Kansas City to the other with just one flash of that loopy smile. Dick, the con artist who takes what he wants, whether a television set from the electronics store or a female who catches his eye. His actions are mainly impulsive and rejection seems to leave him undiscouraged. Work is for "squares." Dick only needs to find the "perfect score" to provide him with the lifestyle he knows he deserves. Despite his disfigurement, he is still oddly attractive, projecting boyish enthusiasm and the sort of sociopathic charm reserved for slick criminals.

Perry Smith is cautious, polite, as reserved as Dick is outgoing. Smith is a dreamer who loses himself in a fantasy world of his own creation. He buys mail order "treasure maps" and conjures up scenarios of deep-sea diving and discovery of sunken gold in Mexico. Perry knows he can make his dream a reality if only he can come up with enough money to buy a boat. Perry doesn't know how to swim or captain a boat, but with the "perfect score" he won't need to worry about such details.

Dick and Perry "celled" together at Lansing for a mere two weeks. Perry sees in Dick a deliberative, steady approach that he knows he lacks. Dick also realizes that these traits could be beneficial on the outside. He also sees in Perry a talent that he knows he doesn't possess, those of a natural-born killer. Prison conversations often compensate for other unavailable forms of entertainment, and fictions are woven with the precision of Hemingway. Perry Smith's abilities may be even better than most. He regales Dick with a tale (later determined to be false) of how he murdered a man with a bicycle chain in the Nevada desert just to see how it felt. Perry made enough of an impression to secure a place in Dick's future plans for the "perfect score."

After Perry Smith's parole on July 6, 1959 with supervision conditions that state he is not to enter the State of Kansas while on parole or face violation, he dutifully leaves Kansas and again drifts throughout the country performing odd jobs and living in rooming houses (original notes from Kansas State Parole, 1959). Dick Hickock finishes his tenure at Lansing with a new cellmate, Floyd Wells.

Wells, like Dick Hickock, is a thief, serving three to five years for breaking into an electrical appliance store and stealing lawn mowers. Their prison stint is uneventful, their conversations a blend of fact and fiction with one notable exception. Floyd Wells discusses at length his previous "legitimate" employment, working for Herbert W. Clutter, owner/proprietor of River Valley Farm in Holcomb, Kansas. He describes a safe located in a home office used by Mr. Clutter that contains large amounts of cash. The cash is always on hand, the story goes, to pay the many employees of the farm and numerous expenses. Wells' tale of Clutter family wealth is so compelling that Hickock tells Wells, "As soon as I get out on parole, I'm going to find me some transportation, get ahold [sic] of Smith and go to the Clutters' and see if there's still \$10,000 in their damned safe" (original case notes from Kansas Bureau of Investigation contained in statement made to Agent Wayne Owens by Floyd Wells, 1959). Hickock is relentless in his questioning of Wells. He wants to know the ages of the children, and the lay-out of the house. He tells Wells repeatedly that he will kill the family, leaving no witnesses. Wells contends that he never believed him, chalking up the banter to just plain prison talk, stories to pass the time.

Herb Clutter, 48 years old, was one of the most respected men in all of Finney County, Kansas. He was a college graduate and successful wheat farmer, a community leader who could always be counted on to lend a hand. His wife Bonnie, 45, at one time Herb's energetic and supportive partner, was now given to prolonged periods of depression, "spells," and rarely left the confines of their spacious home. Her struggles did not stop her from doting on her two children who remained at home, Nancy, 16, and a son, Kenyon, 15. Two older daughters had married and moved away, starting families of their own. The Clutters are decent, hard-working folks who embody the lessons that Nancy teaches her Sunday school class at the First Methodist Church in neighboring Garden City.

Dick Hickock is paroled on August 13, 1959, and resides with his parents while securing a job as an auto mechanic at Bob Sands' Garage in Olathe. Floyd Wells later tells investigators, "Hickock told me that he had arranged for some kind of job in Kansas City in order to get his parole. That he'd have to make some kind of pretense of working there for awhile" (1959). Wells knew that Dick Hickock's real intentions had nothing to do with car repair. Hickock writes to Perry Smith several times before finally reaching him at a post office box in Idaho. Despite his awareness of parole conditions, and a sense of foreboding about a return to Kansas, he agrees to meet Dick and boards a bus for Olathe. Hickock has written about his plan to make big money, describing a scenario that, in Hickock's typically grandiose fashion, is termed a "cinch."

Truman Capote's masterpiece, *In Cold Blood*, proves once again that a true story well told can be as compelling as any work of pure fiction. The facts of the crime, the setting, the characters, and the inevitable conclusion, need no embellishment to heighten the drama. On November 14, 1959, Dick and Perry leave Olathe in a '49 Chevy "borrowed" by Hickock, taking a circuitous route to Holcomb. Four hundred miles and several hours later they enter Garden City, stopping for gas at the Phillips 66. A short ride and they cross the railroad tracks of Holcomb, knowing that River Valley Farm is but a mile and a right turn away. Under a full moon and nearing midnight, the two killers travel the dirt road to the Clutter home. The bright autumn night is partially masked by the Chinese elms that form a canopy over the road. The Clutter home is within view. Their path seems clear but for a light that flashes on in the nearby home of the Clutters' resident farm hand. The worker is merely tending to a sick child but the interruption is enough to cause Dick to momentarily reconsider and he turns the car around.

The interplay between criminals is a curious one. Left to his own devices, would Dick have continued down the road away from the farm, leaving the Clutters' to sleep undisturbed through the night? With a partner, a "prison buddy" at that, was there more to prove? Perry Smith relates, "Halfway down the road Dick stopped. He was sore as hell. I could see he was thinking, here I've set up this big score, here we've come all this way, and now this punk wants to chicken out. He said, "Maybe you think I ain't got the guts to do it alone. But by God, I'll show you who's got guts" (Capote, T., 1965, p. 235). Dick and Perry return to the house, parking at a side entrance and approach the unlocked door leading to the small home office kept by Mr. Clutter. They enter, Hickock carrying a knife and Smith a shotgun. Guided only by a flashlight, they search for the safe described so meticulously by Floyd Wells.

The house is quiet. The family asleep. The search of the small paneled office yields nothing. Where is the safe that Floyd Wells described, located just behind Herb Clutter's desk? The two continue through the house, less than careful about the noise they may be making. Herb Clutter, asleep in his bed, is awakened by a flashlight shining in his eyes. Dick and Perry have traveled the length of Kansas to steal the contents of Clutter's safe and they are not leaving empty handed. Mr. Clutter is taken by gunpoint into his office where he repeatedly tells the intruders that he has no safe. He offers to write them a check and give them the contents of his wallet (a mere \$30.00) if they will only leave his family in peace.

In total, two hours are spent in the house. One by one the family awakens. Mr. Clutter and son Kenyon are taken to the basement where they are separated and hog-tied. Mr. Clutter is ordered to lie down on the cement floor while Kenyon is taken to a sofa kept in a side room. Nancy Clutter, in her bedroom on the second floor, is tied to her bedpost and Mrs. Clutter is removed from her bedroom and placed in the upstairs bathroom where she too is tied. Their mouths are

also taped shut. Absurdly, comfort is offered as Perry, fearing that Mr. Clutter is likely cold on the basement floor, places cardboard underneath him. Kenyon's restraints are loosened slightly as he complains they are too tight and a pillow placed under his head. Mrs. Clutter is offered a chair as she stands in the bathroom, waiting to be escorted back to her bed to die. One by one the killing starts. Returning to the basement, Perry goads Dick to use the knife on Herb Clutter as if to prove that Dick is too "chicken" to carry out his own plan. The man who vowed to "spread hair on them walls" (Capote, T., 1965, p. 37) seems incapable of doing so, but also does nothing to stop Perry Smith. Perry grabs the knife from Dick and, in what is rapidly becoming a bizarre competition between the two, sets the violence in motion. Kneeling on the floor, Perry slices the throat of Herb Clutter. Perry challenges Dick to "finish him off" but is unable, or perhaps unwilling, to literally get the blood on his hands and begs off. Mr. Clutter, making sickening gurgling sounds from the cut to his throat is shot at close range by Perry as Dick trains the flashlight on him. Kenyon, Nancy, and Bonnie Clutter reach identical fates as the killers methodically march through the house true to their pact to leave no witnesses.

The drama unfolding in the house has been the subject of conjecture by psychologists and criminal justice practitioners for almost 50 years. Much can be made of Perry's cruel and often violent upbringing, but what accounts for Dick's criminal behavior? Certainly not his family life. Geneticists can perhaps argue for the existence of a "murderous gene," which would certainly simplify the argument. Some would contend that Dick's exposure to the state prison system hardened him, turning a petty thief into a man capable of cold-blooded brutality. But his prison record indicates a favorable adjustment void of misconducts and disciplinary actions. One can speculate that acting as individuals, Dick and Perry may not have been capable of murder. Acting as a team, murder may have been inevitable. It seems that Dick's big talk and his detailed plans left him little room for back-tracking. When he turned around in the Clutters' driveway he could have kept going but he chose to carry through with his plan despite his sense of foreboding. Appearing to be a coward seemed to present more of a risk at that moment than the consequences of multiple murder. Perry Smith, slowly realizing that Dick Hickock might not be able to back up the tough image he liked to project, admits to trying to call Dick's bluff. He seems to exploit Dick's "weakness" when he asks for the knife. Perry later claims that he was "bluffing" Dick and expected him to talk him out of slashing Herb Clutter's throat. He wanted Dick to admit that he was a "phony." The wheels were already in motion and to try and deter Perry at this point would be akin to admitting cowardice. The murders really had nothing to do with the Clutters. From the moment they left Olathe in the stolen Chevy, the drama was all about Dick and Perry. Perhaps the most chilling words ever uttered were offered by Perry Smith when he later described his brief encounter with Herbert Clutter. Leaning into him with a knife in his hand, Perry "really doesn't want to harm the man. I thought he was a very nice gentleman. Soft-spoken. I thought so right up to the moment I cut his throat." (Capote, T., 1965, p. 244).

The coroner's photographs reveal the destruction of four lives (original notes and photographs, coroner's office, Finney County, Kansas, 1959). The shotgun blasts all but obliterate what were once human features. The girl who baked apple pies and rode her old farm horse "Babe," the boy who tinkered with his vintage truck, the mother and father who instilled respect and the value of hard work in their children, are reduced to swollen, devastated caricatures. The cost of four lives? A pair of binoculars, a Zenith portable radio, four silver dollars, and approximately \$40.00 in cash. The killers overlooked Nancy's church envelope, dutifully placed on her bureau for services the next morning, containing two dollars. There was no safe. There was no \$10,000.

By the afternoon of November 15, 1959, word of "trouble out at the Clutter place" has traveled through Holcomb and most of Finney County. By the end of the week, word has traveled throughout most of the United States. Murder of this magnitude just didn't happen to farm families in the heartland of America. The historical importance of this crime cannot be underestimated. Although not officially documented as such, the murder of the Clutter family hits the popular imagination as the first mass murder in America. This crime comes close on the heels of Charles Starkweather's murder spree that began in Nebraska in December, 1957 and also captured media attention across the country. Starkweather, accompanied by his teenage girlfriend Caril Fugate, who literally appears to have been along for the ride, stalked the West in a stolen

vehicle shooting to death numerous victims until their capture in Wyoming in late January 1958. The Starkweather killings are unofficially touted as the first serial murders in the U.S. and became the inspiration for Bruce Springsteen's seminal work, "Nebraska," as well as the Terrence Malick film, "Badlands." (The role the media played at this particular time cannot be underestimated. The idea of "mass media" was just starting to take hold. The reporting of crime was no longer a parochial event. Until the Starkweather, Hickock and Smith crimes, killing of this magnitude was viewed as politically motivated. Until the late 1950s, and with the obvious exception being war coverage, one of the few mass murders to receive national attention was the 1927 bombing of a school in Bath, Michigan in which 42 people died. This crime also had its roots in political unrest, however, as the perpetrator, Andrew Kehoe, allegedly ignited dynamite he had planted in the school's basement as a protest of new school taxes. What perhaps made the Starkweather killing spree and the Clutter murders significant and seen as the baseline by which other crimes were measured was the personal nature of the acts. America had not yet heard the names Richard Speck, Charles Whitman, Charles Manson, or John Wayne Gacy.) Nationwide attention now focuses on the events in Kansas. Truman Capote, sitting in his apartment in Brooklyn, reads an article in *The New York Times*, "Wealthy Farmer, 3 of Family Slain." (1959, November). The article recounts: "A wealthy farmer, his wife and their two young children were found shot to death today in their home. They had been killed by shotgun blasts at close range after being bound and gagged." So begins Capote's odyssey, culminating six years later with the publication of *In Cold Blood*.

Floyd Wells, Dick Hickock's former cell mate, hears of the murders when listening to his radio while lying on his bunk at the Kansas State Penitentiary where he remains after Hickock's parole. Despite the incessant conversations with Hickock on this very subject, Wells later claims to be shocked by the news. Two weeks pass and eventually Wells can no longer live with the burden of his secret. The fact that a well-publicized reward is being offered may also be weighing on him. Wells arranges to be "called out" to the warden's office under a false pretense. He doesn't want to be known as a prison snitch and is about to give very damaging information about two former inmates. The following statement is made by Floyd Wells to Agent Wayne Owens of the Kansas Bureau of Investigation (KBI) on December 10, 1959 and is taken from original (unpublished) case notes:

I spent considerable time with him (Herb Clutter) in his "office" where he had a desk and I believe a safe. This was the old house where the Clutters lived in 1949 (also located on the Clutter farm property). This was just about the time their new house was completed. I distinctly remember Mr. Clutter paying a large lumber bill and I thought he paid it in cash with money from the safe. The reason I remember is because Mr. Clutter made the remark to me that evening when we left his den the he'd paid out more than \$10,000 that day.

After entering Kansas State (Penitentiary) I "celled" with Dick Hickock. Hickock said he liked western Kansas and maybe would try to get a job with the Clutters. I described the location of the house. I suspect I talked too much about the money Mr. Clutter had. Hickock talked a lot about Perry Smith. Said after they got out of the 'joint' they could pull some jobs to get enough money for a down payment on a boat. They would run a charter service for deep sea fishermen and eventually make contacts and use the boat to bring in narcotics. I didn't believe Hickock but he kept talking about it. I tried to talk him out of it, said he would get caught. But he said he had a plan, and, after the robbery would kill everyone there and leave no witnesses.

As it turned out, Wells did speak "too much about the money" and tragically, much of what he had to tell Dick Hickock was, at best, clouded by the passage of time.

His statement is extremely significant and not only because it introduces the detectives to Dick Hickock. Volumes have been written about this case and Capote's meticulous research and access to the principals is without parallel. Is it possible that Capote did not have Wells' statement available to him? It appears that a very meaningful piece of information may have

been overlooked: Wells fills Dick Hickock with stories of Herb Clutter's wealth and how cash is contained within an office safe. But he is speaking of "the old house where the Clutters lived in 1949, just about the time their new house was completed." Hickock and Smith burglarize the new house, where there is no safe! Perhaps Floyd Wells truly thought that strict attention to detail really didn't matter, after all he was just passing the time in prison. Could he have thought that his blending of details was irrelevant as he didn't really believe Hickock's boasts of how he would one day rob and likely murder the Clutters? Wells' protestations stretch the bounds of believability. After all, he provided intimate details of the family members and a map leading to River Valley Farm. He may not have thought Hickock capable of this level of violence, but he surely knew that Dick Hickock was indeed capable of burglary. Wells was likely concerned about being implicated in the crime as he had clearly provided information about the Clutters that literally led Dick and Perry to their door. His statement to detectives, although self-serving and deliberately vague in parts, breaks the case. After their eventual capture, Dick Hickock tells KBI agents that Floyd Wells was not just passing the time in prison by telling him about Herb Clutter. Interestingly, Hickock claims that Wells was to receive \$2500 from the robbery. The money was to be spent to hire an attorney to work on his appeal (original case notes from Kansas Bureau of Investigation interview of Dick Hickock, Las Vegas, Nevada, 1960).

On December 30, 1959, at approximately 5:25 pm, Dick Hickock and Perry Smith are apprehended in Las Vegas, Nevada, by patrolmen on routine duty who are in possession of an "all points bulletin" and mug shots of Hickock and Smith. The assailants are driving a 1956 Chevrolet stolen in Iowa shortly after their aborted trip to Mexico.

Their dreams of buying a boat and diving for sunken treasure ran up against reality with remarkable swiftness. Forty dollars and a few items suitable for the pawnshop were not enough to bankroll the type of operation they had envisioned. In short order, the two returned to the U.S and lived out of stolen cars while traversing much of the country. They even returned to Kansas briefly where Dick boldly engaged in another surprisingly successful check-writing spree. Time was running out however, and at the time of their arrests, they had nothing of value but the stolen car in which they were sitting.

Dick Hickock and Perry Smith were returned to Finney County, Kansas where they were housed on the fourth floor of the courthouse in two of the six cells that comprised the county jail. In March, 1960, a trial was held but was viewed as anti-climatic. After testimony of several days and forty minutes of deliberation, the jury returned with guilty verdicts and set the punishment at death. Interestingly, Perry Smith eventually admitted that he had killed the four members of the Clutter family. He didn't want Dick Hickock's parents, elderly and in poor health, to go to their graves thinking their son a killer. Hickock and Smith were transferred to the Kansas State Penitentiary in Lansing where they remained on death row until April 14, 1965. Slightly after midnight the two were partners for the last time as they walked the thirteen steps leading to the wooden platform and the hangman's noose.

Dick and Perry were buried on the prison grounds but were later moved to make way for a prison expansion project. Their current resting place, section 34, row 29 in the Mount Muncie Cemetery in Leavenworth County, is identified by simple markers. Their original headstones, bought by Truman Capote, were stolen. The beauty of this pastoral site is disconcerting. The conflict between the violence of their lives and the serenity of this resting place defies cliché. It's jarring to be here.

The Clutters, Herbert, Bonnie, Nancy and Kenyon, were laid to rest in Valley View Cemetery in Garden City. The graves are still graced with flowers and a fresh bouquet marking Mother's Day is placed at the headstone of Mrs. Clutter. A visit to the cemetery oddly brings the crime to life. "Nancy Mae Clutter, born 1943, died 1959." Nancy was a real girl. She had a real boyfriend, Bobby, and a best friend, Susan. She rode her farm horse, Babe, and baked really good apple pies. Nancy was brutally murdered in 1959. She was shot to death in her own bed having gotten up just long enough after hearing the intruders to hide her prized possession, a watch given to her by her father, in her shoe.

The Clutter farm has in some sense taken on the patina of "urban legend." Local teenagers drive down the dirt road leading to the farm late at night finding entertainment in the horror as teenagers often do. There is also a simultaneous respect and reverence about the place and the family. After first hearing that local residents don't want to talk about the crime and prefer to leave things alone, one is struck by how nearly everyone wants to talk about it! About their connection to the farm or the family or the crime. It is an event that is as much a part of the town as the water tower. It is not trivialized.

After the murders, the farm and its contents were sold at auction, the surviving Clutter daughters understandably deciding that trying to maintain the family farm was emotionally unbearable. The auction was considered a success with nearly everything associated with River Valley Farm sold (including Babe, for \$75). The residence has since changed hands two more times. The home is occupied and the farm is worked to this day. A German Shepherd roams the property, serving as a sentry.

A crime that was motivated by financial gain had a very cheap payoff. The lives of ultimately six individuals were traded for a pair of binoculars, a Zenith portable radio, four silver dollars and approximately \$40.00 in cash. There was no safe. There was no \$10,000.

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High Anxiety Offenders in Correctional Settings: It's Time for Another Look

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OVER DECADES, various psychological classification systems have staked a clear position for the neurotic, high anxiety offender. We have accumulated evidence across four studies that find the neurotic group of offenders to be of particular interest to correctional practitioners and policy makers. They have made poor adjustments to prison, had the highest long-term recidivism rates, performed poorly in a cognitive skills intervention and assist in differentiating child molesters. The findings also illustrate that personality is an important factor across a number of different samples, lending support for the reliability of the Jesness Inventory.

Psychological, personality-based classification systems have been used since the 1960s to develop differential treatment and supervision plans for offenders (Van Voorhis, 2000). This approach assumed that, even apart from their risk of re-offending, offenders were not all alike and that no single treatment modality worked with all types of offenders across the full spectrum of correctional settings (Warren, 1971; Palmer, 1974). In support, the early proponents of differential treatment found that offenders who were placed in treatment modalities matched to personality characteristics were more likely to perform better than those who were inappropriately placed (Jesness, 1971; Palmer, 1974; 2002; Warren, 1983).

More contemporary writings place personality among a larger group of offender *responsivity* factors (Andrews, Bonta, and Hoge, 1990), including learning styles, motivation levels, intellectual functioning, and other traits, which are likely to become barriers to the success of some types of interventions. Notwithstanding the promising results of studies conducted through the 1970s and 1980s, responsivity remains under-researched and seldom considered in correctional practice. Indeed, responsivity is a frequent topic of discussion in correctional policy meetings, non-empirical writings, and staff training, but it is seldom structured into current correctional practice or research.

This article summarizes the results of four recent studies that employed an offender-based personality typology (using the Jesness Inventory, 1996) to examine the importance of personality in prison adjustment, long-term offender recidivism, success in cognitive programming, and dynamics of child molestation. Across these samples of male offenders, we

found a consistent pattern suggesting that high-anxiety offenders, those referred to as neurotic offenders on the personality classification systems, are distinct from other offenders in extremely important ways. The findings urge renewed consideration not only of offender personality but also of a distinct type of offender who receives limited attention in contemporary correctional treatment.

As noted in more detailed descriptions of the offender personality typologies (e.g., see Warren, 1971, Van Voorhis, 1994; Van Voorhis & Sperber, 1999), the neurotic personality type is one of four offender personality types common to the various personality classification systems (Megargee & Bohn, 1979; Quay, 1983; Jesness, 1988, 1996; Warren, 1983). The most common types and their descriptions are as follows:

I-level, as measured by the Jesness Inventory, identifies nine personality types* Among adults, these can be collapsed into the following four types (Van Voorhis, 1994) that are of primary interest to the present study: a) antisocial, who are described as manipulative, hostile, and possessing antisocial values and peers; b) neurotic, or highly anxious, defensive, and insecure; c) dependent, described as dependent, followers, who do not evidence antisocial values/attitudes; and d) situational, who are prosocial, conforming, and, at times, naive. The pattern across various I-level studies finds that types comprising the antisocial offenders (e.g., Aa, CFC, MP) and the neurotic offenders (e.g., Na, Nx) most often differentiate offenders in terms of their success in programs (e.g. Heide, 1983; Jesness, 1971; Palmer, 1974; 2002; Van Voorhis, Spruance, Ritchie, Listwan, Seabrook, & Pealer, 2002; Warren, 1983), their offense patterns (e.g., Harris, 1979; Heide, 1992,1999), and their prison adjustments (Van Voorhis, 1994).

In narrowing our focus to the neurotic offender, it is important to remember that anxiety can exist both as a state of mind and as a personality trait. The type of neuroticism discussed here does not relate to the general feeling of anxiety that most experience in response to situational pressures (e.g., anxiety over a licensing exam or a loved one's illness). Here we are concerned with anxiety as a trait, an enduring characteristic that more persistently influences individual perceptions and behavior. Studies conclude that individuals higher in trait anxiety are consistently more prone to perceive greater danger in their relationships and to respond with greater elevations of situational or state anxiety (Spielberger, 1985). Individuals with high trait anxiety, often called negative affectivity, tended to have a very negative view of themselves, to worry more often, and to dwell on frustrations and disappointments (Watson & Clark, 1984). Moreover, individuals high in neuroticism were shown to be more distressed on average in comparison to low neuroticism subjects and to have lower thresholds for responding to stressful events (Bolger & Schillings, 1991). Although some individuals may experience these feelings as a state of mind during times of stress, those high in negative affectivity manifest these feelings even in the absence of stress (Watson & Clark, 1984).

Although personality was neglected for many years in criminology, recent research finds it to be an important predictor of behavior. For example, research by Caspi, Moffitt, Silva, Stouthamer-Loeber, Kreuger, and Schmutte (1994) found that low constraint and negative emotionality were predictors of criminal behavior regardless of age, geographic location, race, and gender. Further, constraint and negative emotionality emerged as correlates among life-course persistent offenders (Kreuger, Schmutte, Caspi, Moffitt, Campbell, & Silva, 1994). Traits pertaining to negative emotionality and low constraint were also implicated in relationship difficulties (Moffitt, 1993) and health risk behaviors (e.g., violent crime, alcohol dependence, sexual behavior, and dangerous driving habits) (Caspi, Harrington, Moffitt, Begg, Dickson, Langley & Silva, 1997). Finally, Agnew, Brezina, Wright & Cullen (2002) found that "strain is more likely to lead to delinquency among those high in negative emotionality/low constraint" (p. 63). Importantly, the study also concluded that those high in negative emotionality and low in constraint did not engage in delinquency in the absence of strain.

Since their inception, correctional, psychological classification systems have staked a clear position for the neurotic, high anxiety, offender. With youth in California, these delinquents were diagnosed as either neurotic anxious or neurotic acting-out according to the Interpersonal Maturity Level (I-level) classification system (Warren et al., 1966; Palmer, 2002). In the Federal

Bureau of Prisons, the Quay Adult Internal Management System (Quay, 1983) identified a neurotic anxious type for adults. The Quay System for juvenile offenders put forward a similar type (Quay and Parsons, 1971). Finally, the Megargee MMPI based Prison Typology (Megargee and Bohn, 1979) notes types Baker, George, and Jupiter. All are described as dealing with forms of trait anxiety.

Early writings offered some concerns about these individuals, as exemplified by the type descriptions of the neurotic offender. For example, sources asserted that neurotic offenders made poor adjustments to prison settings; needed to be placed away from predatory inmates; did not improve without intervention; and were likely to amplify rather than resolve acting-out behaviors when confronted by staff. Warren described this group of individuals as having a "good deal of internal 'wear and tear' involving anxiety, guilt, a 'bad me' self image, 'negative life script' distorted perceptions, and dysfunctional behavior." Delinquency has some private meaning and is not intended simply for material gain or as a response to peer pressure. It may involve acting out of a family problem, an identity crisis, or a long-standing internal conflict. These individuals may also show symptoms of emotional disturbance, chronic or intense depression, or psychosomatic complaints.

Both the Preston Topology Study (Jesness, 1971) and the Community Treatment Project (CTP) in California (Palmer, 1974; 2002; Warren, 1983) reported that outcomes were better for these youth under conditions of differential treatment that accommodated anxiety and targeted it for treatment. Differential treatment also involved "matching" offenders to officers and staff trained to counsel issues related to anxiety. When anxiety was accommodated, the neurotic delinquents showed more impressive treatment gains than most of the other groups (Palmer, 1974). But the development of correctional strategies for these offenders ceased in the 1970s.

Current thinking on offender therapy favors cognitive behavioral programs targeted to thinking skills, thinking errors, high risk situations, and coping strategies. This focus is well-supported by a large body of research, and confirmed by several meta analyses conducted in the 1990s. To facilitate consistent delivery, most current cognitive behavioral models are directed by manuals for facilitators. Some are scripted; most suggest activities such as role-playing exercises, thinking reports and group discussions. These are not intended to be confrontational, a well known difficulty for highly anxious offenders. One would think that an emphasis on how to think through difficult situations and to deal with emotions would be useful to such offenders; however the same models do not appear to have been developed with anxiety in mind.

In referring to offender anxiety as a "responsivity trait" (Andrews and Bonta, 1998; Andrews, Bonta, and Hoge, 1990), it is assumed to affect one's ability to succeed in correctional programs and environments. A number of authors suggest that we should consider these attributes when screening offenders into programs, so that they are not "harmed" by the intervention or expected to participate in an intervention that does not work. Unfortunately, once we have screened neurotic offenders out of programs (if we do) there appear to be no contemporary alternatives. Consequently, the current generation of offender programming has little to say, directly, about anxiety. Research examining these concerns is summarized below.

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Description of the Studies

The four studies measured personality according to the Jesness Inventory (Jesness, 1996). In addition to 11 personality scales, the JI provides subtype scales, which correspond to earlier personality subtypes identified by the Interpersonal Maturity Classification System. Nine subtypes are put forward by the Jesness Inventory. For adults, these nine types may be collapsed further into four types (see Van Voorhis, 1994): a) antisocial, b) neurotic, c) dependent, and d) situational.

Study 1: The first study explored the comparative viability of several psychological classification systems for classifying adult male prison inmates. The relationship between the types identified

by each classification system and prison adjustment emerged as an important issue. The study sampled two groups of federal inmates newly admitted to prison between September 1986 and July 1988: a) 179 maximum custody inmates (response rate = 76%); and b) 190 minimum custody inmates (response rate = 90%). At prison admission, the study participants completed detailed background interviews and several psychological inventories, including the Jesness Inventory. [Table 1](#) details the background characteristics of the sample. Inmates were tracked for 6 to 9 months. Follow-up data cited in this paper consisted of self report measures of prison misconducts and stress. The self-report and staff measures were cumulative scales and had internal consistency (alpha values) greater than 0.70. Stress was measured by the Center for Epidemiological Studies Depression Scale (Radloff, 1977). The study utilized bivariate analyses. See Van Voorhis (1994) for a more detailed account of the measures and methodology of the study.

Study 2: The second study explored whether personality, as measured by the Jesness Inventory, was related to recidivism. A longitudinal design examined long-term recidivism rates for the study 1 cohort of federal prison inmates (n=277) over a 10 to 12 year period. [Table 2](#) details the background characteristics of the sample. Recidivism data, collected through NCIC in 1998, were available for approximately 85 percent of the time 1 sample. Event history analysis was employed to determine the relationship between the four collapsed Jesness Inventory types and outcome. Failure was defined as any new arrest and arrest for a specific charge including drugs, property offenses, or violence. Control variables included race and a modified version of the Salient Factor Score (Hoffman and Beck, 1985). See Listwan (2001) for a more detailed account of the measures and methodology of the study.

Study 3: The third study, Phase II of the Georgia Cognitive Skills Experiment, examined the effectiveness of the Reasoning and Rehabilitation (R&R) (Ross & Fabiano, 1985) program on parolees across the State of Georgia. A focal issue of the study was whether some types of offenders responded differently to the cognitive skill intervention than others. Using an experimental design, male parolees were randomly assigned to either the R&R program group (n=574) or the control group (n=581) that received standard parolee services without the R&R program. [Table 3](#) illustrates the background characteristics of the individuals under study. Program effectiveness was determined, in part, by comparing experimental group and control group "failure" during a 30 month follow up period. Event history analysis was utilized and failure was defined as a return to prison. Control variables used in the study included risk, a history of violence, IQ, reading level, education, marital status, age, and race. See Van Voorhis, Spruance, Ritchie, Listwan, Seabrook, and Pealer (2003) for a more detailed account of the measures and methodology of the study.

Study 4: This study examined whether an existing offender typology—the Jesness Inventory—could differentiate among child molesters on such characteristics as denial, empathy, endorsement of cognitive distortions, and self-esteem. The study sample was comprised of 85 men convicted of a sexual offense against a minor; all were involved in correctional treatment at the time of the study. Each participant completed the Jesness Inventory as well as four other validated assessments designed to measure the dependent variables: Sex Offence Information Questionnaire Revised (Hogue, 1998), the Interpersonal Reactivity Index (Davis, 1983), the Abel and Becker Cognitions Scale (Abel, Gore, Holland, Camp, Becker, and Rathner, 1989), and the Rosenberg Self-Esteem Scale (Rosenberg, 1965). Additional data collected from each participant's program file measured offender demographics, offense characteristics, victim characteristics, and the offender's risk of re-offending as measured by the Static-99 (Hanson, 1997). [Table 4](#) summarizes the sample characteristics. The analysis used analysis of variance and analysis of covariance strategies. See Sperber 2003 for a more detailed discussion of the methodology and measures used in the study.

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Results

Study 1: Neurotic offenders had the highest proportion of self-reported aggression in both the

maximum custody and minimum custody groups. Results were significant for the minimum custody sample ($p < 0.01$) but not the maximum custody group. More telling, perhaps, were findings for stress and depression experienced shortly into the prison term. As shown in [Figure 1](#), neurotic offenders scored the highest on the CESD scale. Results were statistically significant ($p < 0.05$) for both the minimum custody and maximum custody groups. On other measures, neurotic offenders performed similar to the antisocial type, or were not differentiated in any meaningful way from the other three personality types.

Study 2: As shown in [Figure 2](#), the findings from the discrete-time, event history analysis of the effect of personality on recidivism indicated that personality contributed to the prediction of criminal behavior even when controlling for race and risk. More importantly, the highest probabilities for rearrest were among the neurotics, followed by the antisocials, situationals, and dependents. The neurotics and antisocials had a significantly higher probability of experiencing re-arrest than the dependents. Furthermore, as shown in [Figure 3](#), the neurotics alone were significantly different from the other three types when predicting drug offenses. They were more likely to become involved in substance abuse than the other personality types, and they incurred the offenses in closer proximity to their release than the other offenders. Personality was not significant in the models predicting property or violent offenses.

Study 3: Phase II of the Georgia Cognitive Skills Experiment raised the question of whether offenders' personalities affected how they responded to a cognitive skills program, and the question was answered in the affirmative. Results from discrete-time, event history analysis indicated that neurotics responded adversely to the R&R program; neurotic offenders who participated in the program were returned to prison at significantly higher rates than neurotic offenders in the control group. Although only 35.3 percent of neurotic control group members recidivated, over half (54.8 percent) of neurotic experimental group members were reincarcerated by the end of the 30-month follow up period. The neurotic X experimental group interaction was significant ($B = 0.80$; $p < 0.05$), as was the event history analysis model which included controls for risk level, history of violence, IQ, reading level, education, marital status, age, and race (model chi square = 103.25; $p < 0.001$). In contrast to the detrimental effects of the program on neurotics, parolees classified as antisocial, dependent, or situational improved slightly, though not significantly, by participating in the program (see Van Voorhis et al., 2002).

Study 4: While the results of this study supported the hypothesis that child molesters of varied personality types would differ on key psychological attributes, the extent to which the neurotic child molesters differed from the other personality types was of particular interest. For example, analysis of variance revealed that the personality subtypes differed significantly on three of the dependent measures—self-esteem, personal distress (an affective component of empathy), and fantasy (an intellectual component of empathy). The post hoc comparisons, outlined in [Table 5](#), revealed that it was the neurotic child molester that was significantly different from the other three personality types. For example, neurotic child molesters had the highest score on the personal distress scale, meaning that they were the most likely to feel emotional discomfort in the presence of another's suffering. In addition, the antisocial offenders, situationals, and dependents scored similarly on the fantasy scale. Neurotics scored significantly higher, however, indicating that they were significantly more likely to identify with others on an intellectual level. The neurotic child molesters also evidenced significantly lower self-esteem scores than the other three groups.

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Conclusions

In sum, we have accumulated evidence across four studies that find the neurotic group of offenders to be of particular interest to correctional practitioners and policy makers. They have made poor adjustments to prison, had the highest long-term recidivism rates, and appeared to have been harmed by the most prevalent correctional intervention in use at the present time. Moreover, the neurotic child molesters are different from other child molesters (as well as from stereotypes pertinent to child molesters) in ways that should factor into their treatment and

therapy.

These findings are important for several reasons. First, they offer additional support to criminologists researching individual-centered theories of crime. The findings are in contrast to the earlier reviews of personality and crime (e.g., Schuessler & Cressey, 1950; Tennenbaum, 1977; and Waldo & Dinitz, 1967) and claims by researchers such as Vold and Bernard (1986), who argue that personality provides no theoretical relevance to understanding criminal behavior. While accumulating studies are finding a relationship between personality and criminal behavior, many of these studies are conducted with adolescents and young adults (Caspi et al., 1994; Caspi et al., 1997; Krueger et al., 1996). The present studies note consistent results with respect to adult males.

Three of the studies (study 1 and 2 were of approximately the same sample) used different samples of offenders to explore the utility of the Jesness Inventory in predicting or differentiating offenders and their behaviors. The consistency of findings across different samples, added to the results of studies cited above, lends strong support to the external validity of findings regarding neurotic offenders.

Accumulating research carries implications for offender risk assessment, correctional management, and offender programming. Although research by Andrews, Bonta, and Hoge (1990) and Gendreau, Little, & Goggin (1996) find that personality is among the strongest predictors of criminal behavior, the "at risk" personality attribute typically referred to involves dimensions associated with antisocial ideation and psychopathy (Andrews & Bonta, 2003) rather than anxiety or neuroticism. Moreover, risk assessment instruments currently in use [e.g., Salient Factor Score (Hoffman & Beck, 1985), Level of Service Inventory-Revised (Andrews & Bonta, 1995), and Wisconsin Risk Assessment System (Baird, Heinz & Bemus, 1979)] typically do not include measures of personality. Although there are good reasons for this, particularly against including anxiety, evidence is accumulating that anxiety may be a risk factor as well as a responsiveness consideration.

More importantly, it may be a risk factor that is exacerbated by the prevailing correctional treatment modalities. To be cautious, this assertion is based upon only one study, whereas anxiety's importance as a risk factor appears across several studies. Even so, the finding pertaining to the cognitive skills intervention is of particular concern (Van Voorhis et al., 2002). Unfortunately, we cannot determine precisely why neurotic offenders become more prone to recidivism following participation in the cognitive skills program. It is possible that a group setting is not appropriate for offenders with neurotic personalities. The pressure of performing skills in front of peers and coaches who routinely evaluate and provide feedback on the use of the skills may further exacerbate their anxiety. Perhaps these facilitators or group members were too confrontational. Consideration might be given to curricular modifications, which could help such offenders to better deal with negative emotions and to develop skills for coping with anxiety-provoking situations. Perhaps these individuals would be better suited to anger management programming (e.g., see Goldstein & Glick, 1987) or to more clinical forms of intervention, but the alternatives have not been researched in the context that we are addressing.

Concerns might also be voiced for interventions that treat sex offenders as if they are all alike. It is not unusual, for example, for a sex offender program to target denial, empathy, and victim awareness. However, neurotic offenders often are not in denial and have capacity for empathy; they simply violate their own values. Again, programs that utilize a certain level of confrontation may be detrimental to, or at least less effective, with neurotic child molesters. Winn (1996), for example, notes that not all sex offenders respond well to confrontation. We may also need to revisit the issue of treating the self-esteem of these individuals. The correctional treatment literature abounds with warnings that self-esteem is not a risk factor and should not be the focus of offender therapy. However, to our knowledge, no studies attend to whether it might be a risk factor for some types of offenders. To further complicate matters, describing these child molesters as being introverted, insecure, and anxious yet possessing emotional empathy in no way suggests that they are "lower risk" offenders. Many of the neurotic child molesters in this study had previous convictions (63 percent). More specifically, many of them had a previous

conviction for a sex offense (48.1 percent). Thus, it must not have been unusual for this group to violate their own values, which, for the most part, were prosocial.

Whatever the chosen alternatives, we are reminded poignantly of three assertions that emerged from the earliest research on neurotic offenders. First, they "do not get better on their own; they do need treatment" (Warren, 1983). Second, their antisocial behavior is amplified by anxiety-provoking situations, including some types of staff confrontations intended to correct behavior (Warren et al., 1966; Palmer, 2002). Third, when matched to appropriate rather than inappropriate interventions, they achieved more favorable results than other delinquents (Palmer, 1974); when they were not treated for their anxiety, their failure rate was atypically high. Appropriate treatment goals for these offenders involved reduction or resolution of internal conflicts, comfort with one's own needs and feelings, reductions in the inappropriate use of defense mechanisms, appropriate disengagement from the dysfunctional family problems, increased sense of self worth and improved capacity for enjoyment (Warren, 1983). Arguably, such treatment goals have not seen the light of day for a long time in this field.

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* These types include: (a) Unsocialized aggressive (Aa on the original I-level system), characterized as negative toward authority and family, nonconforming, aggressive, with antisocial values and attitudes; (b) Unsocialized passive (AP), negative toward authority and family, negative self-concept, nonconforming, isolated, and low verbal aptitude; (c) Conformist (CFM), positive toward authority and family, conforming, dependent, uncritical self-concept; (d) Cultural conformist (CFC), low motivation, negative toward authority and family, distrustful, alienated, antisocial peers and attitudes; (e) Manipulator (MP), positive self-concept, manipulative, obtrusive; (f) Neurotic acting-out (NA), negative to authority, conflicted life with family, defensive, cynical; (g) Neurotic Anxious (NX), conform, positive toward authority, anxious, and insecure; (h) Situational (SE), prosocial attitudes, positive self-concept, good interpersonal relationships; (i) Adaptive (CI), motivated, prosocial, good interpersonal relationships.

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TABLE 1.*Study 1 percentage and frequency distribution of participants' social demographic characteristics*

Characteristic	N	%
Race		
White	240	65.4
Black	105	28.6
American Indian	6	1.6
Hispanic	13	3.5
Asian	3	0.8
Age at admission		
19 to 29	111	30.6
30 to 45	198	54.5
46 and older	54	14.9
Mean	33.5	
Median	32	
Marital Status		
Married	145	40.2
Never married	85	23.5
Divorced	80	22.2
Separated	21	5.8
Widowed	4	1.1
Common-law	1	0.3
Other	1	0.3
Education		
6 to 11 years	128	35.3
High school	108	29.8
GED	52	16.8
Some post high school	43	14.3
College graduate	26	7.2
Some post college	6	1.7
Employment Status		
Not working	170	47.8
Full time	133	37.5
Occasionally	40	11.2
Status Unknown	13	3.7
Prior adult or juvenile record		
Yes	311	84.7
No	56	15.3
Collapsed Jesness Types		
Antisocial	152	46.6
Neurotic	59	18.1
Dependent	56	17.2
Situational	59	18.1

TABLE 2.*Study 2 percentage and frequency distribution of participants' social demographic characteristics*

Characteristic	N	%
Race		
White	184	66.4
Black	77	27.8
American Indian	6	2.2
Hispanic	8	2.9
Asian	2	0.7
Age at admission		
19 to 29	90	32.7
30 to 45	154	56.0
46 and older	31	11.3
Mean	33.5	
Median	32	
Marital Status		
Married	109	39.9
Never married	66	23.1
Divorced	66	23.1
Separated	16	5.9
Widowed	1	0.4
Common-law	21	7.7
Education		
6 to 11 years	91	33.3
High school	81	29.7
GED	46	16.8
Some post high school	31	11.4
College graduate	20	7.3
Some post college	4	1.5
Employment Status		
Not working	127	47.0
Full time	100	37.0
Occasionally	33	12.2
Status Unknown	10	3.7
Prior adult or juvenile record		
Yes	242	87.4
No	35	12.6
Collapsed Jesness Types		
Antisocial	135	48.9
Neurotic	51	18.5
Dependent	44	15.9
Situational	46	16.7
Risk Score Collapsed		
Low	184	66.4
High	93	33.6

TABLE 3.

Study 3 percentage and frequency distribution of participants' social demographic characteristics (collected at prison intake)

Characteristic	Experimental		Control		Total	
	N	%	N	%	N	%
Age:						
18-25	129	28.1	123	25.5	252	26.8
26-36	195	42.5	219	45.3	414	43.9
36-50	120	26.1	123	25.5	243	25.8
50+	15	3.3	18	3.7	33	3.5
<i>Total</i>	459	100.0	483	100.0	942	100.0
Average Age:	31.9		31.9		31.9	
Race:						
White	141	30.7	140	29.0	281	29.8
Nonwhite	318	69.3	343	71.0	661	70.2
<i>Total</i>	459	100.0	483	100.0	942	100.0
Sex:						
Male	470	100.0	493	100.0	963	100.0
Female	0	0.0	0	0.0	0	0.0
<i>Total</i>	470	100.0	493	100.0	963	100.0
Employment status:						
Employed full time	234	51.3	270	56.6	504	54.0
Employed part time	51	11.2	48	10.1	99	10.6
Unemployed < 6 mo.	65	14.3	52	10.9	117	12.5
Unemployed for 6+ mo.	69	15.1	73	15.3	142	15.2
Never worked but capable	14	3.1	11	2.3	25	2.7
Student	3	0.7	1	0.2	4	0.4
Incapable of work	10	2.2	9	1.9	19	2.0
Other	10	2.2	13	2.7	23	2.5
<i>Total</i>	456	100.1	477	100.0	933	99.9
Social class:						
Welfare	36	8.0	34	7.3	70	7.6
Occasionally employed	58	12.9	43	9.2	101	11.0
Minimum standard	171	38.0	191	40.9	362	39.5
Middle class	183	40.7	194	41.5	377	41.1
Other	2	0.4	5	1.1	7	0.8
<i>Total</i>	450	100.0	467	100.0	917	100.0
Education:						
Less than high school	38	8.3	55	11.4	93	9.9
Some high school	264	57.9	267	55.4	531	56.6
High school	104	22.8	118	24.5	222	23.7
At least some technical school	15	3.3	12	2.5	27	2.9
At least some college	34	7.5	30	6.2	64	6.8
Other	1	0.2	0	0.0	1	0.1
<i>Total</i>	456	100.0	482	100.0	938	100.0
Marital status:						
Single (never married)	276	60.7	322	66.9	598	63.9
Married	48	10.5	52	10.8	100	10.7
Separated	27	5.9	20	4.2	47	5.0
Divorced (not remarried)	46	10.1	31	6.4	77	8.2
Widowed	3	0.7	3	0.6	6	0.6
Common law marriage	54	11.9	53	11.0	107	11.4
Other	1	0.2	0	0.0	1	0.1
<i>Total</i>	455	100.0	481	99.9	936	99.9
Substance abuse:						
History of substance abuse	250	54.5	267	55.3	517	54.9
No history of substance abuse	209	45.5	216	44.7	425	45.1
<i>Total</i>	459	100.0	483	100.0	942	100.0
IQ:						
50 to 80	28	6.3	29	6.1	57	6.2
81 to 99	153	34.2	177	37.2	330	35.7
100 to 115	198	44.2	194	40.8	392	42.4
116 to 139	69	15.4	76	16.0	145	15.7
<i>Total</i>	448	100.1	476	100.1	924	100.0
Average IQ:	101.8		101.7		101.8	
Reading level:						
Below 5th grade	126	28.3	142	29.8	268	29.1
5th grade or above	320	71.7	334	70.2	654	70.9
<i>Total</i>	446	100.0	476	100.0	922	100.0
Level:						
Levels 2 and 3	252	61.9	257	60.9	509	61.4
Level 4	155	38.1	165	39.1	320	38.6
<i>Total</i>	407	100.0	422	100.0	829	100.0
Collapsed Jesness Inventory type:						
Antisocial	134	32.9	129	30.6	263	31.7
Neurotics	53	13.0	52	12.3	105	12.7
Dependents	118	29.0	128	30.3	246	29.7
Situationals	102	25.1	113	26.8	215	25.9
<i>Total</i>	407	100.0	422	100.0	829	100.0
Risk						
Low	104	22.8	94	19.7	198	21.2
Medium/High	352	77.2	383	80.3	735	78.8
<i>Total</i>	456	100.0	477	100.0	933	100.0

TABLE 4.

Study 4 percentage and frequency distribution of participants' social demographic characteristics

Characteristic	N	%
Race		
Caucasian	66	78.6
African American	15	17.9
Hispanic	2	2.4
Biracial	1	1.2
Marital Status		
Single, Never Married	51	60.7
Married	20	23.8
Divorced	13	15.5
Age		
Under 20	2	2.4
20-29	28	32.9
30-39	23	27.1
40-49	15	17.6
50-59	10	11.8
60 and Over	7	8.2
Employed at Time of Arrest		
Yes	46	66.7
No	23	33.3
Education Level		
Less Than High School	30	36.1
Graduated High School	32	38.6
Some College	14	16.9
Associates Degree	3	3.6
Bachelors Degree	4	4.8
Collapsed Personality Types		
Antisocial	15	18.5
Neurotics	28	34.6
Dependents	13	16.0
Situationals	25	30.9

Figure 1

Study 1: Percent above the mean CESD score by personality and institution

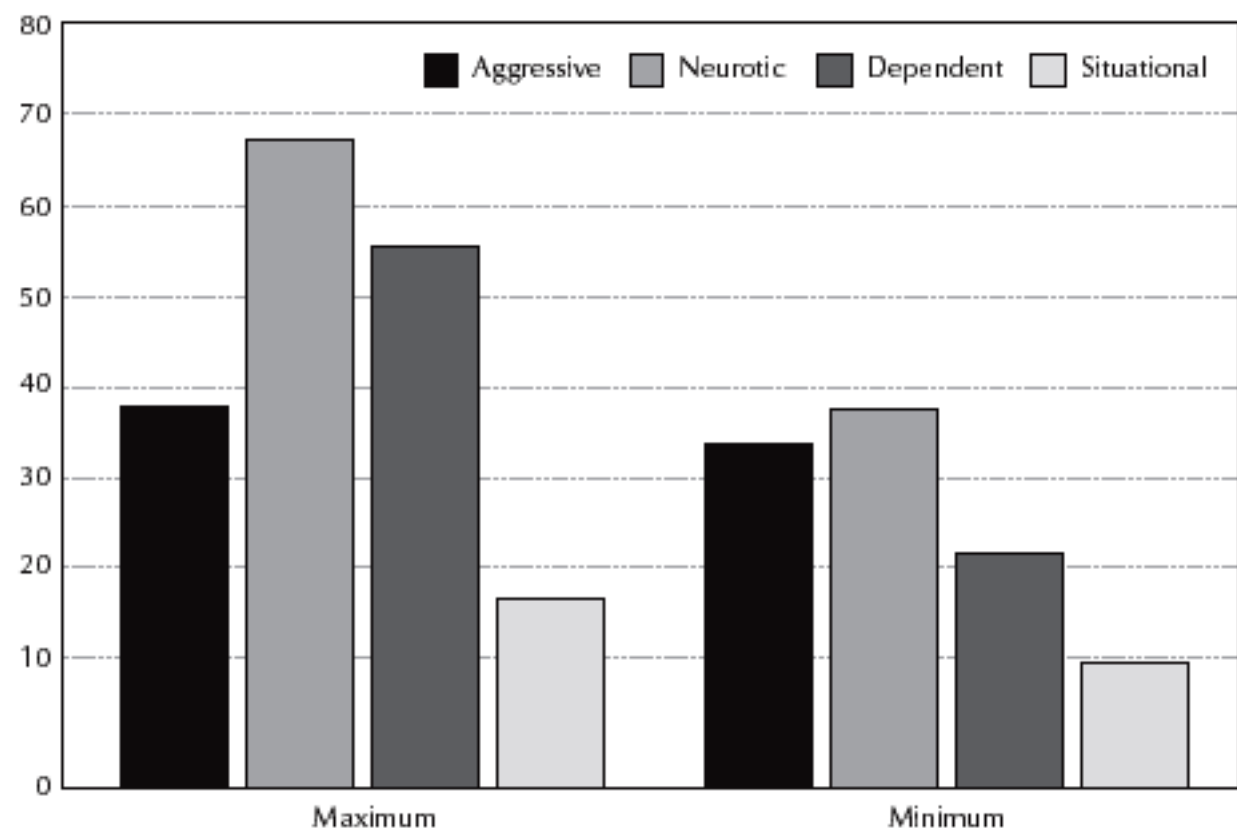


Figure 2

Study 2: Rearrest by Personality Type

Percent

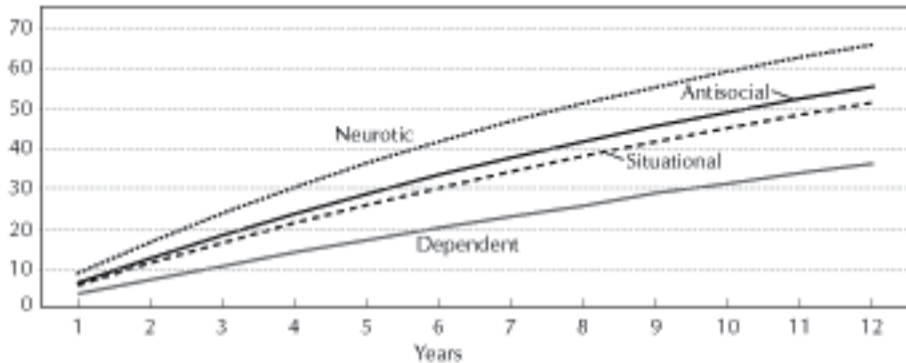


Figure 3

Study 2: Rearrest for Drugs by Personality Type

Percent

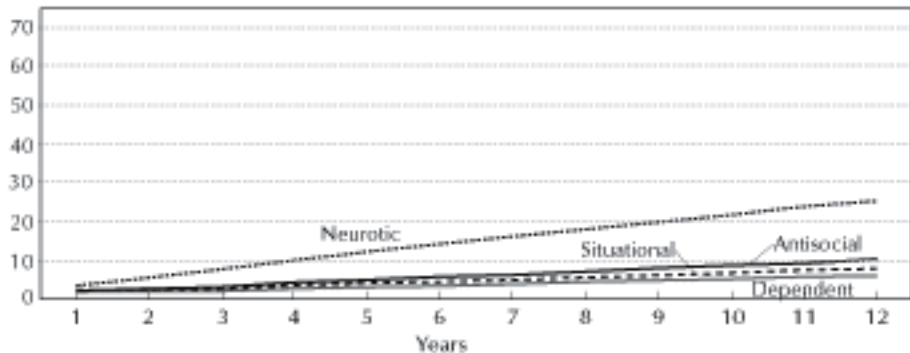


TABLE 5:*Effects of Personality on Child Molester Attributes*

	Antisocial		Neurotic		Dependent		Situational		Fa	Posthoc ^b
Variable/Source	Mean	n	Mean	n	Mean	n	Mean	n		
Overall Empathy	60.29	14	65.12	6	60.08	13	61.50	24	0.926	
Empathic Concern	18.50	14	19.35	26	19.85	13	21.38	24	0.775 ^c	
Personal Distress	9.36	14	13.00	26	12.38	13	8.75	24	3.899 ^{**}	N A D S
Perspective Taking	17.79	14	16.69	26	16.77	13	17.75	24	0.247	
Fantasy	14.64	14	16.08	26	11.08	13	13.63	24	2.901 ^{**}	N ASD
Self Esteem	32.17	15	26.73	26	32.27	12	33.35	25	10.35 ^{***}	SAD N
Overall Denial	67.80	15	58.75	27	67.77	13	59.04	25	0.782 ^o	
Denial of Blame	12.33	15	13.00	28	15.62	13	8.84	25	3.976 ^{**}	D NAS
Denial of Sexual Motivation	27.63	15	23.70	27	24.66	13	27.96	25	0.904 ^f	
Denial of Harm	21.60	15	14.93	28	22.31	13	15.92	25	2.147	
Denial of Treatment Need	6.40	15	6.96	28	5.23	13	6.24	25	0.240 ^g	
Cognitive Distortions	3.57	14	1.44	27	2.46	13	0.56	25	2.080	
Static-99	2.47	15	2.81	26	3.08	13	2.87	23	0.446 ^h	

*p < .05 ***p < .01

^aAnalysis of variance was used when no other demographic variables are noted to be significantly related to the dependent variable. Otherwise analysis of covariance was used.^bPost hoc tests employed Duncan's multiple range test.^cANCOVA entered age as a covariate.^dANCOVA entered race as a covariate.^eANCOVA entered marital status as a covariate.^fANCOVA entered marital status as a covariate.^gANCOVA entered age as a covariate.^hANCOVA entered length of stay as a covariate.

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An Assessment of the Capacity to Measure Performance Among the Nation's Prison Systems

[References](#)

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SEVERAL STATE AND federal correctional agencies have developed performance measurement systems. The success of these efforts led the Association of State Correctional Administrators (ASCA) to initiate activities to develop a national outcome-based performance measurement system. ASCA identified measures that reflect the most crucial aspects of correctional management, developed indicators to assess each measure, and specified which of the operational definitions for each indicator to allow for application across jurisdictions. For ASCA to continue, it must support the development of capacity within correctional agencies to participate in a national reporting system.

This research assessed the current capacity of departments of corrections to participate in a national reporting system. A survey of departments found that almost all prison systems possess the capacity to measure and report about the aggregate prisoner population under supervision and individual characteristics of that population. Most prison agencies collect information about escapes, homicides and suicides. Beyond these measures, a significant disparity exists among departments regarding their capacity to measure and report on all other indicators.

To achieve its goal of advancing the commitment of adult institutional corrections to performance-based management, ASCA must invest in the appreciation for and commitment to the philosophy and practice among correctional professionals.

Performance measures assess the results achieved from activities performed within an organization. By routinely measuring performance, an agency can begin to chart its achievement in accomplishing desired outcomes. Such information can then be used to improve or enhance services, to evaluate management practices and to support continuous improvement.

Performance-based management has become increasingly popular in prison administration over the past decade. The Federal Bureau of Prisons led the way among correctional agencies in adopting performance-based management. The Bureau developed its Key Indicator and Strategic Support System (KISSS) in which vital information about prisoners, staff, finances and health services was provided to central office and facility executives. States such as Florida, Minnesota and North Carolina embraced performance-based management as part of statewide initiatives to

implement the practice across state agencies.

What can be learned about the quality of performance through comparisons of an organization to itself over time is limited. When an organization can examine its practices against those of other similar organizations, it can begin to assess its approaches and managerial styles against alternatives used elsewhere to determine what works best. Areas needing improvement and best practices can be identified. Enhanced possibilities for making decisions rationally and objectively are available with cross-organizational comparisons.

Currently, sources of cross-jurisdictional information about prison performance are few. Two organizations compile information about prisons and prisoners from departments of correction across the nation. While it is not their primary purpose, the two sources provide some information about prison performance that can be used for cross-jurisdictional comparisons and analysis. The Criminal Justice Institute, Inc., a for-profit consulting firm located in Middletown, Connecticut, produces the *Corrections Yearbook* annually. Data for the publication are supplied by state and federal prison systems in response to a mailed questionnaire. CJI (2002) notes that it relies upon its respondents for the accuracy and currency of the information it reports. Most of the data consist of statistics about numbers of prisoners and prisons; however, a few outcome indicators of performance are presented in the *Yearbook*, including escapes, assaults, homicides and suicides.

Interestingly, most outcome indicators are reported as frequencies rather than rates. Since some jurisdictions have larger numbers of prisoners than others, and thus a larger at-risk population, cross-jurisdictional comparisons are inappropriate. The number of incidents must be divided by number of prisoners to obtain a rate per individual; only then can the jurisdictional data be compared.

Some interesting anomalies can be found in reviewing the frequency tables provided by CJI (2002). In the 2001 volume of the *Corrections Yearbook*, the Alaska prison system reported 44 escapes from secure facilities, Kentucky had 69 and Louisiana had 39. All other states and the federal system had four or fewer escapes, with most having none (p. 33). Only two conclusions seem possible from these data. Either Alaska, Kentucky and Louisiana are extremely lax in attending to security and protecting the public, or these three jurisdictions define "escape" very differently from all other jurisdictions.

Similarly, in the same volume, Pennsylvania reported that only 16 assaults on staff were committed by its 36,000 prisoners during 2000; whereas, its neighbor to the west, Ohio, listed a whopping 467 assaults committed on staff by its slightly larger population of 45,000 prisoners. Once again, one is left with two options: either the Pennsylvania prison system is doing an extraordinary job of preventing attacks on staff in comparison to Ohio, or the two departments are counting assaults differently.

The second source of information that can be used for some comparisons of cross-jurisdictional prison performance is the Bureau of Justice Statistics, an entity of the federal government located within the Department of Justice. Every few years, BJS conducts a national survey of individuals incarcerated in state and federal facilities. Since data collection in the BJS survey is not left to individual jurisdictions but is conducted by trained interviewers supervised by agency staff, one can be more confident of cross-jurisdictional comparability than with the CJI information. However, most of the BJS survey information concerns prisoners rather than prison performance. Only a few questions, such as whether an individual has been injured as the result of an attack by another prisoner, whether an individual self-identifying as having a mental health or drug and alcohol problem is receiving treatment, and whether the respondent is participating in a prison program, can provide a basis for comparing outcomes across jurisdictions. Unlike the *Corrections Yearbook*, where information is nicely summarized annually across jurisdictions, one would have to examine spreadsheets containing the data to assess how departments are doing using the BJS data.

Since these are the only significant and regularly collected cross-jurisdictional data, and given

their limitations, the opportunity for comparing performance among prisons or prison systems is extremely limited. Yet, compelling reasons exist for seeking a cross-jurisdictional assessment of performance. One reason is to clear up confusion that arises from inappropriate comparisons. All prison systems collect information about performance. Unfortunately, little uniformity exists in defining measures and collecting information. While comparisons among prison systems should not be made, reporters, legislators and budget analysts regularly attempt to do so. This practice can lead to erroneous conclusions. Second, while the control and punishment of criminal behavior is clearly delegated to be a state function, this does not preclude the establishment of a set of clearly articulated values about what constitutes quality incarceration by correctional professionals. National performance standards would establish objective norms against which agencies could measure their performance. Third, the nation's prison systems vary considerably with respect to practices, resources and management. A national performance measurement system would allow for cross-jurisdictional assessments of best and most efficient practices. Fourth, performance measurement recognizes good practice and identifies agencies that need improvement. As such, a national reporting system would support quality improvement and encourage jurisdictions to consider how they should perform in the future. And, finally, the establishment of a national system and the request that all state agencies participate would encourage jurisdictions to begin developing the infrastructure for performance-based management.

Recognizing these needs, the Association of State Correctional Administrators (ASCA), the national professional organization of chief executive officers of the nation's prison systems, set as its highest priority the development of a national performance measurement system. ASCA's interest in performance measurement dates back to the mid-1990s, when it began to work with the Urban Institute to determine the availability and use of common data elements among departments of corrections. In a national survey of state and federal prison agencies, the Urban Institute found that jurisdictions varied considerably in the degree to which they collected various data elements and the extent to which those data were available electronically. Importantly, departments do not collect the information in exactly the same manner (Urban Institute, 1998: 98).

ASCA set about designing a national performance measurement system in August 1999, when its Executive Committee endorsed a resolution to create a subcommittee to develop measures that correctional departments could use to track, compare and assess progress toward meeting identified objectives. Over the next two years, that subcommittee worked to develop an initial performance measurement model. The group identified eight standards of correctional performance that represent the most important elements of institutional correctional processes and selected four of those eight standards for further specification. The subcommittee then chose indicators for each of the four standards, each sufficiently detailed and comprehensive to capture the crucial aspects of the over-reaching area of correctional performance. The final task in developing the performance measurement model was the specification of definitional rules for measuring each indicator that would be sufficiently detailed to assure comparability across jurisdictions; that would account for important cross-jurisdictional differences in mission, legal structures and organizational arrangements; and that would produce information applicable across jurisdictions. If jurisdictions follow these rules, then data will be reliable and valid. The problems noted above with the CJI data will be avoided.

A total of 43 indicators for the four performance standards comprise the ASCA model. Because of the detail of the counting rules, the fully specified model is lengthy. (A copy can be obtained from the ASCA headquarters.) Each indicator is expressed as a rate per population unit. Rates are necessary so that outcomes can be compared across jurisdictions. If actual occurrences were simply counted without converting them into rates, large states would generally show higher frequencies than smaller agencies.

I describe one indicator here to illustrate the specification contained in the measurement definitions. That measure is prisoner assaults on staff. Any one of several indicators could have been chosen for prisoner assaults on staff, but the subcommittee selected the following definition:

Number of staff injured as a result of direct, willful and physical attacks by prisoners that required treatment by a medical professional during the calendar year adjusted for the number of prisoners held by the agency on June 30 and reported as a rate per 1,000.

Stock population on June 30 is used as a proxy for average daily population as it is an easier measure for prison systems to measure.

For the numerator, one must consider whether all aggressive acts toward staff are to be counted or only those involving injury and weapons use. If the latter definition is used, what constitutes a weapon? Should the throwing of body fluids be included? What is an injury—a cut or bruise or more serious medical issues that require the attention of a health care professional? Who is included as a staff member—any civilian in the facility, including volunteers, student interns, repair personnel representing a private vendor, contract workers, etc., or only paid employees of the department of corrections? Counting rules are specified to address these issues. The rules selected for the numerator of prisoner-on-staff assaults are as follows:

1. A staff member is defined as an individual who is employed by the DOC or facility on a full-time, part-time, or contractual basis, and/or other individuals performing correctional services, e.g., volunteers or interns. Civilians who are attacked, but are not paid staff should not be counted. These individuals might include visitors, truck drivers, service personnel repairing equipment in the facility and construction workers employed by contractors who have projects within the facility.
2. A single incident may have more than one victim; count the number of victims.
3. Count all injuries that require medical attention and treatment.
4. The fact that an assault has taken place does not have to be substantiated by the disciplinary process; however, there must be sufficient evidence that the injury resulted from an attack and not an accident.
5. To be counted, the assailant must be incarcerated.
6. Do not include prisoners housed in other states or held in privately run facilities.
7. In the unified system, if the assailant is known, to be counted that individual must be convicted of a crime and serving sentence greater than one year.

The selection of these particular rules was somewhat arbitrary. For example, in the definition of staff, contract workers could have been included. What is important is that an agreed upon plan for data collection has been specified. If departments of correction collect information as specified, then the outcome measures will be comparable across jurisdictions.

With this model, ASCA now possesses the basic structure to proceed with the development of a national performance measurement system. For ASCA to continue its endeavor, it must engage in two additional tasks. The Association must acquire a data platform into which departments can begin to report performance data. Simultaneously, ASCA must support the development of capacity within correctional agencies to participate in a national reporting system. Development of capacity involves building the infrastructure that will allow for continuous performance monitoring.

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Capacity

Historically, correctional agencies developed information systems to support operational

activities. Early on, all information was maintained in paper files. With computerization, agencies began to capture some of the information contained in written records and automate it. For the most part, these data files were developed and designed to support operational decision-making, so they tended to be specific and functional.

Most departments of corrections maintain several record systems, each associated with a specific functional area. Departments keep records on prisoners, including demographics, offense history, current offense, sentence, and perhaps, information about substance abuse, education, mental health and so forth. Departments automate some but not all of this information. Agencies also keep information about significant events that occur in the day-to-day operations of prisons. When a significant event occurs—an assault, for example—staff members write a report or series of reports describing the event. Many systems have designed forms for recording the information that is then automated. Departments of corrections also record information about staff. These data are often maintained by human resources personnel and vary in the degree to which they are automated. Prison medical units record information about the physical and mental health of prisoners as well as information about substance abuse and the treatment that prisoners undergo.

The most frequent use of prison records is in day-to-day decision making. Personnel considering transferring a prisoner may review his or her records to determine time served or time-remaining, program needs or history of disruptive behavior while incarcerated. Because different functional areas are involved in creating and collecting information about prisoners, prisons' automated information systems tend to draw from these different data sources to create an integrated data record for each prisoner.

Another use of prison records is in report writing. Here, rather than focusing on an individual, assessments are conducted on aggregate populations. Prison administrators may be interested in the number of prisoner-on-prisoner assaults that occur each month. A lawsuit could generate a need to know the percentage of the prison population receiving some form of substance abuse treatment. Here, individual data must be scanned and aggregate patterns tallied.

As an organization moves from operational- oriented management to strategic- and performance-based management, the need for information to support decision making increases. The same is true if the agency decides to participate in a national performance indicator system. A department must enhance its distinctive operational databases—prisoner information, disciplinary records, personnel data, medical records, etc.—to create integrated data systems that can be queried to support decision making. In particular, integrated systems that allow for performance monitoring must be designed.

The capacity of a department to participate in a national performance measurement system is directly linked to the development of its data systems. Departments that have integrated, performance-based information systems can begin to participate and report in a national system rather quickly and with minimal staff time and expense. Departments that still employ operational databases will find such participation more difficult. The ability to query databases and report on performance is referred to as *capacity*. Capacity to participate in a national performance measurement system is determined by the data collected, the automation of those data, and the ability to query the information to obtain measures of indicators of performance.

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Purpose of Assessment

The topics contained within the ASCA model represent performance issues that prison executives consider to be among the most important aspects of managing prisons well. For this reason, one would expect most departments of correction to collect most of the information included in the model. However, ASCA decided to pursue a national reporting system because different prison systems collect data in very dissimilar ways, using unique definitions and data collection rules. For that reason, cross-jurisdictional comparisons are inappropriate and not valid.

The purpose of this assessment was to determine to what extent the Nation's departments of corrections are prepared to participate in a national performance measurement reporting program. In conducting this assessment, I used the ASCA model with its own unique set of definitions and counting rules. However, I suspect that the findings would be the same whatever the model is.

It was expected that most departments of correction would use some but not all the counting rules for most indicators. Some systems might also employ rules that were not specified in the ASCA model. In other cases, agencies could measure an indicator completely different from the way it is specified as an ASCA indicator. For example, some state prison agencies use an incident-based measure of prisoner-on-prisoner assaults rather than definitions consisting of numbers of assailants and victims as selected by ASCA.

After determining the extent to which an agency measures a particular indicator using the counting rules, the next concern was to determine what would be required to collect the information as it has been specified. It was expected that for some indicators, a department might need only to make minor changes that involve minimal staff time and expense. The information necessary to report rates as specified could already be collected, and staff would need only to write computer code to capture and report the information as desired. In other cases, beginning to collect the data could pose a major task for an agency requiring a policy change, considerable expensive data collection, and the retraining of operational staff as to the value and utility of the information.

Because any national reporting system that is eventually designed and implemented will require the input of automated data, the third topic examined in this assessment was the extent to which information regarding each key indicator is automated. If the data are collected, but not available in a machine-readable format, then the assessment needed to determine what was required to automate the data for a prison agency.

The assessment of prison agencies' capacity to participate in a national performance measurement system, thus, proceeded with three questions:

1. Does the department collect the information on a key indicator as specified by the definitions and counting rules?
2. If not, what would be involved in beginning to collect the information as defined and specified?
3. Are the data automated? If not, what would be involved in automating the information?

These three questions needed to be answered for each key indicator contained in ASCA performance measures model. The following sections describe the methodology used for this task and the findings of the assessment.

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Methodology

Procedure: Because of the level of detail necessary about how data are collected and which, if any, of the counting rules are applied in obtaining the information, written questionnaires were inadequate for this task. Rather, interviews were conducted with those intimately knowledgeable about the separate departments' information systems. These interviews were conducted by telephone by two researchers working with the ASCA Subcommittee.

Respondents received a copy of the model via e-mail and were told that a member of the project team would contact them. During an initial e-mail and/or telephone contact, the assessment was explained, a time for an interview was scheduled, and respondents were told that they would be asked the three questions outlined above for each data element.

At the time of the survey, 52 distinctive data elements comprised the model (several elements

were revised based upon information obtained from the survey). Interviews generally lasted approximately one hour but ranged from 35 minutes to 2 hours. During the course of the telephone sessions, respondents were asked the three questions listed above for each of the 52 data elements. The respondents' answers were recorded on data sheets.

Sample. A census of all state prison systems and the federal prison system was initially thought to be necessary to determine capacity among the Nation's prison departments to participate in a performance measurement program. All ASCA members (with the exception of city and foreign departments of corrections) were contacted and asked to nominate an individual to participate in the assessment. As nominations came in, nominated individuals were contacted to arrange an interview. Because of the breadth of the ASCA model, some departments had representatives from different functional units present during the interviews. Respondents included research, information technology, and/or planning staff.

After 17 interviews were completed, response patterns were being repeated by new interviewees with little new information about capacity being obtained. The subcommittee decided that data from all jurisdictions were not required. The group, however, saw value in including a few additional states in specific geographic locations and with specific characteristics to assure that those surveyed represented the array of departments across the nation. Personnel from seven additional agencies were interviewed, resulting in a total sample of 24 departments.

Analyses. The interviews produced a wealth of rich detail regarding prison systems' data collection practices and information technology systems. Two techniques were employed to synthesize this information to gain an overall perspective of capacity. First, a coding system was developed to summarize response patterns. For each data element, respondents' answers were classified into four categories: 1) collecting as specified, 2) collecting but recoding needed, 3) collecting but not automated, and 4) not collecting. The individual who conducted the interview assigned the data elements into one of the four categories. To ensure reliability of these data, the classifications were emailed back to respondents, and they were asked to confirm that the representation was accurate.

The second set of analyses involved qualitative assessments. The two people who conducted the telephone interviews reviewed field notes looking for patterns as to the ability of departments to provide the desired performance information. Each reviewer worked independently and then the two compared their assessments to assess and enhance reliability of their evaluations.

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Results

Quantitative Assessment. The summary results of the telephone surveys are provided in [Table 1](#). By scanning the first column of results, Collecting as Specified, one can determine to what extent the Nation's departments of corrections are currently prepared to participate in a national reporting system if it were implemented today. Recall that all key indicators have both a numerator and denominator. The numerator contains substantive information about the topical area of the indicator (e.g., number of escapes from secure facilities), and the denominator includes information that adjusts for population size (e.g., number of prisoners held in secure facilities). A quick scan of the "Collecting as Specified" column reveals that agencies are collecting data about the denominators (i.e., information about the prisoner population). Still, even here, 20 percent of the departments, could not provide information about basic characteristics of their prisoner populations.

Regarding the numerators, the actual substantive information of interest, the findings are far less encouraging. For a few indicators, almost half the departments are collecting information as specified (i.e., 46 percent for escapes from within secure facilities and 38 percent for prisoner-on-staff homicides). But, for many other indicators, the percentage of departments collecting the information as specified is extremely low. Only 17 percent of the departments currently use the same definition of prisoner-on-prisoner attacks as the ASCA model. Only 8 percent of the

systems can report, as specified, when a prisoner has sexually attacked a staff member. Likewise, only 8 percent can report major disturbances that occur each year as it has been defined.

Reviewing the percentages of departments that can provide information regarding the various key indicators provides a partial explanation of capacity. One also needs to examine how many departments cannot provide information as specified. The last two columns, Collecting Not Automated and Not Collecting, identify departments that will require substantial time and effort to begin measuring performance as it is defined by the ASCA model. By adding the percentage of the two columns together, one obtains an indication of how many departments will require considerable effort to begin reporting.

For the first standard, Public Safety, about 20 to 25 percent of the prison systems have no automated information on the key indicators or are not collecting the information currently. For example, 21 percent of the agencies fall into these categories for escapes from within secure facilities, 25 percent for escapes from outside secure facilities and 21 percent for returns to prison for a new conviction.

However, the second standard—Institutional Safety—is where one observes considerable under-capacity to participate in a reporting system. Approximately half of the departments lack automated data or do not collect information about:

1. Victims of Prisoner-on-Prisoner Assaults,
2. Prisoner-on-Staff Assaults,
3. Prisoner-on-Prisoner Sexual Assaults,
4. Prisoner-on-Staff Sexual Assaults,
5. Staff Sexual Misconduct,
6. Staff Homicides, and
7. Disturbances.

Few departments collect and automate information about the number of hours of substance abuse and mental health treatment and assessment provided by staff as originally specified in Standard III. As noted above, this finding was one of the motivating factors behind the development of new indicators for this standard.

A noticeably different situation regarding departments' capacity emerges when reviewing the last two columns of [Table 1](#) for Contextual Information. Only one department reported that it does not collect these data currently.

The final column of [Table 1](#) includes departments that are collecting the information outlined in the key indicator, but would require additional computer programming to report the information as specified. Approximately one third of the departments fall into this category. In some cases, the recoding effort would involve minimal staff time and effort and could be easily accomplished, while in other cases, substantial work would be required for a state to begin to provide the information as specified.

Qualitative Assessments. A distinction can be made between departments with and without integrated, performance-based systems. This survey of correctional departments' abilities to report key indicators found that integrated systems are able to begin participating in a national reporting system relatively quickly and easily. Since the ASCA model identifies what correctional executive administrators view as the most important elements of prison practice, departments with their own performance measurement models generally include the same standards and indicators. There may be definitional differences between the ASCA model and the departments' models, but because these agencies have developed integrated information systems, only minor modifications will be needed to measure the indicators as specified. Based upon the interviews conducted in this assessment, it appears that about 20 to 25 percent of the departments have integrated, performance-based information systems.

For the remaining departments, whose information systems were not fully integrated,

participation in a reporting system varies across the indicators. Most systems have relatively well-developed databases for prisoner records. Consequently, they can provide information about the denominators of the key indicators—prisoner population on a particular day, segments of the prisoner population on a particular day (i.e., male prisoners, female prisoners), and prisoner population housed in secure facilities on a particular day. Departments can also provide information about the characteristics of the prisoner population, or the information detailed in the contextual information key indicators.

To "level the playing field" across correctional systems, the counting rules specify that unified systems, departments that house non-convicted individuals and misdemeanants, should only include data for felons serving one year or longer. (Non-unified systems should include data on all convicted felons.) Many of the unified systems report that segmenting the population according to this criterion would be complicated and problematic. Many offenders have multiple and complex sentences that make such computation extremely difficult if not impossible. Consequently, many unified systems are not able to provide data even for the prisoner population and characteristics indicators.

Departments with non-integrated data systems face the greatest difficulty with the substantive areas specified in Standards II and III, institutional safety and substance abuse and mental health. Almost all departments keep track of the numbers of prisoner and staff homicides, prisoner suicides and results of drug testing. Beyond these measures, departments with non-integrated data systems will struggle. Most departments maintain incident-based records of significant events. These databases cannot be queried to produce information as it has been specified regarding prisoner-on-prisoner and prisoner-on-staff assaults, sexual assaults, or disturbances. Their automated records lack the necessary detail to respond to the definitions and counting rules of the ASCA key indicators. Beginning to collect and record the information would require most departments to make significant modifications in how they take information from incident reports. Data collection instruments and/or computer screens would need to be redesigned. Operational staff would have to be trained to record the new information. And, databases would have to be reformed to include new information fields. For most departments, these changes would be substantial.

Any of the indicators involving information about staff—prisoner-on-staff assaults, sexual assaults of staff and staff sexual misconduct—would also pose a significant challenge for most departments. Among the departments with operational data systems, staff records tend to be maintained by human resources. The information is not available in a form that allows for the specifications regarding staff victimization and behavior in the ASCA model. A department may be able to determine from its prisoner records that a staff member was victimized, but often will not be able to identify the gender of the staff member.

As described in the quantitative section above, the original indicators developed for the substance abuse and mental health standard proved problematic and were re-specified. Even with the changes, information regarding substance abuse and mental health treatment tends to be recorded and maintained by the health services unit of the department of corrections. Few departments have automated this information. Furthermore, health records currently used would be extremely difficult to automate as information is kept in traditional hospital-type files (jackets). Most departments would have to design a completely new record-keeping system to produce the information outlined in the ASCA model.

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Conclusions

This survey found that almost all prison systems possess the capacity to measure and report on the aggregate prisoner population under supervision and individual characteristics of that population. Most prison agencies collect information on escapes, homicides and suicides. Beyond these measures, a significant disparity exists among departments regarding their capacity to measure and report on all other indicators.

Departments can be divided into two general groups. Approximately 20 to 25 percent of the Nation's prison agencies have strategic management systems that combine traditional operational databases to create integrated information systems to monitor performance. These departments are positioned to begin participating fully in a national reporting system. They may need to make minor changes in how information is collected and retrieved, as well as writing new computer code to compile information exactly as it is specified by the key indicators and their counting rules.

The one exception to the above conclusion is in the area of substance abuse and mental health measurement. Because the records are collected by health units of prison systems, even the integrated information systems often lack detailed information to respond to the ASCA indicators in this area.

The remaining 75 to 80 percent of the Nation's departments of corrections, beyond the measures identified above, have more limited capacity to measure and report on the remaining ASCA key indicators. Automated disciplinary records are incident-based and lack detail about weapons used, injuries sustained, and victims. Agencies are unable to co-mingle staff data with prisoner information. Departments simply do not record information about disturbances in the detail necessary to count and report incidents as specified. To a large extent, the reason for the lack of capacity is that departments still maintain separate operational databases. For some systems, the only prisoner records are automated; disciplinary, staff and medical records are not automated.

Respondents had an interesting reaction to the survey. Even though they were told that the study was intended to assess capacity to report on the ASCA indicators, many were concerned that they would have to begin reporting in the near future. They were trying to figure out how they could produce the information. This response could pose a potential problem in how data are produced. If departments simply pass responsibility off to middle-level central office staff, they likely will approach the task of data production as a discrete problem to be solved, whereas ASCA's goal is to advance performance-based management. Furthermore, a discrete problem orientation may not produce information about the key indicators that is reliable, valid and adheres to the definitions and counting rules specified. If this were to occur, the new performance monitoring system would suffer the exact same problems as exist with the *Corrections Yearbook*.

Capacity development involves more than convincing directors to participate in a national performance measurement system. Strategic management includes analyzing current conditions within the organization and its environment, evaluating alternative courses of action, devising strategies for performance improvement, taking risks, being creative and sustaining a continuous process that accumulates experience and redirects practice and decision making in light of future goals. Development of the agency's capacity to utilize a performance measurement system will be an important part of transforming an organization from a rule-based to a results-based management practice. The change from an operations-oriented to a strategic-oriented organization is a lengthy, expensive and staff-intensive effort.

If ASCA's goal is to advance the commitment of adult institutional corrections to performance-based management, it must invest in the appreciation for and commitment to the philosophy and practice. This is much broader than a willingness to participate in a particular reporting system. Directors in general and particularly new directors can be introduced to the topic at ASCA meetings. However, significant advancement will only occur if experienced correctional executives who have led their agencies through such transformations assist officials from other agencies considering and willing to undertake such change.

As an agency undertakes performance-based management, it will necessarily need to integrate its operational information systems and to create a management information system. Most prisoner record systems tend to be adequate, but considerable development work is needed in other areas. Critical incident databases need to be enhanced to include more detail about the perpetrators, victims, weapons, and injuries sustained. Disciplinary information, often not contained in a database, must be coded and linked back to significant events. Staff data must be linked to

prisoner data. And finally, health records across systems must be evolved into performance-measures databases. Substantial investments in hardware and software are required to accomplish these tasks. Obtaining or reallocating state resources for these investments may be difficult for some agencies given the current revenue problems faced by most states. Thus, alternate sources of funds are essential. Equally important is the training of staff at all levels within the organization to use performance data and analysis for decision-making. Considerable planning is required if this action is to be successful.

Once an agency is able to produce performance data that are used internally to improve correctional practice, then it is ready to begin participating in a national reporting performance measurement system.

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TABLE 1:
Summary Results from Telephone Survey Regarding the Collection and Automation of Key Indicators Spring–Summer, 2002

Number	Measure	Collecting						Not Collecting	
		As Specified		Needs Recodes		Not Automated		Number	Percent
		Number	Percent	Number	Percent	Number	Percent		
I.1.a.1.num	Number of individuals in direct custody of the agency and housed in secure facilities who escaped from within the facility during the calendar year.	11	44%	11	44%	3	12%	0	0%
I.1.a.1.den	Number of individuals in direct custody of the agency and housed in secure facilities on June 30.	19	76%	5	20%	1	4%	0	0%
I.1.a.2.num	Number of individuals in direct custody of the agency and housed in secure private facilities who escaped from within the facility during the calendar year.	6	24%	5	20%	4	16%	1	4%
I.1.a.2.den	Number of individuals in direct custody of the agency and housed in secure facilities on June 30.	11	44%	5	20%	1	4%	0	0%
I.1.b.1.num	Number of individuals in direct custody of the agency and housed in secure facilities who escaped from supervision while outside the secure perimeter of a facility (including while on work details, medical or court).	9	36%	9	36%	6	24%	1	4%
I.2.a.num	Number of individuals released from the DOC during a calendar yr. who have returned to the DOC prison system within three subsequent years after release on new felony-level conviction.	11	44%	9	36%	1	4%	4	16%
I.2.a.den	Number of individuals released during the calendar year.	17	68%	7	28%	1	4%	0	0%
I.2.b.num	Number of individuals released from the DOC during a calendar year who have returned to the DOC prison system within three subsequent years after release for a technical violation.	14	56%	6	24%	1	4%	3	12%
II.1.a.num	Number of assailants in prisoner-on-prisoner attacks committed with a weapon and/or with serious injury during the calendar year.	6	24%	12	48%	3	12%	4	16%
II.1.a.den	Number of prisoners held by the agency on June 30.	7	28%	3	12%	1	4%	1	4%
II.1.b.num	Number of victims of prisoner-on-prisoner attacks committed with a weapon and/or with serious injury during the calendar year.	4	16%	6	24%	6	24%	9	36%
II.2.a.num	Number of staff injured as a result of direct, willful and physical attacks by prisoners that require treatment by a medical professional during the calendar year.	6	24%	7	28%	7	28%	5	20%
II.3.a.num	Number of incidents of non-consensual sexual acts or threats of forcible sexual acts in which the victim is a male prisoner during the calendar year.	6	24%	8	32%	2	8%	9	36%
II.3.a.den	Number of male prisoners held by agency on June 30.	21	84%	2	8%	2	8%	0	0%
II.3.b.num	Number of incidents of non-consensual sexual acts or threats of forcible sexual acts in which the victim is a female prisoner during the calendar year.	8	32%	8	32%	1	4%	8	32%
II.3.b.den	Number of female prisoners held by agency on June 30.	21	84%	2	8%	2	8%	0	0%
II.4.a.1.num	Number of incidents of forcible sexual acts or threats of forcible sexual acts perpetrated on male staff by male prisoners during the calendar year.	2	8%	10	40%	6	24%	7	28%
II.4.a.2.num	Number of incidents of forcible sexual acts or threats of forcible sexual acts perpetrated on male staff by female prisoners during the calendar year.	3	12%	9	36%	6	24%	7	28%
II.4.b.1.num	Number of incidents of forcible sexual acts or threats of forcible sexual acts perpetrated on female staff by male prisoners during the calendar year.	2	8%	10	40%	6	24%	7	28%
II.4.b.2.num	Number of incidents of forcible sexual acts or threats of forcible sexual acts perpetrated on female staff by female prisoners during the calendar year.	3	12%	9	36%	6	24%	7	28%
II.5.a.1.num	Number of incidents of sexual misconduct by male staff members with male prisoners during calendar year.	2	8%	7	28%	9	36%	6	24%
II.5.a.1.den	Number of male staff working in facilities housing male prisoners on June 30.	14	56%	6	24%	3	12%	1	4%
II.5.a.2.num	Number of incidents of sexual misconduct by male staff members with female prisoners during the calendar year.	3	12%	6	24%	9	36%	6	24%
II.5.a.2.den	Number of male staff working in facilities housing female prisoners on June 30.	14	56%	6	24%	3	12%	1	4%
II.5.b.1.num	Number of incidents of sexual misconduct by female staff members with male prisoners during the calendar year.	3	12%	6	24%	9	36%	6	24%
II.5.b.1.den	Number of female staff working in facilities housing male prisoners on June 30.	14	56%	6	24%	3	12%	1	4%
II.5.b.2.num	Number of incidents of sexual misconduct by female staff with female prisoners during calendar year.	3	12%	6	24%	9	36%	6	24%
II.5.b.2.den	Number of female staff working in facilities housing female prisoners on June 30.	14	56%	5	20%	3	12%	0	0%
II.6.a.num	Number of prisoner victims of homicides committed by other prisoners during the calendar year.	16	64%	3	12%	4	16%	2	8%

TABLE 1: (Continued)
Summary Results from Telephone Survey Regarding the Collection and Automation of Key Indicators Spring–Summer, 2002

Number	Measure	Collecting						Not Collecting	
		As Specified		Needs Recodes		Not Automated		Number	Percent
		Number	Percent	Number	Percent	Number	Percent		
II.7.a.num	Number of staff victims of homicides committed by prisoners during the calendar year.	10	40%	5	20%	6	24%	4	16%
II.8.a.num	Number prisoners who commit suicide during cal. yr.	20	80%	2	8%	2	8%	1	4%
II.9.a.num	Number of prisoners tested in random drug screenings who receive a positive indication for cocaine, opiates and/or marijuana during calendar year.	15	60%	2	8%	3	12%	5	20%
II.9.a.den	Number of random drug screenings conducted during calendar year.	17	68%	1	4%	3	12%	3	12%
II.10.a.num	Number of incidents of collective action by ten or more prisoners that result in serious injury to staff or other prisoners, significant property damage and/or result in loss of control of the facility or a portion of the facility and require extraordinary measures to regain control during calendar year.	2	8%	10	40%	9	36%	4	16%
II.10.b.num	Number of incidents of collective action by five or more but less than 10 prisoners that result in loss of control of the facility or a portion of the facility and require extraordinary measures to regain control during calendar year.	3	12%	9	36%	9	36%	4	16%
III.1.a.num	Number of staff hours of assessment and treatment provided by substance abuse professionals (psychologists, social workers, and trained and certified substance abuse counselors) to prisoners.	1	4%	5	20%	2	8%	17	68%
III.1.b.num	Number of staff hours of assessment and treatment provided by substance abuse professionals (psychologists, social workers, and trained and certified substance abuse counselors) to prisoners.	0	0%	3	12%	1	4%	21	84%
III.2.a.num	Number of staff hours of assessment and treatment provided by psychiatrists to prisoners.	0	0%	2	8%	2	8%	21	84%
III.2.b.num	Number of staff hours of assessment and treatment provided by Ph.D. psychologists to prisoners.	0	0%	2	8%	2	8%	21	84%
III.2.c.num	Number of staff hours of assessment and treatment provided by masters-level psychologists to prisoners.	0	0%	2	8%	2	8%	21	84%
III.2.d.num	Number of staff hours of assessment and treatment provided by social workers to prisoners.	0	0%	2	8%	2	8%	21	84%
III.2.e.num	Number of staff hours of assessment and treatment provided by other mental health professionals to prisoners.	1	4%	2	8%	2	8%	20	80%
III.2.f.num	Number of psychiatric beds on June 30.	11	44%	2	8%	8	32%	3	12%
III.2.g.num	Number of psychiatric placements of prisoners in non-DOC facilities on June 30.	3	12%	1	4%	4	16%	4	16%
IV.1.a.num	Number of prisoners incarcerated for 1) a new court commitment, 2) a post-custody violation with a new sentence and 3) a post-custody violation with no new sentence on June 30.	14	56%	11	44%	0	0%	0	0%
IV.2.a.num	Number of prisoners serving a sentence for a Part I violent crime, other violent crime, property crime, drug offense, other public order offense or other crime on June 30.	8	32%	17	68%	0	0%	0	0%
IV.3.a.num	Demographics of the prisoner population on June 30 by gender, age category and race/ethnicity adjusted for the number of prisoners held by the agency on June 30.	11	44%	14	56%	0	0%	0	0%
IV.4.a.num	Number of prisoners serving sentences of less than one year, 1 to 3 years, 3-5 years, 5-10 years, 10-20 years, more than 20 years, life with parole, life without parole and death on June 30.	13	52%	11	44%	0	0%	1	4%
IV.5.a.1.num	Number of prisoners who are incarcerated for a violation who have served less than one year, 1 to 3 years, 3-5 years, 5-10 years, 10-20 years, more than 20 years on June 30 adjusted.	10	40%	13	52%	0	0%	1	4%
IV.5.a.1.den	Number of prisoners incarcerated for a violation held by the agency on June 30 and reported as a percent.	12	48%	11	44%	0	0%	1	4%
IV.5.a.2.num	Number of prisoners who are incarcerated for a new offense (new admission) who have served less than one year, 1 to 3 years, 3-5 years, 5-10 years, 10-20 years, more than 20 years on June 30 adjusted.	10	40%	13	52%	0	0%	1	4%
IV.5.a.2.den	Number of prisoners incarcerated for a new offense (new admission) held by the agency on June 30 and reported as a percentage.	13	52%	9	36%	1	4%	1	4%

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Assessing Customer Service Satisfaction with U. S. Pretrial Services, District of Nebraska

[References](#)

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THE PURPOSE OF this survey study was to examine customers' attitudes toward the services provided by the United States Pretrial Services Office for the District of Nebraska. This office was established as a separate agency from the U.S. Probation Office in July 1992. Its primary mission is to "preserve the presumption of innocence, while ensuring the protection of the community" (Connor, 2000). The services provided by U.S. Pretrial Services are diverse and its mission is to serve multiple customers, including judges, U.S. Marshals, United States and defense attorneys, U.S. Probation, alcohol and drug treatment staff, and defendants. Although the agency has existed for eight years, this was the first time clients' satisfaction and quality of services were formally assessed.

An extensive review of the literature indicated that assessment of client satisfaction with U.S. Pretrial Services agencies had either not been formally conducted, or not been published. This study contributes to the existing literature by addressing that deficiency. It is unique for several reasons. First, it provides a model for formal survey assessment of quality of services and client satisfaction that does not currently exist. Second, it assesses multiple clients' attitudes toward the services provided by U.S. Pretrial Services. Seven separate surveys were developed to assess the types of services provided to each client group. Third, an independent research consultant was used to administer the surveys and analyze the results. To ensure respondent anonymity, U.S. Pretrial Services staff did not have access to the raw data.

This study should benefit not only to the U.S. Pretrial Services Office in the District of Nebraska but other agencies interested in assessing quality of services and client satisfaction. In addition, the Federal Judicial Center may use the findings of this study to target training needs within the U.S. Courts.

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Methods

The research method used to conduct this study was a cross-sectional, descriptive survey. Survey methodology was particularly appropriate for this study because of its focus on assessing clients' attitudes about the services provided by the U.S. Pretrial Services office. It provided an opportunity for clients to assess the quality of U.S. Pretrial Services anonymously.

The sample for this study was seven customer groups served by the Lincoln and Omaha U.S. Pretrial Services offices, including judges, defense attorneys, U.S. attorneys, U.S. marshals, U.S. probation officers, drug and alcohol treatment center staff, and past and current defendants. Multiple sampling strategies were used to identify potential respondents. Census sampling was used to select judges, U.S. attorneys, U.S. marshals, and U.S. probation officers. All individuals in these groups were surveyed because of the small number in each of these four client groups. Since the population of defense attorneys was larger, they were selected using systematic random sampling so the number of participants equaled the number of prosecuting attorneys. Treatment staff were selected purposefully, by identifying staff members who regularly worked with U.S. Pretrial Services staff and could most accurately assess the services provided by the U.S. Pretrial Services office. The sampling frames used for these six client groups were current rosters maintained by the U.S. Pretrial Services office. Defendants were selected using systematic random sampling from a list of individuals who had worked with U.S. Pretrial Services staff in the last three years. The sampling frame used to identify defendants was the PACTS database system (Probation Pretrial Services Automated Case Tracking System). The original sample size for all seven client groups was 254; however, due to the difficulty in obtaining current addresses for defendants, 44 surveys were returned "undeliverable." This reduced the total sample size to 210. Of those 210, 125 usable surveys were returned for a 59.5 percent response rate. [Table 1](#) identifies the number of surveys mailed and responses by client group.

Seven separate surveys were designed to rate the services provided by the U.S. Pretrial Services office specific to each client group. The survey items were designed by U.S. Pretrial Services staff, with the assistance of an independent research consultant. The surveys had between 18 and 28 items. Surveys for all seven client groups had five common demographic questions. There were also nine common items on all seven client group surveys. Surveys for each of the seven client groups were specifically tailored to assess the types of services provided to each group. The surveys had between four and fourteen items specific to each client group.

The most common response set on the surveys was a five-point Likert scale (*strongly agree, agree, neither agree nor disagree, disagree, strongly disagree*). In some cases, respondents were asked to rate the quality of services using a different scale (*excellent, good, average, below average, poor*) or assess a "report card" grade for the services provided by the U.S. Pretrial Services office (A–F).

The surveys were mailed to respondents on August 13, 1999. A cover letter from the research consultant prefaced the survey, explaining the importance of the study, the need for respondents' assistance, confidentiality issues, and the logistics of filling out and returning the survey. The surveys were mailed by the research consultant and returned to the research consultant. The response rate for the first mailing was 34.8 percent. A second survey and revised cover letter was mailed to non-respondents on September 3, 1999. The total response rate after two mailings was 59.5 percent.

Data were analyzed using basic, descriptive statistics, including frequencies, percentages, measures of central tendency (mean score) and measures of variability (standard deviation). Data were analyzed using the Statistical Package for the Social Sciences (SPSS) software. An independent consultant analyzed the data within client groups and across client groups.

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Results

Common Items

Nine common items were assessed by all seven customer groups. The items assessed basic services provided by U.S. Pretrial Services and customers' overall satisfaction with the agency. The item that was rated highest was staff professionalism (mean = 1.55) and the item that was rated lowest was objectivity with defendants (mean = 2.14). Seven of the items used a 5-point Likert scale (*SA=Strongly Agree, A=Agree, NAD=Neither Agree nor Disagree, D=Disagree, SD=Strongly Disagree*). [Table 2](#) reports the results for these seven items.

Respondents were asked to rate the overall quality of services provided by the U.S. Pretrial Services Office using the following scale: *Excellent, Good, Average, Below Average, Poor*. Forty-six of the respondents (37 percent) rated the services *excellent*, fifty-one (41 percent) rated the services *good*, eleven (9 percent) rated the services *average*, five (4 percent) rated the services *below average*, and eleven (9 percent) rated the services *poor*. Respondents were also asked to assess a letter grade for the services provided (*A=excellent, B=good, C=average, D=below average, F=poor*). Three quarters of the respondents awarded U.S. Pretrial Services a grade of either *A/excellent* (58/46 percent) or *B/good* (36/29 percent). Eleven respondents (9 percent) awarded a *C/average*, six (5 percent) awarded a *D/below average*, and nine (7 percent) awarded an *F/poor*.

Common Items by Individual Client Groups

The data for each specific client group were examined on the nine common items on every survey. The results indicated that overall, clients strongly agreed or agreed with the items and there was little variability across responses. However, of the seven client groups, defense attorneys' responses were slightly less positive than others with the exception of defendants. Defendants responses were consistently lower than the responses of those in the other six client groups, and there was greater variability across defendants' responses. [Table 3](#) identifies the mean score and the standard deviation for the seven common items based on client group.

The overall quality of Pretrial Services was rated the highest by the Judges (*excellent, 1.22/0.44*) and the lowest by the defendants (*average, 2.95/1.48*). The other groups rated the agency's overall quality as *good*. The report card grades assigned by the customer groups were consistent with their overall quality ratings. Judges assigned an *A* (1.11/0.33), defendants assigned a *C* (2.86/1.44) and the remaining groups assigned *B*'s.

Items Tailored to Individual Groups

Judges. Ten items were specifically tailored to assess judges' attitudes about their work with Pretrial Services. Judges' responses to the survey items specifically tailored to them were overall positive. One hundred percent of the judges *strongly agreed* that U.S. Pretrial Services staff were responsive to the courts (mean=1.00) and respectful (mean=1.00). Judges identified room for improvement in Pretrial Services officers' timeliness (mean=1.67) as well as thoroughness (mean=1.44) in reporting to the courts.

U.S. Attorneys. U.S. Attorneys responded to six items specifically tailored to their work with Pretrial Services. U.S. Attorneys *strongly agreed* that Pretrial Services staff were respectful (mean=1.16). The U.S. Attorneys *agreed* with the other five items tailored to them. The U.S. Attorneys indicated that pretrial services officers maintained a neutral position (mean=1.72),

Defense Attorneys. Defense attorneys were also asked to assess six items individually tailored to their work with U.S. Pretrial Services officers. Defense attorneys' responses to survey items that had to do with procedure, professionalism and quality of work were generally positive. The most highly rated item was that Pretrial Services Officers were respectful (mean=1.50). Defense Attorneys were neutral regarding whether Pretrial Services officers made appropriate referrals (mean=2.83) and whether the officers maintained a neutral position with clients (mean=2.83).

U.S. Probation. U.S. Probation staff responded to four items specifically tailored to their group. The most positive rating was on cooperation in sharing information (mean=1.00) and the lowest rating was on Pretrial Services' promptness in responding to their requests (mean=1.75).

U.S. Marshals. Four survey items were specifically tailored to U.S. Marshals. U.S. Marshals *strongly agreed* (mean=1.42) that U.S. Pretrial Services staff were respectful. They *agreed* that U.S. Pretrial Services maintained current demographic information (mean=1.67), that they were timely in sharing information (mean=2.00) and that U.S. Pretrial Services staff were considerate of defendants (mean=2.00).

Drug and Alcohol Treatment Staff. Eight survey items were individually tailored to Drug and Alcohol Treatment Staff. At least two thirds of the drug/alcohol treatment staff *strongly agreed* or *agreed* with all of the survey items tailored to their work with Pretrial Services' work with treatment agencies. All respondents *agreed* or *strongly agreed* that Pretrial Services staff was respectful. On all other individually tailored survey items, drug and alcohol treatment staff *neither agreed nor disagreed*.

Defendants. Defendants responded to eight survey items tailored to their group. Defendants *agreed* that they were treated with dignity (mean=2.38). This was the item they rated the most positively. The mean scores indicated that the defendants were neutral (*neither agreed nor disagreed*) with the other seven items, including being treated fairly (mean=2.71), Pretrial Services providing accurate information (mean=2.62), and being treated as an individual (mean=2.88).

Defendant responses to survey items were more varied than the responses from the other participant groups. The standard deviation on these eight items ranged from 1.08 to 1.47. In general, more than half of the respondents were positive about the services provided by U.S. Pretrial Services, 14 percent to 17 percent were neutral, and approximately 30 percent were negative.

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Discussion

Overwhelmingly, respondents perceived that U.S. Pretrial Services staff conducted themselves in a professional manner. This item had the highest mean score of the seven items assessed by all seven client groups (mean score=1.55). This item also had the smallest standard deviation (0.81), which means there was less variability across responses than on the other six items. The data suggest that professionalism is demonstrated by Pretrial Services staff in their attire, conduct under pressure, and interactions with other professionals as well as defendants. The agency chief 's emphasis on professionalism may contribute to this result. The chief 's emphasis includes discussions on professionalism and a written policy pertaining to appropriate office attire with an emphasis on projecting a professional image.

Defendants, though their scores were lower overall than those of the other client groups, were positive on items that seem to generally reflect the professional attitudes and decorum of the agency. More than half *strongly agreed* or *agreed* they were "treated fairly," were "treated with dignity," received "accurate information," received a "clear explanation of the function of Pretrial Services," and were "treated like an individual."

Defendants were much less positive about items that could have been related to the entire federal case experience and its outcome. Those items include the defendants' attitudes about being treated as "innocent until proven guilty," and feeling that Pretrial Services "helped (them) find a balance between case-related demands and life demands." Fewer than half of the responses to each of those items were rated positively (*strongly agree* or *agree*). Several defendants' comments reflected confusion about U.S. Pretrial Services, as they indicated they thought the U.S. Pretrial Services officer had written the pre-sentence investigation and made a sentencing recommendation, which is a role of a U.S. probation officer. Negative defendant responses could be based on several factors, including highly structured and restrictive release conditions and/or violation proceedings, lack of understanding of Pretrial Services' role in the case versus U.S. Probation's, and/or the Pretrial Services' officer's failure to provide the assistance the defendant needed.

Defense attorneys were consistent in their assessment of both the overall quality of the U.S. Pretrial Services office (*good*) and a report card grade (*B*). Both items had mean scores of 1.83. The three items the defense attorneys rated the lowest were the appropriateness of U.S. Pretrial Services' recommendations (mean=2.67), their objectivity with defendants (mean=2.67), and the appropriateness of referrals (mean=2.17). Interestingly, these were the same three items rated lowest by U.S. attorneys. Although defense attorneys rated those items lower than U.S. attorneys did, this is a general indication that defense attorneys view Pretrial Services' orientation as too restrictive and U.S. attorneys view the agency as not restrictive enough. The mean scores indicated that defense attorneys had a slightly more positive overall perception of the U.S. Pretrial Services office than did U.S. attorneys. Although the mid-point "neutral" was a legitimate response, U.S. attorneys may have also chosen neutral responses because they did not have direct observation of, or exposure to, referrals or interactions between U.S. Pretrial Services and defendants. A "not observed" or "not applicable" option on the survey might have provided a more accurate rating. Selecting the neutral responses lowered the mean score on those items.

Ratings by judges and U.S. attorneys indicated a need for improvement in the timeliness of reporting violations. Timeliness in reporting violations can be affected by the officer's delay in reporting to the judge until he or she receives verification that a violation has occurred (e.g., obtaining citation copies, accessing drug testing forms to be cross referenced with laboratory reports). The agency may want to consider using email to report "apparent violations" and the status of the officer's verification efforts.

Communication was another issue that was assessed. On three of the four survey items for the U.S. Marshal Service, there were a few responses that were *neither agree or disagree*. Those three survey items assessed whether U.S. Pretrial Services maintained current demographic information, were timely in sharing information, and were considerate of the demands on the U.S. Marshal Service. One respondent *disagreed* that U.S. Pretrial Services shared timely information and one *disagreed* that U.S. Pretrial Services was considerate of the demands on the U.S. Marshal Service. Both items address communication between the two agencies. While treatment staff responses were positive overall, it appears that the issue they also most strongly believed needed to be addressed was Pretrial Services' inter-agency communication.

Overall, respondents of all groups *agreed* (mean score 2.14) that U.S. Pretrial Services staff treated defendants objectively. Interestingly, this item had the second smallest standard deviation of all the common items (0.98), indicating less variability on this item than on most items. One might have assumed there would be greater variability, especially between respondents who fit into professional groups versus defendants, but that was not the case.

Neutral to negative responses from all client groups regarding timely assistance may reflect the low number of staff employed relative to the caseload size in this district. At the time this survey was conducted, U.S. Pretrial Services staff was composed of five officers, two support staff and two interns/contractors for a caseload of 563. The numbers of cases require all Pretrial Services staff to have more obligations (e. g., attending court hearings, conducting investigations) outside the office. At times, the office may not have been staffed because all staff members were involved with obligations outside the office.

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Limitations of this Study

Several potential limitations may have influenced this study. It was difficult to locate the current addresses of the defendants. The highest rate of "undeliverable" surveys were returned because defendants were no longer incarcerated or no longer at their last known address. The researchers compensated for this by over-sampling defendants.

The survey was directed only to English-speaking defendants. The names of non-English speaking defendants were removed from the sampling frame, because of their inability to respond to a survey in English.

Those respondents who were selected randomly (i.e., defense attorneys and defendants) most likely had varying degrees of interaction with U.S. Pretrial Services. Though the researchers tried to compensate for this by developing seven different surveys, tailoring each survey to the specific client group, some respondents may have had less exposure to the U.S. Pretrial office's services than others in the same client group.

The survey used Likert-scale items but did not have a response option for "not applicable" or "not observed." In some cases the responses may have been skewed because respondents may have used the midpoint on the scale (neither agree nor disagree) when an item was not applicable or observed. This would have lowered the overall rating on the items where this occurred.

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Recommendations

Based on the results of this study, several recommendations are offered for the target audiences of the study.

For U.S. Pretrial Services–District of Nebraska

1. Develop a mechanism to better educate client groups (especially defendants and treatment providers) about the role of the U.S. Pretrial Services Office, relative to the status of the case and the judicial process. Pamphlets, written in English and Spanish, would be the most economical educational tool; however, a video would also be effective.
2. Address the issue of communication with Spanish-speaking individuals. A limitation of the study was that only English-speaking people were surveyed.
3. Pretrial Services staff need to make in-person community contacts with treatment centers regularly.
4. Pretrial Services staff should participate in ongoing training on current developments of addiction/treatment issues to aid in supervision.

For Pretrial Services Officers

1. Officers should regularly consult with other officers about client cases to ensure objectivity and exploration of all available options for supervision and recommendations.
2. Pretrial Services officers should also communicate, with regularity, with drug and alcohol treatment staff about clients' participation and progress as well as court developments and drug testing results.

For the Federal Judicial Center

1. Continue to emphasize a key training issue, specifically the language barriers that some U.S. Pretrial Services officers face in interacting with Spanish-speaking defendants. The Center could assist officers by offering programs such as interactive computer training program(s) or providing lists of recommended programs or training to officers.
2. Support the creation of an educational mechanism for defendants to assist with their understanding the role of Pretrial Services' within the judicial process.

Recommendations for Future Research

This was an exploratory study designed to assess customer satisfaction with the U.S. Pretrial Services, District of Nebraska. This study could be expanded in several ways, based on the following recommendations:

1. Extend this survey to additional client groups who work with U.S. Pretrial Services, including courtroom deputies and U.S. Marshals' support staff.
2. This type of customer satisfaction survey required a significant time commitment, particularly for analysis and formal composition of the entire assessment tool with results. Agencies considering conducting a similar customer satisfaction assessment should designate staff assigned to the project and designate blocks of time, such as a week at a time, during which those staff members are considered "unavailable" for routine office work to focus on the assessment. Alternatively, agencies should consider hiring an independent research consultant to not only conduct the survey and analyze the data, but also to compile the written report. This alternative will require a significant monetary investment.
3. The U.S. Pretrial Services Office should design customer satisfaction tools that would enable the officers to collect data from non-English speaking and uneducated clients.
4. A broader geographical study of U.S. Pretrial Services across the country would provide a good comparative data base to see how U.S. Pretrial Services offices are perceived throughout the country, and whether there are differences by region. This could have implications for national training and policy.

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TABLE 1*Survey Return by Client Group*

Client Group	Total "n"	Number Returned	Response Rate (%)
Judges	9*	9	100
Defense Attorneys	23	12	52
U.S. Attorneys	21*	19	90
U.S. Marshals	14*	12	86
U.S. Probation	17*	16	94
Treatment Staff	21	15	71
Defendants	105	42	40

*Represents total number in population

TABLE 2*Seven Common Items Across all Client Groups**Mean/Standard Deviation*

Survey Item	N	Strongly Agree	Agree	Neither Agree Nor Disagree	Disagree	Strongly Disagree	Mean	SD
Written Investigations Thorough	125	44/35	53/42	18/14	6/5	4/3	1.98	0.99
Make Appropriate Recommendations	123	33/26	55/44	16/13	13/10	6/5	2.22	1.11
Professionalism	125	75/60	36/29	10 /8	3/2	1/0.8	1.55	0.81
Make Appropriate Referrals	123	41/33	45/36	23/18	8/6	6/5	2.13	1.10
Give Timely Assistance	125	43/34	54/43	15/12	6/5	7/6	2.04	1.08
Objective with Defendants	124	34/27	55/44	21/17	12/10	2/2	2.14	0.98
Overall Satisfaction with PTS	124	57/46	44/35	8/6	6/5	9/7	1.92	1.17

Scale: 1 = Strongly Agree 5 = Strongly Disagree

TABLE 3
Common items by Individual Client Groups
Mean/Standard Deviation

Survey Item	Judges	U.S. Attorneys	Defense Attorneys	U.S. Probation Officers	U.S. Marshals	Treatment Staff	Defendants
Written Investigations Thorough	1.33/0.50	1.58/0.61	1.92/0.79	1.50/0.52	1.92/0.90	1.87/0.83	2.57/1.19
Make Appropriate Recommendations	1.22/0.44	1.78/0.73	2.67/0.98	1.63/0.50	1.83/0.83	2.07/0.88	2.90/1.26
Professionalism	1.0/0.00	1.26/0.45	1.42/0.51	1.19/0.40	1.25/0.45	1.67/0.90	2.02/1.00
Make Appropriate Referrals	1.33/0.50	1.84/0.69	2.17/1.03	1.69/0.70	1.75/0.87	1.87/0.92	2.83/1.30
Give Timely Assistance	1.33/0.50	1.53/0.51	2.00/0.74	1.31/0.48	1.83/0.83	1.80/0.77	2.83/1.26
Objective with Defendants	1.67/0.71	1.83/0.71	2.67/0.78	1.63/0.72	1.33/0.49	2.07/0.80	2.67/1.10
Overall Satisfaction with PTS	1.33/0.50	1.44/0.51	2.00/0.74	1.13/0.34	1.50/0.52	1.47/0.64	2.81/1.49

Scale: 1 = Strongly Agree 5 = Strongly Disagree

Juvenile Focus

BY ALVIN W. COHN, D.CRIM

President, National Juvenile Court Services Association

Treatment Gap

According to the National Survey on Drug Use and Health's household survey, 7.7 million people in the U.S. needed treatment for diagnosable drug problems in 2002, and 18.6 million needed treatment for a serious alcohol problem. Only 1.4 percent received specialized substance abuse treatment and 1.5 percent of the 18.6 million of those with alcohol problems received it. According to the new findings, 362,000 people in 2002 recognized they needed treatment for drug abuse. Of those, 88,000 tried but were unable to obtain treatment. The survey found that marijuana is the most popular illicit drug, used by 14.6 million people.

Teens and Multiple Choices

A survey reveals that most teens would rather spend time with family members than visit with friends, play sports, watch TV, or surf the Web. The annual *State of Our Nation's Youth* reports that teens admire their parents and tend to get along nicely with them. Asked how they get along with their parents or guardians, 74 percent of all teens (ages 13 to 19) say "extremely well" or "very well." Only three percent say they don't get along. As many as 44 percent of the teens call a family member their role model. Among other findings:

- 37 percent of high school students say their mother is the role model.
- 30 percent of teens say the father is the role model.
- 76 percent of teens say they would like to learn more about world events and other cultures, up from 66 percent last year.
- 42 percent of high school students call pressure to get good grades a "major problem," up from 35 percent last year.
- 80 percent say they plan to go to a four-year college, up from 66 percent last year.

U.S. Prison Population

The nation's prison population increased to 2,166,260 last year, a 2.6 percent increase, which is the largest increase since 1999, according to the Department of Justice. The rise came despite a small decline in serious crime in 2002. It also came when a growing number of states have begun to reduce prison costs by easing tough sentencing laws, thereby decreasing the number of inmates. California had the largest number of inmates, with 162,317, followed by Texas, with 162,003. Louisiana had the highest rate of incarceration, with 794 inmates per 100,000 residents, with Maine and Minnesota tied for the lowest incarceration rate, with 141 inmates per 100,000 state residents.

Life Expectancy

Americans are living longer, becoming more health-conscious, and yet more chronically ill at the same time, according to the National Center for Health Statistics. Overall life expectancy in 2001 was 77.2 years, an increase of almost four months from 2000, when it was 76.9 years. In 1900, a newborn could expect to live 47.3 years, while in 1950, life expectancy was 68.2 years. In 2001, 77 percent of children younger than three were vaccinated. For children in poor families, the number was 72 percent. The percentage of high school students who reported they had smoked cigarettes in the last month fell to 29 percent in 2001; in 1997, it was 36 percent. The birthrate for teenage girls was 45 births per 1,000 girls, the lowest rate in more than 60 years. The percentage of children classified as overweight increased from seven percent in the late 1970s to 15 percent in the 1990s. The full report can be obtained at www.cdc.gov/nchs/.

Roots of Stable Adults

Children given extra attention by teachers and fed a nutritious diet appear to be at lower risk of becoming psychotic or developing conduct problems 20 years later, reports the *American Journal of Psychiatry*. The study examined the effects of improved teaching, exercise, and nutrition on 100 children between the ages of three and five in Mauritius, an island nation in the Indian Ocean. The group fed hot meals, made to exercise for over two hours daily, and given intensive early education had 31.9 percent fewer cases of psychosis at age 17 than those who received no special treatment. Those who got the intervention also had a 27.9 percent reduction in conduct disorder at age 17. The crime rate at age 23 was 13 percentage points lower in the enriched group, and the risk that the young adults would become loners was cut by almost a third.

Future of Children

Printed copies of the most recent issue of *The Future of Children*, "Health Insurance for Children" (Vol.13, No. 1–Spring 2003), along with back issues of the journal can be ordered via <http://www.futureofchildren.org/cart2869/cart.htm>.

Probation and Parole in the U.S.—2002

The Bureau of Justice Statistics (BJS) reports on the number of persons on probation and parole, by state, at year-end 2002 and compares the totals with year-end 1995 and 2000. The report identifies totals by state in terms of smallest and largest increases/decreases, the race and gender of the offenders, and reports the numbers of probationers and parolees completing community supervision successfully, or failing because of rule violations or new offenses. The adult probation population grew 1.6 percent in 2002, an increase of 63,434 probationers, about half the average annual growth of 3.1 percent since 1995. Overall, the nation's parole population grew by 20,808 in 2002, or 2.8 percent, almost double the average annual growth of 1.5 percent since 1995.

The nation's correctional population reached a record of more than 6.7 million adult men and women by the end of 2002. As of last December 31, about 3.1 percent of the U.S. adult population, or one of every 32 adults, were in prisons or jails or in the community under correctional supervision, compared to 2.7 percent of the adult population in 1995. The full report can be obtained at <http://www.ojp.usdoj.gov/bjs/abstract/ppus02.htm>.

Student-Teacher Ratio

According to the National Center for Education Statistics, the average number of public and private school students per teacher in the U.S. elementary and secondary schools has dropped:

- 1971 = 22.4
- 1981 = 18.7
- 1991 = 17.0
- 2001 = 15.8 (estimated)

Teachers and Class Time

Teachers see fewer students per day than 40 years ago, have more prep time, but have lost 12 minutes at lunchtime. The National Education Association reports on the 2000–2001 school year that most elementary school teachers have 21 students per class, down from 29 in 1961. Teachers in secondary schools have 28 students per class, up from 27, but teach fewer a day. High school teachers in 1966 taught 132 students a day; by 2001 that was down to 89. The average teacher also spends three more hours a week on the job than in 1961 and only 32 minutes for lunch, compared with 40 in 1961.

Teachers also report spending an average of \$443 out of their own pockets and one in 12 report spending over \$1,000 yearly for school supplies and resources. Though the average salary has climbed steadily, from \$5,264 in 1961 (\$32,598 in today's dollars) to \$43,262 in 2001, this is attributed to seniority. The percentage of male teachers has dropped by about one-third, from 31 percent to 21 percent; while minority teacher numbers have also dropped since 1971, from 12 percent to 10 percent. Only 61 percent of current teachers say they would become teachers again if they had to start over—down from 77 percent in 1961.

Competition for Teachers

Competition from higher-paying jobs will make it difficult for public schools to ensure that all teachers are highly qualified, reports the General Accounting Office (GAO). The No Child Left Behind law requires that teachers have a bachelor's degree and a state teaching certificate by 2005–2006. Teachers must also have majored in their subject in college or passed state tests in their subject. State education officials report that higher salaries offered by other jobs will make it more difficult to employ and retain good teachers.

Teens and Alcohol

The Institute of Medicine reports that in 1966, underage drinking caused 3,500 deaths, two million injuries, 1,200 babies born with fetal alcohol syndrome, and 57,000 people having to be treated for alcoholism. The social cost associated with underage drinking in 1966 was estimated to be just under \$53 billion. In 2002, 20 percent of eighth-graders surveyed had drunk alcohol within the past 30 days; 49 percent of high-schoolers are drinkers; and 29 percent admit to having drunk five or more drinks in a row in the past two weeks. Forty-one percent of college students admit to being heavy drinkers. In 2000, the country spent \$1.8 billion to discourage illegal drug use and only \$71 million to discourage underage drinking.

The *Journal of the American Medical Association* reports that magazines popular with teens, such as *Rolling Stone*, *Sports Illustrated*, and *People*, tend to have more liquor and beer ads than other titles, which suggests that the alcohol industry may be indirectly targeting underage drinkers. Researchers compared 35 magazines and found that for every one million more readers ages 12 to 19, a magazine had about 60 percent more beer and distilled liquor ads.

School Crime

School crime is on the decline, according to the Departments of Justice and Education. From 1995 to 2001, the percentage of students ages 12 to 18 who reported being victims of violence or theft at school dropped from 10 percent to six percent. The rate of violent crimes at school among these students dropped from 48 crimes per 1,000 students to 28 crimes from 1992 to 2001. The report can be obtained at <http://www.ojp.usdoj.gov/bjs/abstract/iscs03.htm>.

Sleeping Babies

Putting babies to bed on their backs not only reduces their risk of sudden infant death syndrome (SIDS), but also reduces other problems, such as stuffy noses and spitting up, as reported in the *Archives of Pediatrics*. The study of 3,733 infants found that babies who slept on their back spit up less and were less likely to develop fever or respiratory problems than babies who slept on their bellies.

Student Loan Debt

According to Nellie Mae, the average student graduates with nearly \$19,000 in student loans:

- Average undergraduate debt = \$18,900
- For four-year public school = \$17,100
- For four-year private school = \$21,200
- Average monthly payment = \$182
- Average monthly payment as percentage of income = 9 percent

Drugs and Crime Facts

The Bureau of Justice Statistics (BJS) has updated *Drugs and Crime Facts*, a section of the Web site, with information from 21 recent statistical publications. It summarizes statistics on drug use and related crimes, drug law violations, drug treatment under correctional supervision, the drug-control budget, and public opinion about drugs, as well as some data related to juvenile drug use and arrest trends. To obtain the report, see <http://www.ojp.usdoj.gov/bjs/dcf/contents.htm>.

Mononucleosis and Hodgkin's

Young adults who get mononucleosis have more than double the risk of a rare type of cancer, Hodgkin's disease, a highly treatable cancer of the lymph system. But the role played by the common virus that causes mono was uncertain. The virus, Epstein-Barr, is found in about one-third of Hodgkin's tumors, reports the *New England Journal of Medicine*. In a study of more than 63,000 young adults suspected of having mono, researchers found that those who got mono had a higher than average chance of getting Hodgkin's, and the risk lasted for two decades. About one in 1,000 young adults will get the cancer, the researchers stated.

Youth and the Internet

A study completed by the Center for Communication Policy reports that nearly one in five parents complain that children spend too much time online, up from 11 percent in 2000. However, 23 percent of the parents said the Internet boosted their children's grades; fewer than four percent felt it hurt them. The National School Board's Foundation found that Internet use tends to steal time from TV viewing and that wired kids tend to spend more time reading newspapers, magazines, and books. Reports indicate that 7- to 12-year-olds do the following with their computer time:

- Play games – 87 percent
- Listen to music – 63 percent
- Do schoolwork – 60 percent
- Watch videos, movies, cartoons – 36 percent
- Learn about celebrities – 27 percent

In a related study, the Kaiser Family Foundation reports in *Zero to Six: Electronic Media in the Lives of Infants, Toddlers, and Preschoolers*, that two-thirds of children live in homes where the television is left on at least half the time. Along with computers and video games, the report adds that children six and younger spend about the same amount of time every day using "screen media" (one hour, 58 minutes) as they do playing outside and much more than the time they spend reading or being read to (39 minutes). According to the researchers, 43 percent of children younger than two watch TV every day and one in four has a TV set in his or her room.

Students and AP Courses

AP courses, created half a century ago by the New York-based College Board, traditionally were only offered to high school juniors and seniors attracted by the academic challenge and the chance to gain college credit. But between 1993 and 2003, the number of high school freshmen taking AP examinations increased from 498 to 2,120. The number of 10th-graders taking the exams, which are written and scored by outside experts, went from 18,045 to 60,331. Although the total number of AP tests taken by ninth- and 10th-graders represented only four percent of

the 1.75 million exams given last May, many more schools are signing on.

PACER

Parents of children with disabilities and professionals serving them can obtain up-to-date information and resources at PACER's Web site, which has more than 350 documents and links to other sites. See www.pacer.org, or www.fape.org, or www.taalliance.org.

NIC Training

The National Institute of Corrections has issued its 2004 *Training Programs for Juvenile Corrections Professionals*, which describes the training programs and technical assistance available from NIC. For a copy of the program, contact NIC at (800) 877-1461 and ask for accession number 018928 or at <http://www.nicic.org/Downloads/PDF/servplan04/NIC-juvplano4.pdf>.

OJJDP Publications

- *Latest Resources from OJJDP* is a comprehensive, user-friendly guide to useful information available from OJJDP. It includes an annotated listing of all publications issued by OJJDP in 2001 and 2002 and offers an overview of the types of publications and other information resources that OJJDP offers. See <http://ojjdp.ncjrs.org/pubs/general.html#bc000115>.

For other information about OJJDP activities and programs, see the Web site at <http://www.ojp.usdoj.gov/ojjdp/>.

- *Aftercare Services* describes programs concerned with education, family, health, and vocational services. Aftercare is analyzed in relation to system change and promising aftercare programs are identified. See <http://ojjdp.ncjrs.org/pubs/delinqsum.html#201800>.
- *Delinquency Cases in Juvenile Courts, 1999* details increases in drug law violations, public order offenses, and person offenses cases during the 1990s. See <http://ojjdp.ncjrs.org/pubs/fact.html#fs200302>.
- *Review of Cases Waived to Criminal Court 1990–1999* reports on data from nearly 2,000 jurisdictions. See <http://ojjdp.ncjrs.org/pubs/fact.html#fs200304>.
- *Person Offenses in Juvenile Court 1990–1999* provides statistics on assault, homicide, rape, and robbery cases handled by juvenile courts. See <http://ojjdp.ncjrs.org/pubs/fact.html#fs200303>.
- *Investigating Hate Crimes on the Internet* provides information for law enforcement about the growing problem of hate crimes on the Internet. It defines hate crimes, describes the principal Federal and state hate crimes laws, and examines a number of cases, as well as legal issues associated with hate crimes investigations. See http://www.partnersagainsthate.org/publications/investigating_hc.pdf.
- *School Crisis Response Initiative* describes how trained school personnel and community members can provide students with triage, counseling, and referral to community services after traumatic events. See <http://www.ojp.usdoj.gov/ovc/publications/bulletins/schoolcrisis/>.
- *Juvenile Court Placement of Adjudicated Youth, 1990–1999* reports that nearly one-quarter of cases adjudicated in 1999 resulted in placement in a residential or group home or correctional facility. See <http://ojjdp.ncjrs.org/pubs/fact.html#fs200305>.
- *Juvenile Delinquency Probation Caseload, 1990–1999* indicates that the number of cases

placed on probation grew 44 percent and the overall delinquency caseload increased 27 percent between 1990 and 1999. See <http://ojjdp.ncjrs.org/pubs/fact.html#fs200306>.

- *Detention in Delinquency Cases, 1990–1999* notes that delinquency caseloads increased 11 percent between 1990 and 1999, with the most dramatic growth rate in the number of cases involving females charged with person offenses. See <http://ojjdp.ncjrs.org/pubs/fact.html#fs200307>.

Stressed-Out Teenagers

Stressed-out teenagers who are bored and have \$25 or more a week in spending money are 50 percent more likely to smoke, drink, get drunk, or use drugs, according to the National Center on Addiction and Substance Abuse. Researchers found that students attending schools with 800 or fewer students or religious schools are less likely to abuse substances.

Movies and Smoking

Teenagers are significantly more likely to start smoking if they watch movies featuring stars who smoke cigarettes, and teens whose parents don't smoke are the most likely to be swayed by actors lighting up on screen, reports the journal *Lancet*. Teens who watched the most movies with smoking were almost three times more likely to start smoking than those who watched the fewest number of movies with smoking. The researchers followed 2,600 Vermont and New Hampshire children ages 10 to 14 for two years. Because the study looked at young adolescents, it did not establish a direct relationship between movie smoking and actual habitual smoking by children. Rather, it found that the movies encouraged teens to try smoking, and that more than 50 percent of teens who tried smoking did so after seeing smoking in movies. Other research shows that every day, about 2,050 teens aged 12 to 17 start smoking and that about one-third of them will die prematurely because of smoking-related diseases.

Mentoring Evaluations

Mentoring programs, especially those that pair one child with a supportive and responsible adult, have been evaluated and the results are reported in *Mentoring: A Promising Strategy for Youth Development*. Results include reduced substance abuse, improved educational achievement, less truancy, and more positive attitudes toward school and the future. These successes are associated with programs where the mentor has frequent contact with the youngster and a quality relationship is formed. Children whose mentors saw them infrequently or who did not form a positive relationship with them showed weaker or even negative impacts. Researchers also found that programs in which the needs and interests of the youth drove the relationship were more successful than programs in which the adults prescribed the goals.

Mentoring programs appear to have the most benefit for children who are most at risk, including those who come from disadvantaged family, school, and community situations. These children may lack resources and support groups available to other children. To obtain a copy of the full report, contact Child Trends at (202) 362-5580; Internet: www.childtrends.org.

Race and Arrests

A federal study completed by Carl Pope and Howard Snyder found "no direct evidence that an offender's race affects police decisions to take juveniles into custody in such incidents." The study examined a sampling of 102,905 juvenile offenders from the FBI's National Incident-Based Reporting System, covering youth arrested for serious violent crimes, excluding murder, in 17 states in 1997 and 1998. In this set of data, only 34.2 percent of all juvenile offenders reported by victims were arrested, meaning that juvenile offenders have odds of about two to one of not being arrested.

The data indicate that there could be indirect bias in that non-white juveniles are more likely to be arrested when the victim is white than when the victim is non-white. The researchers found that police arrested 35.9 percent of all white juvenile offenders reported to them and 30.4 percent

of all non-white offenders reported to them. The complete study is available at www.ncjrs.org/pdffiles1/ojdp/189180.pdf.

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The Prison Journal

REVIEWED BY SAM TORRES

"Exploring the Effects of Childhood Sexual Abuse and Its Impact on HIV/AIDS Risk-Taking Behavior Among Women Prisoners," by J.L. Mullings, James W. Marquart, and D.J. Hartley (Vol. 83, No. 4, December 2003), pp. 442–463.

This article focuses on the various elements of childhood sexual abuse and their relationship to HIV/AIDS risk behaviors, using a sample of approximately 1,200 newly admitted female prisoners in 1998-1999. Consistent with a myriad of prior studies, the authors found that sexually abused prisoners were more likely to have experienced childhood neglect, come from one-parent families, and had parents with drug and/or alcohol and psychiatric problems. Female prisoners who had been sexually abused reportedly engaged in more high-risk drug and sexual activities than their non-abused counterparts.

Mullings et al. begin by noting that the estimates of the prevalence of adult-child sexual abuse reveal that 28 percent of women and 16 percent of men have been sexually abused before the age of 16 (p. 442). That childhood sexual abuse has wide-ranging and long-term effects is hardly open to question—it can result in such disorders as post-traumatic stress, depression, anxiety attacks, and sexual dysfunction. An additional and critical negative effect is the association between childhood abuse and adult substance abuse. The rate of childhood sexual abuse among female substance abusers is twice as high as that found in the general population (p. 443). A study of women who were abused as children revealed that approximately 8 percent became criminal offenders in adulthood. Women who have been abused as children may later abuse alcohol or drugs in an effort to self-medicate or reduce the negative symptoms associated with the abuse. The article also cites research linking childhood sexual abuse with adult prostitution, sexual compulsivity, early consensual sex, and a greater than average number of sexual partners than non-abused peers.

Thus, childhood sexual abuse has been linked to high-risk sexual and drug-taking behavior and HIV/AIDS, particularly among women. Women who have been sexually abused are more likely to engage in behavior placing them at risk for HIV/AIDS infection, such as trading sex for drugs, inconsistent condom use, and multiple partners. Other "risky behaviors" involve the sharing of needles, and drug use by injection. Mullings et al. emphasize that the research examining the relationship between childhood sexual victimization and subsequent high-risk behavior and drug-related activities among female prisoners is important for several reasons. First, the number of female prisoners has been increasing steadily. Second, arrest trends between 1984 to 1997 reveal that women are increasingly arrested for drug-related crimes. Forty-six percent of female

prisoners in one study committed their crimes under the influence of drugs, and 80 percent used drugs on a regular basis (p.444). Third, the incidence of HIV among women is increasing at a faster rate than for other populations. Three percent of female prisoners are HIV positive, compared to 2 percent of male prisoners. Furthermore, the rate of HIV infection among female prisoners has increased by almost 90 percent, compared to 28 percent for males. According to studies cited in this article, it appears that the high prevalence of HIV infection among female inmates is directly related to risky drug activities.

Fourth, 43 percent of female inmates nationwide were sexually or physically abused prior to incarceration, compared to 12 percent of the males. Given these, it would appear that the prison is in a unique position to provide special treatment programs to address the underlying causes of the substance-abusing behavior which frequently results in criminal activity and incarceration.

The data used for this study were obtained from the Texas Commission on Alcohol and Drug Abuse by Texas A & M University through face-to-face interviews with a sample of women prisoners incarcerated between May 1998 and March 1999. Respondents were interviewed upon admission at the intake process at two separate facilities. The interview and questionnaire averaged 70 minutes. Two dependent variables were identified (HIV drug risks & HIV sexual risks), and a single item measured the independent variable—whether the inmate had ever been sexually abused, mistreated, or raped prior to age 18.

The results of the study found that women who had been sexually abused younger than the age 18 were significantly younger at admission to prison and more likely to be white than the non-abused comparison group. Furthermore, sexually abused prisoners reported a wide variety of unstable family characteristics. Overall, the sexually abused group experienced all measures of child neglect at greater frequencies than non-abused women. For example, sexually abused women were three times more likely to be unsupervised or left alone when too young, a situation conducive to sexual exploitation. Generally, women in the abused group grew up in environments fraught with chaos, dysfunction, and lack of care. The findings of this study support previous research that suggests sexually abused girls engage in early onset of substance abuse to self-medicate in dealing with the trauma. Given the large number of women in prison who abuse drugs, the authors conclude that these women were significantly more likely to be involved in behavior that places them at risk for HIV infection.

Female inmates who were sexually abused as children may require special prison-based interventions to reduce their HIV risk, particularly with regard to sexual risk taking. Identifying those at greatest risk for HIV is only a first step in treatment and education, according to the authors. Because of their unique needs, female prisoners require gender-specific and responsive interventions. "One-size-fits-all" treatment programs may not be in the best interest of female inmates. Mullings et al. suggest that programs for women prisoners must include substance abuse treatment, physical and mental health care, job skills training, parenting and reunification services, child visitation, and child and adult victimization services. Policy implications from the study include improved intake screening for female inmates that would identify issues such as a history of childhood maltreatment, as well as substance abuse and risky sexual behavior.

The study replicates and reinforces a multitude of prior research that highlights the relationship between childhood sexual abuse and adult substance abuse and criminality. While other studies focus on the childhood abuse/drug abuse/crime relationship, this study expands the analysis to address the high-risk activities that place the female prisoner at significantly greater risk for HIV/AIDS infection. Needless to say, the implications of this high risk are of considerable importance when examining HIV transmission to the general population, transmission of HIV to the fetus during pregnancy, and treatment and costs associated if the inmate becomes symptomatic. Again, most of what has been reported in this article is already known in the discipline and also known to correctional policymakers. What may be needed is an in-depth cost analysis to demonstrate to what extent improved classification and effective treatment programs would reduce HIV transmission and recidivism and, in the long run, be more cost-effective than current strategies.

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Crime and Delinquency

REVIEWED BY CHRISTINE J. SUTTON

"Opening the Manager's Door: State Probation Officer Stress and Perceptions of Participation in Workplace Decision Making" by Risdon N. Slate, Terry L. Wells, and W. Wesley Johnson (2003).

The old Carnation Milk commercial, "contented cows give better milk," is essentially the conclusion of this study, which looked at state probation officer stress and how it affects performance and the officer's well being. The authors concluded employees perform better with the development and use of participatory management schemes within probation organizations. This is the key to better balance and performance. Through a review of the literature, the authors identified probation as a people business, oftentimes requiring intense, stressful confrontations with recalcitrant offenders. Additionally, due to budget constraints, more felons are receiving probation. Probation officers have more contact with offenders than any other criminal justice practitioner and caseloads have continued to increase at unprecedented levels.

The majority of the studies done on job stress and burnout in criminal justice have focused on police and correctional officers. Furthermore, researchers have neglected the Federal probation officer, who supervises parolees as well. Stress was denied as a nonspecific response of the body to any demand. Stress can result in both positive and negative circumstances. Prolonged and extreme stress can manifest itself in withdrawal from work, emotional exhaustion and burnout. The stress levels of probation officers have been found to be higher than those of the general population. The dangers inherent to the job and having to make recommendations that result in custodial sentences were identified as two significant potential stressors for probation officers.

The authors used a 61-question questionnaire, sent electronically to 636 probation officers in a southern state to collect data, measuring contributors of stress and how stress can manifest into the deterioration of physical health of the probation officer. The sample population consisted of 52 percent women, 48 percent male officers, with 61 percent married, a median age of 36.2 years, an average of two years prior experience and a mean amount of time on the job of 8.5 years. The survey was divided into components measuring the level of external, internal job or task, personal and physical stressed experienced by the respondents. Questions distinguished managers from line officers, determined caseload size, identified officers with specialized caseloads, allowed officers to specify what function is the primary focus of their job, as well as the number of sick days used in the last year.

As identified by the respondent officers, the most influential stressors were found to be inadequate salary, courts being too lenient on offenders, lack of promotional opportunities, frustration with the criminal justice system, excessive paperwork, ineffectiveness of the judicial system, expectations to do too much in too little time, lack of recognition for good work, ineffectiveness of the correctional system, inadequate support from the agency and lack of community resources.

The authors recognized that not all the stressors are within the control of probation administrators, but several could be combated through organizational means. The result of the findings indicated employees who perceive they have input into workplace decision making are more likely to express higher opinions of their job and less likely to report physical symptoms of stress, which translates into greater productivity and morale, with less absenteeism and employee turnover. Empowering employees by giving them a voice in running the organization lets them know they are valued and serves to instill a sense of worth, resulting in dedicated employees.

Participatory management strategies were found to be critical to maximizing the functioning of human capital. As probation agencies continue to be pushed beyond their designed "hull speed," they are asked to do more with less and public safety demands the probation managers and policy makers stay in tune and remain responsive to front line officers.

The authors conclude the results suggest participatory management can be a critical factor in the process of addressing and reducing employee stress. Although the government usually lags behind the private sector in a number of ways, the use of participatory management styles in probation agencies should be an exception.

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OC Inside Out

Organized Crime (Seventh Edition). Howard Abadinsky. Belmont, CA: Wadsworth/Thomson, 2003. 408 pp. \$75.95.

REVIEWED BY DAVID D. NOCE, UNITED STATES MAGISTRATE JUDGE

Howard Abadinsky studied organized crime (OC) as a state parole officer for 15 years, a sheriff's office inspector, a university professor of criminal justice, the founder of the International Association for the Study of Organized Crime, and a presidential consultant on OC. *Organized Crime* is, first of all, a college text, created to facilitate the course he taught. The first edition in 1981 introduced students to the basic characteristics of OC and the writers of its classic studies on which Abadinsky frequently draws to great effect. Each successive edition reflected the changes he observed in OC groups and in the nation's responses to them.

Organized Crime combines the author's micro-observations and descriptions of criminal groups and their activities into a macroscopic picture. His language and organization make a book that is easily read by laypersons, justice professionals, college students, and casual readers. The seventh edition reduced the anecdotal detail, including some references to the ever-colorful nicknames of prime OC characters found in the sixth edition. Even so, readers will appreciate how Abadinsky has blended principles and theories with stories from the streets. *Organized Crime* puts flesh on such charging and sentencing concepts as "jointly undertaken criminal activity," "same course of conduct," and "common scheme or plan."

Criminal organizations sap national and international vitality, divert economies from the common welfare, wreak havoc on lawabiding lives, and provide self-sustaining petri dishes for the replication of evil. The history and the landscape of America are littered with the detritus of criminal organizations. For their limited membership and small numbers, they commit an extraordinary amount of criminal activity. Their activities can be simple or complex, continually looking for areas of opportunity. They defraud millions by "cramming" telephone bills with unauthorized charges and they demand protection money. They require a reasoned, vigorous, and strong response from criminal justice systems, not only in law enforcement but also in pre-sentence investigations and postsentence supervision. The proper responses must understand OC's national causes, international roots, and entrenched cultures that require the use of criminal informers (e.g., the "pentiti" in Italy).

Organized Crime is a primer that also provides modern tools for further research. It chronicles OC in the United States and describes its international, multi-cultural roots, its history, its notorious characters, the businesses that sustain its life, and the sociological factors that direct it.

The work's five parts are divided into fifteen chapters. Each chapter is well organized and includes review questions for students and internet sites for further investigation and information on the treated subjects. Approximately 1,600 different factual sources and professional studies—which are compiled in an alphabetical reference list—are cited in the book. Other indices list alphabetically the cited authors and the treated subject matter. Peppered through the work are undercover police photographs and boxed textual asides that stimulate interest ("Also Not Rocket Scientists. He was called 'Frankie the Beast' because of his skill in using a baseball bat on victims. This enforcer for the Colombo Family spotted the concealed video camera and turned to a very fearful Vinnie, the informant who had led him into an elaborate FBI sting: 'Hey, looks like a great [security] system you got here, Vinnie.' His *capo*, he explained, was looking for a security system for his home. Vinnie had one installed, *gratis* (Bonavolonta and Duffy 1996: 148)."

The book's five parts lead the reader through OC in the United States: its structures, its sociological seeds and underpinnings, its international roots, its specific business interests, and the American government's attempts to limit its reach by legislation.

OC defies precise, generally accepted definition. Abadinsky has selected eight criteria for inclusion here. Perhaps the most disappointing aspect of *Organized Crime* derives from the limitations imposed by the first of these criteria: that OC is non-ideological. Abadinsky's considerable efforts thus focus on groups motivated by money and power, not social doctrine, political beliefs, or ideological concerns. Among the groups necessarily excluded by this definition are terrorists and the Ku Klux Klan. Whether criminal groups are motivated by ideology or money and power, their actions are illegal, often violent, and injure the innocent. Perhaps Abadinsky will draw his net wider in a future edition. Nevertheless, the author shines brightly in his presentation of the long history of criminal organizations and the vital literature about them.

The other attributes of criminal organizations refined by Abadinsky are important markers. OC groups use a hierarchy to control, have a limited or exclusive membership, perpetuate themselves in ongoing criminal conspiracy, use illegal means to achieve ends, specialize and divide the labors of members, are monopolistic, and operate with rules and regulations. OC groups follow either the bureaucratic/corporate model (e.g., outlaw motorcycle clubs) or use a patrimonial/patron-client network (e.g., American Mafia).

OC groups evolve with the profitability of their operations. They exist in a dangerous environment and must continually adapt to survive. For example, illegal motorcycle gangs have moved from leathers and choppers to business suits and limos, and developed relations with Mafia families.

Abadinsky surveys the history of OC in America, but offers a note of caution about journalistic sources. Journalists tend to be unreliable historians of useful facts, because they highlight and perhaps create sensational events for the public appetite. In addition, journalists themselves can be prey to the political ends of anonymous government sources.

The root causes of OC are discerned from basic sociological principles. Abadinsky surveys differential association of potential group members with mentors, differential opportunities for criminal success, social control theory, and ethnic succession, to understand the broad scope of OC. OC thrives in national subcultures formed from economic, ethnic, and racial discrimination—circumstances that prevent individuals from entering mainstream life. The Irish emigrated on account of devastating famine and terrible government policies only to find themselves similarly disadvantaged in America with lack of education, wealth, and influence. The ability to speak English and rotten machine politics bound them into a formidable force for self-preservation.

The American Mafia occupies much of the first five chapters and is the main subject of Chapter 7. The members and associate members of the various Families are labeled with significant monikers: made guy, wise guy, button, being straightened out, goodfella, amico, and "a friend of

ours." The importance of the groups' rules sometimes takes second place to personal influence. Not every new member must kill someone; those with powerful friends can be exempt from such dirty work. Yet, the strength of the oath of American Mafia membership is such that upon orders one must kill even a relative without hesitation. Crime group members do not earn salaries in a traditional sense; they generate income by operating their own criminal activities almost as independent franchise holders. Competition for money can cause conflict between the Families and the basic method of dispute resolution, other than gunfire, is arbitration, a "sitdown" or a "table" meeting.

The Italian experience, which ultimately resulted in the American Mafia, differed historically from the Irish. For a thousand years, in the hostile environment of southern Italy's *Mezzogiorno* area, especially Sicily, such principles of self-preservation as *famiglia* (the ties of blood relationship), *comparatico* or *comparaggio* (the god-parenthood of outsiders being allowed into the group for limited purposes), *omerta* (non-cooperation with authority), and *vendetta* (revenge for any slight to the family) developed. In modern history, the political unification of Italy resulted in the economic suppression of and social discrimination against the southern Italians. Abadinsky explains that the lowercase term "*mafia* is a state of mind, a way of life" and ought to be distinguished from the illegal, secret Mafia organization.

Organized Crime surveys important historical events of OC, especially in New York and Chicago. Abadinsky recounts the characters and events that enlivened New York's Castellammarese War in 1930 and the city's Five Mafia Families. In Chicago, the reader is given a geography lesson (everything north of Madison Street is the North Side; south of Madison is the South Side; everything west of intersecting State Street is the West Side; and there is no East Side). Chicago's OC is traced from Mike McDonald's victory in the mayoral election of 1873. In different eras, Chicago's organized crime activity was expressed through the likes of "Hinky Dink" Mike Kenna, John "the Bath" Coughlin, William Thompson, Mont Tennes, and, of course, the Prohibition-era Chicago Wars, Al Capone, and the emergence of "The Outfit" and its "street crews." Of interest to investigators is the fact that in New York informers are sometimes "made guys," but not in Chicago.

Chapter 6 chronicles African-American and Black OC. Soldiers returning from the Vietnam War used their contacts with Asian heroin producers and bypassed traditional OC groups. Abadinsky describes the generation and operation of Frank Lucas in New York, the Gangster Disciples, El Rukns/Black P. Stone Nation, the Bloods and the Crips, the Nigerians, and the Jamaicans. Chapter 8 treats Latino OC, including the Cuban-Colombian drug connection, the many drug cartels, economic causes of Mexican drug trafficking, and the Mexican Mafia, Mexican-Americans who influence criminal activities inside and outside West Coast American prisons. Chapters 9 and 10 discuss the formation and history of Russian and Asian OC in America.

Chapter 11 discusses the principle that the business of OC is extortion and the criminals who create the illegal goods and services are in fact its parasitic victims. The goods and services of OC include gambling, loansharking, theft and fencing, and the business of sex. Chapter 12 chronicles the history of labor racketeering from the post-Civil War era through the development of the "Big Four" unions, the crime-busting efforts of United States Attorney and then New York Mayor Rudolf Giuliani in the Fulton Fish Market. The author includes business racketeering and restraint of trade as OC evils, especially in the construction industry and private solid waste carting (the business of television's Tony Soprano, Abadinsky reminds us).

Chapter 12 also describes the evils of OC in legitimate business activities. In these endeavors profits are increased by coercion, crime proceeds are laundered with legitimately generated cash, legitimate wealth is transferred to OC members, OC members are given employment when released on probation or parole, and legitimate businesses can front for illegal activities. Abadinsky describes various bankruptcy fraud scams and stock fraud.

Chapter 13 discusses the history and operation of the national and international drug trade. Morphine was first derived from the poppy around 1700 and around 1900 led to heroin, which was initially marketed as nonhabit-forming. The Opium Wars of the 1800s followed China's

initial outlawing of opium importation and the Chinese authorities' dumping of opium waiting to be unloaded from foreign ships. In 1840 and in 1856, British forces attacked China, coerced the payment of compensation for the dumped opium, and Hong Kong became a British colony. Chapter 13 also discusses the deviant international politics that led to the American Harrison Act in 1914, which required federal registration of certain drug trafficking. Abadinsky again gives a geography lesson when describing the business of heroin in the Golden Triangle and the Golden Crescent of Southeast Asia. The businesses and development of cocaine, methamphetamine, marijuana, barbiturates, methaqualone, phencyclidine, ecstasy, LSD, and their analogs and designer drugs are like swatches of a crazy quilt of crime.

Chapter 14 describes some of the federal statutes that energize the war against illicit drugs, the constitutional limitations on law enforcement, the effects of corrupt law enforcement, and the use of informants. Chapter 15 describes law enforcement efforts of executive branch agencies, including those of the Department of Justice and the Department of Defense (active in drug interdiction), and the international cooperation that supports INTERPOL.

Abadinsky concludes his work with an expansive overview of OC in America's history, including corporate crimes of recent years. OC is a dynamic phenomenon, likely always to be with us in one form or another. Government's role is to "trim the herd while occasionally dealing shattering blows to organized criminals and their organizations." Proper policy responses to OC must be mindful of its history and the potential side effects of proposed policy changes. The forces opposed to OC must be ever-mindful of its presence and must cooperate to limit its vast power to destroy.

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Frontier Justice

Harsh Justice: Criminal Punishment and the Widening Divide between America and Europe. By James Q. Whitman. New York: Oxford University Press, 2003. Hardback, 311 pp.

REVIEWED BY ERIC ASSUR
ARLINGTON, VIRGINIA

Corrections professionals may find this historical and sociological book to be both depressing and enlightening. The volume of historical research may overwhelm all but history buffs. The book, obviously well researched, ends with over 100 pages of notes, references and index. It opens some interesting windows to the jails and prisons of the nation.

Both wealth and social status have long been determining factors of treatment in the criminal justice system. In pre-Industrial Age England, the petitions or warrants almost always stated whether the accused was a laborer, landowner or other person of status. Prisons were even segregated by social class rather than classification related to security needs. By continental European standards, legal infractions were viewed as infractions, rather than shameful true crimes. The criminal codes written in the new American lands made many violations of public order more serious and attached stigma and the criminal label. Our labor or work camps, the old chain gangs, were more related to the need to complete public works projects than to prisoner rehabilitation.

Whitman addresses the issue of shame and degradation at length. For example, why do inmates now wear uniforms, striped suits, or orange jump suits in the U.S. while they are allowed to dress in street clothes in many European prisons? Or, just what was the effect of the social class of a colonist who appeared before early tribunals in centuries past? And how was it that the physician-inventor of the famous tool for beheading (Frenchman Joseph I. Guillotin) and the French revolution led that society to a less harsh justice system? The author compares the American criminal justice system with the comparable systems in current and past German and French society. He also briefly notes some references to other European communities.

Whitman's views are certainly transparent. Chapter titles and the book title itself all reflect his

search for an answer for one question: Why is American punishment so cruel? Whitman addresses modern trends and comments that determinate sentences simply represent the abandonment of any merciful version of individualized justice. He claims that our partisan political system has led to radical shifts in policy and practice in our states depending on the party du jour and the whims of the governor and Department of Corrections head. Europe, on the other hand, tends to operate institutions more through career corrections administrators and less through politicians. The "three strikes" legislation and the treatment of juveniles as adults in some states represents the opposite of the enlightened criminal punishment of the American penitentiary movement that Alexis de Tocqueville observed in *Democracy in America* in the 1840s.

Harsh Justice ends by asking about the state of corrections today. Each reader must answer that question. The final sentences of the book are not overly optimistic. Like any very large ship, corrections of course will take much time and effort. Whitman believes that our growing corrections enterprise is way off course and will not soon change.

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Leading Edge

Leadership. By Rudolph W. Giuliani (with Ken Kurson). New York: Talk Miramax Books, 2002.

REVIEWED BY MICHAEL ERIC SIEGEL
WASHINGTON, DC

Rudolph Giuliani has faced many leadership tests. As a prosecutor, he brought several organized crime figures to justice. As a two-term Republican mayor of New York City, where Democrats outnumber Republicans by five to one, he was credited with major improvements in a city frequently described as "ungovernable." Finally, in the most highly publicized of all of his accomplishments, Mr. Giuliani courageously led his beloved city through the worst terrorist attack ever to befall the United States.

What has he learned about leadership from all these experiences? Quite a bit, it turns out. In *Leadership*, Giuliani shares what he has learned in an engaging, honest, sometimes humorous, and frequently poignant manner. I strongly recommend this book not only as a good read, but also as an excellent resource for those who manage and lead in the public sector.

Giuliani recounts the awful experiences of September 11, 2001 in compelling opening and closing chapters, while dedicating the bulk of the book to 14 principles of leadership, such as prepare relentlessly, organize around purpose, surround yourself with great people, everyone's accountable all the time, develop and communicate strong beliefs, underpromise and overdeliver, and stand up to bullies. Emphasizing that "Leadership does not simply happen. It can be taught, learned, developed," Giuliani illustrates each principle through cogent examples and meaningful insights.

Two of these leadership principles are particularly apt for court employees: "prepare relentlessly" and "everyone's accountable all the time."

Prepare relentlessly

Preparing relentlessly requires leaders to resist the temptation to take anything for granted. Relentless preparation assisted the mayor in his quest to reduce crime, as he insisted on daily crime mapping and analysis and on the deployment of police resources to the areas of need as revealed by the data.

Relentless preparation also helped Giuliani and his team respond to the nightmare of September 11, 2001. This was not the first time they had to respond to a crisis, and they were able to apply some of the procedures developed in response to earlier emergencies, such as the 1993 bombing

of the World Trade Center. The time they spent planning and simulating emergency response efforts turned out to be helpful in spite of the unprecedented nature of the 9/11 emergency. Giuliani calls the successful evacuation of 25,000 people from the twin towers on 9/11 one of the "greatest rescue operations in history." There is a good lesson here for court leaders currently challenged with developing Occupant Emergency Plans and Continuity of Operations Plan blueprints for their courts. While our human tendency is to resist preparing for emergencies, advance planning really pays off when a crisis actually occurs.

But there is another dimension of relentless preparation that informs leaders. Giuliani is an enthusiastic advocate of continual learning. He created a course in city government for himself as he prepared to take on the challenges of managing America's largest city. He recognizes the influences of great leaders from the past, such as Winston Churchill, and testifies to the importance of reading history. He acknowledges that even ideas from academics can help leaders do their jobs—for example, the "broken windows" theory of James Q. Wilson and the "reinventing government" argument of Ted Osborne.

So strong is Giuliani's belief in learning as an integral part of preparation for leadership, that shortly after September 11, when "free time did not exist," he took some to "learn more about the issues that had been forced upon the city." He carved out time to read Joseph Bodansky's *Bin Laden: The Man Who Declared War on America*, and then met with the author. He also met with Henry Kissinger to try and understand the global dynamics of a "world transformed" (the ironic title of Kissinger's dissertation at Harvard). While most of us can't get Henry Kissinger on the phone, we can make the time to continue learning about issues of importance to the judiciary and to accelerate that learning during periods of great personal and organizational transition.

Everyone's responsible all the time

The former mayor describes a sign that was prominently displayed on his desk: "I'm responsible." He states, "Nothing builds confidence in a leader more than a willingness to take responsibility for what happens during his watch"—words that would make Harry Truman beam and can inspire all who believe in outcomes-based management.

Giuliani claims that under his "watch" (1993–2001), murder, burglary, auto-theft and shootings all declined by 70 percent in New York City. During those years he also asserts that overall crime fell by 57 percent, and that there was a striking 93 percent reduction in inmate-on-inmate violence in the city's jails. Even allowing for some measure of exaggeration, these numbers compel our attention (and other sources support their general accuracy). The logical question is: How does a leader achieve results like these?

The answer lies partly in Hizzoner's willingness to accept responsibility for driving down the crime rate and making sure that his deputies and staff shared that same sense of responsibility. It is also clear that Giuliani knows how to create a culture of responsibility and an organization built on performance by focusing systematically on the causes of problems and on the likelihood of success of different solutions.

For example, Giuliani says that for years police forces focused on the number of arrests to prove their success in fighting crime. Obviously, though, by the time of the arrest the crime has occurred and it's really too late to claim success. Instead, Giuliani and his original crime-fighting team, including former NYPD Commissioner William Bratton (now police chief in LA) and his deputy, Jack Maple, focused on studying crime patterns to evolve a strategy of crime *prevention* and not just crime *control*. They used technology to advantage also, developing a computerized system that allowed everyone from the mayor to the police commissioner to the precinct commander to see whose numbers were improving and whose not. It is easy to appreciate the sense of accountability that resides in this kind of an approach. Court leaders can learn from the achievements of the NYPD that they must measure success by performance and outcomes, and not the rhetoric and promises made to the public.

Giuliani's book is not perfect. He suffers from the public figure's tendency to claim what some

would call excessive credit for accomplishments that were not his alone. He does not dwell on what some saw as his unbecoming effort to stay in office past the end of his term.

Nevertheless, I was impressed by Giuliani's references to a team effort and to his competent advisers and aides in episodes and events reviewed in the book. All of us who practice public administration on the local level can learn a great deal from the insight and the humanity that emerge from almost every page of this book.

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Endnotes

[Electronic Monitoring of Domestic Violence Cases—A Study of Two Bilateral Programs](#)

[The Imposition of Economic Sanctions in Philadelphia: Costs, Fines, and Restitution](#)

Electronic Monitoring of Domestic Violence Cases—A Study of Two Bilateral Programs

¹ Where research has been done on the use of EM in DV cases (e.g., a Michigan study), such work has been largely conducted by the agencies themselves, and has not been made easily available to other practitioners or the scholarly community.

² The vast majority (90 percent) of persons who were under liberty restrictions in the programs studied were not convicted of domestic violence at the time of their enrollment; therefore we will refer to them throughout as "defendants."

³ The victim is enrolled into a program of electronic surveillance in at least one sense, and possibly two senses: First, because she is kept abreast of the approach of another party to her home perimeter by electronic means; second, because the victim's own movements in and out of her home are monitored if her duress pendant is a transmitter that sends signals to a base receiver in communication with a monitoring center, as is the case in one of the two study sites.

⁴ Although we use the term "victim" throughout this paper, in most cases the victims are "alleged," since the bulk of the cases monitored by these programs await adjudication. Because most domestic violence victims who come to official attention are women, we refer to the victims in the female form. Furthermore, female victims are far likelier to request, or be provided with, BEM.

⁵ The two departments had varying degrees of records to consult; in River County the data were quite extensive, while Lakefront's data were sparse.

⁶ Lakefront and River County are pseudonyms.

⁷ Lakefront equips victims with a field monitoring device, but River County does not; River County's equipment can detect the victim's entrance and exit from home (assuming she carries her duress pendant), but Lakefront's equipment cannot; and River County's equipment transmits whatever sounds occur at the victim's home when the base unit has been activated.

⁸ During our research, a proxy of a participating defendant murdered a River County victim protected by BEM. The proxy murdered her the night before she was to testify against her ex-partner. He claimed he was acting as a "Good Samaritan," trying to save the children of the

couple, out of fear that the victim's ex-partner would kill both the woman and her children. In this case, EM logs provided evidence that it was not the defendant on BEM who committed the murder, since records showed he never left his home on the night of the slaying.

⁹ Caseload size varied considerably between the two programs. The number of enrolled defendants at any point ranged from 12 to 43 in River County and averaged 25 during the study period. The range at Lakefront was approximately 0 to 2, with an average of 0 or 1.

¹⁰ Our research (Erez, Ibarra, and Lurie, forthcoming) has found that victims or defendants referred to a BEM program may not participate for reasons such as limited economic means, inability to secure a separate residence or installation of a land-based telephone line, unwillingness to disable certain telephone features (e.g., call waiting, internet access), and limited or blocked radio frequency transmission/ reception in area of residence.

¹¹ The programs had different levels of victim support services. River County assigned a special officer to deal with victims' issues, 24/7. This officer handled all concerns related to victim participation in the program, including the installation of the equipment, notification of court appointments, explanation of court proceedings, and provision of various forms of troubleshooting. This officer also offered counseling and court escort as needed. At Lakefront, the same officer handled both offender and victim issues, and had little contact with victims by comparison.

¹² Elsewhere (Erez, Ibarra, and Lurie, forthcoming) we discuss how defendants perceive the punitive dimension of their respective program. River County defendants were especially concerned about the liberty restrictions and heightened level of supervision; Lakefront defendants were more concerned about the costs involved in participating in the program.

¹³ The data provided by Lakefront were incomplete in this respect, so the average is a rough estimate.

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The Imposition of Economic Sanctions in Philadelphia: Costs, Fines, and Restitution

¹ These crimes were robbery (14,494), aggravated assault (13,718), theft by unlawful taking (9,610), retail theft (7,616), burglary (7,384), receiving stolen property (6,491), simple assault (5,895), public assistance act violations (5,294), forgery (2,643), murder (1,733), unauthorized use of an automobile (1,307), attempted theft by unlawful taking (1189), recklessly endangering another person (1,149), criminal trespass (956), harassment (801), terroristic threats (784), first degree murder (624), attempted burglary (381), theft by deception (365), arson (351), intimidation of witness or victim (327), stalking (228), causing or risking catastrophe (110), homicide by vehicle while DUI (71), involuntary manslaughter (105), attempted theft by deception (105), robbery of motor vehicle (77), copying through recording devices (76), aggravated assault by vehicle while DUI (67), voluntary manslaughter (66), insurance fraud (61), ethnic intimidation (57), and buying or exchanging federal food stamps (50).

² As a methodological note, the increase in restitution ordered for crimes against private individuals and businesses was significant, but not as large as appeared in data from the Pennsylvania Commission on Sentencing. Using that data, imposition rates were more than twice as high as those obtained using data from the Philadelphia computer files. The difference is probably due to underreporting of cases to the Commission. For example, the Commission does not receive Philadelphia Municipal Court cases.

³ This test likely underestimates the difference between the judges in Philadelphia and the judges in the rest of the state, in that there are almost certainly some Philadelphia judges who did not identify their county and whose responses are therefore included with the non-Philadelphia sample.

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